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

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

DEPARTMENT OF AGRICULTURE

5 CFR Part 8301

RIN 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture

AGENCY: Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Department of Agriculture, with the concurrence of the Office of Government Ethics (OGE), amends the Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture (Supplement) to comply with section 5321 of the Farm Security and Rural Investment Act of 2002, Public Law 107-171, by removing a provision that is no longer effective.

EFFECTIVE DATE: These regulations are effective September 16, 2002.

FOR FURTHER INFORMATION CONTACT: Raymond J. Sheehan, Director, Office of Ethics, U.S. Department of Agriculture, Room 348-W—Stop 0122, 1400 Independence Avenue, SW., Washington, DC 20250-0122, telephone (202) 720-2251.

SUPPLEMENTARY INFORMATION:

I. Background

On October 2, 2000, with the concurrence and co-signature of OGE, USDA published its final rule establishing supplemental standards of ethical conduct for employees of USDA (65 FR 58635-58638). Section 8301.103 addressed additional rules applicable to employees of the Farm Service Agency (FSA). Paragraph (c) of § 8301.103 prohibited FSA employees and spouses and minor children of FSA employees from seeking directly or indirectly a “direct loan” under paragraph (a)(9) of section 33 of the Consolidated Farm and Rural Development Act (CFRDA), 7

U.S.C. 1991(a)(9). On May 13, 2002, President Bush signed into Public Law 107-171, the Farm Security and Rural Investment Act of 2002 (Act). Section 5321 of the Act amended Subtitle D of the CFRDA by adding section 377 which states that the Secretary of Agriculture “shall not prohibit,” *inter alia*, “an employee of the Department of Agriculture from obtaining a loan or loan guarantee” under the CFRDA. This provision, in essence, provides that Federal employees of the Department of Agriculture, including employees of FSA, may now obtain FSA direct loans that have been prohibited under paragraph (c) of § 8301.103 of the Supplement. Pursuant to section 5321 of the Act, that regulatory paragraph is null and void. Therefore, the USDA is removing it in this amendatory rulemaking which redesignates the following paragraphs of § 8301.103.

II. Matters of Regulatory Procedure

Administrative Procedure Act

As the amendment is required in order to comply with an express, specific mandate of Congress, notice of proposed rulemaking is unnecessary.

Congressional Review

The Department has found that this rulemaking is not a rule as defined in 5 U.S.C. 804, and, thus, does not require review by Congress. This rulemaking is related to Department personnel.

Executive Orders Nos. 12866 and 12988

Since this rule relates to Department personnel, it is exempt from the provisions of Executive Orders Nos. 12866 and 12988.

Regulatory Flexibility Act

The Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Department employees and their immediate families.

Paperwork Reduction Act

The Department has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

Environmental Impact

This decision will not have a significant impact upon the quality of the human environment or the conservation of energy resources.

List of Subjects in 5 CFR Part 8301

Conflict of interests, Ethics, Executive branch standards of conduct, Government employees.

Dated: August 29, 2002.

Ann M. Veneman,

Secretary of Agriculture.

Approved: September 9, 2002.

Amy L. Comstock,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, Part 8301 of title 5 of the Code of Federal Regulations is amended as follows:

PART 8301—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE

1. The authority citation for part 8301 continues to read as follows:

Authority: 5 U.S.C. 301, 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403(a), 2635.803.

2. Section 8301.103 is amended by:

- a. Removing paragraph (c);
- b. Redesignating paragraphs (d) through (f) as paragraphs (c) through (e), respectively;
- c. Removing the paragraph reference to “(d)(1)” in the text of redesignated paragraph (c)(2) and adding the paragraph reference “(c)(1)” in its place;
- d. Removing the paragraph reference to “(e)(2)” in the text of redesignated paragraph (d)(1) and adding the paragraph reference “(d)(2)” in its place; and
- e. Paragraph reference to “(e)(1)” in the introductory text of redesignated paragraph (d)(2) and in the redesignated paragraph (d)(2)(ii) and adding the paragraph reference “(d)(1)” in their place in each instance.

[FR Doc. 02-23489 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****7 CFR Part 301**

[Docket No. 02-031-2]

Pink Bollworm Regulated Areas; Removal of Oklahoma**AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the pink bollworm regulations by removing the State of Oklahoma from the lists of quarantined States and regulated areas. Statewide trapping surveys conducted over the last 2 years have shown Oklahoma to be free of pink bollworm. The interim rule relieved restrictions on the interstate movement of regulated articles from Oklahoma that were no longer necessary.

EFFECTIVE DATE: The interim rule became effective on May 16, 2002.**FOR FURTHER INFORMATION CONTACT:** Mr. William J. Grefenstette, Assistant Director, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 138, Riverdale, MD 20737-1231; (301) 734-8676.**SUPPLEMENTARY INFORMATION:****Background**

The pink bollworm (*Pectinophora gossypiella* (Saunders)) is a destructive cotton pest found throughout many of the cotton-growing regions of the world. The larvae of the pink bollworm feed inside growing cotton bolls, destroying the cotton.

The regulations in Subpart—Pink Bollworm (7 CFR 301.52 through 301.52-10, referred to below as the regulations) contain quarantine restrictions aimed at preventing the spread of the pink bollworm. Section 301.52 contains, among other things, lists of quarantined States and regulated articles.

In an interim rule effective and published in the **Federal Register** on May 16, 2002 (67 FR 34817-34818, Docket No. 02-031-1), we amended the regulations by removing the State of Oklahoma from the lists of quarantined States and regulated areas. This interim rule also made nonsubstantive editorial changes to § 301.52-1 of the regulations.

Comments on the interim rule were required to be received on or before July 15, 2002. We did not receive any

comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 67 FR 34817-34818 on May 16, 2002.

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

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

Done in Washington, DC, this 10th day of September 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02-23490 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-34-P**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 1230**

[No. LS-02-09]

Pork Promotion, Research, and Consumer Information Order: Rules and Regulations—Decrease in Assessment Rate and Decrease of Importer Assessments**AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

SUMMARY: Pursuant to the Pork Promotion, Research, and Consumer Information Act of 1985 (Act) and the Pork Promotion, Research, and Consumer Information Order (Order) thereunder, this final rule decreases the current rate of assessment of 0.45 percent of the market value of porcine

animals to 0.40 percent, and decreases the amount of assessment per pound due on imported pork and pork products (two- to four-hundredths of a cent per pound) to reflect the combined effect of the increase in the 2001 average price for domestic barrows and gilts (about 7 percent) and the decrease in the assessment rate. The assessment decrease will decrease annual funding of the promotion, research, and consumer information program by an estimated \$5 million to \$6 million with an estimated \$290,000 decrease in importer assessments. The assessment decrease reflects the National Pork Producers Delegate Body's (Delegate Body) desire to lessen the assessment burden on producers and make such funds available to pork producers and the industry. The adjustment in importer assessments also brings the equivalent market value of live animals from which imported pork and pork products are derived in line with the market value of domestic porcine animals. A Harmonized Tariff Schedule (HTS) number for prepared or preserved pork has also been added to the regulations.

EFFECTIVE DATE: September 30, 2002.**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Payne, Chief, Marketing Programs Branch, 202/720-1115.**SUPPLEMENTARY INFORMATION:****Executive Orders 12866 and 12988, the Regulatory Flexibility Act, and the Paperwork Reduction Act**

The Office of Management and Budget has waived the review process required by Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. The Act states that the statute is intended to occupy the field of promotion and consumer education involving pork and pork products and of obtaining funds thereof from pork producers and that the regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from the Act may not be imposed by a State.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1625 of the Act, a person subject to an order may file a petition with the Department of Agriculture (USDA) stating that such order, a provision of such order or an obligation imposed in connection with such order is not in accordance with the law; and requesting

a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in the district in which a person resides or does business has jurisdiction to review USDA's determination, if a complaint is filed not later than 20 days after the date such person receives notice of such determination.

This action also was reviewed under the Regulatory Flexibility Act (5 United States Code (U.S.C.) 601 *et seq.*). The effect of the Order upon small entities initially was discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898). It was determined at that time that the Order would not have a significant effect upon a substantial number of small entities. Many of the estimated 81,000 pork producers and 500 importers may be classified as small entities under the Small Business Administration definition (13 CFR 121.201).

This final rule will decrease the rate of the assessment from 0.45 percent of the market value of porcine animals to 0.40 percent, and will decrease the cents per pound and per kilogram of assessments on imported pork and pork products subject to assessment. Adjusting the rate of assessment from 0.45 percent to 0.40 percent and decreasing the assessment on imported pork and pork products will result in an estimated decrease in assessments of \$5 million to \$6 million over a 12-month period. Of that amount, approximately \$290,000 will be attributed to the decrease in importer assessments. The gross market value of all swine marketed in the United States during 2000 exceeded \$11.7 billion. This decrease will reduce the assessment burden on producers. The adjustment in importer assessments also will bring the equivalent market value of live animals from which imported pork and pork products are derived in line with the market value of domestic porcine animals. An HTS number for prepared or preserved pork also will be added to the regulations. Therefore, the economic impact of the assessments will not be a significant part of the total market value of swine. Accordingly, the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities.

The Act (7 U.S.C. 4801-4819) approved December 23, 1985, authorized the establishment of a national pork promotion, research, and

consumer information program. The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected, at 51 FR 36383 and amended at 53 FR 1909, 53 FR 30243, 56 FR 4, 56 FR 51635, 60 FR 29963, 61 FR 29002, 62 FR 26205, 63 FR 45936, 64 FR 44643, and 66 FR 67071) and assessments began on November 1, 1986. The program was funded by an initial assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and on imported porcine animals with an equivalent assessment on pork and pork products. However, that rate was increased to 0.35 percent effective December 1, 1991 (56 FR 51635), and to 0.45 percent effective September 3, 1995 (60 FR 29963). Based on the assessment rate of 0.45 percent, the total annual assessments collected during 2001 were approximately \$57.4 million. Assessments on imported pork and pork products accounted for about \$3.7 million of the total.

The Order requires that producers pay to the National Pork Board an assessment of 0.45 percent of the market value of each porcine animal upon sale. However, for purposes of collecting and remitting assessments, porcine animals are divided into three separate categories (1) feeder pigs, (2) slaughter hogs, and (3) breeding stock. The Order specifies that purchasers of feeder pigs, slaughter hogs, and breeding stock shall collect an assessment on these animals if assessments are due. The Order further provides that for the purpose of collecting and remitting assessments persons engaged as a commission merchant, auction market, or livestock market in the business of receiving such porcine animals for sale on commission for or on behalf of a producer shall be deemed to be a purchaser.

The Order requires importers of porcine animals to pay U.S. Customs Service (USCS), upon importation, the assessment of 0.45 percent of the porcine animal's declared value and importers of pork and pork products to pay USCS, upon importation, the assessment of 0.45 percent of the market value of the live porcine animals from which such pork and pork products were produced.

The Act and § 1230.71 of the Order contain provisions for adjusting the initial rate of assessment. The Delegate Body has the responsibility to recommend the rate of assessment to the USDA. The 2002 Delegate Body, at its annual meeting on March 1-2, 2002, in Denver, Colorado, voted to recommend

to the USDA that the rate of assessment of 0.45 percent be decreased to 0.40 percent. There were 167 Delegate Body members appointed by the Secretary in 2002. At the Delegate Body meeting 144 delegates were present during voting and voted 50,750.1 valid share votes. States and importers are allotted one share per \$1,000 of the aggregated amount of assessment collected. There were 29,974.9 share votes cast in favor of the 0.05 percent decrease.

The formula in the preamble for the Order at 51 FR 31901 contemplated that it would be necessary to recalculate the equivalent live animal value of imported pork and pork products to reflect changes in the rate of assessment or changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic and porcine animals and imported pork and pork products.

This final rule will decrease the amount of assessment on all of the imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule December 28, 2001, and effective on January 28, 2002 (66 FR 67071). The assessment decrease reflects the Delegate Body's desire to lessen the assessment burden on producers and make such funds available to pork producers and the industry. The adjustment in importer assessments also will bring the equivalent market value of live animals from which imported pork and pork products are derived in line with the market value of domestic porcine animals. An HTS number for prepared or preserved pork also will be added to the regulations.

The methodology for determining the per-pound amounts for imported pork and pork products was described in the supplementary information accompanying the Order and published in the September 5, 1986, **Federal Register** at 51 FR 31901. The weight of imported pork and pork products is converted to a carcass weight equivalent by utilizing conversion factors which are published in the USDA's Agricultural Handbook No. 697 "Conversion Factors and Weights and Measurers." These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the nonpork components of pork products. Secondly, the carcass weight equivalent is converted to a live animal equivalent weight by dividing the carcass weight equivalent by 74 percent, which is the average dressing percentage of porcine animals in the United States as recognized by the industry. Thirdly, the equivalent value of the live porcine

animals is determined by multiplying the live animal equivalent weight by an annual average market price for barrows and gilts as calculated by the USDA's, AMS, Livestock and Grain Market News (LGMN) Branch. Finally, the equivalent value is multiplied by the applicable assessment rate due on imported pork and pork products. The end result is expressed in an amount per pound for each type of pork or pork product. To determine the amount per kilogram for pork and pork products subject to assessment under the Act and Order, the cent-per-pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

Since the last adjustment was made in the amount of the assessment due on live hogs and imported pork and pork products (66 FR 67071), there has been a change in the way LGMN Branch reports hog prices. Due to the implementation of the Livestock Mandatory Price Reporting Program, LGMN no longer report hogs on a live basis because most of the industry moved to buying hogs on a carcass basis. Thus, the Iowa-Southern Minnesota hog reports are now reported on a carcass basis defined by muscle and fat. Previously, these reports were quoted for 49–52 percent lean yield barrows and gilts weighing an average of 240–280 pounds live weight. Therefore, the only consistent price available for hogs for calendar year 2001 is the average base carcass price for 51–52 percent lean hogs derived from the National Base Lean Hog Carcass Slaughter Cost Report. To convert this figure to a live basis, it must be multiplied by 74 percent, the average dressing percentage of porcine animals in the United States as recognized by the industry.

The average annual market price increased from \$42.70 per hundredweight in 2000 to \$45.87 per hundredweight in 2001, an increase of about 7 percent. The combined effect of the assessment rate decrease and the increase in the average annual market price will result in a decrease in assessments for all HTS numbers listed in the table in § 1230.110(b), 66 FR 67071; December 28, 2001, of an amount equal to two-to four-hundredths of a cent per pound, or as expressed in cents per kilogram, four-hundredths to nine-hundredths of a cent per kilogram. Based on Department of Commerce, Bureau of Census, data on the volume of pork and pork products imported during 2001, the decreases in the assessment amounts will result in an estimated \$290,000 decrease in importer assessments over a 12-month period. In addition, this rule adds a new HTS

number—1602.49.9000—to the table in § 1230.110(b). This HTS number has been assigned to prepared or preserved pork. In 2001, over 2,114 metric tons of prepared or preserved pork products were imported into the United States as reported by the Department of Commerce.

On July 19, 2002, AMS published in the **Federal Register** (67 FR 47474) a proposed rule which would (1) decrease the current rate of assessment of 0.45 percent of the market value of porcine animals to 0.40 percent, and (2) decrease the amount of assessment per pound due on imported pork and pork products (two-to four-hundredths of a cent per pound) to reflect the combined effect of the increase in the 2001 average price for domestic barrows and gilts (about 7 percent) and the decrease in the assessment rate. The proposal was published with a request for comments by August 19, 2002. Five comments were received. All of the commenters, which included the National Pork Board, the National Pork Producers Council, and three state pork producer associations, support the decrease of assessment rate. In addition, the Board provided information regarding the timing of the decrease in order to provide the Board with ample time to communicate an assessment rate change and to minimize the burden on those responsible for remitting pork checkoff assessments.

USDA carefully considered the comments and the recommendation of the Delegate Body. This action lessens the assessment burden on producers and importers. The effective date of September 30, 2002, gives the Board ample time to communicate this change and will not burden those that remit pork checkoff assessments. Accordingly, pursuant to 5 U.S.C. 553, it is found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**.

This final rule adopts the decrease in the assessment rate from .45 percent of market value of porcine animals to .40 percent as proposed and decreases the amount of assessment per pound due on imported pork and pork products (two-to four-hundredths of a cent per pound) to reflect the combined effect of the increase in the 2001 average price for domestic barrows and gilts (about 7 percent) and the decrease in the assessment rate.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agriculture research, Marketing agreement, Meat

and meat products, Pork and pork products.

For the reasons set forth in the preamble, 7 CFR part 1230 is amended as follows:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

Subpart B—[Amended]

2. Section 1230.110 is revised to read as follows:

§ 1230.110 Assessments on imported pork and pork products.

(a) The following Harmonized Tariff Schedule (HTS) categories of imported live porcine animals are subject to assessment at the rate specified.

Live porcine animals	Assessment
0103.10.0000	¹ 0.40
0103.91.0000	¹ 0.40
0103.92.0000	¹ 0.40

¹ percent Customs Entered Value.

(b) The following HTS categories of imported pork and pork products are subject to assessment at the rates specified.

Pork and pork products	Assessment	
	Cents/lb	Cents/kg
0203.11.0000 .....	.25	.551150
0203.12.1010 .....	.25	.551150
0203.12.1020 .....	.25	.551150
0203.12.9010 .....	.25	.551150
0203.12.9020 .....	.25	.551150
0203.19.2010 .....	.29	.639334
0203.19.2090 .....	.29	.639334
0203.19.4010 .....	.25	.551150
0203.19.4090 .....	.25	.551150
0203.21.0000 .....	.25	.551150
0203.22.1000 .....	.25	.551150
0203.22.9000 .....	.25	.551150
0203.29.2000 .....	.29	.639334
0203.29.4000 .....	.25	.551150
0206.30.0000 .....	.25	.551150
0206.41.0000 .....	.25	.551150
0206.49.0000 .....	.25	.551150
0210.11.0010 .....	.25	.551150
0210.11.0020 .....	.25	.551150
0210.12.0020 .....	.25	.551150
0210.12.0040 .....	.25	.551150
0210.19.0010 .....	.29	.639334
0210.19.0090 .....	.29	.639334
1601.00.2010 .....	.34	.749564
1601.00.2090 .....	.34	.749564
1602.41.2020 .....	.37	.815702
1602.41.2040 .....	.37	.815702
1602.41.9000 .....	.25	.551150
1602.42.2020 .....	.37	.815702
1602.42.2040 .....	.37	.815702
1602.42.4000 .....	.25	.551150
1602.49.2000 .....	.34	.749564
1602.49.4000 .....	.29	.639334

Pork and pork products	Assessment	
	Cents/lb	Cents/kg
1602.49.9000 .....	.29	.639334

3. Section 1230.112 is revised to read as follows:

§ 1230.112 Rate of assessment.

In accordance with § 1230.71(d) the rate of assessment shall be 0.40 percent of market value.

Dated: September 11, 2002.

A.J. Yates,

Administrator Agricultural Marketing Service.

[FR Doc. 02-23549 Filed 9-12-02; 10:36 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1717

RIN 0572-AB63

Mergers and Consolidations of Electric Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulations to provide the Administrator with loan processing prioritization authority for recently merged companies. This change will allow the Administrator to grant or decline priority or grant priority for a limited amount of a loan application. This action will allow for lending priority to newly merged companies and provide greater opportunity to provide loans to as many borrowers as possible.

EFFECTIVE DATE: September 16, 2002.

FOR FURTHER INFORMATION CONTACT:

Patrick R. Sarver, Management Analyst, Rural Utilities Service, Electric Program, Room 4024 South Building, Stop 1560, 1400 Independence Ave., SW., Washington, DC 20250-1560, Telephone: 202-690-2992, FAX: 202-690-0717, e-mail: psarver@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which

may require consultation with State and local officials. See the final rule related notice titled "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034) advising that RUS loans and loan guarantees from coverage were not covered by Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule, and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeals procedures, if any are required, must be exhausted before an action against the Department or its agencies.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator of RUS has determined that this rule will not have significant impact on a substantial number of small entities. The RUS electric loan program provides loans and loan guarantees to borrowers at interest rates and terms that are more favorable than those generally available from the private sector. Small entities are not subjected to any requirements, which are not applied equally to large entities. RUS borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct cost associated with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

This rule contains no additional information collection or recordkeeping requirements under OMB control number 0572-0032 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, telephone number (202) 512-1800.

Background

For reasons set for in the proposed rule dated November 1, 2001, 66 FR 55130, and to provide a greater opportunity to provide loans to as many borrowers as possible, the Rural Utilities Service (RUS) is amending 7 CFR part 1717, subpart D, to provide the Administrator the flexibility to limit the amount of a loan to a successor (surviving business entity) following a merger.

No comments were received by RUS as the result of the proposed rule.

List of Subjects in 7 CFR Part 1717

Administrative practice and procedure, Electric power, Electric power rates, Electric utilities, Intergovernmental relations, Investments, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations, is amended as follows:

PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1717 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

Subpart D—Mergers and Consolidations of Electric Borrowers

2. Section 1717.154 is amended by:
 A. Revising paragraph (a)(1);
 B. Redesignating paragraph (a)(2) to (a)(3), and

C. Adding a new paragraph (a)(2).

This revision and addition are to read as follows:

§ 1717.154 Transitional assistance in connection with new loans.

* * * * *

(a) *Loan processing priority.* (1) RUS loans are generally processed in chronological order based on the date the complete application is received in the regional or division office. At the borrower's request, RUS may offer loan processing priority for the first loan to a successor, provided that the loan is approved by RUS not later than 5 years after the effective date of the merger. In considering the request, the Administrator will take into account, among other factors, the amount of the loan application, whether there is a significant backlog in pending loan applications, the impact that loan priority would have on the backlog, the savings and efficiencies to be realized from the merger and the relative importance of loan priority to facilitating the merger. The Administrator may, in his or her sole discretion, grant or decline to grant priority, or grant priority for a limited amount of the loan application while deferring for later consideration the remainder of the application.

(2) For any subsequent loans approved during those 5 years, RUS may offer loan processing priority. In reviewing requests for loan processing priority on subsequent loans, RUS will consider the loan authority for the fiscal year, the borrower's projected cash flows, its electric rates and rate disparity, and the likely mitigation effects of priority loan processing. See 7 CFR 1710.108 and 1710.119.

* * * * *

Dated: September 5, 2002.

Curtis M. Anderson,

Deputy Administrator, as Acting Administrator, Rural Utilities Service.

[FR Doc. 02-23492 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-SW-66-AD; Amendment 39-12879; AD 2002-18-05]

RIN 2120-AA64

Airworthiness Directives; Eurocopter France Model SA330F, SA330G, SA330J, AS332C, AS332L, and AS332L1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France (ECF) model helicopters that requires inspecting each tail rotor blade de-icing rotating collector (collector) for radial play and rotation torque at specified intervals. If the play or torque exceeds the specified standard, this AD requires replacing the collector with an airworthy part. This amendment is prompted by excessive play measured on the collector of an ECF Model AS332 helicopter. The actions specified by this AD are intended to prevent wear of a collector bearing, loss of tail rotor effectiveness, and subsequent loss of control of the helicopter.

EFFECTIVE DATE: Effective October 21, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 21, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0110, telephone (817) 222-5490, fax (817) 222-5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified ECF model helicopters was published in the **Federal Register** on June 7, 2002 (67 FR 39314). That action proposed to require

inspecting the radial play and the rotational torque on the collector initially and at specified intervals. If the radial play or the rotational torque exceeds 0.1 millimeter or 3.5 daN, respectively, the AD proposed replacing the collector with an airworthy part.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on ECF Model SA330 helicopters. The DGAC advises of excessive play measured on the collector.

ECF has issued AS 332 Service Bulletin No. 05.00.45, Revision 1, dated August 16, 1999, and SA 330 Alert Service Bulletin No. 05.88, dated June 8, 2001. The service bulletins specify checking the condition of the bearings and the collector-to-rotor attachment shaft at regular intervals, measuring the radial play, measuring the rotation torque of the collector, and state the acceptable radial and rotational tolerances. The DGAC classified the service bulletins as mandatory and issued AD No. 2001-317-082(A), dated July 25, 2001, to ensure the continued airworthiness of these helicopters in France.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that this AD will affect 3 helicopters of U.S. registry, that it will take approximately 2 work hours per helicopter to inspect and replace the collector, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$300. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$1260 to replace the collectors on the entire fleet.

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

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

impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002-18-05 Eurocopter France:

Amendment 39-12879. Docket No. 2001-SW-66-AD.

Applicability: Model SA330F, SA330G, SA330J, AS332C, AS332L, and AS332L1 helicopters with a tail rotor blade de-icing rotating collector (collector), part number (P/N) APCL 110-265-201, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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: Within 100 hours time-in-service (TIS) or 6 months, whichever occurs first, unless accomplished previously, and then at intervals not to exceed 110 hours TIS or 6 months, whichever occurs first.

To prevent wear of a collector bearing, loss of tail rotor effectiveness, and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect the radial play and the rotation torque of the collector in accordance with the Accomplishment Instructions, paragraph

2.B., of Eurocopter France AS 332 Service Bulletin No. 05.00.45, Revision 1, dated August 16, 1999, for the Model AS 332 helicopters, or Eurocopter France SA 330 Alert Service Bulletin No. 05.88, dated June 8, 2001, for the Model SA 330 helicopters. If the radial play exceeds 0.1 millimeter (0.004 inches) or the rotational torque exceeds 3.5 daN (7.9 lbs), before further flight, replace the collector with an airworthy part.

(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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

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

(d) The inspection shall be done in accordance with the Accomplishment Instructions, paragraph 2.B., of Eurocopter France AS 332 Service Bulletin No. 05.00.45, Revision 1, dated August 16, 1999, for the Model AS 332 helicopters, or Eurocopter France SA 330 Alert Service Bulletin No. 05.88, dated June 8, 2001, for the Model SA 330 helicopters. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Direction General De L'Aviation Civile (France) AD No. 2001-317-082(A), dated July 25, 2001.

(e) This amendment becomes effective on October 21, 2002.

Issued in Fort Worth, Texas, on August 28, 2002.

Eric D. Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02-22896 Filed 9-13-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-SW-47-AD; Amendment 39-12880; AD 2002-18-06]

RIN 2120-AA64

Airworthiness Directives; Eurocopter France Model AS332C, L, L1, and Model SA330F, G, and J Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Eurocopter France (ECF) Model AS332C, L, and L1 and Model SA330F, G, and J helicopters, that currently requires an inspection to determine the angular play of the tail rotor gearbox (gearbox) at specified intervals. This amendment changes the measurement limits and the load to be applied to a tail rotor blade (blade) when determining the angular play. This amendment is prompted by a review of design data and a determination that the amount of play can be increased with an increase in the amount of applied load during the inspection. The actions specified by this AD are intended to detect excessive angular play and to prevent failure of a gearbox, loss of tail rotor drive, and subsequent loss of control of the helicopter.

DATES: Effective October 21, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 21, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0110, telephone (817) 222-5123, fax (817) 222-5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by

superseding AD 98-06-04, Amendment 39-10633 (63 FR 34790, June 26, 1998), which applies to ECF Model AS332C, L, and L1 and Model SA330F, G, and J helicopters, was published in the **Federal Register** on February 14, 2002 (67 FR 6885). That action proposed to require an inspection of the angular play of certain gearboxes and to allow more play than the current AD allows before removing the gearbox is required. For the Model SA330 helicopter, the allowable play increased from 0.51mm to 0.64mm. For the Model AS332 helicopter, the allowable play increased from 0.51mm to 0.74mm.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 4 helicopters of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per helicopter to accomplish the required actions, and that the average labor rate is \$60 per work hour. Creating measurement tools will cost approximately \$100 per helicopter and it will cost \$45,000 to replace a gearbox. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be \$1,120, assuming no gearbox will need to be replaced.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-10633 (63 FR 34790, June 26, 1998), and by adding a new airworthiness directive (AD), Amendment 39-12880, to read as follows:

2002-18-06 Eurocopter France:

Amendment 39-12880. Docket No. 2001-SW-47-AD. Supersedes AD 98-06-04, Amendment 39-10633, Docket No. 98-SW-11-AD.

Applicability: Model AS332C, L, and L1 and Model SA330F, G, and J helicopters, with tail rotor gearbox (gearbox), part number (P/N) 332A33-0001-all dash numbers, 330A33-0000-all dash numbers, 330A33-0011-all dash numbers (for AS332 models), or 330A33-9109-all dash numbers (for SA330 models), installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 detect excessive angular play in the gearbox and to prevent failure of a gearbox, loss of tail rotor drive, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours time-in-service (TIS) for any gearbox with 495 or more hours TIS, inspect each gearbox for play between the splines of the gearbox bevel gear and tail rotor driveshaft in accordance with the Accomplishment Instructions, paragraphs 2.A. through 2.B.4. of Eurocopter France

Alert Service Bulletin No. 05.00.44 for the Model AS332 helicopters or No. 05.86 for the Model SA330 helicopters, both Revision 1 and both dated January 11, 2001.

(1) Thereafter, reinspect the gearbox for play:

(i) At intervals not to exceed 520 hours TIS, if the play measurement is 0.30 millimeter (mm) (0.0118 inch) or less for Model SA330 helicopters or 0.44mm (0.0173 inch) or less for Model AS332 helicopters, or

(ii) At intervals not to exceed 100 hours TIS, if the play measurement is greater than 0.30mm and less than 0.65mm (0.0255 inch) for Model SA330 helicopters or greater than 0.44mm and less than 0.75mm (0.0295 inch) for the Model AS332 helicopters.

(2) Before further flight, remove any gearbox if the play measurement is equal to or greater than 0.65mm for Model SA330 helicopters or 0.75mm for Model AS332 helicopters.

(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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(c) Special flight permits will not be issued.

(d) The inspections shall be done in accordance with Eurocopter France Alert Service Bulletin No. 05.00.44 for the Model AS332 helicopters or No. 05.86 for the Model SA330 helicopters, both Revision 1 and both dated January 11, 2001. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 21, 2002.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) ADs 1997-322-067(A) R2 and 1997-323-079(A) R2, both dated February 21, 2001.

Issued in Fort Worth, Texas, on September 5, 2002.

David A. Downey,
Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02-23286 Filed 9-13-02; 8:45 am]

BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION**16 CFR Part 305****Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")**

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") announces that the current ranges of comparability for central air conditioners, and heat pumps will remain in effect until further notice. Finally, the Commission amends the portions of Appendices H (Cooling Performance and Cost for Central Air Conditioners) and I (Heating Performance and Cost for Central Air Conditioners) to reflect the current (2002) Representative Average Unit Cost of Electricity that was published on April 24, 2002 (67 FR 20104), by the Department of Energy ("DOE"), and on June 7, 2002 (67 FR 39269) by the Commission.

EFFECTIVE DATES: The amendments to Appendices H and I to Part 305 will become effective December 16, 2002.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202-326-2889); hnewsome@ftc.gov.

SUPPLEMENTARY INFORMATION: The Rule was issued by the Commission in 1979, 44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 ("EPCA").¹ The Rule covers several categories of major household appliances including central air conditioners and heat pumps.

I. Background

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an "EnergyGuide" label, fact sheets (for some appliances), and in catalogs. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a "range of comparability." This range shows the

¹ 42 USC 6294. The statute also requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of the other models (perhaps competing brands) similar to the label model. The Rule also requires manufacturers to include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by specified dates for each product type.² These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information on labels consistent with these changes, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission will publish a statement that the prior range remain in effect for the next year.

II. 2002 Central Air Conditioner and Heat Pump Information

The annual submissions of data for central air conditioners, and heat pumps have been made and analyzed by the Commission. The ranges of comparability for central air conditioners and heat pumps have not changed by more than 15% from the current ranges for these products. Therefore, the current ranges for these products, which were published on September 16, 1996 (61 FR 48620), will remain in effect until further notice.

III. Cost Figures for Central Air Conditioner and Heat Pump Fact Sheets

The Commission is amending the cost calculation formulas in Appendices H and I to Part 305 that manufacturers of central air conditioners and heat pumps must include on fact sheets and in directories to reflect this year's energy costs figures published by DOE. These routine amendments will become effective December 16, 2002.

² Reports for central air conditioners and heat pumps are due July 1.

IV. Administrative Procedure Act

The amendments published in this notice involve routine, technical and minor, or conforming changes to the Rule's disclosure requirements so that the information on fact sheets and directories is accurate and up to date. Accordingly, the Commission finds for good cause that public comment for these technical, procedural amendments is impractical and unnecessary (5 USC 553(b)(A)(B) and (d)).

V. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603-604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. These technical amendments merely provide a routine change to the range information required by the Rule. Thus, the amendments will not have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act

In a June 13, 1988 notice (53 FR 22106), the Commission stated that the Rule contains disclosure and reporting requirements that constitute "information collection requirements" as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act.³ The Commission noted that the Rule had been reviewed and approved in 1984 by the Office of Management and Budget ("OMB") and assigned OMB Control No. 3084-0068. OMB has reviewed the Rule and extended its approval for its recordkeeping and reporting requirements until September 30, 2004. The amendments now being adopted do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and therefore, do not require further OMB clearance.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR part 305 is amended as follows:

³ 44 U.S.C. 3501-3520.

PART 305—[AMENDED]

1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. In section 2 of Appendix H of Part 305, the text is amended by removing the figure “8.29¢” wherever it appears

and by adding, in its place, the figure “8.28¢”. In addition, the text in this section is amended by removing the figure “12.45¢” wherever it appears and by adding, in its place, the figure “12.42¢”.

3. The formula in section 2 of Appendix H of Part 305 is revised to

read as follows in both places that it appears:

Appendix H to Part 305—Cooling Performance and Cost for Central Air Conditioners

* * * * *

$$\text{Your estimated cost} = \frac{\text{Listed average annual operating cost}^* \times \frac{\text{Your cooling load hours}^{**}}{1,000} \times \frac{\text{Your electrical rate in cents per KWH}}{8.28\text{¢}}}{}$$

* * * * *

4. In section 2 of Appendix I of Part 305, the text is amended by removing the figure “8.29¢” wherever it appears and by adding, in its place, the figure “8.28¢”. In addition, the text and formulas are amended by removing the

figure “12.45¢” wherever it appears and by adding, in its place, the figure “12.42¢”.

5. In section 2 of Appendix I of Part 305, the Formula is revised to read as follows in both places that it appears:

Appendix I to Part 305—Heating Performance and Cost for Central Air Conditioners

* * * * *

$$\text{Your estimated cost} = \text{Listed annual heating cost}^* \times \frac{\text{Your electrical cost in cents per KWH}}{8.28\text{¢}}$$

* * * * *

By direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 02–23467 Filed 9–13–02; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 862

[Docket Nos. 01P–0119 and 01P–0235]

Clinical Chemistry and Clinical Toxicology Devices; Reclassification of Cyclosporine and Tacrolimus Assays

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is reclassifying cyclosporine and tacrolimus assays from class III (premarket approval) to class II (special controls). These assays are used as an aid in the management of transplant patients receiving these drugs. FDA is also identifying the guidance document entitled “Class II Special Controls Guidance Document: Cyclosporine and Tacrolimus Assays; Guidance for Industry and FDA” as the special control the agency believes will

reasonably ensure the safety and effectiveness of these devices. This reclassification is being taken after a review of petitions submitted by Dade Behring, Inc., and Microgenics, Inc. The agency is taking this action under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments), the Safe Medical Devices Act of 1990 (the SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA). Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a class II special controls guidance entitled “Class II Special Controls Guidance Document: Cyclosporine and Tacrolimus Assays; Guidance for Industry and FDA.”

DATES: This rule is effective October 16, 2002.

FOR FURTHER INFORMATION CONTACT: Jean M. Cooper, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD, 20850, 301–594–1243.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 21, 2002 (67 FR 7982), FDA published a proposed rule to reclassify cyclosporine and tacrolimus assays after reviewing information contained in reclassification petitions submitted by Dade Behring, Inc., and Microgenics,

Inc. FDA identified the guidance document entitled “Class II Special Controls Guidance Document: Cyclosporine and Tacrolimus Assays; Draft Guidance for Industry and FDA” as the special control capable of providing reasonable assurance of safety and effectiveness for these devices. These assays are used as an aid in the management of transplant patients receiving these drugs. Interested persons were invited to comment on the proposed rule by April 22, 2002. FDA received two comments that were supportive of its proposed reclassification, but the comments suggested specific recommendations for changes to the guidance.

II. FDA’s Conclusions

Based on a review of the available information referenced in the preamble to the proposed rule and placed on file in FDA’s Dockets Management Branch, FDA concludes that the special controls, in conjunction with general controls, provide reasonable assurance of the safety and effectiveness of these devices. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document. The guidance document was revised to reflect consideration of the comments received. Following the effective date of this final classification rule, any firm submitting a 510(k) premarket notification for a cyclosporine or tacrolimus test system will need to address the issues covered in the special

control guidance. However, the firm need only show that its device meets the recommendations of the guidance or in some other way provides equivalent assurances of safety and effectiveness.

FDA is now codifying the classification and the special control guidance document for cyclosporine and tacrolimus test systems by adding new §§ 862.1235 and 862.1678. For the convenience of the reader, FDA is also adding a new § 862.1(d) to inform the reader where to find guidance documents referenced in part 862.

III. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (Public Law 96-354) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104-121), and the Unfunded Mandates Reform Act of 1995 (Public Law 104-4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the final rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Reclassification of cyclosporine and tacrolimus assays from class III to class II will relieve manufacturers of the cost of complying with the premarket approval requirements in section 515 of the act. Furthermore, the special controls guidance document does not impose any new burdens on manufacturers; it advises manufacturers about ways to comply with the special controls that allow the agency to down classify these devices. By eliminating the need for premarket approval

applications, reclassification will reduce regulatory costs with respect to these devices, impose no significant economic impact on any small entities, and may permit small potential competitors to enter the marketplace by lowering their costs. The agency therefore certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In addition, this final rule will not impose costs of \$100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement of analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

V. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VI. Paperwork Reduction Act of 1995

FDA concludes that this final rule contains no new collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 862

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 862 is amended as follows:

PART 862—CLINICAL CHEMISTRY AND CLINICAL TOXICOLOGY DEVICES

1. The authority citation for 21 CFR part 862 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 862.1 is amended by adding new paragraph (d) to read as follows:

§ 862.1 Scope.

* * * * *

(d) Guidance documents referenced in this part are available on the Internet at <http://www.fda.gov/cdrh/guidance.html>.

3. Section 862.1235 is added to subpart B to read as follows:

§ 862.1235 Cyclosporine test system.

(a) *Identification.* A cyclosporine test system is a device intended to quantitatively determine cyclosporine concentrations as an aid in the management of transplant patients receiving therapy with this drug. This generic type of device includes immunoassays and chromatographic assays for cyclosporine.

(b) *Classification.* Class II (special controls). The special control is “Class II Special Controls Guidance Document: Cyclosporine and Tacrolimus Assays; Guidance for Industry and FDA.” See § 862.1(d) for the availability of this guidance document.

4. Section 862.1678 is added to subpart B to read as follows:

§ 862.1678 Tacrolimus test system.

(a) *Identification.* A tacrolimus test system is a device intended to quantitatively determine tacrolimus concentrations as an aid in the management of transplant patients receiving therapy with this drug. This generic type of device includes immunoassays and chromatographic assays for tacrolimus.

(b) *Classification.* Class II (special controls). The special control is “Class II Special Controls Guidance Document: Cyclosporine and Tacrolimus Assays; Guidance for Industry and FDA.” See § 862.1(d) for the availability of this guidance document.

Dated: August 19, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02-23508 Filed 9-13-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-02-108]

RIN 2115-AE47

Drawbridge Operation Regulations: Passaic River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary final rule governing the operation of the Route 7

(Rutgers Street) Bridge, at mile 8.9, across the Passaic River at Belleville, New Jersey. This rule allows the bridge to remain in the closed position from September 13, 2002 through October 15, 2002. This action is necessary to facilitate structural work at the bridge.

DATES: This temporary final rule is effective from September 13, 2002 through October 15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (CGD01-02-108) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 6:30 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Arca, Project Officer, First Coast Guard District, (212) 668-7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

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

The Coast Guard believes notice and comment are unnecessary because the only vessel operator upstream from the bridge can pass under the bridge without a bridge opening. In view of the historic absence of bridge opening requests and the demonstrated need to complete structural work at the bridge, any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest.

Background

The Route 7 Bridge has been replaced with a new Route 7 Bridge. The final phase of the new bridge construction involves the installation of the roadway deck, during which, the bridge will not be able to open for vessel traffic.

The bridge owner, New Jersey Department of Transportation, requested a change to the temporary regulation to facilitate the remaining construction. On June 26, 2002, we published a temporary final rule (67 FR 42997) for the Route 7 (Rutgers Street) Bridge. That temporary final rule allowed the bridge to remain in the closed position from June 15, 2002 through September 3, 2002, to facilitate the installation of the roadway deck.

Subsequent to publication of the above temporary final rule, the Coast Guard was notified by the owner of the bridge that the June 15, 2002, start date for the repair work and bridge closure would be postponed because of a delay in the delivery of materials required for the project.

The commencement of repair work and the bridge closure did not actually begin until July 24, 2002. As a result of the above delay in the commencement of the bridge construction, the end date for the temporary final rule must be extended.

The Coast Guard believes this temporary final rule is reasonable because no vessel traffic will be precluded from transiting this bridge as a result of the bridge closure. Presently there is only one vessel operator upstream from the bridge and that vessel can pass under the bridge without a bridge opening.

Regulatory Evaluation

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

This conclusion is based on the fact that no known vessel traffic will be prevented from transiting the bridge as a result of this closure.

Small Entities

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

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

This conclusion is based on the fact that no known vessels will be prevented from transiting the bridge as a result of this bridge closure.

Collection of Information

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

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1d, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. From September 13, 2002 through October 15, 2002, section 117.739 is temporarily amended by suspending paragraph (k) and adding a new paragraph (q) to read as follows:

§ 117.739 Passaic River.

* * * * *

(q) The draw of the Route 7 (Rutgers Street) Bridge, mile 8.9, need not open for the passage of vessel traffic from September 13, 2002 through October 15, 2002.

Dated: September 9, 2002.

V.S. Crea,

Rear Admiral, Coast Guard, Commander,
First Coast Guard District.

[FR Doc. 02-23479 Filed 9-13-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Pittsburgh-02-019]

RIN 2115-AA97

Security Zone; Ohio River Mile 119.0 to 119.8, Natrium, WV

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing all water extending 200 feet from the water's edge of the left descending bank on the Ohio River, beginning from mile marker 119.0 and ending at mile marker 119.8. This security zone is necessary to protect Pittsburgh Plate Glass Industries (PPG), persons, and vessels from subversive or terrorist acts. Entry of persons or vessels into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port Pittsburgh or designated representative.

DATES: This rule is effective from 3 p.m. on August 30, 2002 to 3 p.m. on February 15, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Pittsburgh-02-019] and are available for inspection or copying at Marine Safety Office Pittsburgh, Suite 1150 Kossman Bldg., 100 Forbes Ave., Pittsburgh, PA between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. **FOR FURTHER INFORMATION CONTACT:** Petty Officer Michael Marsula, Marine Safety Office Pittsburgh at (412) 644-5808 x114.

SUPPLEMENTARY INFORMATION:

Regulatory Information

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

National security and intelligence officials warn that future terrorist attacks against United States interests

are likely. Current advisories of terrorist threats, a history of violence directed towards this facility, and the nature of material handled at Pittsburgh Plate Glass Industries (PPG) make this rulemaking necessary for the protection of national security interests. Any delay in making this regulation effective would be contrary to the public interest because action is necessary to protect against the possible loss of life, injury, or damage to property.

The Coast Guard will, during the effective period of this temporary final rule, complete notice and comment rulemaking for a proposed permanent regulation.

Background and Purpose

A temporary security zone for this area expired on June 15, 2002 (67 FR 9589, March 4, 2002). We received no comments or objections regarding this zone. Advisories regarding continued threats of terrorism have revealed the need for another security zone to protect PPG, persons, and vessels from subversive or terrorist acts. To enhance security the Captain of the Port is establishing a temporary security zone.

This security zone includes all water extending 200 feet from the water's edge of the left descending bank on the Ohio River beginning from mile marker 119.0 and ending at mile marker 119.8. All persons and vessels are prohibited from entering the zone without the permission of the Captain of the Port Pittsburgh or designated representative.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This rule does not obstruct the regular flow of vessel traffic and will allow vessel traffic to pass safely around the security zone. Vessels may be permitted to enter the security zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard is unaware of any small entities that would be impacted by this rule. The navigable channel remains open to all vessel traffic. We received no comments or objections regarding the previous security zone covering the same area.

If you are a small business entity and are significantly affected by this regulation please contact Petty Officer Michael Marsula, U.S. Coast Guard Marine Safety Pittsburgh, Suite 1150 Kossman Bldg., 100 Forbes Ave., Pittsburgh, PA at (412) 644-5808 x114.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A "Categorical Exclusion Determination" is available for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T08-100 is added to read as follows:

§ 165.T08-100 Security Zone; Ohio River Miles 119.0 to 119.8, Natrium, West Virginia.

(a) *Location.* The following area is a security zone: the waters of the Ohio River, extending 200 feet from the water's edge of the left descending bank beginning from mile marker 119.0 and ending at mile marker 119.8.

(b) *Effective period.* This section is effective from 3 p.m. on August 30, 2002 through 3 p.m. on February 15, 2003.

(c) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Pittsburgh or designated representative.

(2) Persons or vessels desiring to transit the area of the security zone may contact the Captain of the Port Pittsburgh at telephone number 412-644-5808 or on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Pittsburgh or designated representative.

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

Dated: August 30, 2002.

S.L. Hudson,

Commander, Coast Guard, Captain of the Port, Pittsburgh.

[FR Doc. 02-23478 Filed 9-13-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 02-017]

RIN 2115-AA97

Security Zone; Naval Base San Diego, San Diego Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily expanding the geographical boundaries of the permanent security zone at Naval Base, San Diego, California (33 CFR 165.1101), extending it by approximately 80 feet seaward of the pier heads at the request of the U.S. Navy. The additional size will accommodate the Navy's placement of an anti-small boat barrier boom perpendicular to the piers. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP) San Diego, or his designated representative.

DATES: This rule is effective from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP San Diego 02-017 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, California 92101, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this temporary rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. While the Navy has been implementing many force protection measures since the attack on the U.S.S. Cole and the attacks of September 11, 2001, the Chief of Naval Operations has

recently emphasized the need for the expanded use of an anti-small boat barrier boom around Navy vessels in U.S. ports to protect against attacks similar to the one launched against the U.S.S. Cole. In addition, the Office of Homeland Security through its web site has described the current nationwide threat level as "Elevated." According to the Office of Homeland Security, an Elevated Condition is declared when there is a significant risk of terrorist attacks. The Coast Guard believes that issuing an NPRM for this temporary rule and thereby delaying implementation of the expanded security zone would be against the public interest during this elevated state of alert.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of the Naval vessels, their crew, and national security.

Furthermore, in order to protect the interests of national security, the Coast Guard is promulgating this temporary regulation to provide for the safety and security of U.S. Naval vessels in the navigable waters of the United States. As a result, the establishment and enforcement of this security zone is a function directly involved in and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

The Coast Guard has plans to make the expansion of the security zone permanent. Towards that end, the Coast Guard will initiate notice and comment rulemaking before issuing any permanent rule.

Background and Purpose

The Coast Guard is expanding the security zone (33 CFR 165.1101) by temporarily extending it approximately 80 feet seaward of the pier heads to allow the U.S. Navy to deploy an anti-small boat barrier boom perpendicular to the piers. The expansion of this security zone is needed to ensure the physical protection of naval vessels moored in the area by providing adequate standoff distance. It will also prevent recreational and commercial craft from interfering with military operations involving all naval vessels home-ported at Naval Base San Diego and it will protect transiting recreational

and commercial vessels and their respective crews from the navigational hazards posed by such military operations. In addition, the Navy has been reviewing all aspects of its anti-terrorism and force protection posture in response to the attack on the USS COLE and the terrorist attacks of September 11, 2001. The expansion of this security zone will safeguard vessels and waterside facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port or Commander, Navy Region Southwest. Vessels or persons violating this section would be subject to the penalties set forth in 50 U.S.C. 192 and 18 U.S.C. 3571: Seizure and forfeiture of the vessel, a monetary penalty of not more than \$250,000, and imprisonment for not more than 10 years. The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

Regulatory Evaluation

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

The implementation of this security zone is necessary for the protection of the United States' national security interests. The size of the zone is the minimum necessary to allow for safe placement of the anti-small boat boom while providing adequate protection for U.S. Naval vessels, their crews, adjoining areas, and the public. The entities most likely to be affected, if any, are pleasure craft engaged in recreational activities and sightseeing in close proximity to the Naval Base. Any hardships experienced by persons or vessels wishing to approach the Naval Base are considered minimal compared to the national interest in protecting U.S. Naval vessels, their crews, and the public. The expansion of the security zone will not impact navigation in the shipping channel.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard considered whether this rule would

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

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

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard offers to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander Rick Sorrell, Chief of Port Operations, Marine Safety Office San Diego, at (619) 683-6495.

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

Collection of Information

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

Federalism

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

this rule and have determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of

energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

§ 165.1101 [Suspended]

2. Temporarily suspend § 165.1101 from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

3. Add new temporary § 165.T11-047 to read as follows:

§ 165.T11-047 Security Zone: San Diego Naval Base, San Diego Bay, CA.

(a) *Location.* The following area is a security zone: the water area within Naval Base, San Diego enclosed by a line connecting points beginning at 32°41'16.5" N, 117°08'01" W (Point A); thence running southwesterly to 32°41'02.5" N, 117°08'08.5" W (Point B); to 32°40'55.0" N, 117°08'00.0" W (Point C); to 32°40'49.5" N, 117°07'55.5" W (Point D); to 32°40'44.6" N, 117°07'49.3" W (Point E); to 32°40'37.8" N, 117°07'43.2" W (Point F); to 32°40'30.9" N, 117°07'39.0" W (Point G); to 32°40'24.5" N, 117°07'35.0" W (Point H); to 32°40'17.2" N, 117°07'30.8" W (Point I); to 32°40'10.6" N, 117°07'30.5" W (Point J); to 32°39'59.0" N, 117°07'29.0" W (Point K); to 32°39'49.8" N, 117°07'27.2" W (Point L); to 32°39'43.0" N, 117°07'25.5" W (Point M); to 32°39'36.5" N, 117°07'24.2" W (Point N); thence

running easterly to 32°39'38.5" N, 117°07'06.5" W (Point O); thence running generally northwesterly along the shoreline of the Naval Base to the beginning point.

(b) *Effective period.* This temporary section is effective from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port or the Commander, Navy Region Southwest.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

Dated: August 28, 2002.

Robert McFarland,

Lieutenant Commander, Coast Guard, Acting Captain of the Port, San Diego, California.

[FR Doc. 02-23480 Filed 9-13-02; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO-001-0067; FRL-7261-3]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver PM₁₀ Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 30, 2001, the Governor of the State of Colorado submitted a State Implementation Plan (SIP) revision for the purpose of establishing a redesignation for the Denver, Colorado area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM₁₀) under the 1987 standards. The Colorado Air Pollution Control Division's submittal, among other things, documents that the Denver area has attained the PM₁₀ national ambient air quality standards (NAAQS), requests redesignation to attainment and includes a maintenance plan for the area demonstrating maintenance of the PM₁₀ NAAQS for thirteen years. EPA is approving the redesignation request, maintenance plan, revisions to Colorado's Regulations No. 1 and 16, the request for the removal of Regulation No. 12 ("Diesel Inspection/Maintenance Program") and the removal of the

stationary source construction permits for six sources from the SIP because the State has met the applicable requirements of the Clean Air Act, as amended. This action is being taken under sections 107, 110, and 175A of the Clean Air Act (Act).

DATES: This final rule is effective October 16, 2002.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202-2466 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Mail Code 6102T Washington DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

FOR FURTHER INFORMATION CONTACT: Libby Faulk, EPA, Region VIII, (303) 312-6083.

SUPPLEMENTARY INFORMATION: On May 23, 2002, EPA published a notice of proposed rulemaking (NPR) for approval of the redesignation of the Denver PM₁₀ nonattainment area to attainment (67 FR 36124). Throughout this document, wherever "we," "us," or "our" are used, we mean the Environmental Protection Agency (EPA).

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I. EPA's Final Action

A. What Action Is EPA Finalizing?

We are approving the Governor of Colorado's submittal of July 30, 2001, that requests a redesignation for the Denver nonattainment area to attainment for the 1987 PM₁₀ standards. We are using 1999-2001 ambient air quality data from the Denver PM₁₀ nonattainment area as the basis for our decision. We are also approving the maintenance plan for the Denver PM₁₀ nonattainment area, which was submitted with Colorado's July 30, 2001 redesignation request. In conjunction with the maintenance plan, the Governor also submitted revisions to Colorado's Regulation No. 1, "Emission

Control For Particulates, Smokes, Carbon Monoxide, & Sulfur Oxides," and Colorado's Regulation No. 16, "Street Sanding Emissions." With their submittal, Colorado also requested that we remove Regulation No. 12, the "Diesel Inspection/Maintenance Program" and the stationary source construction permits that we had incorporated by reference into our April 17, 1997 approval of the PM₁₀ SIP (62 FR 18716). Thus, Regulation No. 12 and the permits for Public Service Company of Colorado's Cherokee Electric Generating Station, Purina Mills, Electron Corporation, Trigen-Colorado Energy Corporation, Rocky Mountain Bottle Company (which includes earlier permits that were issued in 1993 under the former name of Coors Brewing Company), and Conoco Refinery are being removed from the SIP with this action. We are approving this request, the maintenance plan and its accompanying regulation revisions because the Colorado Air Pollution Control Division (Colorado) has adequately addressed all of the requirements of the Act for redesignation to attainment applicable to the Denver PM₁₀ nonattainment area. Upon the effective date of this final action, the Denver area's designation status under 40 CFR part 81 will be revised to attainment. By using "Denver" or the "Denver area," we mean Denver, Jefferson, and Douglas Counties, as well as part of Boulder, Adams and Arapahoe Counties. Please refer to our proposed action published on May 23, 2002 at 67 FR 36124 for a more detailed explanation of the redesignation requirements and analysis of how the Denver area has met those requirements.

B. Updates to EPA's Proposed Approval

i. Attainment of the PM₁₀ NAAQS

Whether an area has attained the PM₁₀ NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR part 50, appendix K. A State must demonstrate that an area has attained the PM₁₀ NAAQS through submittal of ambient air quality data from an ambient air monitoring network representing maximum PM₁₀ concentrations. The data, which must be quality assured and recorded in the Aerometric Information Retrieval System (AIRS), must show that the average annual number of expected exceedances for the area is less than or equal to 1.0, pursuant to 40 CFR 50.6. In making this showing, three

consecutive years of complete air quality data must be used.

Our proposed approval of the Denver redesignation to attainment was based on 1998 through 2000 air quality monitoring data, however, we now have a more recent year of data available to use for the final redesignation. Thus, we are using 1999 through 2001 data for the basis of this final rulemaking. Between 1999 and 2001, Colorado operated thirteen PM₁₀ monitors, which were either State and Local Air Monitoring Stations (SLAMS) or National Air Monitoring Sites (NAMS), in the Denver PM₁₀ nonattainment area. Data from these monitors have been quality-assured and placed in AIRS on a quarterly basis. Only one exceedance of the 24-hour PM₁₀ NAAQS was measured between 1999 and 2001. In 1999, the Adams City monitor recorded a 24-hour value of 160 µg/m³ (the 24-hour PM₁₀ NAAQS is 150 µg/m³). Because data collection was less than 100% at this monitoring site, the expected exceedance rate for 1999 at this site was 1.16, (as calculated according to 40 CFR part 50, appendix K). For 2000 and 2001, the expected exceedance rate was 0.0. Thus, the three-year average was less than 1.0, which indicates the Denver area attained the 24-hour PM₁₀ NAAQS. All other sites had expected exceedance rates of 0.0 for this three-year period. Review of the annual standard for calendar years 1999, 2000 and 2001 reveals that the Denver area has also attained the annual PM₁₀ NAAQS. There was no violation of the annual standard for the three year period from 1999 through 2001. Further information on PM₁₀ monitoring is presented in Chapter 3, section B of the redesignation request and maintenance plan. We have evaluated the ambient air quality data and believe that Colorado has adequately demonstrated that the PM₁₀ NAAQS have been attained in the Denver area.

ii. Conoco Consent Decree

In the proposed approval of the redesignation request and maintenance plan, we explained that we were relying on a proposed federal consent decree that would require significant emission reductions at the Conoco facility before 2015. On December 20, 2001, a proposed Complaint and Consent Decree in *United States v. Conoco Inc.* was lodged with the United States District Court for the Southern District of Texas. (See 67 FR 107 for the notice of lodged consent decree.) That consent decree was entered by the Court on April 29, 2002. Under the consent decree, Conoco Denver Refinery's fluid

catalytic cracking unit (FCCU) is required to comply with a New Source Performance Standard (NSPS), subpart J, emissions limit for PM of 1 pound per 1000 pounds of coke burned by no later than June 30, 2006. This restriction will limit Conoco to approximately 67 tons per year of primary PM₁₀, which is far less than the 1233 tons per year which Colorado used to re-model Conoco's emissions and less than the 185 tons per year Colorado used in the maintenance plan; this new limit will more than offset the 0.3 µg/m³ increase that Colorado projected based on the 1233 tons per year value and that would have affected the year 2015 "safety margin" allocation for mobile sources. Because it is based on an NSPS requirement, this new PM limit at Conoco will be permanent.

II. Summary of Public Comments and EPA's Responses

(1) *Comment:* One commentator expressed concern that it was unclear whether the commitment that Colorado has made in the PM₁₀ maintenance plan to revise the maintenance demonstration using the new mobile source emissions model (MOBILE6) is enforceable. The commentator believes that it is important that mobile source modeling uses MOBILE6 when emission reduction credits are taken for the federal Tier II emission standards and pointed out that EPA has acknowledged that Tier II assumptions may not be as accurate when MOBILE5 is used instead of MOBILE6.

Response: Colorado's commitment was adopted through Colorado's SIP process and is part of the maintenance plan. With the effective date of this final action, this commitment will be an enforceable part of Colorado's SIP. In addition, the SIP doesn't take credit for the Tier II program until 2004, and we expect Colorado to have fulfilled their commitment to revise the maintenance plan using MOBILE6 by that time.

(2) *Comment:* One commentator expressed concern that the recent EPA announcement of future revisions to the new source review (NSR) program may have implications for this redesignation and maintenance plan. The commentator also stated that in taking final action on the Denver PM₁₀ redesignation and maintenance plan, we should clarify that any SIP revision implementing the federal NSR changes must analyze the suite of air quality implications associated with such changes.

Response: To the extent these comments on the possible NSR program revisions pertain to NSR under Part D of the CAA, they are irrelevant to the Denver PM₁₀ redesignation because the

area will be subject to the prevention of significant deterioration requirements (PSD) under Part C of the Clean Air Act upon redesignation to attainment. The Denver PM₁₀ maintenance plan is premised upon PSD applying to the area rather than the NSR requirements under Part D of the Act. To the extent the comments pertain to PSD, EPA has not yet taken final action regarding the changes to the NSR program; thus, the effect of any possible changes to the PSD program is speculative. Furthermore, Colorado's existing PSD regulations will remain part of the SIP until EPA approves a change to those regulations following notice and comment rulemaking. Thus, if EPA were to take final action on changes to the PSD program, Colorado would then have to revise their State PSD regulations and submit those revisions to us for approval. Any PSD program change that would affect Denver's continued maintenance of the PM₁₀ standard, or any other NAAQS, would be evaluated at that time.

(3) *Comment:* One commentator asked why there were significant and inexplicable differences between the onroad NO_x mobile source emissions budgets in the ozone maintenance plan and the PM₁₀ maintenance plan. The commentator noted that the differences between the NO_x budgets in the ozone maintenance plan and the NO_x budgets in the PM₁₀ maintenance plan may be based on seasonality.

Response: The commentator is correct in pointing out that one reason for the difference between the NO_x emission inventories in the PM₁₀ maintenance plan and the ozone maintenance plan is that the ozone plan uses a summertime inventory, whereas the PM₁₀ maintenance plan uses a wintertime inventory. Aside from this seasonal variation, we believe that the differences between the NO_x emissions in the two maintenance plans result from the following: (1) While the nonattainment areas for both pollutants were the same, the emissions inventory domains differ. The ozone emissions inventory includes the entire nonattainment area while the PM₁₀ maintenance plan covers a smaller area than the actual nonattainment area, although all areas with the expected maximum PM₁₀ concentrations are included in the domain; (2) The PM₁₀ maintenance plan takes emission reduction credit from EPA's *Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements*, which take effect in 2004, and EPA's *Heavy Duty Engines and Vehicle Standards and Highway Diesel Sulfur Control Requirements*, which take effect in 2007. The ozone maintenance plan

does not take emission reduction credit from these control programs; (3) The vehicle miles traveled (VMT) is higher in the summertime versus the wintertime; and (4) The mobile source emission modeling inputs for the ozone plan came from the Denver Regional Council of Government's (DRCOG) 1999 through 2004 Transportation Improvement Program (TIP) while the modeling inputs for the PM₁₀ maintenance plan are based on DRCOG's more recent 2001 through 2006 TIP. We believe that the difference in the NO_x inventories between the ozone and PM₁₀ maintenance plans is reasonable and that these numbers are accurate.

III. Administrative Requirements

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 15, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: August 9, 2002.

Christine Todd Whitman,
EPA Administrator.

Chapter I, title 40, parts 52 and 81 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(95) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(95) On July 30, 2001, the State of Colorado submitted a maintenance plan for the Denver PM₁₀ nonattainment area and requested that the area be redesignated to attainment for the PM₁₀ National Ambient Air Quality Standards. The maintenance plan deletes from the SIP Regulation No. 12, "Diesel Inspection/Maintenance Program" and permits for six stationary sources incorporated by reference in paragraphs (c)(91)(i)(A) and (c)(82)(i)(E) through (J), of this section respectively. In conjunction with the maintenance plan, Colorado revised previously approved regulations and requirements to control particulate matter (Regulation No. 1 and Regulation No. 16.) Among other changes, the revision to Regulation No. 1 includes the deletion of section VII.B of Regulation No. 1 from the SIP. Among other changes, the revision to Regulation No. 16 includes the deletion of sections III and IV of Regulation No. 16 from the SIP. The redesignation request, maintenance plan, and revisions to Regulations Nos. 1 and 16 satisfy all applicable requirements of the Clean Air Act.

(i) Incorporation by reference.

(A) Section VII and VIII.A of Regulation No. 1, "Emission Control for

Particulates, Smokes, Carbon Monoxide, & Sulfur Oxides,” 5 CCR 1001–3, as adopted August 16, 2001 and effective September 30, 2001. (See paragraph (c)(95)(ii)(I) of this section regarding clerical error in section VIII.A of Regulation No. 1.)

(B) Sections I and II, Regulation No. 16, “Street Sanding Emissions,” 5 CCR 1001–18, as adopted April 19, 2001, effective June 30, 2001.

(ii) Additional material.

(A) Letter dated September 5, 2001 from Casey Shpall, Colorado Office of the Attorney General to Cindy Rosenberg, EPA Region 8, clarifying that public notice was given of the proposed changes and transmitting the appropriate documentation.

(B) Fax dated September 6, 2001 from Doug Lempke, Colorado Department of Public Health and Environment, to Cindy Rosenberg, EPA Region 8, submitting Colorado Attorney General’s opinion concerning revisions to Regulation No. 16.

(C) Letter dated September 10, 2001 from Kevin Briggs, Colorado Department of Public Health and Environment, to Kevin Golden, EPA Region 8, transmitting model input files for maintenance demonstration.

(D) Letter dated September 13, 2001 from Casey Shpall, Colorado Office of the Attorney General to Cindy Rosenberg, EPA Region 8, explaining that an error occurred in the publication of Colorado Regulation No. 1.

(E) Letter dated November 27, 2001 from Margie Perkins, Colorado

Department of Public Health and Environment, to Richard Long, EPA Region 8, transmitting the justification for the revised street sweeping credits used in the PM₁₀ maintenance plan.

(F) Letter dated April 5, 2002 from Margie Perkins, Colorado Department of Public Health and Environment, to Richard Long, EPA Region 8, transmitting a supplement to the Technical Support Documentation correcting the emission rates used in the PM₁₀ maintenance plan for Conoco and Ultramar Diamond Shamrock.

(G) Complaint and Consent Decree in *United States v. Conoco Inc.*, entered by the United States District Court for the Southern District of Texas on April 29, 2002.

(H) July 31, 2002 memorandum from Cindy Rosenberg, EPA Region 8, to the Denver PM₁₀ Redesignation and Maintenance Plan Docket, regarding the August 16, 2001 version of Regulation No. 1, “Emission Control for Particulates, Smokes, Carbon Monoxide, & Sulfur Oxides.”

(I) Letter dated July 31, 2002 from Frank R. Johnson, Assistant Attorney General, Colorado Department of Law, to Jonah Staller, EPA Region 8, explaining a clerical error in the version of Regulation No. 1 referenced in paragraph (c)(95)(i)(A) of this section, assuring the continued enforceability of section VIII.A of Regulation No. 1 regardless of the air quality classification of the Denver area, and

indicating that the clerical error will be promptly remedied.

* * * * *

3. Section 52.332 is amended by adding paragraph (1) to read as follows:

§ 52.332 Control strategy: Particulate matter.

* * * * *

(l) On July 30, 2001, the State of Colorado submitted a maintenance plan for the Denver PM₁₀ nonattainment area (“PM–10 Redesignation Request and Maintenance Plan For the Denver Metropolitan Area,” Chapter 4: “Maintenance Plan,” adopted April 19, 2001 by the Colorado Air Quality Control Commission and effective April 19, 2001) and requested that the area be redesignated to attainment for the PM₁₀ National Ambient Air Quality Standards. The redesignation request and maintenance plan satisfy all applicable requirements of the Clean Air Act.

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 § 81.306, the table entitled “Colorado—PM–10” is amended by revising the entry under Adams, Denver, and Boulder Counties for the “Denver Metropolitan area” to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Adams, Denver, and Boulder Counties Denver Metropolitan area	October 16, 2002	Attainment.		
All of Denver, Jefferson, and Douglas Counties, Boulder County (excluding the Rocky Mountain National Park) and the Colorado automobile inspection and readjustment program portions of Adams and Arapahoe Counties.				
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[FR Doc. 02-23380 Filed 9-13-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[FRL-7271-1]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Perchloroethylene Air Emission Standards for Dry Cleaning Facilities: Commonwealth of Massachusetts Department of Environmental Protection**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA), the Massachusetts Department of Environmental Protection submitted a request for approval to implement and enforce 310 CMR 70.01-04 Environmental Results Program (ERP) Certification and 310 CMR 7.26(10)-(16) Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities in place of National Emissions Standard for Hazardous Air Pollutants (NESHAP) for Perchloroethylene Dry Cleaning Facilities as it applies to area sources. EPA has reviewed this request and found that it satisfies the requirements necessary to qualify for approval. Thus, EPA is hereby granting the Massachusetts Department of Environmental Protection the authority to implement and enforce its perchloroethylene air emissions regulation in place of the Federal dry cleaning NESHAP for area sources. This approval makes the Massachusetts Department of Environmental Protection rule federally enforceable and reduces the burden on area sources within the state of Massachusetts as that they will only have one rule with which they must comply. Major sources remain subject to the Federal dry cleaning NESHAP.

DATES: This action will be effective November 15, 2002, unless EPA receives relevant adverse comments by October 16, 2002. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2002.

ADDRESSES: Written comments should be mailed concurrently to the addresses below: Steven Rapp, Chief, Air Permits, Toxics and Indoor Programs Unit (CAP), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114. Steven DeGabriele, Director, Business Compliance Division, Massachusetts Department of Environmental Protection, One Winter Street, Boston, MA 02108. Copies of the requests for approval are available for public inspection at EPA's Region I Office, Air Permits, Toxics, and Indoor Programs Unit, during normal business hours.

FOR FURTHER INFORMATION CONTACT: MaryBeth Smuts, Air Permits, Toxics, and Indoor Programs Unit, U.S. EPA Region I, One Congress St., Suite 1100 (CAP), Boston, MA 02114, (617) 918-1512.

SUPPLEMENTARY INFORMATION: This Supplementary Information is organized as follows:

- I. Background and Purpose
- II. EPA Evaluation of Differences Between the State and the Federal Regulations
 - A. What Major Differences Between the Massachusetts Department of Environmental Protection's Dry Cleaning Rule and the Dry Cleaning NESHAP Were Selected for Explanations?
 1. How Does the Applicability of Sources Differ?
 2. Are There Differences in the Compliance Dates?
 3. What Are the Differences in Temperature Requirements for Refrigerated Condensers?
 4. How Do the Work Practice Standards Differ?
 5. What Are the Requirement Differences in Compliance Certifications?
 6. Do the Record Retention Requirements Differ?
 - B. What Is EPA's Action Regarding the MA DEP Rule?
 - C. When Did the Massachusetts Department of Environmental Protection's Authorities To Implement and Enforce Section 112 Standards Become Effective?
- III. Opportunity for Public Comments
- IV. Summary of EPA's Action
- V. Administrative Requirements

I. Background and Purpose

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable Federal rules, emissions standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (see 58 FR 62262, November 26, 1993) and the subsequently amended regulations (see 65 FR 55810, September 14, 2000). Under these

regulations, a state air pollution control agency has the option to request EPA's approval to substitute a state rule for the applicable Federal rule (e.g. the Federal National Emission Standards for Hazardous Air Pollutants (NESHAP)). Upon approval, the state agency is given the authority to implement and enforce its rule in place of the NESHAP.

This "rule substitution" option requires EPA to "make a detailed and thorough evaluation of the State's submittal to ensure that it meets the stringency and other requirements" of 40 CFR 63.93 (see 58 FR 62274). A rule will be approved if EPA finds: (1) The State, local and territorial agencies and Indian tribes (S/L/T) are "no less stringent" than the corresponding Federal regulation, (2) adequate authorities exist, (3) the schedule for implementation and compliance is "no less stringent", and (4) the S/L/T program is otherwise in compliance with Federal guidance.

On September 22, 1993, the Environmental Protection Agency (EPA) promulgated the NESHAP for perchloroethylene dry cleaning facilities (see 58 FR 49354), which has been codified in 40 CFR part 63, subpart M, "National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities" (dry cleaning NESHAP). On October 24, 2001, EPA received Massachusetts Department of Environmental Protection's (MA DEP) request to implement and enforce its 310 CMR 7.26(10)-(16) Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities and 310 CMR 70.01-04 Environmental Results Program (ERP) Certification known as the "ERP for dry cleaning facilities in lieu of the dry cleaning NESHAP rule. MA DEP's request for approval was submitted pursuant to the provisions of 40 CFR part 63, subpart E and was found to be complete on January 8, 2002.

The ERP is a multimedia compliance program which requires self certification regarding air, water and hazardous waste requirements while providing extensive compliance assistance to dry cleaners through training programs and workbooks. Inspections and enforcement are part of the air program. Only the air portion of the ERP for dry cleaning facilities is evaluated by this EPA action.

II. EPA's Evaluation of Differences Between the State and Federal Regulations

A. What Major Differences Between the MA DEP Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities and Certification Program Regulations and the Dry Cleaning NESHAP Were Selected for Explanations?

The MA DEP's dry cleaning and certification program rules differ in several ways from the Federal dry cleaning NESHAP. Most of these differences make the MA DEP dry cleaning regulations more stringent than the Federal NESHAP. However, some of the provisions of the State's dry cleaning regulations require further clarification to explain how they are no less stringent than the Federal dry cleaning NESHAP.

In a letter and supplemental material dated October 22, 2001, the MA DEP submitted its application for substitution of its dry cleaning rules with an equivalency demonstration table, narrative, and a summary of its enforcement and compliance measures under its Environmental Results Program. Extracts of the equivalency table and narrative are presented here to provide explanation that provisions in the Massachusetts rules are no less stringent than the Federal dry cleaning NESHAPs. The places where the Massachusetts rules are identical are not cited in this section. The state provided a summary of the status of its enforcement and compliance program for dry cleaners as well as its training and outreach program for dry cleaners. This additional information is available upon request or for public inspection at EPA's Region I Office at the address listed above.

1. How Does the Applicability of Sources Differ?

In 40 CFR 63.320(g), the Federal NESHAP classifies dry cleaning sources as major sources based on either annual perchloroethylene (perc) emissions or annual perc consumption. Major sources are those sources with either 10 tons per year perc emissions or perc consumption greater than 8000 liters (2100 gallons) for dry-to-dry machines or greater than 6800 liters (1800 gallons) for transfer or transfer and dry-to-dry machines. These major sources will remain subject to the Federal dry cleaning NESHAPs.

Under 40 CFR 63.320(d) and (e), the Federal NESHAP provides partial exemptions for certain area sources based on perc consumption. Depending on the types of dry cleaning equipment

at the area sources, exemption thresholds are 140 or 200 gallons of perc per year. Additionally, both the Federal NESHAP and the ERP exempt coin-operated machines. The MA DEP applicability provisions for dry cleaners as established in 310 CMR, 7.26 (10)–(16) and the certification requirements of 310 CMR 70.00 do not provide partial exemptions for area sources based on consumption of perc. Therefore, the full ERP applies to more area sources than the area source provisions of the Federal NESHAP.

2. Are There Differences in the Compliance Dates?

The Federal regulations required compliance by September 22, 1993 or immediately upon startup. The MA DEP regulations provide that the compliance date begins at promulgation of the rules or at start up of new dry cleaners in 310CMR 7.26 (10)(b). The state compliance dates have been passed because the state regulations have been in place since 1997. Hence for this rulemaking, the compliance dates are identical to Federal requirements.

3. What Are the Differences in Temperature Requirements for Refrigerated Condensers?

In 40 CFR 63.322(a) and 63.323(a)(1), there are Federal requirements for operating and maintaining refrigerated condensers on a dry-to-dry machine, dryer, or reclaimer. Similar requirements for washers are in 40 CFR 63.322(f) and 63.323(a)(2). Federal rules require a sensor to monitor its gas stream to determine if it is equal to or less than 45 °F. The ERP has an identical monitoring provision. In addition, the ERP includes in the operation and maintenance requirements a temperature limit that makes the standard clearer. See 310 CMR 7.26(13)(c) and (d).

4. How Do the Work Practice Standards Differ?

In 40 CFR 63.322(k), there is a Federal work practice requirement for leak detection of large area sources and biweekly leak detection for small area sources. In the MA DEP regulations, there is no distinction between large or small area sources. Leak detection is required weekly for all sources and the use of a leak detection device is required in contrast to the Federal requirement that relied on perceptible detection of leaks. The MA DEP requirements are more stringent in requiring a measuring device rather than just the senses. Further, if perceptible leaks are detected, the Federal regulation 40 CFR 63.322, requires that

all leaks be repaired. The MA DEP requirements regulates that both perceptible leaks and leaks detected by monitoring devices be repaired.

5. What Are the Requirement Differences in Compliance Certifications?

The Federal NESHAP requires the owner or operator of a dry cleaning facility constructed or reconstructed after September 22, 1993, to file a compliance certification notification within 30 days of startup. See 40 CFR 63.320(b) and 63.324(b). This certification is a one time only requirement for the Federal standard. The MA DEP requirements require not only an initial compliance certification within 60 days of start up but also an additional annual certification of compliance for area source dry cleaners. This annual self certification requirement of the ERP is more stringent than the Federal requirements. While the initial compliance certification for a new source may be filed up to 30 days later than under the Federal NESHAP, on balance the compliance certification requirements of the ERP are at least as stringent as the Federal NESHAP. EPA notes that new sources must be in compliance with the control requirements upon start-up under both rules.

6. Does the Record Retention Requirement Differ?

In 40 CFR 63.324(d), the Federal requirement for retaining records of perchloroethylene purchases is five years on-site. The MA DEP provisions require record retention for a three year period. Although there is a difference in the record retention time, EPA does not consider the ERP to be, on balance, less stringent given the ERP annual certification requirements. The MA DEP provisions impose an annual certification requirement on all dry cleaners, which does not exist under the Federal requirements. Under the MA DEP provisions, a responsible official must sign the certification form, certifying under penalties of perjury that the facility is in compliance with all requirements. By requiring annual certification, the MA DEP can maintain a dry cleaner database containing historical and current information, and measure environmental performance, which meets the needs of the recordkeeping requirements.

B. What Is EPA's Action Regarding the MA ERP for Dry Cleaning Facilities?

After reviewing the request for approval of the Massachusetts Department of Environmental Protection

Environmental Results Program Certification and Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities, EPA has determined that this request meets all of the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91 and 63.93. EPA has determined that the MA DEP's dry cleaning rule is equivalent to or not less stringent than the Federal dry cleaning NESHAP. Therefore, EPA hereby approves MA DEP dry cleaning rules to be implemented and enforced in place of the Federal dry cleaning NESHAP, as it applies to only area sources in Massachusetts. As of the effective date of this action, MA DEP's dry cleaning rule is enforceable by the EPA and citizens under the CAA. Although the MA DEP has primary implementation and enforcement responsibility, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA, section 112.

C. When Did the Massachusetts Department of Environmental Protection's Authorities To Implement and Enforce Section 112 Standards Become Effective?

Under 40 CFR 63.91(d), the MA DEP must demonstrate that it meets all 112(l) approval criteria and under 63.91(d)(3), final Title V program approval satisfies this approval criteria. On September 28, 2001 EPA granted MA DEP final Title V operating permit approval which became effective November 27, 2001.

III. Opportunities for Public Comments

EPA views the approval of the MA DEP request to use its ERP for dry cleaning facilities as a substitute for the Federal dry cleaning NESHAP as a noncontroversial action, since the state program has been in operation for several years and is more stringent than the NESHAP. EPA anticipates no adverse comments. Therefore, EPA is publishing this direct final rule without prior proposal. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for this action should relevant adverse comments be filed. This action will be effective on November 15, 2002, without further notice, unless EPA receives relevant adverse comments by October 16, 2002.

If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the

proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 15, 2002, and no further action will be taken on the proposed rule.

IV. Summary of EPA's Action

Pursuant to section 112(l) of the CAA and 40 CFR 63.91 and 63.93, EPA is approving the Massachusetts Department of Environmental Protection request to implement and enforce its Regulations 310 CMR, Sections 7.26 (10)–(16) Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities and Sections 70.01–04 Environmental Results Program Certification pertaining to dry cleaning facilities in place of 40 CFR part 63, subpart M, National Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities, as it applies to area sources. This approval makes the Massachusetts Department of Environmental Protection rules federally enforceable and reduces the burden on area sources within Massachusetts' jurisdiction such that they only have one rule with which they must comply. Major sources remain subject to 40 CFR part 63, subpart M.

V. Administrative Requirements

A. Executive Orders 12866 and 13045

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

B. Executive Order 13211

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.

C. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the

Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This Federal action allows the Commonwealth of Massachusetts to implement an equivalent regulation to replace pre-existing requirements under Federal law and does not have tribal implications. Thus, Executive Order 13175 does not apply to this rule.

D. Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action simply allows Massachusetts to implement equivalent alternative requirements to replace a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the

Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental entities with jurisdiction over populations of less than 50,000. This final rule will not have a significant impact on a substantial number of small entities because approvals under 40 CFR 63.93 do not create any new requirements, but simply allows the state to implement and enforce equivalent requirements in place of the Federal requirements that EPA is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

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

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

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

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 15, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Administrative practice and procedure, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and record keeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: August 13, 2002.

Robert W. Varney,

Regional Administrator, EPA-New England.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

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

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

2. Section 63.14 is amended by adding paragraph (d)(4) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(d) * * *

(4) Massachusetts Regulations Applicable to Hazardous Air Pollutants (July 2002). Incorporation By Reference approved for § 63.99(a)(21)(ii) of subpart E of this part.

* * * * *

Subpart E—Approval of State Programs and Delegation of Federal Authorities

3. Section 63.99 is amended by adding paragraph (a)(21) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(21) Massachusetts.

(i) [Reserved]

(ii) Affected area sources within Massachusetts must comply with the Massachusetts Regulations Applicable to Hazardous Air Pollutants (incorporated by reference as specified in § 63.14) as described in paragraph (a)(21)(ii)(A) of this section:

(A) The material incorporated in the Massachusetts Department of Environmental Protection 310 CMR 72.6 and 310 CMR 70.01 pertaining to dry cleaning facilities in the Commonwealth of Massachusetts jurisdiction, and has been approved under the procedures in § 63.93 to be implemented and enforced in place of the Federal NESHAPs for Perchloroethylene Dry Cleaning Facilities (subpart M of this part) for area sources only, as defined in § 63.320(h).

(B) [Reserved]

[FR Doc. 02-23257 Filed 9-13-02; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Part 107**

[Docket No. RSPA-02-13328 (HM-208E)]

RIN 2137-AD74

Hazardous Materials: Miscellaneous Revisions to Registration Requirements**AGENCY:** Research and Special Programs Administration (RSPA), DOT.**ACTION:** Final rule.

SUMMARY: RSPA (we) is amending its regulations concerning registration of persons who transport or offer for transportation in commerce certain categories and quantities of hazardous materials. We are adopting the North American Industry Classification System (NAICS) to determine whether an entity is a small business, consistent with actions taken by the Small Business Administration (SBA). We are also revising the requirements to permit registration over the internet and to authorize the use of additional credit cards to pay the registration fee. Other proposals in our December 7, 2000, notice of proposed rulemaking, to temporarily reduce registration fees and charge not-for-profit organizations the same registration fee as a small business, will be addressed in a separate final rule after enactment of the Department of Transportation appropriations for Fiscal Year 2003, as we announced in our March 14, 2002, notice of proposed rulemaking in the **Federal Register**.

EFFECTIVE DATE: January 6, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. David Donaldson, Office of Hazardous Materials Planning and Analysis, (202) 366-4484, or Ms. Deborah Boothe, Office of Hazardous Materials Standards, (202) 366-8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:**I. Background**

Since 1992, RSPA has conducted a national registration program of persons who offer for transportation or transport hazardous materials in intrastate, interstate, or foreign commerce, under the mandate in 49 U.S.C. 5108. The purposes of the registration program are to (1) gather information about the transportation of hazardous material and (2) fund the Hazardous Materials

Emergency Preparedness (HMEP) grants program which supports hazardous material emergency response planning and training activities by States, local governments, and Indian tribes and related activities. See sections 5108(b), 5116. The law gives RSPA discretion to require additional persons to register, beyond those offerors and transporters of the categories and quantities of hazardous materials listed in § 5108(a)(1), and to set the annual registration fee between \$250 and \$5,000. See sections 5108(a)(2), 5108(g)(2)(A).

Until 2000, only those persons who offer or transport the categories and quantities of hazardous materials set forth in section 5108(a)(1) were required to register, and the annual registration fee was set at the minimum level of \$250 (plus a processing fee of \$50). In each year through the July 1, 1999–June 30, 2000 registration year, the total registration fees collected by RSPA amounted to less than one-half of the total \$14.3 million intended by Congress for training and planning grants and grant-related activities.

In a final rule published in the **Federal Register** on February 14, 2000, RSPA applied the requirement to register to additional persons, and we adopted a two-tiered fee under which the registration fee was set at \$275 for a person meeting the Small Business Administration (SBA) criteria for a small business, and \$1,975 for other persons (plus a \$25 processing fee in all cases). 65 FR 7297. However, a much greater than anticipated number of persons have paid the higher registration fee applicable to a larger business, and RSPA has collected more than \$21 million each registration year starting with 2000–2001. Because Section 5108(g)(2)(C) requires RSPA to adjust the registration fee “to reflect any unexpended balance” in the HMEP Fund, on December 7, 2000, we published a notice of proposed rulemaking (NPRM) under Docket No. RSPA-00-8439 (HM-208D) proposing to: (1) Temporarily lower registration fees for all registrants for six registration years; (2) specify that a not-for-profit organization (regardless of its size) would pay the same fee as a small business; (3) replace the Standard Industrial Classification (SIC) code system with the North American Industry Classification System (NAICS), consistent with SBA actions; and, (4) allow payment by credit cards not previously authorized.

RSPA has delayed taking final action on the proposals in the December 7, 2000, NPRM because our budget requests to Congress for FY 2002 and FY

2003 have proposed to fund a portion of RSPA’s hazardous materials safety program from excess registration fees (*i.e.*, those exceeding the \$14.3 million specified to be used for training and planning grants and grant-related activities). See the status documents we published in the **Federal Register** on May 2, 2001 (66 FR 22080), and March 14, 2002 (67 FR 11456). This proposal was not adopted by Congress in the FY 2002 DOT appropriations and, as soon as Congress acts on the FY 2003 budget request, we intend to take appropriate action on the proposals to temporarily reduce registration fees and charge not-for-profit organizations the same registration fee as a small business. In the meantime, however, we consider that it is appropriate to adopt those proposals that are unrelated to reducing registration fees.

II. Discussion of Comments and Regulatory Changes

RSPA received 19 written comments to the NPRM from emergency response organizations; industry associations representing a broad spectrum of businesses that offer or transport hazardous materials; and individuals engaged in agricultural retailing, petroleum distribution, farming, convenience store operations, and all modes of transportation. In this rule, we discuss only the comments unrelated to the fee reduction proposals in the December 7, 2000, NPRM.

A. SBA Criteria for Definition of a Small Business

At the present time, the “small business” criteria used to determine the amount of the registration fees are found in the Standard Industrial Classification (SIC) code for the registrant’s primary industry group. These codes were adopted and used by SBA until two years ago. In our February 14, 2000, final rule, we discussed the likelihood that SBA would change from SIC codes to the NAICS, and SBA’s estimation that this change should not result in many instances in which an entity would lose its status as a small business. 65 FR at 7304. After SBA adopted the NAICS in a final rule published on May 15, 2000 (65 FR 30836), we proposed to make a similar change in § 107.612.

Commenters supported this proposal. The Petroleum Marketers Association of America (PMAA) stated that RSPA should join other “administrative agencies [that] have begun using NAICS [which] will promote uniformity throughout the regulations.” PMAA stated that there would be “no detrimental effect on our members in

changing from SIC system to the NAICS.”

The Agricultural Retailers Association (ARA) “supports the change with the proviso that the agency include NAICS information in all future registration correspondence with the regulated community.” It stated that “there remains a definite lack of knowledge of the current SIC Code system among ARA’s members and the changeover to NAICS will only further cloud the issue.”

The Petroleum Transportation and Storage Association (PTSA) stated that:

NAICS is a far more useful guideline to determine business categories and size because it more accurately reflects modern economic activity than the SIC code. The highly specialized economic activity descriptions in NAICS would allow shippers who have multiple business establishments to more easily calculate the number of employees or gross receipt thresholds that determine the amount of the annual registration fee.

Our further review of SIC and NAICS codes confirms our earlier conclusion that very few entities would lose status as a small business. Based on that review and the comments received in response to the NPRM, we are adopting the proposal to use the NAICS for size standards.

A list of size criteria by NAICS codes is provided on the SBA Internet site at: <http://www.sba.gov/size/sizetable.html>.

A list by SIC code with the corresponding NAICS code and size standard is provided at: <http://www.sba.gov/size/SIC2NAICSmain.html>.

A search engine for the SIC and NAICS systems is provided by the SBA at its Internet site at: https://eweb1.sba.gov/naics/dsp_naicssearch2.cfm. Additional information on NAICS, including tables showing the correspondences between the two numbering systems is provided at: <http://www.census.gov/epcd/www/naics.html>. Registrants unfamiliar with NAICS should find these sites useful in determining the appropriate code.

B. Registration Over the Internet

Within a few months after issuing the February 14, 2000, final rule, we realized that we should allow persons to register and pay the registration fee over the Internet, even though the registration procedures contained in the regulations do not specifically discuss that method. We are amending § 107.616 to specifically permit a person to use the Internet to submit its registration statement and pay the registration fee with a credit card or by other means of electronic payment.

C. Additional Credit Cards Authorized

In the NPRM, we proposed to authorize persons to use additional credit cards (besides Visa and MasterCard) to pay registration fees. The only commenter on this proposal was the American Trucking Associations (ATA), which supported the “expanded payment methods.” To allow greater flexibility, we are providing in § 107.616(b) that a person may use any “credit card or other electronic means of payment acceptable to the Department.”

III. Rulemaking Analysis and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866. Therefore, it was not reviewed by the Office of Management and Budget (OMB), and a regulatory assessment was not required for OMB. This rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Due to minimal economic impact of this final rule, preparation of a regulatory impact analysis or regulatory evaluation is not warranted.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”). The registration requirements do not impair the ability of States, local governments, or Indian tribes to impose their own fees or registration or permit requirements on persons who offer or transport hazardous materials in commerce. RSPA encourages States, local governments, and Indian tribes to adopt and enforce requirements in the Hazardous Materials Regulations and the Federal registration requirement, in order to enhance compliance with a nationally uniform set of regulations on the transportation of hazardous materials.

The consultation and funding requirements of Executive Order 13132 do not apply because this final rule does not adopt any regulation that:

- (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government;
- (2) imposes substantial direct compliance costs on State and local governments; or
- (3) preempts state law.

C. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”). Because this rule does not have tribal implications, does not impose substantial direct compliance costs and is required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–611) requires each agency to analyze regulations and assess their impact on small businesses and other small entities to determine whether the rule is expected to have a significant impact on a substantial number of small entities.

In the February 14, 2000, final rule in Docket No. HM–208C, RSPA certified that that final rule did affect a significant number of small entities, but that the economic impact on these small entities will not be significant. 65 FR at 7308–09. This final rule affects the same small entities that Docket HM–208C did and, therefore, this final rule affects a significant number of small entities. See 65 FR at 7307 through 7309. However, this final rule addresses editorial and other minor changes that have no economic impact on small businesses. Therefore, I certify that this final rule does not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

F. Paperwork Reduction Act

Under 49 U.S.C. 5108(i), reporting and recordkeeping requirements pertaining to the registration rule are specifically excepted from the information management requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the

heading of this document may be used to cross-reference this action with the Unified Agenda. To distinguish this final rule from the continuing rulemaking action concerning fee reductions we have created a new RIN number, 2137-AD74, and Docket No. RSPA-02-13328 (HM-208E) for this final rule. The fee-reduction related proposals will remain under RIN 2137-AD53 and Docket No. RSPA-00-8439 (HM-208D).

List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101-5127, 44701; Sec. 212-213, Pub. L.104-121, 110 Stat. 857; 49 CFR 1.45, 1.53.

§ 107.612 Amount of fee.

2. In § 107.612, in paragraph (b)(1), the wording "standard industrial classification (SIC)" is removed and "North American Industry Classification System (NAICS)" is added in its place.

3. In § 107.616, paragraphs (a) and (b) are revised to read as follows:

§ 107.616 Payment procedures.

(a) Except as provided in paragraph (d) of this section, each person subject to the requirements of this subpart must mail the registration statement and payment in full to the U.S. Department of Transportation, Hazardous Materials Registration, P.O. Box 740188, Atlanta, Georgia 30374-0188, or submit the statement and payment electronically through the Department's e-Commerce Internet site. Access to this service is provided at <http://hazmat.dot.gov/register.htm>. A registrant required to file

an amended registration statement under § 107.608(c) must mail it to the same address or submit it through the same Internet site.

(b) Payment must be made by certified check, cashier's check, personal check, or money order in U.S. funds and drawn on a U.S. bank, payable to the U.S. Department of Transportation and identified as payment for the "Hazmat Registration Fee," or by completing an authorization for payment by credit card or other electronic means of payment acceptable to the Department on the registration statement or as part of an Internet registration as provided in paragraph (a) of this section.

* * * * *

Issued in Washington, DC on September 10, 2002, under authority delegated in 49 CFR Part 1.

Ellen G. Engleman,

Administrator.

[FR Doc. 02-23476 Filed 9-13-02; 8:45 am]

BILLING CODE 4910-60-P

Proposed Rules

Federal Register

Vol. 67, No. 179

Monday, September 16, 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 THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-208280-86; REG-136311-01]

RIN 1545-AJ57; RIN 1545-BB30

Exclusions From Gross Income of Foreign Corporations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Corrections to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Friday, August 2, 2002 (67 FR 50510), relating to exclusions from gross income of foreign corporations.

FOR FURTHER INFORMATION CONTACT: Patricia Bray (202) 622-3880 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is subject to these corrections is under section 883 of the Internal Revenue Code.

Need for Correction

As published the notice of proposed rulemaking and notice of public hearing contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG-208280-86; REG-136311-01), which was the subject of FR Doc. 02-19127, is corrected as follows:

1. On page 50510, column 1, line 5 of the heading, the numbers "RIN 1545-AJ57; RIN 1545-BA07" is corrected to read "RIN 1545-AJ57; RIN 1545-BB30".

2. On page 50512, column 2, in the preamble under the paragraph heading "ii. Space or slot charters.", first full paragraph, line 8 from the bottom of the paragraph, the language "is incidental to the operation ships or" is corrected to read "is incidental to the operation of ships or".

3. On page 50515, column 3, in the preamble under the heading "C. Comments Relating to § 1.883-2: Treatment of Publicly-Traded Corporations", second paragraph, line 2 from the bottom of the paragraph, the language "aggregate 50 percent of more of the" is corrected to read aggregate 50 percent or more of the".

4. On page 50518, column 2, in the preamble under the paragraph heading "3. *Certain limitation on benefits article restrictions in income tax conventions applied to shareholders.*", line 3 from the top of the column, the language "limitation of benefits article of the treaty" is corrected to read "limitation on benefits article of the treaty".

§ 1.883-1 [Corrected]

5. On page 50521, column 2, § 1.883-1(c)(3)(ii), line 6, the language "under § 1.883-2(f), 1.882-3(d) or 1.883-" is corrected to read "under §§ 1.883-2(f), 1.883-3(d) or 1.883-".

6. On page 50525, column 2, § 1.883-1(h)(2), lines 5, 6 and 7, from the top of the column, the language "each category of income listed in (i) through (viii) of this section paragraph (h)(2)" is corrected to read "each category of income listed in paragraphs (h)(2)(i) through (viii) of this section".

§ 1.883-2 [Corrected]

7. On page 50528, column 2, § 1.883-2(f)(2), line 3, the language "that the stock is listed;" is corrected to read "the stock is listed;".

§ 1.883-4 [Corrected]

8. On page 50533, column 1, § 1.883-4(d)(3)(ii), lines 3 and 4, the language requirements of paragraphs (d)(3)(ii)(A) and (B) are satisfied. If the widely-held" is corrected to read "requirements of paragraphs (d)(3)(ii)(A) and (B) of this section are satisfied. If the widely-held".

9. On page 50534, column 2, § 1.883-4(d)(4)(iii)(B), line 3, the language "that the stock is listed;" is corrected to read "the stock is listed;".

10. On page 50534, column 3, § 1.883-4(d)(4)(iv)(B), line 3, the language "this section (as if it the

language applied" is corrected to read "this section (as if the language applied)".

Cynthia E. Grigsby,

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

[FR Doc. 02-23497 Filed 9-13-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 41, 48, and 145

[REG-103829-99]

RIN 1545-AX10

Excise Taxes; Definition of Highway Vehicle; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document contains a notice of public hearing on proposed regulations relating to the definition of a highway vehicle for purposes of various excise taxes.

DATES: The public hearing is being held on February 27, 2003, at 10 a.m. The IRS must receive written or electronic outlines of the topics to be discussed at the hearing by February 6, 2003.

ADDRESSES: The public hearing is being held in Room 4718, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Mail outlines to: CC:ITA:RU (REG-103829-99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Hand deliver outlines Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-103829-99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Submit electronic outlines of oral comments to the IRS Internet site at www.irs.gov/regs.

FOR FURTHER INFORMATION CONTACT: Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing

Treena Garrett, (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed regulations (REG-103829-99) that was published in the **Federal Register** on June 6, 2002 (67 FR 38913).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by February 6, 2003.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Cynthia E. Grigsby,

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

[FR Doc. 02-23498 Filed 9-13-02; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-7270-9]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; Commonwealth of Massachusetts Department of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve Massachusetts Department of Environmental Protection's (MA DEP) request to implement and enforce its Regulation 310 CMR, Sections 7.26(10)-(16) Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities and Sections 70.01-04 Environmental Results Program Certification pertaining to dry cleaning facilities in place of the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities ("Drycleaning NESHAPS"), as it applies to area sources. Approval of this request would make Massachusetts Department of Environmental Protection's rules federally enforceable and would reduce the burden on area sources within the Commonwealth of Massachusetts's jurisdiction such that they would only have one rule with which they must comply. Major sources would remain subject to the Federal drycleaning NESHAP.

In the final rules section of this **Federal Register**, EPA is approving MA DEP's request as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments. MA DEP has been enforcing its own regulations since

1997. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, EPA will take no further action on this proposed rule. If the EPA receives relevant adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will then address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period in this action.

DATES: Written comments must be received on or before October 16, 2002.

ADDRESSES: Written comments should be mailed concurrently to the addresses below: Steven Rapp, Chief, Air Permits, Toxics, and Indoor Programs Unit (CAP), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114.

Steven DeGabriele, Director, Business Compliance Division, Massachusetts Department of Environmental Protection, One Winter Street, Boston, MA 02108.

Copies of the requests for approval are available for public inspection at EPA's Region I Office, Air Permits, Toxics and Indoor Programs Unit during normal business hours.

FOR FURTHER INFORMATION CONTACT: MaryBeth Smuts, Air Permits, Toxics, and Indoor Programs Unit, U.S. EPA Region I, One Congress St, Suite 1100, Boston, MA 02114, (617) 918-1512.

SUPPLEMENTARY INFORMATION: For additional information see the direct final action which is published in the Rules section of this **Federal Register**.

Dated: August 13, 2002.

Robert W. Varney,

Regional Administrator, EPA-New England.

[FR Doc. 02-23258 Filed 9-13-02; 8:45 am]

BILLING CODE 6560-50-P

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Stamp Program: Agency Information Collection Activities: Proposed Collection; Comment Request; Disaster Food Stamp Assistance

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collections. This information collection is based on the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5(h) of the Food Stamp Act of 1977, as amended, which provide the Secretary of Agriculture with the authority to develop an emergency food stamp program to address the needs of families temporarily in need of food assistance after a disaster. The information collection under this notice is required for the establishment and operation of emergency food stamp assistance programs.

DATES: Written comments must be received on or before November 15, 2002.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who respond, including

through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Patrick Waldron, Branch Chief, Certification Policy Branch, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be faxed to the attention of Mr. Waldron at (703) 305-2486. The Internet address is:

patrick.waldron@FNS.USDA.GOV. All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, 22302, Room 812.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mr. Waldron at (703) 305-2495.

SUPPLEMENTARY INFORMATION:

Title: Emergency Food Stamp Assistance for Victims of Disasters.

OMB Number: 0584-0336.

Expiration Date: 1/31/2000.

Type of Request: Reinstatement with a change of a previously approved collection for which approval has expired.

Abstract: Pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5(h) of the Food Stamp Act of 1977, as amended, the Secretary of Agriculture has the authority to develop an emergency food stamp program to address the temporary food needs of families following a disaster. The information collection under this notice is required to be provided by State agencies in order to receive approval from the Food and Nutrition Service (FNS) to operate an emergency food stamp program as the result of a disaster.

The number of disasters that occur annually and the average number of households affected by disasters cannot be accurately predicted. In reviewing the number of disasters for the last three fiscal years, we found that although the number of disasters remained relatively constant, most disasters covered small

geographic areas and affected small populations resulting in a decreased reporting burden. In 1999, there were eight disasters with the number of disaster-affected households ranging from 93 to 147,189. In 2000, there were four disasters with the number of disaster-affected households ranging from 12 to 40,149. In 2001, there were four disasters and the number of disaster-affected households ranging from 410 to 56,060. The information collection under this reporting burden is limited to burden encountered by State agencies in preparing their requests to operate disaster food stamp programs. We estimate that approximately 10 hours of State agency personnel time would be required to prepare such requests. Previously, we had included in this information collection the burden associated with the application process experienced by disaster victims applying for assistance under State disaster food stamp programs as well as the burden experienced by State and local food stamp personnel in processing such applications. Upon review we have determined that the reporting burden associated with the process of applying for food stamp benefits under disaster food stamp programs has been included in approved information collection under the overall food stamp application-processing burden (approved under OMB no. 0584-0064) and that including the application-processing burden under this information collection would be redundant.

Based on an estimate of six State agency requests per year to operate disaster food stamp programs and 10 hours of State agency personnel time to prepare each application, we have calculated an estimated burden of 60 hours per year in an average year. We note that in most years the number of disasters (six) necessitating the operation of disaster food stamp programs falls below the minimum threshold for which OMB approval of the reporting burden associated with this information collection is required. Since an above average number of disasters may occur in any given year we have elected to submit this information collection to OMB for their approval, and consequently, are requesting public comments associated with the collection.

Affected Public: Food Stamp recipients; State and local governments.
Estimated Number of Responses: 6.
Estimated Number of Respondents: 6.
Estimated Number of Responses per Recipient: 1.

Estimated Time per Response: 10 hours.

Estimated Total Annual Burden: 60 hours.

Dated: September 5, 2002.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 02-23488 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02-031N]

Codex Alimentarius Commission: Coordinating Committee for North America and the South-West Pacific

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting, request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture, is sponsoring a public meeting on Tuesday, October 1, 2002, to provide information and receive public comments on agenda items that will be discussed at the Coordinating Committee for North America and the South-West Pacific (CCNASWP). The Under Secretary recognizes the importance of providing interested parties with information about the Coordinating Committee for North America and the South-West Pacific of the Codex Alimentarius Commission (Codex) and to address items on the Agenda for the 7th CCNASWP.

DATES: The public meeting is scheduled for Tuesday, October 1, 2002 from 10 a.m. to 12 noon.

ADDRESSES: The public meeting will be held in Room 0161 South Building, United States Department of Agriculture, 1400 Independence Ave. SW., Washington, DC. To receive copies of the documents referenced in the notice contact the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250-3700. The documents will also be accessible via the World Wide Web at the following address: <http://www.codexalimentarius.net/current.asp>. If you have comments,

please send an original and two copies to the FSIS Docket Clerk and reference Docket #02-031N. All comments submitted will be available for public inspection in the Docket Clerk's office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. William James, Acting Director, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW., Washington, DC 20250, Phone: (202) 205-7760, Fax: (202) 720-3157. Persons requiring a sign language interpreter or other special accommodations should notify Dr. James at the above number.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for protecting the health and economic interests of consumers and for encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and EPA manage and carry out U.S. Codex activities.

The Coordinating Committee for North America and the South-West Pacific defines the problems and needs of the region concerning food standards and food control. It provides within the committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulates the strengthening of food control infrastructures. It recommends to the Commission the development of worldwide standards for products of interest to the region, including products considered by the committee to have an international market potential in the future. It exercises a general coordinating role for the region and such other functions as may be entrusted to it by the Commission. It draws the attention of the Commission to any aspects of the Commission's work of particular significance to the region. The Government of Canada is hosting this activity.

Issues To Be Discussed at the Public Meeting

The provisional agenda items will be discussed during the public meeting:

1. Adoption of the Agenda
2. Matters Referred by the Codex Alimentarius Commission and other Codex Committees
3. Joint FAO/WHO Evaluation of the Codex Alimentarius and Other FAO and WHO work on Food Standards
4. Other Matters of Interest from FAO and WHO
5. Consideration of the Draft Medium-Term Plan 2003-2007
6. Consideration of "Traceability/Product Tracing"
7. Capacity Building for Food Standards and Regulations
8. Information and Reports on Food Control and Food Safety Issues including Codex Standards
9. Consumer Participation in Food Standards Setting at the Codex and National Level
10. Strategic Plan for NASWP
11. Nomination of the Coordinator from among the Members of the Commission
12. Other Business and Future Work

Each issue listed will be fully described in documents distributed, or to be distributed, by the Canadian Secretariat to the Meeting. Members of the public may access or request copies of these documents (*see ADDRESSES*).

Public Meeting

At the October 1st public meeting, the agenda items will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may also be sent to the FSIS Docket Room (*see ADDRESSES*). Written comments should state that they relate to activities of the 7th CCNASWP (Docket #02-031N).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at <http://www.fsis.usda.gov>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of

information that could affect or would be of interest to our constituents/ stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720-9113. To be added to the free e-mail subscription service (Listserv) go to the "Constituent Update" page on the FSIS Web site at <http://www.fsis.usda.gov/oa/update/update.htm>. Click on the "Subscribe to the Constituent Update Listserv" link, then fill out and submit the form.

Done at Washington, DC, on: September 11, 2002.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 02-23491 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Forest Service

Establishment of Drift Creek Purchase Unit, Lincoln County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: On June 3, 2002, the Secretary of Agriculture created the 1,863.57-acre Drift Creek Purchase Unit in Lincoln County, Oregon. A copy of the establishment document, which includes the legal description of the lands within the purchase unit, appears at the end of this notice.

DATES: Establishment of this purchase unit was effective June 3, 2002.

ADDRESSES: A copy of the map depicting the lands within the boundary extension is on file and available for public inspection in the Office of the Director, Lands Staff, 4th Floor—Sidney R. Yates Federal Building, Forest Service, USDA, 201 14th Street, SW., Washington, DC 20250, between the hours of 8:30 a.m. and 4:30 p.m. on business days. Those wishing to inspect the maps are encouraged to call ahead to (202) 205-1248 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jack Craven, Lands Staff, Forest Service, (202) 205-1248.

SUPPLEMENTARY INFORMATION: Pursuant to the Secretary of Agriculture's authority under Section 17, Public Law

94-588 (90 Stat. 2949), the Drift Creek Purchase Unit was created in Lincoln County, Oregon.

Dated: August 28, 2002.

Dale N. Bosworth,
Chief.

Establishment of the Drift Creek Purchase Unit Lincoln County, Oregon

The following described lands lying adjacent to the Siuslaw National Forest are determined to be suitable for the protection of watersheds of navigable streams and for other purposes in accordance with Section 6 of the Weeks Act of 1911 (16 U.S.C. 515). Therefore, in furtherance of the authority of the Secretary of Agriculture pursuant to the Weeks Act of 1911, as amended, including Section 17 of the National Forest Management Act of 1976 (Pub. L. 94-588; 90 Stat. 2961), these lands are hereby designated and established as the Drift Creek Purchase Unit:

Willamette Meridian

T.13S., R. 11W.

Section 16

SE $\frac{1}{4}$ SE $\frac{1}{4}$, Lot 6 together with tidelands, in or abutting on the above described premises

Section 21

Lots 1-13, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ together with tidelands, in or abutting on the above described premises

Section 22

Lots 1-18 together with tidelands, in or abutting on the above described premises

Section 23

Lots 1, 2, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 26

Lots 1-7, SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 27

Lot 1, together with tidelands, in or abutting on the above described premises
Containing 1,863.57 acres, more or less.

Executed in Washington, DC, this 3rd day of June, 2002.

David P. Tenny,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 02-23435 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Forest Service

Addition of Lands to the Yonah Mountain Purchase Unit, White County, GA

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: On June 25, 2002, the Secretary of Agriculture added lands to

the Yonah Mountain Purchase Unit. These additional lands comprise approximately 1,300 acres, more or less, within White County, Georgia. A copy of the addition document, which includes the legal description of the lands within the addition, appears at the end of this notice.

DATES: This land addition was effective June 25, 2002.

ADDRESSES: A copy of the map depicting the lands within the boundary extension is on file and available for public inspection in the Office of the Director, Lands Staff, 4th Floor—Sidney R. Yates Federal Building, Forest Service, USDA, 201 14th Street, SW, Washington, DC 20250, between the hours of 8:30 a.m. and 4:30 p.m. on business days. Those wishing to inspect the maps are encouraged to call ahead to (202) 205-1248 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jack Craven, Lands Staff, Forest Service, (202) 205-1248.

SUPPLEMENTARY INFORMATION: Pursuant to the Secretary of Agriculture's authority under section 17, Public Law 94-588 (90 Stat. 2949), approximately 1,300 acres were added to the Yonah Mountain Purchase Unit.

Dated: August 28, 2002.

Tom L. Thompson,
Acting Chief.

Addition to the Yonah Mountain Purchase Unit, White Mountain, Georgia

The following described lands lying adjacent to the Yonah Mountain Purchase Unit established in 1997 are determined to be suitable for the protection of watershed of navigable streams and for other purposes in accordance with Section 6 of the Weeks Act of 1911 (16 U.S.C. 515). Therefore, in furtherance of the authority of the Secretary of Agriculture pursuant to the Weeks Act of 1911, as amended, including Section 17 of the National Forest Management Act of 1976 (Pub. L. 94-588; 90 Stat. 2961), these lands are hereby added to the Yonah Mountain Purchase Unit:

All that certain tract of land lying on the west side of Yonah Mountain being approximately 1,300 acres more or less, of land in White County, lying and being all or a portion of Land Lots 122, 123, 134, 135, 153, 167, 186, and 187, District 3, White County, Georgia.

Beginning in White County at the intersection of Georgia Highway #75 and Yonah Mountain Road; thence, along Yonah Mountain Road in a general easterly direction to the National Forest boundary of Tract G-256.

thence, south along the boundary of the National Forest boundary for Tracts G-256 and C-224c,d, to the south east corner of the Forest Service tract;

thence, in a southwesterly direction for approximately 5,500 feet until the intersection of Old Blue Creek Road,

thence, in a general westerly direction along Old Blue Creek Road for an approximate distance of 1,000 feet;

thence, in a general northwest direction for approximately 5,000 feet until the intersection of Tom Bell road;

thence, in a northeasterly direction along Tom Bell road until the intersection of Chambers road;

thence, in a northerly direction along Chambers road until the intersection of Georgia Highway #75;

thence in a northerly direction along Georgia Highway #75 until the intersection of Yonah Mountain Road.

Containing 1,300 acres, more or less.

Executed in Washington, DC, this 25th day of June, 2002.

David P. Tenny,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 02-23433 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Forest Service

Dixie National Forest, Utah, Griffin Springs Resource Management Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplemental environmental impact statement to the Griffin Springs Resource Management Project.

SUMMARY: The USDA Forest Service announces its intent to prepare a Supplemental Environmental Impact Statement (SEIS) to the Griffin Springs Resource Management Project (GSRMP) Final Environmental Impact Statement (FEIS). The GSRMP FEIS evaluated alternatives for vegetation management and associated road improvements within the Engelmann spruce/subalpine fir and aspen forest types on the Escalante Ranger District, Dixie National Forest.

DATES: Comments concerning the scope of the analysis must be received by October 21, 2002. The draft supplemental environmental impact statement is expected November 2002 and the final supplemental environmental impact statement is expected January 2003.

ADDRESSES: Send written comments to Kevin R. Schulkoski, District Ranger, P.O. Box 246, Escalante, Utah 84726.

FOR FURTHER INFORMATION CONTACT: David M. Keefe, Interdisciplinary Team Leader, Escalante Ranger District (see above **ADDRESSES**).

SUPPLEMENTARY INFORMATION: On November 16, 1998 a Notice of Intent to prepare an environmental impact statement for the Aquarius Ecosystem

Restoration Project (AERP) was published in the **Federal Register**. On July 26, 1999 a revised Notice of Intent to prepare an environmental impact statement was published in the **Federal Register**. This revision advised the public that the AERP was being divided into smaller division blocks. The GSRMP is the first of these blocks to be analyzed and decided upon.

On August 3, 2001 the Notice of Availability of the draft environmental impact statement for GSRMP was published in the **Federal Register**. In January 2002 the FEIS for the GSRMP was published. On January 10, 2002 Mary Wagner, Dixie National Forest Supervisor, signed the Record of Decision for the Griffin Springs Resource Management Project Final Environmental Impact Statement. Several organizations, including the Sierra Glen Canyon Group, Ecology Center, Center for Biological Diversity, Utah Environmental Congress, Boulder Regional Group, Western Watersheds Project, Escalante Wilderness Project, Aquarius Foundation and the Southern Utah Wilderness Alliance, appealed Forest Supervisor Mary Wagner's decision.

On April 28, 2002 Acting Deputy Regional Forester, Elizabeth G. Close (Appeal Deciding Officer) for the Intermountain Region concluded a thorough review of the appeals and issued a decision on the above mentioned appeals. Forest Supervisor Mary Wagner's decision to implement the Griffin Springs Resource Management Project was affirmed with direction. This direction included two points; (1) Although the record contains adequate information to conclude that Northern (or Common) Flicker populations are viable, the summary and explanation of this information in the FEIS must be clarified to confirm this; and (2) The ROD mentions possible future entries in seven years, but the analysis does not clearly document effects from these possible entries in some stands. If new entries, not analyzed with this project, are undertaken in those stands, the Forest must first complete an environmental analysis.

On August 28, 2002 the Appeal Deciding Officer (ADO) for the GSRMP stated that the Forest response fulfilled the direction in the ADO's letter of April 18, 2002. The ADO also responded that the project may not be implemented until the Forest considered the new information contained in the report, "Lift History and Analysis of Endangered, Threatened, Candidate, Sensitive and Management Indicator Species of the Dixie National Forest."

On September 4, 2002 Randall G. Swick, Acting Forest Supervisor, Dixie National Forest, directed the GSRMP Interdisciplinary Team to prepare a Supplemental Environmental Impact Statement that considers this new information relative to the GSRMP.

The Record of Decision for the SEIS will be appealable under 36 CFR 215.7 and should only address those items pertinent to the new information contained in the "Life History and Analysis of Endangered, Threatened, Candidate, Sensitive and Management Indicator Species of the Dixie National Forest" report.

Comments Requested

Based on the new information the USDA Forest Service is now reconsidering the effects of implementing the various alternative on Management Indicator Species (MIS) located in the project area. Accordingly, the USDA Forest Service invites public comment on the scope of the SEIS that would evaluate potential changes in the agencies plans as related to the effects to MIS populations.

Responsible Official

Randall G. Swick, Acting Forest Supervisor, Dixie National Forest, 1789 Wedgewood Lane, Cedar City, Utah 84720.

Dated: September 9, 2002.

Randall G. Swick,

Acting Forest Supervisor.

[FR Doc. 02-23428 Filed 9-12-02; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Burlington, Vermont, October 17-19, 2002. The purpose of the meeting is to discuss emerging issues in urban and community forestry.

DATES: The meeting will be held October 17-19, 2002. A tour of local projects will be held on October 17 from 8:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 1068 Williston Road, Burlington, Vermont. Individuals who wish to speak at the meeting or to propose agenda items must send their names and proposals to Suzanne M. del Villar, Executive Assistant, National

Urban and Community Forestry Advisory Council, 20628 Diane Drive, Sonora, California 95370. Individuals also may fax their names and proposed agenda items to (209) 536-9089.

FOR FURTHER INFORMATION CONTACT:

Suzanne M. del Villar, Urban and Community Forestry Staff, (209) 536-9201.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Council discussion is limited to Forest Service staff and Council members. However, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Public input sessions will be provided.

Robin L. Thompson,

Acting Deputy Chief, State and Private Forestry.

[FR Doc. 02-23434 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Forest Service

Winema and Fremont Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Winema and Fremont Resource Advisory Committee will meet in Klamath Falls, Oregon, for the purpose of evaluating and recommending resource management projects for funding in 2003, under the provisions of Title II of the Secure Rural Schools and Community Self-Determination Act of 2000.

DATES: The meeting will be held on September 12 and 13, 2002.

ADDRESSES: The meeting will be held in the large conference room of the Winema National Forest Supervisor's Office, 2819 Dahlia Street, In Klamath Falls. Send written comments to Winema and Fremont Resource Advisory Committee, c/o USDA Forest Service, P.O. Box 67, Paisley OR 97636, or electronically to waney@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: W.C. (Bill) Aney, Designated Federal Official, Paisley Ranger District, Fremont and Winema National Forests, PO Box 67, Paisley OR 97636 telephone (541) 943-4401.

SUPPLEMENTARY INFORMATION: The meeting will begin at 9:30 a.m. on Thursday, September 12 and end at approximately 3:30 p.m. on Friday September 13. The agenda will include a review of 2002 projects recommended

by the RAC, consideration of Title II project proposals for 2003 submitted by the Forest Service, the public, and other agencies, presentations by project proponents, and final recommendations for funding of fiscal year 2003 projects.

All Winema and Fremont Resource Advisory Committee Meetings are open to the public. There will be a time for public input and comment. Interested citizens are encouraged to attend.

Dated: September 3, 2002.

Charles R. Graham,

Forest Supervisor.

[FR Doc. 02-23486 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for 7 CFR Part 3550, Direct Single Family Housing Loans and Grants and its accompanying Handbooks.

DATES: Comments on this notice must be received by November 15, 2002 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Gale Richardson, Loan Specialist, Single Family Housing, Rural Housing Service, 1400 Independence Avenue, SW., Mail Stop 0783, Washington, DC 20250-0783, telephone number (202)720-1459.

SUPPLEMENTARY INFORMATION:

Title: Direct Single Family Housing Loans and Grants.

OMB Number: 0575-0172.

Expiration Date of Approval: November 30, 2002.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS), through its direct single family housing loan and grant programs, provides financial assistance to construct, improve, alter, repair, replace or rehabilitate dwellings, which will provide modest, decent, safe and sanitary housing to eligible individuals in rural areas. To assist a customer, they must provide the Agency with a

standard housing application (used by government and private lenders), and provide documentation to support the same. Documentation includes verification of income, financial information on assets and liabilities, etc. The information requested is comparable to that required by any private mortgage lender. To assist individuals in obtaining affordable housing, a borrower's house payment may be subsidized to an interest rate as low as 1%. The amount of subsidy is based upon the customer's household income. After receipt of this information, if the customer obtains a loan from RHS, they must update income information on an annual basis to renew the payment subsidy. The aforementioned information required by RHS is vital to be able to process applications for RHS assistance and make prudent loan underwriting and program decisions. It includes borrower financial information such as household income, assets and liabilities and monthly expenses. Without this information, the Agency is unable to determine if a customer would qualify for any services or if assistance has been granted to which the customer would not be eligible under current regulations and statutes. The Agency also encourages its customers to leverage our mortgage financing with that of other lenders to assist as many customers as possible within our limited resources. In many cases, another lender will leverage and participate with RHS in assisting the customer. In these cases, RHS and the other lender share documentation, with the customer's consent, to reduce duplication. Through our work with participating lenders, the Agency keeps abreast of information required by other lenders to ensure that RHS is not requiring unnecessary information. The Agency continually strives to ensure that information collection burden is kept to a minimum.

As mentioned, these loans are made directly by the Agency. RHS also services these loans for their term (33 or 38 years) and provides tools to assist the customer in becoming a successful homeowner. As discussed, payment subsidies are renewed on an annual basis. In addition, the Agency provides credit counseling and other services to its customers in an effort to assist them in becoming successful. The Agency offers many servicing tools including a moratorium (stop) on payments, modifications to payment subsidies to reflect changes in the customer's income, loan reamortization, payment workouts, etc. To obtain this assistance, the Agency must require certain

information such as updated income and financial information, etc., to ensure the customer qualifies for the assistance, and is provided with the correct benefits based upon their circumstances.

Direct single family housing loans are only provided to customers who cannot obtain other credit for their housing needs. Customers are required by statute to refinance with another lender when they are financially able. To ensure the Agency meets its statutory responsibilities, existing customers may be requested to submit updated income and financial information for the Agency to make a determination as to whether they can "graduate" to other credit. In addition, should a customer default on a loan which results in liquidation, the Agency needs updated income and financial information to settle any outstanding indebtedness.

With the implementation of EGOV in June 2002, individuals are able to make application on line. We have 49 eForms which the public can access and print for personal use. RHS is committed to automation and reducing the burden upon the public.

Estimate of Burden: Public burden for this collection of information is estimated to average .31 hours per response.

Respondents: Applicants seeking direct single family housing loans and grants from the Agency and approximately 507,000 existing customers who have active loans and grants under the Section 502 and 504 programs.

Estimated Number of Respondents: 500,000.

Estimated Number of Responses per Respondent: 3.33.

Estimated Total Annual Burden on Respondents: 509,872 hours.

Copies of this information collection can be obtained from Tracy Gillin, Regulations and Paperwork Management Branch, at (202) 692-0039.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Rural Housing Service, including whether the information will have practical utility; (b) the accuracy of the Rural Housing Service's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including

through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Tracy Gillin, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: September 5, 2002.

Obediah G. Baker, Jr.,

Acting Administrator, Rural Housing Service.

[FR Doc. 02-23406 Filed 9-13-02; 8:45 am]

BILLING CODE 3410-XV-P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: 2002 Report of Organization (Company Organization Survey).

Form Number(s): NC-99001.

Agency Approval Number: 0607-0444.

Type of Request: Revision of a currently approved collection.

Burden: 91,255 hours.

Number of Respondents: 182,000.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Census Bureau is requesting a revision of the currently approved Company Organization Survey (COS) data collection for the 2002 survey year. The Census Bureau will conduct the 2002 COS in conjunction with the 2002 Economic Census and will coordinate these collections so as to minimize response burden. The Census Bureau will add a question in the 2002 COS in order to enhance content. We will include a question on the number of leased employees working in the company.

The Census Bureau conducts the annual COS in order to update and maintain a central, multipurpose Business Register (BR), formerly known as the Standard Statistical Establishment List (SSEL). In particular, the COS supplies critical information on the composition, organizational structure, and operating characteristics of multiestablishment enterprises.

COS inquiries to each of the 182,000 multiestablishment enterprises will include questions on ownership or control by a domestic parent, ownership or control by a foreign parent, and ownership of foreign affiliates. Additional COS inquiries will apply to approximately 5,000 enterprises that operate some 25,000 establishments classified in industries that are out-of-scope of the Economic Censuses. These additional inquiries will list an inventory of establishments and request updates to the inventory, including additions, deletions, and changes to Federal Employer Identification number, name and address, and industrial classification. Further, the additional inquiries will collect the following basic operating data for each listed establishment: end-of-year operating status, mid-March employment, first quarter payroll, and annual payroll. The Economic Census will collect data for all other establishments of multiestablishment enterprises, including those items listed above.

Affected Public: Business or other for-profit; not-for-profit institutions; Farms; State, Local or Tribal Government.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131, 182, 224, and 225.

OMB Desk Officer: Susan Schechter, (202) 395-5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dhynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 10, 2002.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02-23431 Filed 9-13-02; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-533-808]

**Stainless Steel Wire Rod from India:
Notice of Court Decision**

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

ACTION: Notice of Court decision.

SUMMARY: On August 15, 2002, the United States Court of International Trade ("CIT") sustained the final remand determination made by the Department of Commerce ("the Department") pursuant to the Court's remand of the final determination of the administrative review of stainless steel wire rod from India. See *Viraj Group, Ltd. v. United States*, Ct. No. 00-06-00291, Slip Op. 02-89 (Ct. Int'l Trade August 15, 2002) ("*Viraj IV*"). This case arises out of the Department's *Stainless Steel Wire Rod from India: Notice of Final Results of Antidumping Administrative Review*, 65 FR 31302 (May 17, 2002) ("*Final Results*"). The final judgment in this case was not in harmony with the Department's May, 2002, *Final Results*.

EFFECTIVE DATE: August 26, 2002.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1102.

SUPPLEMENTARY INFORMATION: The decision of the Court of International Trade in *Viraj IV* is that Court's final decision in a series of decisions addressing issues related to the antidumping margin assigned to the *Viraj Group, Ltd.* ("*Viraj*") in the above-referenced *Final Results*.

In *Viraj Group, Ltd. v. United States*, Slip Op. 01-104 (CIT August 15, 2001) ("*Viraj I*"), the Court remanded one aspect of the *Final Results*. The Court remanded the issue of the exchange rate used by the Department to convert Indian rupees into United States dollars and whether an inaccurate margin resulted. The Court ordered the Department to articulate its reasoning behind its approach to the devaluation on the Indian rupee during the POR and to address properly and explain whether the Department's currency conversion methodology resulted in an accurate dumping margin, and to recalculate the margin if necessary.

In *Viraj Group, Ltd. v. United States*, Slip Op. 02-24 (CIT February 26, 2002)

("Viraj II"), the court requested that the Department reconsider whether its currency conversion methodology resulted in a fair dumping determination. Specifically, the Court instructed the Department: (1) To examine whether its current currency conversion methodology yields the most accurate dumping margin in this case; (2) to address whether the facts of this case warrant additional consideration of the Department's policy concerning depreciating currencies, and if necessary recalculate Plaintiff's dumping margin; (3) to explain the Department's methodology for currency conversion with regard to sales versus costs; and (4) to explain how a long-term currency devaluation can be ignored by the Department if it is to reach a fair and accurate dumping margin.

In *Viraj Group, Ltd. v. United States*, Slip Op. 02-52 (CIT June 4, 2002) ("*Viraj III*"), the Court again remanded the issue of the currency conversion methodology in the *Final Results* to the Department. In its opinion, the Court instructed the Department to apply a currency conversion methodology that reaches a more accurate dumping margin, explain why such a methodology does or does not further the congressional goal of accuracy in dumping determinations, and explain which method the Department chooses to apply in this case and why it chose that method.

On July 12, 2002, the Department issued its draft results of redetermination of remand. On July 16, 2002, only petitioner (Carpenter Technology Corp.) filed comments. Respondent did not file comments in response to the Department's draft results of redetermination of remand. On July 22, 2002, the Department issued its final results of redetermination of remand to the Court.

On August 15, 2002, the CIT sustained the Department's redetermination on remand. See *Viraj Group, Ltd. v. United States*, Ct. No. 00-06-00291, Slip Op. 02-89 (CIT August 15, 2002) ("*Viraj IV*"). In *Viraj IV*, the CIT concurred on and sustained the results of the Department's redetermination, but did not endorse the reasoning underlying the recalculation of the remand results.

In its decision in *Timkin Co., v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) ("*Timkin*"), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish a notice of a court decision which is not "in harmony" with a Department determination, and must suspend

liquidation of entries pending a "conclusive" court decision. The CIT's decision in *Viraj IV* on August 15, 2002, constitutes a final decision of that court which is "not in harmony" with the Department's final results of antidumping duty administrative review. This notice is published in fulfillment of the publication requirements of *Timkin*.

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or, if appealed, upon a "conclusive" court decision.

Dated: September 6, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-23494 Filed 9-13-02; 8:45 am]

BILLING CODE 3510-05-M

DEPARTMENT OF COMMERCE**International Trade Administration****Applications for Duty-Free Entry of
Scientific Instruments**

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 02-030. *Applicant:* Faulkes Telescope Corporation, Pacific Guardian Center, 737 Bishop Street, Suite 2600, Honolulu, HI 96813.

Instrument: Robotically Controlled 2 meter Astronomical Telescope. *Manufacturer:* Telescope Technologies Limited, United Kingdom. *Intended Use:* The instrument is intended to be used for studying astronomical objects. The telescope and its charge coupled device instrument (which includes a wheel of colored filters) (CCD camera) will be used for taking images of astronomical objects that will allow the identity brightness, color, composition, and distance of astronomical objects to

be determined. Observations of celestial objects will be selected by students in Hawaiian and United Kingdom schools as part of educational research programs being run to support the teaching of science in schools. Research programs will include:

1. Galaxy morphology (shape of galaxies)
 2. Asteroid and comet searches
 3. Gamma-ray bursts
 4. Variable stars
 5. Extra-solar planets (planets outside our own Solar System)
- These programs are intended to result in findings that can be published in refereed journals by the professional astronomers that will be mentoring the research. Therefore, the observations will need to be of research quality. *Application accepted by Commissioner of Customs: July 11, 2002.*

Docket Number: 02-037. Applicant: The University of Texas Health Center at Tyler, 11937 U.S. Hwy 271, Tyler, TX 75708-3154. *Instrument:* Electron Microscope, Model JEM-1230. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used to study ultrastructural cells—normal and pathological, dusts—inhaled and environmental, isolated proteins, bacteria, viruses, isolated RNA and DNA and other bio compounds to understand mechanisms in biosystems which have applicability to be used in intervening in human disease. *Application accepted by Commissioner of Customs: August 15, 2002.*

Docket Number: 02-039. Applicant: U.S. Department of Agriculture, ARS, PWA Office, 800 Buchanan Street, Albany, CA 94710. *Instrument:* Automated Robotic Colony Picking and Replicating System, Model QPixII. *Manufacturer:* Genetix Limited, United Kingdom. *Intended Use:* The instrument is intended to be used in research for a high-throughput screening strategy to identify *E. coli* and yeast colonies with high recombinant enzyme activities and to quickly screen hundreds of thousands of colonies for clones that produce highly active starch-degrading enzymes, and to implement an automated process for that purpose. *Application accepted by Commissioner of Customs: August 28, 2002.*

Docket Number: 02-040. Applicant: Pennsylvania State University, 187 Materials Research Lab Building, University Park, PA 16802. *Instrument:* Optical Image Furnace and Accessories, Model SC1-MDH-20020. *Manufacturer:* NEC Machinery Corporation, Japan. *Intended Use:* The instrument is intended to be used for the growth of up

to 10 mm diameter single crystals for the study of oxide ferroic and dielectric materials. The need for the capability to grow highly uniform and sufficient in size single crystals is stemmed from the necessity to separate and understand the mechanisms in the mixed valence solid solution and often refractory ferroic crystal systems. *Application accepted by Commissioner of Customs: August 29, 2002.*

Gerald A. Zerdy,
Program Manager, Statutory Import Programs Staff.

[FR Doc. 02-23496 Filed 9-13-02; 8:45 am]
BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Lawrence Berkeley National Laboratory, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW, Washington, DC.

Docket Number: 02-025. Applicant: Lawrence Berkeley National Laboratory, Berkeley, CA 94720. *Instrument:* Electron Microscope, Model Tecnai G² F20 U-TWIN STEM. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* See notice at 67 FR 47524, July 19, 2002. *Order Date:* September 7, 2001.

Docket Number: 02-026. Applicant: University of North Carolina, Chapel Hill, NC 27599-3255. *Instrument:* Electron Microscope, Model JEM-2010F FasTEM. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 67 FR 47524, July 19, 2002. *Order Date:* March 25, 2002.

Docket Number: 02-029. Applicant: University of Delaware, Newark, DE 19716. *Instrument:* Electron Microscope, Model JEM-3010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 67 FR 47524, July 19, 2002. *Order Date:* October 24, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign

instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Gerald A. Zerdy,
Program Manager, Statutory Import Programs Staff.

[FR Doc. 02-23495 Filed 9-13-02; 8:45 am]
BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091002B]

Mid-Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Executive Committee, Ecosystems Planning Committee, and Law Enforcement Committee (with Advisor) will hold a public meeting. There will also be a meeting of the Joint Mid-Atlantic Fishery Management Council and New England Fishery Management Council Spiny Dogfish Committee. **DATES:** The meetings will be held on Monday, September 30, 2002 through Thursday, October 3, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Holiday Inn Select, 630 Naamans Road, Claymont, DE, telephone: 302-792-2700.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone: 302-674-2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302-674-2331, ext. 19.

SUPPLEMENTARY INFORMATION: On Tuesday, October 1, the Executive Committee will meet from 1 p.m. to 4 p.m. New Member Orientation will be held from 4 p.m. to 4:30 p.m. On Wednesday, October 2, the Council will convene at 8 a.m. with the swearing-in of new Council members and the election of officers (chairman and vice

chairman). Spiny dogfish actions regarding Amendment 1 and management measures for the 2003/04 fishing year will be discussed from 8:30 a.m. to 11:30 a.m. Monkfish issues and input regarding proposed changes to the current permit moratorium will be discussed from 11:30 a.m. until noon. The Ecosystems Planning Committee will meet from 1 p.m. to 3 p.m. The Enforcement Committee with its Advisors will meet from 3 p.m. to 5 p.m. On Thursday, October 3, the Council will meet from 8 a.m. until 4 p.m. to conduct its routine business.

Agenda items for the Council's committees and the Council itself are: the Executive Committee will review/approve previously addressed Statement of Operating Practices and Procedures (SOPPs), review draft 2003 annual work plan, and review 2003 grant application if available; the Council will review and discuss the Joint Spiny Dogfish Committee's actions regarding Amendment 1 to the Spiny Dogfish Fishery Management Plan (FMP), review and discuss the Joint Spiny Dogfish Committee's recommendations on dogfish management measures for the 2003/04 fishing year, and adopt management measures for the 2003/04 fishing year; the Council will review monkfish comments received during the supplemental scoping hearings and discuss potential impacts of proposed changes to permit moratorium for monkfish; the Ecosystems Planning Committee will discuss the feasibility of developing and adopting a universal saltwater fishing license; and, discuss and determine research set-aside priorities for 2004; the Enforcement Committee with Advisors will discuss and evaluate the enforceability of at-sea transfer of catch should such a measure be adopted, and review post September 11 enforcement actions and their impacts on marine resources regulations; there will be a presentation on the historical fisheries of the Delaware River and Bay by the U.S. Fish and Wildlife Service; the Council will discuss during meeting one of Framework 3 to the Squid, Mackerel, Butterfish FMP extending the Illex limited access moratorium for two years; the Council will also receive and discuss organizational and committee reports including the New England Council's report regarding possible actions on herring, groundfish, monkfish, red crab, scallops, skates, and whiting; and, act on any continuing and/or new business. Under Continuing and New Business, the council will review and recommend the research set-

aside quota level for the 2003 tilefish fishery.

In conjunction with but separate from this Council meeting, there will be a Joint Dogfish Committee meeting on Monday, September 30 from 10 a.m. to 4 p.m., to review updated fisheries and stock assessment information, develop 2003/04 management measures, and discuss Amendment 1 to the Spiny Dogfish FMP. Likewise, there will be two public hearings in conjunction with but separate from this Council meeting. On Tuesday evening, October 1, from 7 p.m. to 9 p.m. the New England Fishery Management Council will conduct a public hearing on its Skate FMP. This public hearing will be held to solicit comments on the Draft Skate FMP and Draft Environmental Impact Statement (EIS). The Draft Skate FMP proposes several alternatives to address the management of the seven species of skates in the Northeast Region skate complex. Written comments will be accepted until October 15, 2002. Please forward comments to Paul Howard, Executive Director, New England Fishery Management Council, 50 Water Street, The Tannery - Mill 2, Newburyport, MA 01950.

On Wednesday evening, October 2 from 7 p.m. to 9 p.m., the Mid-Atlantic Fishery Management Council will conduct a public hearing on Amendment 13 to its Surfclam and Ocean Quahog FMP. Amendment 13 addresses five major issues: (1) A new surfclam overfishing definition, (2) fishing gear impacts to essential fish habitat (EFH), (3) multi-year quotas, (4) suspension of the surfclam minimum size limit, and (5) a vessel monitoring type system. The intended effect of this action is to alert interested public of the commencement of this hearing process to provide for public participation. Written comments will be accepted until October 15, 2002. Please forward comments to Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Room 2115, Dover, DE 19904.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting date.

Dated: September 11, 2002

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service
[FR Doc. 02-23501 Filed 9-13-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091002C]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings in Seattle, WA.

DATES: The meetings will be held on Monday, September 30 through Tuesday, October 8, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times. All meetings are open to the public except executive sessions.

ADDRESSES: The meetings will be held at the Doubletree Hotel, SeaTac, 18740 Pacific Highway South, Seattle, WA 98188.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Council staff, Phone: 907-271-2809.

SUPPLEMENTARY INFORMATION: The Council's Advisory Panel will begin at 8 a.m., Monday, September 30, and continue through Friday, October 4, 2002. The Scientific and Statistical Committee will begin at 8 a.m. on Monday, September 30, and continue through Wednesday, October 2, 2002.

The Council will begin its plenary session at 8 a.m. on Wednesday, October 2, continuing through Tuesday October 8, 2002.

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Report:
 - (a) Executive Director's Report
 - (b) NMFS Management Report
 - (c) Alaska Department of Fish & Game (ADF&G) Management Report
 - (d) Coast Guard Report
 - (e) Report from independent legal review team
 - (f) Report from Vessel Monitoring System (VMS) Committee
2. Crab Rationalization: Provide clarification on aspects of June 2002 motion. Receive three Committee reports. Initial review of trailing amendments. Receive update on Crab Environmental Impact Statement (EIS) progress and Congressional actions. Review and provide information on new proposals. Crab Plan Team and Pacific Northwest Crab Industry Advisory Committee reports.
3. Steller Sea Lion (SSL) management measures: Receive update on litigation, final action on two trailing amendments. Final action on Cape Sarichef closure.
4. Draft Programmatic Supplemental Environmental Impact Statement (DPSEIS): Receive status report.
5. Improved Retention and Improved Utilization (IR/IU): Receive report from IR/IU Technical Committee. Final action on amendment package for flatfish requirements. Provide direction on trailing amendments.
6. Essential Fish Habitat (EFH): Receive Committee report, identify final alternatives for analysis.
7. Gulf of Alaska (GOA) Groundfish Rationalization: Review scoping paper and receive update on scoping meetings. Receive Committee report and provide direction as necessary.
8. Community Development Quota (CDQ) Program: Review and comment on the State's proposed CDQ allocations.
9. Observer Program: Review Committee report and provide direction as necessary.
10. American Fisheries Act (AFA): Initial review of Pacific cod sideboard package. Final action on single geographic location amendment.
11. Halibut Management: Review implementation issues and data issues related to Charterboat Guideline Harvest Levels (GHL) and Individual Fishing Quotas (IFQ) programs and proceed as appropriate. Review discussion paper on implementation issues RE: April 2002 proposed subsistence amendments (including community harvest permits). Request from Akutan for inclusion in GOA IFQ community purchase program.
12. Groundfish Issues: Report from F40 independent review team. Final action on total allowable catch (TAC) setting process (Amendment 48/48).

Review 2002 draft GOA and Bering Sea and Aleutian Islands (BSAI) Stock Assessment Fishery Evaluation (SAFE) report and recommend proposed and interim groundfish specifications. Review 'other species' breakout and associated issues. Set Vessel Incentive Program (VIP) rates for first half of 2003.

13. Other Business: Approve Scientific and Statistical Committee (SSC) replacement for Dr. Al Tyler. Approve appointment to GOA Groundfish Plan Team. Discuss joint meeting with Board of Fish in 2003. Clarification of Council intent on Amendment 67. North Pacific Research Board update on research priorities.

14. Staff Tasking: Review tasking and provide direction as appropriate (includes discussion of fixed gear cod allocations, and review information and determine workplan for differential gear impact analysis)

Scientific and Statistical Committee:

The SSC agenda will include the following issues:

- (a) Groundfish Issues
- (b) Initial review of Crab trailing Amendments, Crab Plan Team report (C-1(c & f)) on Council agenda
- (c) Charterboat GHL/IFQ program (C-10(a) on Council agenda)
- (d) EFH
- (e) DPSEIS
- (f) Observer Program
- (g) American Fisheries Act
- (h) IR/IU
- (i) SSL interaction measures (C-2(c) on Council Agenda)
- (j) Approve appointment to Groundfish Plan Team and North Pacific Research Board update on Research Priorities (D-2 b & e) on Council Agenda)

Advisory Panel: The Advisory Panel will address the same agenda issues as the Council, with the exception of the Reports under Item #1 of the Council agenda.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, these issues may not be the subject of formal Council action during the meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities.

Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at 907-271-2809 at least 7 working days prior to the meeting date.

Dated: September 10, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-23502 Filed 9-13-02; 8:45 am]

BILLING CODE 3510-22-S

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Comment Request—Procurement of Goods and Services

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval for a period of three years from the date of approval of a collection of information associated with the procurement of goods and services. Forms used by the Commission for procurement of goods and services request persons who quote, propose, or bid on contracts to provide information needed to evaluate quotes, proposals, and bids in accordance with applicable laws and regulations.

The Commission will consider all comments received in response to this notice before requesting extension of approval of this collection of information from the Office of Management and Budget (OMB).

DATES: The Office of the Secretary must receive comments not later than November 15, 2002.

ADDRESSES: Written comments should be captioned "Procurement of Goods and Services; Paperwork Reduction Act," and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504-0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Linda L. Glatz, Management and Program Analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 504-0416, Ext. 2226.

SUPPLEMENTARY INFORMATION: The Commission's procurement of goods and services is governed by the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 253 *et seq.*). That law requires the Commission to procure goods and services under conditions most advantageous to the government, considering cost and other factors.

A. Information Required by Procurement Forms

The Commission requires persons and firms to submit quotations, proposals, and bids for contracts to provide goods and services on standardized forms. These forms request information from offerors about costs or prices of goods and services to be supplied; specifications of goods and descriptions of services to be delivered; competence of the offeror to provide the goods or services; and other information about the offeror such as the size of the firm and whether it is minority owned. The Commission uses the information provided by offerors to determine the reasonableness of prices and costs and the responsiveness of potential contractors to undertake the work involved so that all bids may be awarded in accordance with Federal procurement laws.

OMB approved the collection of information requirements in the procurement forms used by the Commission under control number 3041-0059. OMB's most recent extension of approval will expire on November 30, 2002. The CPSC now proposes to request extension of approval for the information collection requirements in the forms used for procurement of goods and services. The Commission plans to use the Internet and the General Services Administration's (GSA) GSA Advantage! System for delivery order purchasing. The Internet provides small businesses access to information about the Commission's current needs for goods and services.

B. Information Collection Burden

During fiscal year 2001, approximately 2,539 firms spent about 14,174 hours responding to all Requests for Quotations (RFQs), and Requests for Proposals (RFPs) issued by the Commission. The time required by vendors to respond ranged from as little as 10 to 15 minutes per firm for a simple telephone, e-mail, fax, or Internet response concerning the purchase of a standard item or service, to as much as 100-200 hours per firm for a complex written offer prepared in response to technically complex RFQs and RFPs.

Based on the number of procurements, details of actions reported by the Federal Procurement Data System, and the procurement staff's experience with the sales and technical functions of various vendors, we believe firms spent an estimated 11,624 hours responding to oral, electronic, and written RFQs and RFPs and approximately 2,550 hours preparing quotes and proposals in response to more complex RFQs and RFPs. The cost of preparing a response to an oral, electronic, or written RFQ or RFP is estimated to be approximately \$36 per hour for regular sales staff and \$55 per hour for high level sales staff with advanced technical expertise for more complex procurements (based on Web search at the Career Journal from the Wall Street Journal and Salary.com and research of salary tables from "Sales and Marketing Management" magazine dated May 2001). The annualized cost to all firms for responding to all RFQs and RFPs issued by the Commission is estimated to be \$558,714 (11,624 hours × \$36/hr + 2,550 hours × \$55/hr = \$558,714).

The total cost to the government for all collections of information by the Commission related to procurement of goods and services is estimated to be about \$972,187 a year. This estimate was made by reviewing the Commission's procurement activities in fiscal year 2001.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: September 10, 2002.

Todd Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 02-23454 Filed 9-13-02; 8:45 am]

BILLING CODE 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request—Testing and Recordkeeping Requirements for Carpets and Rugs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval, through November 30, 2005, of information collection requirements for manufacturers and importers of carpets and rugs. The collection of information is in regulations implementing the Standard for the Surface Flammability of Carpets and Rugs (16 CFR part 1630) and the Standard for the Surface Flammability of Small Carpets and Rugs (16 CFR part 1631). These regulations establish requirements for testing and recordkeeping for manufacturers and importers who furnish guaranties for products subject to the carpet flammability standards. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from the Office of Management and Budget.

DATES: The Office of the Secretary must receive comments not later than November 15, 2002.

ADDRESSES: Written comments should be captioned "Carpets and Rugs; Paperwork Reduction Act," and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814.

Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504-0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Linda L. Glatz, Management and Program Analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; (301) 504-0416, Ext. 2226.

SUPPLEMENTARY INFORMATION:

A. The Standards

Carpets and rugs that have one dimension greater than six feet, a surface area greater than 24 square feet, and are manufactured for sale in or imported into the United States are subject to the Standard for the Surface

Flammability of Carpets and Rugs (16 CFR part 1630). Carpets and rugs that have no dimension greater than six feet and a surface area not greater than 24 square feet are subject to the Standard for the Surface Flammability of Small Carpets and Rugs (16 CFR part 1631).

Both of these standards were issued under the Flammable Fabrics Act (FFA) (15 U.S.C. 1191 *et seq.*). Both standards require that products subject to their provisions must pass a flammability test that measures resistance to a small, timed ignition source. Small carpets and rugs that do not pass the flammability test comply with the standard for small carpets and rugs if they are permanently labeled with the statement that they fail the standard and should not be used near sources of ignition.

Section 8 of the FFA (15 U.S.C. 1197) provides that a person who receives a guaranty in good faith that a product complies with an applicable flammability standard is not subject to criminal prosecution for a violation of the FFA resulting from the sale of any product covered by the guaranty. Section 8 of the FFA requires that a guaranty must be based on "reasonable and representative" tests. Many manufacturers and importers of carpets and rugs issue guaranties that the products they produce or import comply with the applicable standard. Regulations implementing the carpet flammability standards prescribe requirements for testing and recordkeeping by firms that issue guaranties. *See* 16 CFR part 1630, Subpart B, and 16 CFR part 1631, Subpart B. The Commission uses the information compiled and maintained by firms that issue these guaranties to help protect the public from risks of injury or death associated with carpet fires. More specifically, the information helps the Commission arrange corrective actions if any products covered by a guaranty fail to comply with the applicable standard in a manner that creates a substantial risk of injury or death to the public. The Commission also uses this information to determine whether the requisite testing was performed to support the guaranties.

The Office of Management and Budget (OMB) approved the collection of

information in the regulations under control number 3041-0017. OMB's most recent extension of approval expires on November 30, 2002. The Commission now proposes to request an extension of approval without change for the collection of information in the regulations.

B. Estimated Burden

The Commission staff estimates that the enforcement rules result in an industry expenditure of a total of 60,000 hours for testing and recordkeeping. However, the Commission is unable to estimate the total dollar cost incurred by the industry. The Commission staff estimates that 120 firms are subject to the information collection requirements because the firms have elected to issue a guaranty of compliance with the FFA. The number of tests that a firm issuing a guaranty of compliance would be required to perform each year varies, depending upon the number of carpet styles and the annual volume of production. The staff estimates that the average firm issuing a continuing guaranty under the FFA is required to conduct a maximum of 200 tests per year. The actual number of tests required by a given firm may vary from 1 to 200, depending upon the number of carpet styles and the annual production volume. For example, if a firm manufactures 100,000 linear yards of carpet each year, and has obtained consistently passing test results, only one test per year is required. The time required to conduct each test is estimated by the staff to be 2½ hours plus the time required to establish and maintain the test record. The estimated annual cost of the information and collection requirements to the Federal government is approximately \$22,500. This sum includes three staff months and travel costs expended for examination of the records required to be maintained.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: September 10, 2002.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 02-23455 Filed 9-13-02; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-37]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub L 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-37 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 9, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/008608

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-37, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost \$122 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in black ink that reads "Tome Walters, Jr." in a cursive style.

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-37

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Egypt
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|----------------------|
| Major Defense Equipment* | \$ 93 million |
| Other | <u>\$ 29 million</u> |
| TOTAL | \$122 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 459 AGM-114K3 HELLFIRE II Air-to-Surface Anti-Armor missiles, 500 M1045A2 High Mobility Multi-purpose Wheeled Vehicles (HMMWV), 8,072 25.4mm chaff cartridges, engines, winches, kits, dispensers, containers, spare and repair parts, test and tool sets, personnel training and equipment, publications, a U.S. Government and contractor engineering and logistics personnel services, Quality Assurance Team, and other related elements of logistics support. NOTE: These two items are not operationally linked together nor supportive of each other.
- (iv) **Military Department:** Army (UVA and UUP)
- (v) **Prior Related Cases, if any:**
FMS Case URB - \$43 million – 9Jun96
FMS case UTA - \$23 Million – 1Mar00
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Egypt – HELLFIRE II Air-to-Surface Anti-Armor Missiles and Vehicles**

The Government of Egypt has requested a possible sale of 459 AGM-114K3 HELLFIRE II Air-to-Surface Anti-Armor missiles, 500 M1045A2 High Mobility Multi-purpose Wheeled Vehicles (HMMWV), 8,072 25.4mm chaff cartridges, engines, winches, kits, dispensers, containers, spare and repair parts, test and tool sets, personnel training and equipment, publications, a U.S. Government and contractor engineering and logistics personnel services, Quality Assurance Team, and other related elements of logistics support. NOTE: These two items are not operationally linked together nor supportive of each other. The estimated cost is \$122 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Egypt currently has HELLFIRE missiles in its operational inventory for use with APACHE attack helicopters. These additional missiles will enhance Egyptian war reserve stocks, and equals less than one full combat load per AH-64 helicopter. The proposed sale of the HMMWVs will be fielded with Egypt's TOW weapon system in their Field Artillery and to replace existing jeeps as support vehicles. Egypt, which already has the proposed items in its inventory, will have no difficulty absorbing these missiles and trucks.

The principle contractors will be: Lockheed Martin Electronics and Missiles of Orlando, Florida and AM General of Mishawaka, Indiana. There are no offset agreements proposed in connection with this potential sale.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

Implementation of this proposed sale will require the assignment of U.S. Government Quality Assurance Teams and five contractor representatives for one week intervals to participate in program review and technical reviews to Egypt.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-37

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

**Annex
Item No. vii**

(vii) **Sensitivity of Technology:**

1. The AGM-114K3 HELLFIRE II Air-to-Surface Anti-Armor missile hardware and documentation are unclassified. Missile performance parameters and characteristics, including susceptibility to countermeasures, are classified up to Secret and considered very sensitive. Missile hardware is considered sensitive and knowledge of the warhead timing mechanism would be useful in development of countermeasures. Technology contained within the missile is sensitive and Unclassified. The sensitivity of the system is primarily in the software programs which enable the missile to operate in a countermeasures environment. Training, maintenance, operations and related documentation are unclassified and not considered sensitive.

2. Missile design features minimize the possibility of reverse engineering U.S. capabilities.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware in this proposed sale, the information could be used to develop countermeasures, which might reduce the effectiveness of the reconnaissance system, or be used in the development of a system with similar capabilities.

4. A determination has been made that Egypt can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02-23414 Filed 9-13-02; 8:45 am]
BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-40]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub L 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703-604-6575).

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-40 with attached transmittal and policy justification.

Dated: September 9, 2002.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/008737

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-40, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost \$250 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in cursive script that reads "Tome H. Walters, Jr.".

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-40

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Taipei Economic and Cultural Representative Office in the United States
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|----------------------|
| Major Defense Equipment* | \$167 million |
| Other | <u>\$ 83 million</u> |
| TOTAL | \$250 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 48 rebuilt Standard Assault Amphibious Personnel Vehicles, 4 Assault Amphibious Command Vehicles, 2 Assault Amphibious Recovery Vehicles, enhanced Position Laser Remote Sensor radios, supply support, installation kits, spare and repair parts, chargers, support equipment, publications and documentation, personnel and training equipment, quality assurance team, U.S. Government and contractor technical support; and other related elements of logistics support.
- (iv) **Military Department:** Navy (SDR)
- (v) **Prior Related Cases, if any:** none
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** none
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Taipei Economic and Cultural Representative Office in the United States – Assault Amphibious Vehicles

Taipei Economic and Cultural Representative Office in the United States has requested a possible sale of 48 rebuilt Standard Assault Amphibious Personnel Vehicles, 4 Assault Amphibious Command Vehicles, 2 Assault Amphibious Recovery Vehicles, enhanced Position Laser Remote Sensor radios, supply support, installation kits, spare and repair parts, chargers, support equipment, publications and documentation, personnel and training equipment, quality assurance team, U.S. Government and contractor technical support; and other related elements of logistics support. The estimated cost is \$250 million.

This sale is consistent with United States law and policy as expressed in Public Law 96-8.

The Assault Amphibious Vehicles program will replace the recipient's aged and non-supportable Landing Vehicle Tracked fleet, thereby improving its counter landing capability and self-defense posture.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be United Defense LP Ground Systems Division of Santa Clara, California. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of a U.S. contractor field service support representative for one year after delivery of the vehicles to the recipient.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 02-23415 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-41]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-41 with attached transmittal and policy justification.

Dated: September 9, 2002.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/008902

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-41, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost \$174 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in cursive script that reads "Tome Walters, Jr.".

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-41

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Taipei Economic and Cultural Representative Office in the United States
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|----------------------|
| Major Defense Equipment* | \$ 0 million |
| Other | <u>\$174 million</u> |
| TOTAL | \$174 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** maintenance of repairable material and spare parts in support of F-16A/B, F-5E/F, C-130H and Indigenous Defense Fighter aircraft; MPN-14 and GE-592 radar systems; AIM-120 missile; Pathfinder/Sharpshooter; Pratt & Whitney F-100 engines; communications equipment; and other U.S. made military material.
- (iv) **Military Department:** Air Force (MPU)
- (v) **Prior Related Cases, if any:** none
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** none
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Taipei Economic and Cultural Representative Office in the United States – Maintenance of Repairable Material**

Taipei Economic and Cultural Representative Office in the United States has requested a possible sale for maintenance of repairable material and spare parts in support of F-16A/B, F-5E/F, C-130H and Indigenous Defense Fighter aircraft; MPN-14 and GE-592 radar systems; AIM-120 missile; Pathfinder/Sharpshooter; Pratt & Whitney F-100 engines; communications equipment; and other U.S. made military material. The estimated cost is \$174 million.

This sale is consistent with United States law and policy as expressed in Public Law 96-8.

The Recipient needs these additional spare parts to maintain the aircraft, radar, and missile systems previously procured from the United States in a mission capable status.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be Lockheed Martin Company of Dallas/Fort Worth, Texas and Northrop Grumman Corporation of Baltimore, Maryland. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to recipient.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 02-23416 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-44]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-44 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 9, 2002.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/009468

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-44 and under separate cover the classified offset certificate thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the United Arab Emirates for defense articles and services estimated to cost \$400 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Reporting of Offset Agreements in accordance with Section 36(b)(1)(C) of the Arms Export Control Act (AECA), as amended, requires a description of any offset agreement with respect to this proposed sale. Section 36(g) of the AECA, as amended, provides that reported information related to offset agreements be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)). Information about offsets for this proposed sale is described in the enclosed confidential attachment.

Sincerely,

A handwritten signature in black ink, appearing to read "Tome Walters, Jr.".

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Separate Cover:
Offset certificate

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-44

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** United Arab Emirates
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|----------------------|
| Major Defense Equipment* | \$220 million |
| Other | <u>\$180 million</u> |
| TOTAL | \$400 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 5 refurbished/upgraded E-2C aircraft to the E-2C HAWKEYE 2000, 5 AN/APS-145 radars, 5 OE-335/A antenna groups, 10 T56-A-425 engines, spare and repairs parts, support equipment, personnel training and training equipment, technical data and publications, tactical software and software laboratory, system software development and installation, testing of new system modifications, U.S. Government and contractor engineering and logistics services and other related elements of program support.
- (iv) **Military Department:** Navy (AAV)
- (v) **Prior Related Cases, if any:** none
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**United Arab Emirates – Refurbished/upgraded E-2C Aircraft to the E2C HAWKEYE 2000**

The Government of the United Arab Emirates has requested a possible sale of 5 refurbished/upgraded E-2C aircraft to the E-2C HAWKEYE 2000, 5 AN/APS-145 radars, 5 OE-335/A antenna groups, 10 T56-A-425 engines, spare and repairs parts, support equipment, personnel training and training equipment, technical data and publications, tactical software and software laboratory, system software development and installation, testing of new system modifications, U.S. Government and contractor engineering and logistics services and other related elements of program support. The estimated cost is \$400 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The United Arab Emirates needs the E-2C aircraft to develop an effective air defense network for their naval forces and provide an Airborne Early Warning (AEW) surveillance and enhanced command, control, and communications capability. UAE will have no difficulty absorbing the E-2C aircraft into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Northrop Grumman Aircraft Corporation of Bethpage, New York. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this sale will require the assignment of up to 14 contractor representatives to UAE for two years, followed by an extension for an additional two to three years following delivery of the aircraft in country. A Navy Weapon System Liaison Office staffed by one person will be required for the first three years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-44

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

**Annex
Item No. vii**

(vii) Sensitivity of Technology:

1. The E-2C contains sensitive state-of-the-art technology. Some of the hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified Secret. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through depot level) of the E-2C aircraft and its installed systems and related software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the United Arab Emirates can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02-23417 Filed 9-13-02; 8:45 am]
BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-46]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703-604-6575).

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-46 with attached transmittal and policy justification.

Dated: September 9, 2002.

Patricia L. Toppings,
*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/009669

**The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501**

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-46, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost \$102 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tome Walters, Jr.", written in black ink.

**TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR**

Attachments

**Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations**

Transmittal No. 02-46

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Egypt
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|----------------------|
| Major Defense Equipment* | \$ 0 million |
| Other | <u>\$102 million</u> |
| TOTAL | \$102 million |
- Note: \$20 million from Egyptian National Funds for the VIP package and \$82 million from foreign military financing (FMF)
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** two Gulfstream G-IV SP aircraft including four Rolls Royce engines (two engines per aircraft), support equipment, spare and repair parts, personnel training and training equipment, publications and technical data, maintenance of repairable material, U.S. Government and contractor engineering and logistics services, aircraft ferry services, and other related elements of program support.
- (iv) **Military Department:** Air Force (STT)
- (v) **Prior Related Cases, if any:**
FMS case STS - \$80 million - 11Jan00
FMS case STQ - \$76 million - 5Dec96
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** none
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt – Gulfstream G-IV SP Aircraft

The Government of Egypt has requested a possible sale of two Gulfstream G-IV SP aircraft including four Rolls Royce engines (two engines per aircraft), support equipment, spare and repair parts, personnel training and training equipment, publications and technical data, maintenance of repairable material, U.S. Government and contractor engineering and logistics services, aircraft ferry services, and other related elements of program support. The estimated cost is \$102 million (\$20 million from Egyptian National Funds for the VIP package and \$82 million from foreign military financing (FMF) for the basic Gulfstream aircraft program).

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Egypt will use these aircraft to augment and enhance its existing airlift capability, including the movement of its National Command Authority. Egypt, which already has Gulfstream aircraft in its inventory, will have no difficulty absorbing these additional aircraft.

The prime contractor will be the Gulfstream Aerospace Corporation of Savannah, Georgia. There are no offset agreements proposed in connection with this potential sale.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

There will be 10 each U.S. Government and contractor representatives for one-week intervals twice semi-annually to participate in program management and technical reviews.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 02-23418 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-47]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-47 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 9, 2002.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/009670

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-47, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost \$44 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in black ink, appearing to read "Tome Walters, Jr.", written in a cursive style.

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-47

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Egypt
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|---------------------|
| Major Defense Equipment* | \$37 million |
| Other | <u>\$ 7 million</u> |
| TOTAL | \$44 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 12 AN/MPQ-64 SENTINEL radar systems, 12 AN/VRC-92E SINCGARS radio sets, generators, spare and repair parts, test and tool sets, personnel training and equipment, communications equipment, publications, U.S. Government and contractor engineering and logistics personnel services, Quality Assurance Team, and other related elements of logistics support.
- (iv) **Military Department:** Army (UUJ)
- (v) **Prior Related Cases, if any:** none
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Egypt – AN/MPQ-64 SENTINEL Radar Systems**

The Government of Egypt has requested a possible sale of 12 AN/MPQ-64 SENTINEL radar systems, 12 AN/VRC-92E SINCGARS radio sets, generators, spare and repair parts, test and tool sets, personnel training and equipment, communications equipment, publications, U.S. Government and contractor engineering and logistics personnel services, Quality Assurance Team, and other related elements of logistics support. The estimated cost is \$44 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Egypt desires to replace its aging TRACKSTAR radar systems which support their Chaparral fire units. The SENTINEL is the combat Short Range Air Defense system sensor that provides the low altitude air picture over and beyond the Forward Line of Own-Troops, contributing to the mission of defeating the low altitude air threat.

The prime contractor will be Thales Raytheon System of El Segundo, California. There are no offset agreements proposed in connection with this potential sale.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

Implementation of this proposed sale will require the assignment of two U.S. Government Quality Assurance Teams and five contractor representatives for one week intervals to participate in program review and technical reviews to Egypt.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-47

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

**Annex
Item No. vii**

(vii) Sensitivity of Technology:

1. The AN/MPQ-64 SENTINEL radar is a highly mobile phased-array radar that provides highly accurate three-dimensional radar track data to Short Range Air Defense (SHORAD) weapon systems via the Forward Area Air Defense (FAAD) Command, Control, and Intelligence (C2I) node. This export version is classified Confidential at the system level. The export SENTINEL hardware configuration consists of the M1097A High Mobility Multi-Purpose Wheeled Vehicle (HMMWV) group and the Antenna Transceiver Group mounted on a 1-ton wide-track trailer. The HMMWV is the prime mover for the radar with the MEP-813A Tactical Quiet Generator as the power source. The SENTINEL is X-band phased-array radar with the instrumented range of 40 kilometers that provides 360 degree azimuth coverage for acquisition and tracking.

2. The highest level of classified information required to be released for training, operation and maintenance of the SENTINEL is Confidential. The highest level which could be revealed through reverse engineering of the end item is Confidential. The SENTINEL technical data/information includes performance and capability data, classified Confidential. No radar test data or technical information comparing this radar with any other U.S. Army radar system will be released. If a technologically advanced potential adversary were to obtain access to this information, countermeasures could be developed which would reduce the effectiveness of the radar system. Distribution of technical performance and system capabilities reports shall only be released up to the Confidential level.

3. A determination has been made that Egypt can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02-23419 Filed 9-13-02; 8:45 am]
BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-51]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-51 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 9, 2002.

Patricia L. Toppings,
Alternative OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002

In reply refer to:

I-02/009925

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-51, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost \$47 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tome Walters, Jr.".

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-51

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Egypt
- (ii) **Total Estimated Value:**
- | | |
|---------------------------------|----------------------------|
| Major Defense Equipment* | \$23 million |
| Other | <u>\$24 million</u> |
| TOTAL | \$47 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** two UH-60L VIP BLACKHAWK helicopters with engines, two spare T700-GE-701C engines, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, Cooperative Logistics Supply Support Agreements, and other related elements of logistics support.
- (iv) **Military Department:** Army (UUZ)
- (v) **Prior Related Cases, if any:**
FMS case STS - \$80 million - 11Jan00
FMS case STQ - \$76 million - 5Dec96
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Egypt – UH-60L VIP BLACKHAWK Helicopters**

The Government of Egypt has requested a possible sale of two UH-60L VIP BLACKHAWK helicopters with engines, two spare T700-GE-701C engines, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, Cooperative Logistics Supply Support Agreements, and other related elements of logistics support. The estimated cost is \$47 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The Government of Egypt will use these helicopters to expand their intra-country transportation requirements, including the movement of their National Command Authority. Egypt, which already has BLACKHAWK helicopters in its inventory, will have no difficulty absorbing the additional helicopters.

The prime contractor will be United Technologies, Sikorsky Aircraft in Stratford, Connecticut. There are no offset agreements proposed in connection with this potential sale.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

Implementation of this proposed sale will require the assignment of a Quality Assurance Team and five contractor representatives for one-week to assist in the delivery and deployment of the helicopters.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-51

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act**

**Annex
Item No. vii**

(vii) Sensitivity of Technology:

1. The UH-60L BLACKHAWK helicopter is a twin turbine engine, semimonocoque fuselage, rotary wing aircraft capable of transporting cargo, 11 combat troops, and weapons during day, night, visual, and instrument conditions. The cargo hook is capable of carrying up to 8000 pounds of equipment in support of tactical sling load missions. These aircraft will be sold in a VIP configuration.

2. Provisions for installation only will be provided on the UH-60L BLACK HAWK for the following sensitive technology systems: TSEC/KY-5 Voice Secure Sets, TSEC/KY-75 Secure Sets, AN/APR-39A Radar Signal Detecting Sets, M-130 Chaff/Flair, AN/ARC-201C SINGARS FM Radio Sets, and RT-1518C/ARC-164 UHF-FM Radio Set.

3. The UH-60L BLACKHAWK helicopter will include the following classified or sensitive components:

a. Infrared Countermeasure Set (AN/ALQ-144A(V)1) - an active continuous operating, Omni-directional, electrically fired infrared jammer system designed to confuse or decoy threat IR missile systems, in conjunction with low reflective paint and engine suppressors. Hardware is classified Confidential and the releasable technical manuals for the AVUM/AVIM levels are classified Secret. Reverse engineering and development of counter-countermeasures are concerns if the hardware and releasable technical data are compromised to a competent adversary.

b. AN/ASN-128B Doppler/GPS System - is the US Army's standard Doppler navigation system and includes three units: antenna, signal data converter, and computer display unit. The system provides continuous velocities, navigation, and guidance information from ground level to above 10,000 ft. Propagation: 4-beam configuration operating FM/continuous wave transmissions in K-band. Model to be provided will be the export version.

4. A determination has been made that Egypt can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02-23420 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Transmittal No. 02-52]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-52 with attached transmitted, policy justification, and Sensitivity of Technology.

Dated: September 9, 2002.

Patricia L. Toppings,

*Alternate OSD Federal Liaison Officer,
Department of Defense.*

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/009989

**The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501**

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-52, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost \$36 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tome Walters, Jr.", written in black ink.

**TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR**

Attachments

**Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations**

Transmittal No. 02-52**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Taipei Economic and Cultural Representative Office in the United States
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|---------------------|
| Major Defense Equipment* | \$25 million |
| Other | <u>\$11 million</u> |
| TOTAL | \$36 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 182 AIM-9M-1/2 Sidewinder air-to-air missiles, missile containers, test sets and support equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering and support services and other related elements of logistics support.
- (iv) **Military Department:** Navy (AKP)
- (v) **Prior Related Cases, if any:** FMS case AIZ - \$18 million – 25Sep91
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Taipei Economic and Cultural Representative Office in the United States – AIM-9M-1/2 Missiles**

Taipei Economic and Cultural Representative Office in the United States has requested a possible sale of 182 AIM-9M-1/2 Sidewinder air-to-air missiles, missile containers, test sets and support equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering and support services and other related elements of logistics support. The estimated cost is \$36 million.

This sale is consistent with United States law and policy as expressed in Public Law 96-8.

The recipient will replace its existing AIM-9S missiles and maintain its current air-to-air defensive capability. Recipient, which already has AIM-9 missiles in its inventory, will have no difficulty absorbing these item.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Raytheon Systems Corporation in Tucson, Arizona. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require temporary travel to the recipient for in-country training. Training will be a recurring requirement during the life of the missile systems.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-52**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act****Annex
Item No. vii****(vii) Sensitivity of Technology:**

1. The external view of the AIM-9M-1-2 Sidewinder missile is **Unclassified and not sensitive**. The guidance and control system (GCS) and target detector (TD) are **Confidential and contain sensitive state-of-the-art technology**.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02-23421 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-53]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-53 with attached transmittal and policy justification.

Dated: September 9, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/009988

**The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501**

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-53, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Belgium for defense articles and services estimated to cost \$50 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in cursive script that reads "Tome Walters, Jr.".

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

**Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations**

Transmittal No. 02-53

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Belgium
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|---------------------|
| Major Defense Equipment* | \$33 million |
| Other | <u>\$17 million</u> |
| TOTAL | \$50 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 90 AN/USQ-140(V) Multi-Functional Information Distribution System Terminals, modification kits, personnel training and training equipment, data link testing, support and test equipment, software support, publications and technical data, spare and repair parts, U.S. Government and contractor technical and logistics assistance and other related elements of logistics support.
- (iv) **Military Department:** Air Force (DZV)
- (v) **Prior Related Cases, if any:** none
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** none
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Belgium – Multi-Functional Information Distribution System Terminals**

The Government of Belgium has requested a possible sale of 90 AN/USQ-140(V) Multi-Functional Information Distribution System Terminals, modification kits, personnel training and training equipment, data link testing, support and test equipment, software support, publications and technical data, spare and repair parts, U.S. Government and contractor technical and logistics assistance and other related elements of logistics support. The estimated cost is \$50 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Belgium and further weapon system standardization and interoperability with U.S. forces.

Belgium needs these additional Multi-Functional Information Distribution System Terminals to implement the Link-16 capability in their F-16 aircraft.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be: Rockwell Collins/Data Link Solutions of Cedar Rapids, Iowa and VIASAT Incorporation of Carlsbad, California. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Belgium.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 02-23422 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-56]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-56 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 9, 2002.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/010112

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-56 and under separate cover the classified offset certificate thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Malaysia for defense articles and services estimated to cost \$1,483 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Reporting of Offset Agreements in accordance with Section 36(b)(1)(C) of the Arms Export Control Act (AECA), as amended, requires a description of any offset agreement with respect to this proposed sale. Section 36(g) of the AECA, as amended, provides that reported information related to offset agreements be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)). Information about offsets for this proposed sale is described in the enclosed confidential attachment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tome Walters, Jr.".

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Separate Cover:
Offset certificate

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-56**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Malaysia
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|-----------------------|
| Major Defense Equipment* | \$ 946 million |
| Other | \$ <u>437 million</u> |
| TOTAL | \$1,483 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 18 F/A-18F aircraft with 36 F414-GE-400 aircraft engines, 18 AN/APG-73 Radar Systems, 3 spare F414-GE-400 aircraft engines, 18 AN/ALR-67(V)3 Countermeasure Receiving Sets, 18 AN/ALE-47(B)2 Countermeasure Dispensing Sets, 12 AN/ALQ-214(V)2 Integrated Defensive Electronic Countermeasures, 72 LAU-127B/A Guided Missile Launchers, spare and repair parts, support and test equipment, supply support, U.S. Government and contractor technical and logistics personnel services, publications/technical data, personnel training and training equipment, system software development and other related elements of logistics to ensure complete program support.
- (iv) **Military Department:** Navy (SAM)
- (v) **Prior Related Cases, if any:** FMS Case SAJ - \$619 million – 09Dec93
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Malaysia – F/A-18F Aircraft

The Government of Malaysia has requested a possible sale of 18 F/A-18F aircraft with 36 F414-GE-400 aircraft engines, 18 AN/APG-73 Radar Systems, 3 spare F414-GE-400 aircraft engines, 18 AN/ALR-67(V)3 Countermeasure Receiving Sets, 18 AN/ALE-47(B)2 Countermeasure Dispensing Sets, 12 AN/ALQ-214(V)2 Integrated Defensive Electronic Countermeasures, 72 LAU-127B/A Guided Missile Launchers, spare and repair parts, support and test equipment, supply support, U.S. Government and contractor technical and logistics personnel services, publications/technical data, personnel training and training equipment, system software development and other related elements of logistics to ensure complete program support. The estimated cost is \$1,483 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for economic progress in Southeast Asia.

The proposed sale of F/A-18 aircraft will increase Malaysia's tactical aviation capabilities. An increase in capability will be accrued primarily due to the larger number of aircraft and the larger range and endurance of the F/A-18F. The commonality of this system with those in the U.S. Navy will yield lower costs for the U.S. in procurement of the F/A-18E/F and provide potential key support assets in South East Asia.

The sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be: The Boeing Company in St. Louis, Missouri; North Grumman in El Segundo, California; General Electric of Lynn, Massachusetts; and Raytheon Company of El Segundo, California. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this sale will require approximately 8 contractor representatives to provide technical and logistics support in Malaysia for two years. U.S. Government and contractor representatives will also participate in program management and technical reviews for one-week intervals twice semi-annually.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-56

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act**

**Annex
Item No. vii**

(vii) Sensitivity of Technology:

1. The F/A-18F Weapon System is Secret. Reduced Radar Cross Section (RCS) features have been incorporated in F/A-18C/D Hornets since 1989. The F/A-18F includes additional new designs, resulting in a significant reduction in RCS. The F/A-18F incorporates platform alignment, coated windshields and canopy, compatible antennas, radar-absorbing material, gap and mismatch control, shaped inlets, and engine shielding devices to RRC. The smaller RCS reduces enemy detection range and significantly increases the effectiveness of the F/A-18F's electronic countermeasures systems.

2. Classified/sensitive elements of the F/A-18F weapon system include the following hardware with accessories, components and associated software:

a. The AN/APG-73 Radar System is classified Secret. The radar provides the F/A-18 aircraft with all-weather, multi-mission capability for performing air-to-air and air-to-ground targeting and attack. Air-to-air modes provide the capability for all-aspect target detection, long-range search and track, automatic target acquisition, and tracking of multiple targets. Air-to-surface attack modes provide high-resolution ground mapping navigation, weapon delivery, and sensor cueing. The system component hardware (Antenna, Transmitter, Radar Data Processor, and Power Supply) is Unclassified. The Receiver-Exciter hardware is Confidential. The radar Operational Flight Program (OFP) is classified Secret. Documentation provided with the AN/APG-73 radar set is classified Secret.

b. The AN/ALR-67(V)3 Countermeasures Receiving Set is classified Confidential. The AN/ALR-67(V)3 provides the F/A-18F aircrew with radar threat warnings by detecting and evaluating friendly and hostile radar frequency threat emitters and providing identification and status information about the emitters to on-board Electronic Warfare (EW) equipment and the aircrew. The OFP and User Data Files (UDF) used in the AN/ALR-67(V)3 are classified Secret. Those software programs contain threat parametric data used to identify and establish priority of detected radar emitters.

c. The AN/ALE-47 Countermeasure Dispensing Set is classified Secret. The AN/ALE-47 is a threat-adaptive dispensing system that dispenses chaff, flares, and expendable jammers for self-protection against airborne and ground based Radio Frequency and Infra-Red threats. The ALE-47 Programmer is classified Confidential. The OFP and Mission Data Files used in the AN/ALE-47 are classified Secret. Those software programs contain algorithms used to calculate the best defense against specific threats.

d. The AN/ALQ-214 Radio Frequency Countermeasures (RFCM) is classified Secret. The RFCM is an internally mounted active Defensive Electronic Countermeasures system designed to protect tactical aircraft against modern pulse, pulse doppler, and continuous wave radar guided weapons. The Digital RF Memory (DFRM) within the RFCM is classified Confidential. The DFRM allows the RFCM to perform countermeasures techniques against pulse doppler and continuous wave threats. The OFP and UDF used in the RFCM are classified Secret. Those software programs control the RFCM hardware, allowing it to generate RF signals designed to defeat the threats.

e. The ASN-163 Miniature Airborne Global Positioning System Receiver (MAGR) 2000 is classified Secret in the Precise Positioning Service (PPS) version. The MAGR 2000 is a ten channel GPS receiver capable of tracking up to ten satellites simultaneously with an accuracy as good as 16 meter spherical error probability with a 0.1 meter second velocity accuracy. PPS provides a more accurate GPS signal than standard GPS.

f. The APX-111 Combined Interrogator/Transponder (CIT) with the Conformal Antenna System (CAS) is classified Secret. The CIT is a complete MARK-XII identification system compatible with Identification Friend or Foe (IFF) Modes 1, 2, 3/A, C and 4 (secure). The system's secure mode capabilities are provided by a single slide-in module that can be customized to the unique cryptographic functions for a specific country. As a transponder, the CIT is capable of replying to interrogation modes 1, 2, 3/A, C (altitude) and secure mode 4.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Malaysia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02-23423 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-57]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-57 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 9, 2002.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/010115

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-57, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to India for defense articles and services estimated to cost \$100 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard J. Millies".

Richard J. Millies
Deputy Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-57

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** India
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|----------------------|
| Major Defense Equipment* | \$ 57 million |
| Other | <u>\$ 43 million</u> |
| TOTAL | \$100 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 4 AN/TPQ-37(V)3 FIREFINDER counter-battery artillery radar sets with related equipment, 13 AN/VRC-90E SINCGAR radios, generators, trailers, communications equipment, Global Position Systems, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, U.S. Government Quality Assurance Team (QAT), spare and repair parts, support equipment, publications and other related elements of program support.
- (iv) **Military Department:** Army (UML)
- (v) **Prior Related Cases, if any:** FMS case UMJ -\$138 million - 17Apr02
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

India – AN/TPQ-37(V)3 FIREFINDER Counter-Battery Artillery Radar Sets

The Government of India has requested a possible sale of 4 AN/TPQ-37(V)3 FIREFINDER counter-battery artillery radar sets with related equipment, 13 AN/VRC-90E SINCGAR radios, generators, trailers, communications equipment, Global Position Systems, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, U.S. Government Quality Assurance Team (QAT), spare and repair parts, support equipment, publications and other related elements of program support. The estimated cost is \$100 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in South Asia.

These radar sets will provide an increase in counter-battery artillery capability consistent with India's force planning and defense strategy. India needs these SINCGARS radio systems to fulfill their strategic commitments for complete communicative interoperability and standardization of equipment and to be able to communicate with their various vehicles and U.S. forces. India will have no difficulty absorbing these radar sets into their armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be: Raytheon Aircraft Corporation of El Segundo, California and ITT Company of Fort Wayne, Indiana. There are no offset agreements proposed in connection with this potential sale.

When the radar sets arrive, implementation of this proposed sale will require a contractor representative for two years. There will be several U.S. Government and contractor representatives for up to two week intervals annually to participate in program management and technical reviews in India. Up to eight U.S. Government Quality Assurance representatives will be required for one week following delivery of the radar sets.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-57

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

**Annex
Item No. vii**

(vii) Sensitivity of Technology:

1. The major components of the AN/TPQ-37(V)3 FIREFINDER counter-battery artillery radar set containing sensitive technology are:

a. Operations Control Group/Signal Processor Unit and Software - contains critical technologies related to the computer and radar control card and signal processing capabilities. The signal processing algorithms are unclassified..

b. Antenna-Transceiver Group - contains critical technologies in the Antenna Array Group, the system receiver, transmitter/exciter, and waveguide components.

2. The AN/TPQ-37(V)3 system is moderately susceptible to the development of countermeasures. A potential adversary could develop electronic warfare and jamming countermeasures if the system hardware and related critical technologies were acquired.

3. A determination has been made that India can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02-23424 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Transmittal No. 02-58]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703-604-6575).

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-58 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 9, 2002.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

4 SEP 2002
In reply refer to:
I-02/010118

**The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501**

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-58, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost \$60 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in black ink that reads "Richard J. Millies".

**Richard J. Millies
Deputy Director**

Attachments

**Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations**

Transmittal No. 02-58

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Taipei Economic and Cultural Representative Office in the United States
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|---------------------|
| Major Defense Equipment* | \$57 million |
| Other | <u>\$ 3 million</u> |
| TOTAL | \$60 million |
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 449 AGM-114M3 HELLFIRE II Air-to-Surface Anti-Armor missiles, engines, winches, kits, dispensers, containers, spare and repair parts, test and tool sets, personnel training and equipment, publications, a U.S. Government and contractor engineering and logistics personnel services, Quality Assurance Team, and other related elements of logistics support.
- (iv) **Military Department:** Army (YWR)
- (v) **Prior Related Cases, if any:**
 FMS case YVF - \$20 million - 30Jun99
 FMS case JAR - \$5 million - 25Sep91
 FMS case YQH - \$62 million - 25Sep91
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 4 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Taipei Economic and Cultural Representative Office in the United States – AGM-114M3 HELLFIRE II Air-to-Surface Anti-Armor Missiles**

Taipei Economic and Cultural Representative Office in the United States has requested a possible sale for 449 AGM-114M3 HELLFIRE II Air-to-Surface Anti-Armor missiles, engines, winches, kits, dispensers, containers, spare and repair parts, test and tool sets, personnel training and equipment, publications, a U.S. Government and contractor engineering and logistics personnel services, Quality Assurance Team, and other related elements of logistics support. The estimated cost is \$60 million.

This sale is consistent with United States law and policy as expressed in Public Law 96-8.

The recipient will use these HELLFIRE missiles on their AH-1W Super Cobra and OH -58D helicopters. The missiles will enhance the recipient's defensive anti-armor capabilities. The recipient, which already has HELLFIRE missiles in its inventory, will have no difficulty absorbing these additional missiles.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Electronics and Missiles of Orlando, Florida. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to recipient.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-58

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended (U)**

**Annex
Item No. vii**

(vii) Sensitivity of Technology:

1. The AGM-114M3 HELLFIRE missile is a helicopter-launched airborne target weapon with a terminal homing seeker and a blast fragmentation warhead, which homes in on a laser spot that can be projected from ground observers, other aircraft, or the launching aircraft.

2. The AGM-114M3 HELLFIRE air-to-surface missile hardware and documentation are Unclassified. Missile performance parameters and characteristics, including susceptibility to countermeasures, are classified up to Secret and considered very sensitive. Missile hardware is considered sensitive and knowledge of the warhead timing mechanism would be useful in development of countermeasures. Technology contained within the missile is sensitive and Unclassified. The sensitivity of the system is primarily in the software programs which enable the missile to operate in a countermeasures environment. Training, maintenance, operations and related documentation are Unclassified and not considered sensitive.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware in this proposed sale, the information could be used to develop countermeasures, which might reduce the effectiveness of the reconnaissance system, or be used in the development of a system with similar capabilities.

4. A determination has been made that the recipient can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02-23425 Filed 9-13-02; 8:45 am]
BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE**Office of the Secretary**

TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2003 Mental Health Rate Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of updated mental health per diem rates.

SUMMARY: This notice provides for the updating of hospital-specific per diem

rates for high volume providers and regional per diem rates for low volume providers; the updated cap per diem for high volume providers; the beneficiary per diem cost-share amount for low volume providers for FY 2003 under the TRICARE Mental Health Per Diem Payment System; and the updated per diem rates for both full-day and half-day TRICARE Partial Hospitalization Programs for fiscal year 2003.

EFFECTIVE DATE: The fiscal year 2003 rates contained in this notice are effective for services occurring on or after October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Stan Regensberg, Office of Medical Benefits and Reimbursement Systems, TRICARE

Management Activity, telephone (303) 676-3742.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on September 6, 1988, (53 FR 34285) set forth reimbursement changes that were effective for all inpatient hospital admissions in psychiatric hospitals and exempt psychiatric units occurring on or after January 1, 1989. The final rule published in the **Federal Register** on July 1, 1993, (58 FR 35-400) set forth maximum per diem rates for all partial hospitalization admissions on or after September 29, 1993. Included in these final rules were provisions for updating reimbursement rates for each federal fiscal year. As stated in the final rules,

each per diem shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare Prospective Payment System. For fiscal year 2003, Medicare has recommended a rate of increase of 3.5 percent for hospitals and units excluded from the prospective payment system. TRICARE will adopt this update factor for FY 2003 as the final update factor. Hospitals and units with hospital-specific rates (hospitals and units with high TRICARE volume) and regional specific rates for psychiatric hospitals and units with low TRICARE volume will have their TRICARE rates for FY 2002 updated by 3.5 percent for FY 2003. Partial hospitalization rates for full day and half day programs will also be updated by 3.5 percent for FY 2003. The cap amount for high volume hospitals and units will also be updated by the 3.5 percent for FY 2003. The beneficiary cost-share for low volume hospitals and units will also be updated by the 3.5 percent for FY 2003. Consistent with Medicare, the wage portion of the regional rate subject to the area wage adjustment is 71.556 percent for FY 2003.

The following reflect an update of 3.5 percent.

REGIONAL SPECIFIC RATES FOR PSYCHIATRIC HOSPITALS AND UNITS WITH LOW TRICARE VOLUME

United States census region	Rate@
Northeast:	
New England	\$598
Mid-Atlantic	574
Midwest:	
East North Central	496
West North Central	468
South:	
South Atlantic	592
East South Central	641
West South Central	540
South:	
South Atlantic	592
East South Central	641
West South Central	540
West:	
Mountain	539
Pacific	635

@Wage portion of the rate, subject to the area wage adjustment—71.556 percent.

Beneficiary Cost-Share: Beneficiary cost-share (other than dependents of active duty members) for care paid on the basis of a regional per diem rate is the lower of \$159 per day or 25 percent of the hospital billed charges effective for services rendered on or after October 1, 2002

Cap Amount: Updated cap amount for hospitals and units with high TRICARE volume is \$750 per day for FY 2003.

The following reflect an update of 3.5 percent for FY 2003.

PARTIAL HOSPITALIZATION RATES FOR FULL-DAY AND HALF-DAY PROGRAMS FY 2003

United States census region	Full-day rate (6 hours or more)	Half-day rate (3–5 hours)
Northeast:		
New England (ME, NH, VT, MA, RI, CT)	\$240	\$181
Mid-Atlantic (NY, NJ, PA)	259	195
Midwest:		
East North Central (OH, IN, IL, MI, WI)	228	171
West North Central (MN, IA, MO, ND, SD, NE, KS)	228	171
South:		
South Atlantic (DE, MD, DC, VA, WV, NC, SC, GA, FL)	247	185
East South Central (KY, TN, AL, MS)	266	200
West South Central (AR, LA, TX, OK)	266	200
West:		
Mountain (MT, ID, WY, CO, NM, AZ, UT, NV)	269	202
Pacific (WA, OR, CA, AK, HI)	263	198

The above rates are effective for services rendered on or after October 1, 2002.

Dated: September 9, 2002.

Patricia L. Toppings,
Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–23410 Filed 9–13–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Enduring Freedom Lessons Learned will meet in closed session on September 26–27, 2002, at the US Central Command and the US Special Operations Command, MacDill AFB, Tampa, FL. This Task Force will review current activities of Operation Enduring Freedom to determine both

near and longer-term technical and operational considerations that could be used to improve this operation and future campaigns initiated in the War Against Terrorism.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Defense Science Board Task Force will review and evaluate operational policy and procedures, command and control, intelligence, combat support activities, weapon system performance, and science and technology requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, this meeting will be closed to the public.

Dated: September 6, 2002.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–23412 Filed 9–13–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on the Role and Status of DoD Red Teaming Activities will meet in closed session on September 24, 2002; November 14, 2002; and December 17, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. This Task Force will review the role and status of Red Teaming in the Department of Defense (DoD) and recommend ways to make it a more effective tool.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Defense Science Board Task Force will review and evaluate current and past Red Team activities

within the Department of Defense and its agencies, as well as other government and non-government organizations (including those initiated since September 11). The Task Force will prepare recommendations that are relevant to red teaming that portrays both state and non-state adversaries. It will also look at how the Department should work with other government departments and agencies to foster effective red teaming. The Task Force will address issues of red team products, processes and organization.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, this meeting will be closed to the public.

Dated: September 6, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02-23413 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

DATE(S): October 15, 2002 from 0800 a.m. to 1710 p.m.

ADDRESSES: Holiday Inn Arlington at Ballston, 4610 North Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Veronica Rice, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696-2119.

SUPPLEMENTARY INFORMATION:

Matters To Be Considered

Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of \$1M will be reviewed.

This meeting is open to the public. Any interested person may attend,

appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

Dated: September 6, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02-23411 Filed 9-13-02; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 15, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance

the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 11, 2002.

John Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Extension.

Title: Lender's Application Process (LAP).

Frequency: Quarterly, Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 121. Burden Hours: 20.

Abstract: The Lender's Application Process is submitted by lenders who are eligible for reimbursement of interest and special allowance, as well as Federal Insured Student Loan (FISL) claims payment, under the Federal Family Education Loan Program. The information will be used by ED to update Lender Identification Numbers (LIDs) lender's names, addresses with 9-digit zip codes, and other pertinent information.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 2148. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202-4651 or to the e-mail address vivian_reese@ed.gov. Requests may also be electronically mailed to the e-mail address OCIO_RIMG@ed.gov or faxed to 202-708-9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 02-23470 Filed 9-13-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

National Center for Education Statistics (NCES)

AGENCY: Department of Education.

ACTION: Notice of meeting of the Advisory Council on Education Statistics.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory

Council on Education Statistics (ACES). Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: October 10–11, 2002.

TIMES: October 10, 2002—Full Council meeting, 9 a.m.–4:30 p.m.; October 11, 2002—Full Council meeting 9 a.m.–12 noon.

LOCATION: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024

FOR FURTHER INFORMATION CONTACT: Laurence T. Ogle, National Center for Education Statistics, 1990 K Street, NW., Room 9115, Washington DC 20006

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under section 46(c)(1) of the Education Amendments of 1974, Public Law 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement (OERI) and is responsible for advising on standards to ensure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. In addition, ACES is required to advise the Commissioner of NCES and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress (NAEP). This meeting of the Council is open to the public, with the exception of budget discussions. Individuals who will need accommodations for a disability in order to attend the meeting (*i.e.*, interpreting services, assistive listening devices, materials in alternate format) should notify Laurence T. Ogle at (202) 502–7426 by no later than October 3, 2002. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

The proposed agenda includes the following:

- Review of Division activity within NCES
- Legislative and budget updates
- Ethics training
- Statistical adjustments in primary NCES Reports

Records kept of Council proceedings and are available for public inspection. Records are also available for public inspection at the Office of the Acting Executive Director, Laurence T. Ogle, Advisory Council on Education

Statistics, National Center for Education Statistics, 1990 K Street NW., Room 9115, Washington, DC 20006.

Grover J. Whitehurst,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 02–23432 Filed 9–13–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Nuclear Security Administration Office of Los Alamos Site Operations; Floodplain Statement of Findings for the Proposed Access Control and Traffic Improvements at Los Alamos National Laboratory, Los Alamos, NM

AGENCY: National Nuclear Security Administration, Office of Los Alamos Site Operations, Department of Energy.

ACTION: Floodplain Statement of Findings.

SUMMARY: This Floodplain Statement of Findings is for the construction and operation of proposed access control and traffic improvements at Los Alamos National Laboratory (LANL). Construction actions could occur near and over the floodplains of Mortandad and Los Alamos Canyons; there would be no action within established wetland areas (see Figure 1). In accordance with 10 CFR Part 1022, the Department of Energy (DOE), National Nuclear Security Administration (NNSA) Office of Los Alamos Site Operations has prepared a floodplain/wetland assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplains.

FOR FURTHER INFORMATION CONTACT: Elizabeth Withers, U.S. Department of Energy, National Nuclear Security Administration, Office of Los Alamos Site Operations, 528 35th Street, Los Alamos, NM 87544. Telephone (505) 667–8690; facsimile (505) 667–9998; or electronic address: ewithers@doeal.gov. For Further Information on General DOE Floodplain Environmental Review Requirements, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42, Department of Energy, 100 Independence Avenue, SW., Washington DC 20585–0119. Telephone (202) 586–4600 or (800) 472–2756, facsimile (202) 586–7031.

SUPPLEMENTARY INFORMATION: In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), NNSA

prepared a floodplain/wetland assessment for this action. The NNSA included the floodplain/wetland assessment document as part of an Environmental Assessment issued on July 23, 2002 by the NNSA. No comments were received on the proposed floodplain action.

Project Description: NNSA considered a proposal for the construction of various access control and traffic improvements to be installed at Los Alamos National Laboratory (LANL). One of the elements of the proposed action would be the construction of a short road around the east side of Technical Area 3 at LANL along the mesa tops. Bridges would be constructed from either side of the road to span over floodplains located at the heads of Mortandad and Sandia Canyons. No actions would be taken directly in the floodplains nearby. This project is estimated to occur over the next three years from 2003 through 2005.

Alternatives: The No Action Alternative was considered. Under the No Action Alternative access control into LANL would continue to be provided by the implementation of temporary measures as needed. No safety improvements of the intersections would be undertaken.

Floodplain Impacts: The proposed action would have the potential for minimal impacts on the floodplains. Should a rain event occur during construction activities, there may be some sediment movement down canyon because of the loosened condition of the soil from the clearing and construction activities.

Floodplain Mitigation: Placement of Best Management Practices (such as silt fences, straw bales or wattles, or wooden or rock structures to slow down water runoff and run-on at cleared sites) at the construction areas and post-construction reseeding and re-vegetation of the construction sites will minimize soil disturbance and reduce or prevent the potential for soil erosion. Upon completion of the construction activities the downstream flow and function of the floodplain will not be impeded. No debris will be left at the work site. No vehicle maintenance or fueling within 100 feet of the floodplain would occur. Any sediment movement from the sites would be short term and temporary.

Issued in Los Alamos, NM on September 9, 2002.

E. Dennis Martinez,

Deputy Director, U.S. Department of Energy, National Nuclear Security Administration, Los Alamos Site Office.

BILLING CODE 6450–01–P

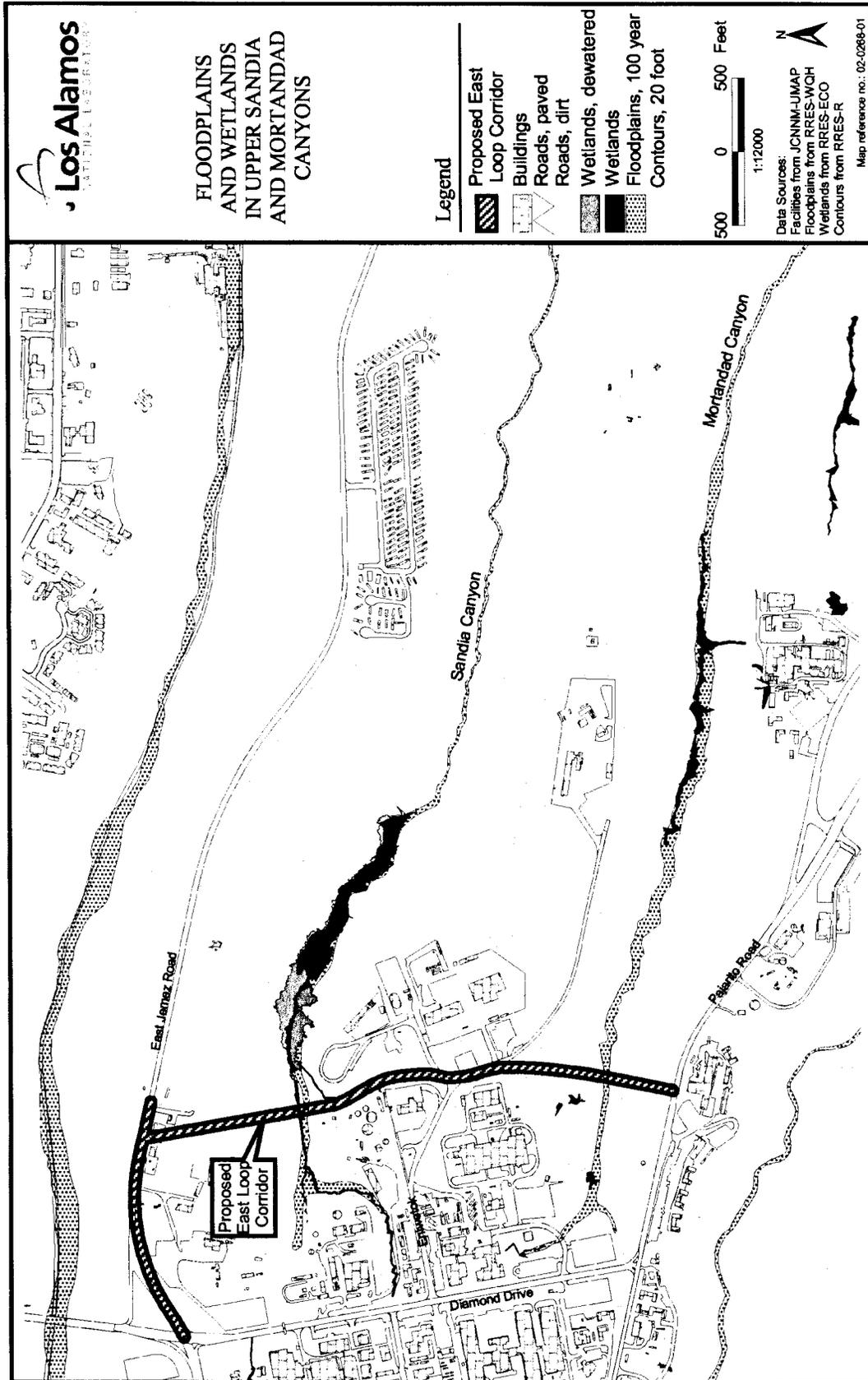


Figure 1. Floodplains and wetlands in upper Sandia and Mortandad Canyons.

[FR Doc. 02-23465 Filed 9-13-02; 8:45 am]

BILLING CODE 6450-01-C

DEPARTMENT OF ENERGY

[Solicitation Number DE-PS07-031D14430]

Nuclear Engineering Education Research (NEER) Program

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of Availability of Solicitation for Awards of Financial Assistance.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, is soliciting applications for research and development grant awards in nuclear engineering topics. It is anticipated that on September 16, 2002, a full text for Solicitation Number DE-PS07-031D14430 for the 2003 NEER Program will be made available at the Industry Interactive Procurement System (IIPS) Website at: <http://e-center.doe.gov>. The deadline for receipt of applications will be on November 7, 2002. Applications are to be submitted via the IIPS Website. Directions on how to apply and submit applications are detailed under the solicitation on the Website.

FOR FURTHER INFORMATION CONTACT: Dallas Hoffer, Contracting Officer at hofferdl@id.doe.gov.

SUPPLEMENTARY INFORMATION: The solicitation will be issued in accordance with 10 CFR 600.6(b), eligibility for awards under this program will be restricted to U.S. colleges and universities with nuclear engineering degree programs or options or an operating research reactor, because the purpose of the Nuclear Engineering Education Research (NEER) program is to (1) support basic research in nuclear engineering; (2) assist in developing nuclear engineering students; and (3) contribute to strengthening the academic community's nuclear engineering infrastructure.

The statutory authority for this program is Public Law 95-91.

Issued in Idaho Falls on September 9, 2002.

R. J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 02-23464 Filed 9-13-02; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Nuclear Energy Research Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Nuclear Energy Research Advisory Committee. The Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770), requires that public notice of the meetings be announced in the **Federal Register**.

DATES: Monday September 30, 2002, 10 am to 5 pm and Tuesday, October 1, 2002, 9 am 12:30 pm.

ADDRESSES: Crystal City Sheraton, 1800 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Norton Haberman, Designated Federal Officer, Nuclear Energy Research Advisory Committee, U.S. Department of Energy, NE-1, 1000 Independence Avenue, SW., Washington DC 20585, Telephone Number 301.903.1167, E-mail: Norton.Haberman@hq.doe.gov.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* To provide advice to the Director of the Office of Nuclear Energy, Science and Technology (NE) of the Department of Energy on the many complex planning, scientific and technical issues that arise in the development and implementation of the Nuclear Energy research program.

Tentative Agenda

Monday September 30, 2002

Welcome Remarks

Status of Nuclear Energy's FY 2003 Budget Request

Report of Advanced Nuclear Fuel Cycle Initiative

Report of Subcommittee on Generation IV Technology Planning

Tuesday, October 1, 2002

Business Case for New Nuclear Power Plants

Report of Joint DOE/EPA Task Force on Nuclear Energy and Clean Air Generation IV International Forum Public Comment Period

Public Participation: The day and a half meeting is open to the public on a first-come, first-serve basis because of limited seating. Written statements may be filed with the committee before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Norton Haberman at the address or telephone listed above. Requests to make oral statements must be made and received five days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chair of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information

Reading Room. 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, on September 10, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02-23466 Filed 9-13-02; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02-123-000]

Boston Edison Company; Notice of Initiation of Proceeding and Refund Effective Date

September 10, 2002.

Take notice that on August 22, 2002, the Commission issued an order in the above-referenced docket initiating an investigation under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL02-123-000, established pursuant to section 206 (b) of the Federal Power Act, will be 60 days following publication of this notice in the Federal Register.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-23460 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02-2043-001 and ER02-2046-001]

California Independent System Operator Corporation; Notice of Filing

September 10, 2002.

Take notice that the on August 28, 2002, California Independent System Operator Corporation (CA ISO) tendered for filing an amendment to its filings of an unexecuted Participating Generator Agreement (PGA) and associated Meter Service Agreements (MSA) between the CA ISO and the Valero Refining Company—California (Valero) pursuant to section 205 of the Federal Power Act. The amendment supplies additional information requested in a July 30, 2002 deficiency letter by the Federal Energy Regulatory Commission (Commission) including a single line diagram,

correspondence, studies and other documents relating to alternative points of interconnection, and a description of scheduling responsibilities of Valero and Pacific Gas and Electric Company (PG&E).

The CA ISO states that a redacted copy of the filing has been served on all parties that have either requested or been granted intervention in these proceedings.

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 "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 TTY, (202) 208-1659. 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. *Comment Date:* September 18, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-23441 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01-409-001, CP01-410-001, CP01-411-001 and CP01-444-001]

Calypso Pipeline, LLC, Tractebel Calypso Pipeline, LLC; Notice of Filing

September 9, 2002.

Take notice that on August 30, 2002, Calypso Pipeline, LLC (Calypso) and Tractebel Calypso Pipeline, LLC (Tractebel Calypso) jointly filed an

amendment in the above-referenced dockets to reflect a change in ownership associated with the applications filed on July 20, 2001, and September 19, 2001, by Calypso (Calypso Application) in the same docketed proceedings. The August 30, 2002 filing requests that the Commission accept a substitution of Tractebel Calypso as the applicant in the pending Calypso Application to reflect the change in ownership and the filed revisions to certain exhibits in the Calypso Application. These revisions reflect only a change in ownership. The application is on file with the Commission and open to 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.

By the Calypso Application, Calypso requests authorization to construct, own, and operate a new pipeline system consisting of approximately a 36 mile, 24-inch offshore segment and approximately a 5.8 mile, 24-inch onshore segment (Calypso Pipeline Project). The offshore pipeline will extend from the boundary of the U.S. Exclusive Economic Zone (EEZ) and the Bahama EEZ, off the southeast Florida coastline to shore at Port Everglades in Fort Lauderdale, Florida. The proposed onshore pipeline segment will be located in Broward County, Florida. The onshore pipeline segment will connect the offshore pipeline with Florida Gas Transmission Company's ("FGT") existing 24-inch Lauderdale Lateral at Mile Post 1.6 in Broward County, Florida. Calypso's proposed pipeline was designed to transport up to 832,000 MMBtu per day.

Calypso and Tractebel Calypso have executed a Purchase and Sale Agreement (PSA) for the Calypso Pipeline Project. Per the PSA, Tractebel Calypso will acquire the assets related to the Calypso Pipeline Project. Those assets consist principally of the Calypso Application; the Enron LNG Marketing, LLC Precedent Agreement; and various other surveys, permits, easements, and rights-of-way applications and engineering work product. The sale of the Calypso Pipeline Project to Tractebel Calypso ultimately is subject to the approval of the Bankruptcy Court. Tractebel Calypso will then notify the Commission of the closing of the transaction, and will thereafter be considered the applicant of record under the Calypso Application, with all

the rights and responsibilities attached to such status.

Any questions regarding the application are to be directed to Michael J. Zimmer, Esq., Baker & McKenzie, 815 Connecticut Avenue, NW., Washington, DC, 20006.

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 30, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the

Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project.

This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,
Secretary.

[FR Doc. 02-23438 Filed 9-13-02; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-432-000]

Clear Creek Storage Company, L.L.C.; Notice of Application

September 9, 2002.

Take notice that on August 30, 2002, Clear Creek Storage Company, L.L.C. (Clear Creek), 180 East 100 South, Salt Lake City, Utah 84111, filed an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Rules and Regulations, for authorization to operate withdrawal Well No. 35-4B also as an

injection well, all as more fully set forth in the application on file with the Commission and open to 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) 219-2157.

Clear Creek states that the purpose of the proposed project is to benefit existing customers by providing necessary optimization and redundancy in reservoir injection capability thereby enhancing the reliability of Clear Creek's storage-transportation system during normal injection and withdrawal activities, and in the event of pipeline failure or routine system maintenance. Clear Creek further states that use of Well No. 35-4B for both currently approved withdrawal, and injection, will not result in any change to the currently authorized maximum inventory of natural gas stored in Clear Creek; 8.0 Bcf at 14.73 psia and 60* F, or the maximum shut-in bottom hole reservoir pressure of 5,500 psig.

Questions regarding the details of this proposed project should be directed to Michael B. McGinley, Vice President, Clear Creek Storage Company, L.L.C., 180 East 100 South Street, P.O. Box 45601, Salt Lake City, Utah 84111 at Phone: (801) 324-2527, Fax: (801) 324-2066, or E-mail: MikeMcg@Questar.com.

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 30, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to

participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

The Commission strongly encourages electronic filings. 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 amendment for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,

Secretary.

[FR Doc. 02-23439 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-531-000]

Granite State Gas Transmission; Notice of Proposed Changes in FERC Gas Tariff

September 10, 2002.

Take notice that on August 30, 2002, Granite State Gas Transmission (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Twenty-sixth Revised Sheet No. 21, Twenty-seventh Revised Sheet No. 22, and Eighteenth Revised Sheet No. 23, bearing a proposed effective date of October 1, 2002:

Granite State states that the purpose of this filing is to reflect the new Annual Charge Adjustment (ACA) surcharge to be applied to rates commencing October 1, 2002, of \$0.0022 per Dth.

Granite State states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. 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 385.2001(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. 02-23450 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-532-000]

Guardian Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

September 10, 2002.

Take notice that on September 3, 2002, Guardian Pipeline Company, L.L.C. (Guardian), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the revised tariff sheets listed on Appendix A attached to the filing proposed to be effective November 1, 2002.

Guardian states that the purpose of this filing is to make certain changes to its tariff primarily of a "housekeeping" nature. Guardian explains that the tariff sheets submitted herewith revise those filed by Guardian in its "Compliance Filing," the filing that Guardian is making on the same date in compliance with the Commission's directives in the Preliminary Determination on Non-Environmental Issues, 91 FERC (CCH) 61,285 (2000), and Order on Rehearing and Issuing Certificates, 94 FERC (CCH) 61,269 (2001), issued in Docket Nos. CP00-36, *et al.*

Guardian states that copies of this tariff filing are being served on its shippers and the Wisconsin and Illinois public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. 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 385.2001(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. 02-23451 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-534-000]

Guardian Pipeline, L.L.C.; Notice of Tariff Filing

September 10, 2002.

Take notice that on September 3, 2002, Guardian Pipeline, L.L.C. (Guardian), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A attached to the filing, to be effective November 1, 2002.

Guardian states that its filing is being made to comply with the Commission's Preliminary Determination on Non-Environmental Issues, 91 F.E.R.C. (CCH) 61,285 (2000), and Order on Rehearing and Issuing Certificates, 94 FERC (CCH) 61,269 (2001), issued to Guardian in Docket Nos. CP00-36-000, *et al.*

Due to the voluminous nature of this filing, Guardian states that it is serving a copy of the entire filing only on its shippers and the Wisconsin and Illinois public service commissions, and that it is serving only this transmittal letter on the remainder of the service list in Docket Nos. CP00-36-000, *et al.* Guardian will provide a copy of this filing to parties upon request.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions

or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. 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 385.2001(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. 02-23452 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-361-001]

Gulfstream Natural Gas System, L.L.C.; Notice of Compliance Filing

September 10, 2002.

Take notice that on September 3, 2002, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet, effective June 1, 2002:

Second Revised Sheet No. 8.

Gulfstream states that the purpose of this filing is to remove a provision from this tariff sheet rejected by the Commission in its order of July 3, 2002.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested state commissions.

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. The Commission strongly encourages electronic filings. 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. 02-23447 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00-411-002 and RP01-44-004]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

September 10, 2002.

Take notice that on September 3, 2002, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff the following tariff sheets proposed to become effective November 1, 2002:

Sixth Revised Sheet No. 46
Third Revised Sheet No. 46A
Eighth Revised Sheet No. 47
Fourth Revised Sheet No. 107A
Second Revised Sheet No. 142
Third Revised Sheet No. 143
Original Sheet No. 143A
Second revised Sheet No. 157
Fourth Revised Sheet No. 161
Original Sheet No. 161A
First Revised Sheet No. 188A

Iroquois asserts that the purpose of its filing is to comply with Ordering Paragraph (C) of the Commission's November 8, 2001 Order in this proceeding, which required Iroquois to file revised tariff sheets by September 1, 2002, to be effective on November 1, 2002, to implement the Commission's policy regarding segmentation and flexible point rights under the Commission's Order No. 637.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

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. The Commission strongly encourages electronic filings. 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. 02-23446 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[PacifiCorp Project No. 2652]

Notice of Authorization for Continued Project Operation

September 10, 2002.

On August 30, 2000, PacifiCorp, licensee for the Bigfork Project No. 2652, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2652 is located on the Swan River in Flathead County, Montana.

The license for Project No. 2652 was issued for a period ending August 31, 2002. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C.

558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 2652 is issued to PacifiCorp for a period effective September 1, 2002, through August 31, 2003, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before September 1, 2003, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that PacifiCorp is authorized to continue operation of the Bigfork Project No. 2652 until such time as the Commission acts on its application for subsequent license.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-23444 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2031]

Springville City; Notice of Authorization for Continued Project Operation

September 10, 2002.

On August 30, 2000, Springville City, licensee for the Bartholomew Project No. 2031, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2031 is located on Hobbles Creek and Associated Springs in Utah County, Utah.

The license for Project No. 2031 was issued for a period ending September 3, 2002. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 2031 is issued to Springville City for a period effective September 4, 2002, through September 3, 2003, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before September 4, 2003, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that Springville City is authorized to continue operation of the Bartholomew Project No. 2031 until such time as the Commission acts on its application for subsequent license.

Dated:

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-23443 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02-40-000]

Texas Eastern Transmission, LP; Notice of Compliance Report

September 10, 2002.

Take notice that on September 3, 2002, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, its report of recalculated Operational Segment Capacity Entitlements to become effective November 1, 2002.

Texas Eastern states that the purpose of the filing is to make its report pursuant to Section 9.1 of the General Terms and Conditions of its FERC Gas Tariff, Seventh Revised Volume No. 1 of recalculated November 1, 2002 Operational Segment Capacity Entitlements, along with supporting documentation explaining the basis for changes.

Texas Eastern states that copies of the filing were served on all affected customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before September 18, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. 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 385.2001(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. 02-23442 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-378-000]

Texas Gas Transmission Corporation; Notice of Technical Conference

September 10, 2002.

In the Commission's order issued on July 31, 2002,¹ the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Wednesday, September 25, 2002 at 10 a.m., in a room to be designated, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested parties and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-23448 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-518-001]

Vector Pipeline L.P.; Notice of Proposed Changes in FERC Gas Tariff

September 10, 2002.

Take notice that on September 5, 2002, Vector Pipeline L.P. (Vector), tendered for filing as part of its FERC Gas Tariff, Volume No. 1, a revised tariff sheet to take the place of a tariff sheet submitted on August 30, 2002 which is now withdrawn by Vector. Vector requests that the revised tariff sheet become effective October 1, 2002.

Vector states that the purpose of this filing is to reflect the Commission's revised Annual Charge Adjustment charge to be applied to transportation rates for the period October 1, 2002 through September 30, 2003.

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. The Commission strongly encourages electronic filings. 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. 02-23449 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02-2520-000, *et al.*]

Commonwealth Chesapeake Company, L.L.C., *et al.*; Electric Rate and Corporate Regulation Filings

September 6, 2002.

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

1. Commonwealth Chesapeake Company, L.L.C. [Docket No. ER02-2520-000]

Take notice that Commonwealth Chesapeake Company, L.L.C. (CCC), on August 30, 2002, tendered for filing, pursuant to Section 205 of the Federal Power Act (16 U.S.C. 824c), a rate schedule for reactive power provided to the Pennsylvania-New Jersey-Maryland Interconnection (PJM) transmission grid. CCC requests and effective date of August 30, 2002.

Comment Date: September 20, 2002.

2. Southern California Edison Company

[Docket No. ER02-2521-000]

Take notice that on August 30, 2002, Southern California Edison Company (SCE) tendered for filing three unexecuted Service Agreements For

Wholesale Distribution Service under SCE's Wholesale Distribution Access Tariff (Agreements) between SCE and the State of California Department of Water Resources (CDWR). The Agreements specify the terms and conditions under which SCE will provide wholesale Distribution Service from the California Independent System Operator Controlled Grid at SCE-owned substations to SCE/CDWR interconnections for three pumping stations.

SCE respectfully requests the Agreements become effective on August 10, 2002. Copies of this filing were served upon the Public Utilities Commission of the State of California and CDWR.

Comment Date: September 20, 2002.

3. PJM Interconnection, L.L.C.

[Docket No. ER02-2522-000]

Take notice that on August 30, 2002 PJM Interconnection, L.L.C. (PJM), submitted for filing an executed interim interconnection service agreement and two executed interconnection service agreements between PJM and Conectiv Delmarva Generation Inc. (Conectiv).

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 Conectiv and the state regulatory commissions within the PJM region.

Comment Date: September 20, 2002.

4. Florida Power & Light Company

[Docket No. ER02-2523-000]

Take notice that on August 30, 2002, Florida Power & Light Company (FPL) filed a notice of termination of the unexecuted Interconnection & Operation Agreement between FPL and Okeechobee Generating Company, LLC. FPL requests that the termination be made effective on the date of a Commission order accepting the notice of termination.

Comment Date: September 20, 2002.

5. PJM Interconnection, L.L.C.

[Docket No. ER02-2524-000]

Take notice that on August 30, 2002, PJM Interconnection, L.L.C. (PJM) submitted for filing an executed interconnection service agreement between PJM and Exelon Corporation.

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

Comment Date: September 20, 2002.

¹ Texas Gas Transmission Corporation, 100 FERC 61,126 (2002).

6. PJM Interconnection, L.L.C.

[Docket No. ER02-2525-000]

Take notice that on August 30, 2002, PJM Interconnection, L.L.C. (PJM) tendered for filing signature pages to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA) for Con Edison Energy, Inc., DTE Energy Trading, Inc., Duke Energy Trading and Marketing, L.L.C., MIECO, Inc., NRG New Jersey Energy Sales LLC, and PSEG Energy Resources & Trade LLC., PJM also filed a Second Revised Sheet No. 61 and a Third Revised Sheet No. 62 of the RAA including the entities listed above in the list of parties to the RAA.

Copies of this filing were served upon all parties to the RAA, including Con Edison Energy, Inc., DTE Energy Trading, Inc., Duke Energy Trading and Marketing, L.L.C., MIECO, Inc., NRG New Jersey Energy Sales LLC, and PSEG Energy Resources & Trade LLC, and each of the state electric utility regulatory commissions within the PJM Control Area.

Comment Date: September 20, 2002.

7. New York Independent System Operator, Inc. [Docket No. ER02-2526-000]

Take notice that on August 30, 2002, the New York Independent System Operator, Inc. (NYISO) filed revisions to Attachment F of its Open Access Transmission Tariff (OATT) to deal with "Insider Trading."

The NYISO has requested an effective date of October 30, 2002 for the filing. The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's Open Access Transmission Tariff or the Market Administration and Control Area Services Tariff and upon the New York State Public Service Commission.

Comment Date: September 20, 2002.

8. Michigan Electric Transmission Company, LLC

[Docket No. ER02-2527-000]

Take notice that on August 30, 2002, Michigan Electric Transmission Company, LLC (Michigan Transco LLC) filed revisions to a Generator Interconnection and Operating Agreement between itself and Mirant Zeeland, LLC (Mirant). Michigan Transco LLC states that the purposes of these revisions to reflect the fact that an interconnecting generator with a higher queue position has canceled its project, thus reducing certain costs associated with the instant Agreement, and allowing certain upgrades to be completed earlier, and to reflect

Michigan Transco LLC's acquisition of the transmission system formerly owned by Michigan Electric Transmission Company.

A copy of this filing was served on Mirant.

Comment Date: September 20, 2002.

9. New England Power Company

[Docket No. ER02-2528-000]

Take notice that on August 30, 2002, New England Power Company filed an executed amended and restated power sales contract with Unitil Power Corp. This filing was served upon Unitil and on the New Hampshire Public Utilities Commission.

Comment Date: September 20, 2002.

10. New England Power Company

[Docket No. ER02-2529-000]

Take notice that on August 30, 2002, New England Power Company filed an executed amended and restated power sales contract with Unitil Power Corp. This filing was served upon Unitil and on the New Hampshire Public Utilities Commission.

Comment Date: September 20, 2002.

11. Midwest Independent Transmission System Operator, Inc. [Docket No. ER02-2530-000]

Take notice that on August 30, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.12 of the Commission's regulations, 18 CFR 35.12 (2001), the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing an Interconnection and Operating Agreement among the Rainy River Energy Corporation—Wisconsin, the Midwest ISO and Superior Water, Light & Power Company.

A copy of this filing was sent to the Rainy River Energy Corporation—Wisconsin and Superior Water, Light & Power Company.

Comment Date: September 20, 2002.

12. American Electric Power Service Corporation

[Docket No. ER02-2531-000]

Take notice that on August 30, 2002, the American Electric Power Service Corporation (AEPSC), tendered for filing Firm and Non-firm Point-to-Point (PTP) Transmission Service Agreements for Conoco Inc. and Specifications for Long-Term Firm PTP Transmission Service for AEPSC's Wholesale Power Merchant Organization, American Municipal Power—Ohio, Inc. and Constellation Power Source, Inc. These agreements are pursuant to the AEP Companies' Open Access Transmission Tariff (OATT) that has been designated as the

Operating Companies of the American Electric Power System FERC Electric Tariff Third Revised Volume No. 6.

AEPSC requests waiver of notice to permit the Specifications for Long-Term Firm PTP Transmission Service to be effective on and after June 1, 2002, and the new Firm and Non-Firm PTP Service Agreements for Conoco, Inc. to be effective on and after August 5, 2002.

AEPSC requests termination of two transmission service agreements with Sonat Power Marketing, L.P. originally made under the Central and Southwest Company's OATT. Termination is requested as of July 1, 2002, for a Non-Firm Transmission Service Agreement executed January 1, 1997, and termination is requested as of October 1, 2002 for a Transmission Service Agreement executed March 27, 1997. El Paso Merchant Energy, L.P., successor to the Sonat business, requested the termination of the transmission service agreements.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: September 20, 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. 02-23453 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-3470-002, *et al.*]

Great Bay Power Corporation, *et al.*; Electric Rate and Corporate Regulation Filings

September 9, 2002.

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

1. Great Bay Power Corporation

[Docket No. ER98-3470-002]

Take notice that on August 30, 2002 Great Bay Power Corporation (Great Bay) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notification of Change in Status. Great Bay seeks to notify the Commission that it intends to sell its 12.13 percent share in the Seabrook Nuclear Power Plant Unit 1 to FPL Energy Seabrook, L.L.C. The proposed transaction should not affect Great Bay's market-based rate status because the transaction will result in a decrease in generation and no new affiliation with any public utility. *Comment Date:* September 20, 2002.

2. MEP Investments, LLC, MEP Pleasant Hill, LLC, MEP Pleasant Hill Operating, LLC, Pleasant Hill Marketing, LLC, Aquila Merchant Services, Inc.

[Docket No. ER99-ER99-2322-002, ER99-2858-003, ER01-905-002, ER00-1851-002, ER94-216-002]

Take notice that on August 30, 2002, MEP Investments, LLC, MEP Pleasant Hill LLC, MEP Pleasant Hill Operating, LLC, Pleasant Hill Marketing, LLC and Aquila Merchant Services, Inc. (the Applicants) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to the Applicants market power analysis.

Comment Date: September 20, 2002.

3. Little Bay Power Corporation

[Docket No. ER99-3050-002]

Take notice that on August 30, 2002 Little Bay Power Corporation (Little Bay) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notification of Change

in Status. Little Bay seeks to notify the Commission that it intends to sell its 2.9 percent share in the Seabrook Nuclear Power Plant Unit 1 to FPL Energy Seabrook, L.L.C. The proposed transaction should not affect Little Bay's market-based rate status because the transaction will result in a decrease in generation and no new affiliation with any public utility. *Comment Date:* September 20, 2002.

4. Continental Electric Cooperative Services, Inc.

[Docket No. ER02-1118-002]

Take notice that on August 29, 2002, Continental Electric Cooperative Services, Inc. Tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to the Commission's July 19, 2002 Order in the above-listed case, a modification of its Rate Schedule #1.

Comment Date: September 19, 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. 02-23459 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1981-010-Wisconsin]

Oconto Electric Cooperative; Notice of Availability of Final Environmental Assessment

September 9, 2002.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Commission staff has reviewed the application for a subsequent license for the existing Stiles Hydroelectric Project, located on the Oconto River, in the township of Stiles, Oconto County, Wisconsin, and has prepared a final Environmental Assessment (EA) for the project. No Federal lands are occupied by the project.

On November 8, 2000, the Commission staff issued a draft EA for the Stiles Hydroelectric Project and requested that any comments be filed within 45 days. Comments were filed by various entities and are addressed in the final EA.

The final EA contains the Commission staff's analysis of the potential environmental effects of the proposed project, the proposed project with staff-recommended measures, and no-action, and concludes that licensing the project, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The final EA 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.

For further information, contact Patti Leppert at (202) 502-6034.

Magalie R. Salas,

Secretary.

[FR Doc. 02-23440 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission****Notice**

September 11, 2002.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: September 18, 2002, 10:00 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda. Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 502-8400. For a recording listing items stricken from or added to the meeting, call (202)502-8627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

805th—Meeting September 18, 2002, Regular Meeting, 10:00 a.m.

Administrative Agenda

A-1.

Docket# AD02-1, 000, Agency Administrative Matters

A-2.

Docket# AD02-7, 000, Customer Matters, Reliability, Security and Market Operations

Markets, Tariffs and Rates—Electric

E-1.

Docket# ER02-2330, 000, New England Power Pool
Other#s EL00-62 036 ISO New England Inc.
EL00-62 039 ISO New England Inc.

E-2.

Omitted

E-3.

Docket# ER02-2216, 000, Southern Company Services, Inc.

E-4.

Docket# ER02-2414, 000, Florida Power & Light Company

E-5.

Omitted

E-6.

Docket# ER02-1961, 000, New York Independent System Operator Inc.
Other#s ER02-1961, 001, New York Independent System Operator Inc.

E-7.

Omitted

E-8.

Docket# ER02-708, 000, Central Illinois Light Company

E-9.

Docket# RT01-15, 002, Avista Corporation, Nevada Power Company, Portland General Electric Company and Sierra Pacific Power Company

Other#s ER02-323, 000, TransConnect, LLC

E-10.

Docket# RT01-35, 005, Avista Corporation, Bonneville Power Administration, Idaho Power Company, Nevada Power Company, NorthWestern Energy, LLC, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company and British Columbia Hydro and Power Authority

Other#s RT01-35, 007, Avista Corporation, Bonneville Power Administration, Idaho Power Company, Nevada Power Company, NorthWestern Energy, LLC, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company and British Columbia Hydro and Power Authority

E-11.

Docket# RT02-1, 000, Arizona Public Service Company

Other#s EL02-9, 000, Arizona Public Service Company

E-12.

Omitted

E-13.

Docket# OA97-282, 001, Cleco Utility Group, Inc.

Other#s OA97-324, 001, Cleco Utility Group, Inc.

OA97-325, 001, Cleco Utility Group, Inc.

E-14.

Omitted

E-15.

Docket# EC98-40, 000, American Electric Power Company, Inc. and Central and South West Corp.

Other#s ER98-2770, 000, American Electric Power Company, Inc. and Central and South West Corp.
ER98-2786, 000, American Electric Power Company, Inc. And Central and South West Corp.

E-16.

Docket# ER00-2998, 001, Southern Company Services, Inc.

Other#s ER00-2824, 000, Mississippi Power Company

ER00-2962, 002, West Georgia Generating Company, LP

ER00-2964, 002, West Georgia Generating Company, LP

ER00-2965, 002, West Georgia Generating Company, LP

ER00-2966, 002, West Georgia Generating Company, LP

ER00-2999, 001, Southern Company Services, Inc.

ER00-2999, 002, Southern Company Services, Inc.

ER00-3001, 001, Southern Company Services, Inc.

ER00-3001, 002, Southern Company Services, Inc.

ER01-168, 000, Tenaska Frontier Partners, Ltd.

ER01-207, 000, Newark Bay Cogeneration Partnership LP

ER01-287, 000, Alcoa Power Generating, Inc.

ER01-896, 000, San Joaquin CoGen Limited

ER01-986, 000, Allegheny Energy Supply Company, LLC

ER01-1147, 000, Exelon Generation Company L.L.C.

ER01-1150, 000, Southern Company Services, Inc.

ER01-1284, 000, Mississippi Power Company

ER01-1284, 001, Mississippi Power Company

ER01-1328, 001, American Electric Power Service Corporation

ER01-1405, 000, Mississippi Power Company

ER01-1405, 001, Mississippi Power Company

ER01-1615, 000, Southern Power Company

ER01-1718, 000, Dynegy Power Marketing, Inc.

ER01-1718, 001, Cabrillo Power I LLC

ER01-1801, 000, Tucson Electric Power Company

ER01-1847, 000, Allegheny Energy Supply Company, LLC

ER01-1966, 000, Cinergy Services, Inc.

ER01-1972, 000, Gray County Wind Energy, LLC

ER01-2074, 000, Calhoun Power Company LLC

ER01-2081, 000, Allegheny Energy Supply Company, LLC

ER01-2788, 000, Allegheny Energy Supply Company, LLC

ER01-2887, 001, South Point Energy Center, LLC

ER01-2930, 000, Allegheny Energy Supply Company, LLC

ER01-2931, 000, Allegheny Energy Supply Company, LLC

ER02-18, 000, Allegheny Energy Service Corporation

ER02-292, 000, Entergy Nuclear Indian Point 2, LLC

ER02-298, 000, Thompson River Co-Gen, LLC

ER02-336, 000, Combined Locks Energy Center, LLC

ER02-385, 000, Allegheny Energy Service Corporation

ER02-570, 000, Allegheny Energy Service Corporation

ER02-741, 000, Exelon Generating Company, LLC

ER02-786, 000, AmerGen Energy Company LLC

ER02-838, 000, American Electric Power Service Corporation

ER02-862, 000, Entergy Power Ventures, L.P.

ER02-870, 000, Southwestern Electric Power Company

ER02-887, 000, California Independent System Operator Corporation

ER02-904, 000, Entergy Nuclear Generation Company

ER02-906, 000, Camden Cogen L. P.

ER02-907, 000, Southern Company Services, Inc.

ER02-932, 000, Virginia Electric and Power Company

- ER02-937, 000, Cobb Electric Membership Corporation
- ER02-1022, 000, Green Country Energy, LLC
- ER02-1025, 000, Liberty Electric Power, LLC
- ER02-1040, 000, Griffith Energy LLC
- ER02-1065, 000, WPS Canada Generation, Inc.
- ER02-1066, 000, WPS New England Generation, Inc.
- ER02-1173, 000, Front Range Power Company, LLC
- ER02-1179, 000, Mississippi Power Company
- ER02-1250, 000, West Georgia Generating Company, L.L.C.
- ER02-1257, 000, Hermiston Power Partnership
- ER02-1373, 000, Shady Hills Power Company, L.L.C.
- E-17. Omitted
- E-18. Docket# RM01-8, 001, Filing Requirements for Electric Utility Service Agreements
Other#s RM01-8, 002, Filing Requirements for Electric Utility Service Agreements
- E-19. Docket# EL00-95 062 San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange Corporation
Other#s EL00-97, 004, Reliant Energy Power Generation, Inc., Dynegy Power Marketing, Inc. and Southern Energy California v. California Independent System Operator
- EL00-98 051 Investigation of Practices of California Independent System Operator Corporation and the California Power Exchange
- EL00-104, 009, California Electricity Oversight Board v. All Sellers of Energy and Ancillary Services Markets Operated by the California Independent System Operator and the California Power Exchange
- EL00-107, 010, San Diego Public Meeting
- ER00-3461, 004, California Power Exchange Corporation
- ER00-3673, 003, California Independent System Operator Corporation
- EL01-1, 010, California Municipal Utilities Association v. All Jurisdictional Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
- EL01-2, 004, Californians for Renewable Energy, Inc. v. Independent Energy Producers., and All Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange; All Scheduling Coordinators Acting on Behalf of the Above Sellers; California Independent System Operator Corporation; and the California Power Exchange Corporation
- EL01-10, 004, Puget Sound Energy, Inc. v. All Jurisdictional Sellers of Energy and/or Capacity at Wholesale Into Electric Energy and/or Capacity Markets in the Pacific Northwest, Including Parties to The Western Systems Power Pool Agreement
- EL01-34, 003, Southern California Edison Company and Pacific Gas and Electric Company
- EL01-68, 014, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council RT01-85, 009, California Independent System Operator Corporation
- ER01-607, 003, California Independent System Operator Corporation
- ER01-1444, 004, Arizona Public Service Company
- ER01-1445, 004, Automated Power Exchange, Inc.
- ER01-1446, 006, Avista Energy, Inc.
- ER01-1447, 004, California Power Exchange Corporation
- ER01-1448, 006, Duke Energy Trading & Marketing, LLC
- ER01-1449, 007, Dynegy Power Marketing, Inc.
- ER01-1450, 004, Nevada Power Company
- ER01-1451, 007, Portland General Electric Company
- ER01-1452, 004, Public Service Company of Colorado
- ER01-1453, 008, Reliant Energy Services, Inc.
- ER01-1454, 004, Sempra Energy Trading Corporation
- ER01-1455, 010, Mirant California, LLC, Mirant Delta LLC, Mirant Potero Corporation
- ER01-1456, 011, Williams Energy Services Corporation
- ER01-1579, 004, California Independent System Operator Corporation
- E-20. Docket# EL01-122, 003, PJM Interconnection L.L.C.
Other#s EL01-122, 002, PJM Interconnection L.L.C.
EL01-122, 004, PJM Interconnection L.L.C.
- E-21. Docket# EL02-71, 001, State of California, ex rel. Bill Lockyer, Attorney General of the State of California v. British Columbia Power Exchange Corp., Coral Power, LLC, Dynegy Power Marketing, Inc., Enron Power Marketing, Inc., Mirant Americas Energy Marketing, L.P., Reliant Energy Services, Inc., Williams Energy Marketing & Trading Co., All Other Public Utility Sellers of Energy and Ancillary Services to the California Energy Resources Scheduling Division of the California Department of Water Resources, and All Other Public Utility Sellers of Energy and Ancillary Services into Markets Operated by the California Power Exchange and the California Independent System Operator Corporation
- E-22. Omitted
- E-23. Docket# ER02-1764, 001, Southern California Edison Company
- E-24. Docket# ER02-602, 002, American Electric Power Service Corporation
Other#s ER01-2658, 002, American Electric Power Service Corporation
- ER01-2977, 002, American Electric Power Service Corporation
- ER01-2980, 002, American Electric Power Service Corporation
- ER02-371, 004, American Electric Power Service Corporation
- ER02-371, 005, American Electric Power Service Corporation
- ER02-1216, 001, American Electric Power Service Corporation
- E-25. Omitted
- E-26. Docket# EL00-89, 000, Southern California Edison Company
- E-27. Docket# EL99-85, 000, Sierra Pacific Power Company
- E-28. Docket# EL02-103, 000, City of Vernon, California
- E-29. Omitted
- E-30. Docket# EL02-59, 000, KeySpan-Ravenswood, Inc. v. New York Independent System Operator, Inc.
- E-31. Omitted
- E-32. Docket# EL02-91, 000, Williams Energy Marketing & Trading Company v. Southern Company Services, Inc.
- E-33. Docket# EL02-108, 000, Truckee Donner Public Utility District v. Idaho Power Company, IDACORP Energy, L.P. and IDACORP, Inc.
- E-34. Docket# ER02-485, 000, Midwest Independent Transmission System Operator, Inc.
- E-35. Docket# EL02-23, 001, Consolidated Edison Company of New York, Inc. v. Public Service Electric and Gas Company, PJM Interconnection, L.L.C. and the New York Independent System Operator, Inc.
- E-36. Docket# EL02-100, 000, Public Utility District No. 1 of Snohomish County, Washington v. American Electric Power Service Corporation
Other#s EL02-109, 000, Sacramento Municipal Utility District v. Duke Energy Trading and Marketing
EL02-26, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corp.
EL02-28, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corp.
EL02-33, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corp.
EL02-38, 000, Nevada Power Company and Sierra Pacific Power Company v.

- Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corp.
 EL02-29, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Mirant Americas Energy Marketing, L.P., Reliant Energy Services, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
 EL02-30, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Mirant Americas Energy Marketing, L.P., Reliant Energy Services, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
 EL02-31, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Mirant Americas Energy Marketing, L.P., Reliant Energy Services, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
 EL02-32, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Mirant Americas Energy Marketing, L.P., Reliant Energy Services, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
 EL02-34, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Mirant Americas Energy Marketing, L.P., Reliant Energy Services, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
 EL02-39, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Mirant Americas Energy Marketing, L.P., Reliant Energy Services, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
 EL02-43, 000, Southern California Water Company v. Mirant Americas Energy Marketing, L.P.
 EL02-56, 000, Public Utility District No. 1 of Snohomish County, Washington v. Morgan Stanley Capital Group, Inc.
- E-37. Omitted
 E-38. Docket# EG02-120, 000, Big Cajun I Peaking Power LLC
 E-39. Docket# EL02-8, 000, Mirant Americas Energy Marketing, L.P., Mirant Bowline, LLC, Mirant Lovett, LLC, and Mirant NY-Gen, LLC v. New York Independent System Operator, Inc.
 E-40. Docket# EL01-79, 000, NSTAR Electric & Gas Corporation v. Sithe Edgar LLC, Sithe New Boston LLC, Sithe Framingham LLC, Sithe West Medway LLC, Sithe Mystic and PG&E Energy Trading
 E-41. Docket# ER02-1021, 001, Ontario Energy Trading International Corp.
 E-42. Omitted
 E-43. Docket# ER02-1672, 001, Western Area Power Administration
 E-44. Docket# ER99-3876, 000, North Western Energy, L.L.C.
 E-45. Docket# EL00-66, 000, Louisiana Public Service Commission and the Council of the City of New Orleans v. Entergy Corporation
 Other#s EL95-33, 002, Louisiana Public Service Commission v. Entergy Services, Inc.
 ER00-2854, 000, Entergy Services, Inc.
 E-46. Omitted
 E-47. Docket# EL01-35, 001, Mirant Delta, LLC and Mirant Potrero, LLC v. California Independent System Operator Corporation
 Other#s EL00-95, 067, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
 EL00-98, 056, Investigation of Practices of California Independent System Operator Corporation and the California Power Exchange
 RT01-82, 003, San Diego Gas & Electric Company
 RT01-83, 003, Pacific Gas and Electric Company
 RT01-85, 010, California Independent System Operator Corporation
 RT01-92, 003, Southern California Edison Company
 ER01-1877, 001, California Independent System Operator Corporation
 PA02-1, 001, Operational Audit of the California Independent System Operator Corporation
- Miscellaneous Agenda**
 M-1. Omitted
- Markets, Tariffs and Rates—Gas**
 G-1. Omitted
 G-2. Omitted
 G-3. Docket# RP02-426, 000, Dominion Transmission, Inc.
 G-4. Omitted
 G-5. Docket# RP02-448, 000, National Fuel Gas Supply Corporation
 G-6. Omitted
 G-7. Docket# RP02-453, 000, Northwest Pipeline Corporation
 G-8. Omitted
 G-9. Docket# RP02-436, 000, Tennessee Gas Pipeline Company
 G-10. Omitted
 G-11. Docket# PR02-18, 000, Nicor Gas
 G-12. Docket# PR02-16, 000, Calpine Texas Pipeline, L.P.
 Other#s PR02-16, 001, Calpine Texas Pipeline, L.P.
 G-13. Docket# PR02-19, 000, Dow Interstate Gas Company
 Other#s PR02-19, 001, Dow Interstate Gas Company
 G-14. Docket# RP02-196, 001, Reliant Energy Gas Transmission Company
 Other#s RP02-196, 002, Reliant Energy Gas Transmission Company
 RP02-196, 000, Reliant Energy Gas Transmission Company
 G-15. Omitted
 G-16. Omitted
 G-17. Docket# RP00-412, 000, Northwest Pipeline Corporation
 Other#s RP01-94, 000, Northwest Pipeline Corporation
 RP01-94, 001, Northwest Pipeline Corporation
 G-18. Docket# RP00-326 001 Columbia Gulf Transmission Company
 Other#s RP00-326, 000, Columbia Gulf Transmission Company
 RP00-605, 000, Columbia Gulf Transmission Company
 RP00-605, 001, Columbia Gulf Transmission Company
 RP02-39, 000, Columbia Gulf Transmission Company
 G-19. Omitted
 G-20. Omitted
 G-21. Docket# RP02-496, 000, Pine Needle LNG Company, LLC
 G-22. Docket# RP00-336, 000, El Paso Natural Gas Company
 Other#s RP01-484, 001, Aera Energy, LLC, Amoco Production Company, BP Energy Company, Burlington Resources Oil & Gas Company, LP, Conoco Inc., Coral Energy Resources, LP, ONEOK Energy Marketing & Trading Company, L.P., Pacific Gas and Electric Company, Panda Gila River L.P., Public Utilities Commission of the State of California, Southern California Edison Company, Southern California Gas Company and Texaco Natural Gas Inc. v. El Paso Natural Gas Company
 RP00-139, 003, KN Marketing, L.P. v. El Paso Natural Gas Company
 G-23. Omitted
 G-24. Docket# RP00-472, 001, USG Pipeline Company
 Other#s RP01-31, 001, USG Pipeline Company
 G-25. Omitted
 G-26. Docket# RP02-4, 001, Maritimes & Northeast Pipeline, L.L.C.
 G-27. Docket# RP01-612, 002, ANR Pipeline Company
 Other#s RP01-612, 001, ANR Pipeline Company
 RP01-612, 000, ANR Pipeline Company
 G-28. Docket# OR92-8, 013, SFPP, L.P.
 Other#s OR92-8, 014, SFPP, L.P.
 OR92-8, 015, SFPP, L.P.

- OR93-5, 010, SFPP, L.P.
 OR93-5, 011, SFPP, L.P.
 OR93-5, 012, SFPP, L.P.
 OR94-3, 009, SFPP, L.P.
 OR94-3, 010, SFPP, L.P.
 OR94-3, 011, SFPP, L.P.
 OR94-4, 010, SFPP, L.P.
 OR94-4, 011, SFPP, L.P.
 OR94-4, 012, SFPP, L.P.
 OR95-5, 008, Mobil Oil Corporation v. SFPP, L.P.
 OR95-34, 007, Tosco Corporation v. SFPP, L.P.
 OR95-34, 008, Tosco Corporation v. SFPP, L.P.
 OR95-34, 009, Tosco Corporation v. SFPP, L.P.
 IS99-144, 005, SFPP, L.P.
 IS99-144, 006, SFPP, L.P.
 IS99-144, 007, SFPP, L.P.
 IS00-379, 002, SFPP, L.P.
 IS00-379, 003, SFPP, L.P.
 IS00-379, 004, SFPP, L.P.
 IS02-46, 001, SFPP, L.P.
 IS02-82, 001, SFPP, L.P.
- G-29.
 Docket# RP99-301, 049, ANR Pipeline Company
 Other#s GT01-25, 004, ANR Pipeline Company
- G-30.
 Omitted
- G-31.
 Docket# RP99-301, 051, ANR Pipeline Company
- G-32.
 Docket# RP99-301, 053, ANR Pipeline Company
- G-33.
 Omitted
- G-34.
 Omitted
- G-35.
 Docket# OR02-4, 001, Chevron Products Company v. SFPP, L.P.
- G-36.
 Docket# IS02-390, 001, Shell Pipeline Company LP
- G-37.
 Docket# PL02-4, 000, Waiver of Price Ceiling for Capacity Release Transactions
- G-38.
 Docket# RP98-54, 030, Colorado Interstate Gas Company
- G-39.
 Docket# RP01-245, 011, Transcontinental Gas Pipe Line Corporation
- G-40.
 Docket# RP02-486, 000, Enbridge Pipelines (Midla) Inc.
- G-41.
 Docket# RP99-518, 019, PG&E Gas Transmission, Northwest Corporation
 Other#s RP99-518, 020, PG&E Gas Transmission, Northwest Corporation
 RP99-518, 021, PG&E Gas Transmission, Northwest Corporation
 RP99-518, 022, PG&E Gas Transmission, Northwest Corporation
 RP99-518, 023, PG&E Gas Transmission, Northwest Corporation
- G-42.
 Omitted
- G-43.
 Docket# RP02-504, 000, Iroquois Gas Transmission System, L.P.
- G-44.
 Omitted
- G-45.
 Omitted
- G-46.
 Docket# GT02-36, 000, Canyon Creek Compression Company
- G-47.
 Docket# GT02-38, 000, Northern Natural Gas Company
- G-48.
 Docket# PR97-1, 000, Consumers Power Company Energy Projects—Hydro
- H-1.
 Omitted
- H-2.
 Docket# P-2145, 045, Public Utility District No. 1 of Chelan County, Washington
 Other#s P-943, 077, Public Utility District No. 1 of Chelan County, Washington
- H-3.
 Docket# P-2694, 009, Duke Power, a Division of Duke Energy Corporation, Nantahala Area
- H-4.
 Docket# P-1895, 011, South Carolina Electric & Gas Company
- H-5.
 Omitted
- H-6.
 Docket# P-2114, 106, The Yakima Nation v. Public Utility District No. 2 of Grant County, Washington
- H-7.
 Omitted
- H-8.
 Docket# P-2318, 011, Erie Boulevard Hydropower, L.P.
 Other#s P-2318, 002 Erie Boulevard Hydropower, L.P.
- H-9.
 Docket# P-12252, 000, Hudson River-Black River Regulating District
- H-10.
 Docket# P-2482, 014, Erie Boulevard Hydropower, L.P.
 Other#s P-2482, 029, Erie Boulevard Hydropower, L.P.
- H-11.
 Docket# P-2342, 005, PacifiCorp
 Other#s P-2342, 011, PacifiCorp
- H-12.
 Docket# P-2318, 002, Erie Boulevard Hydropower, L.P.
 Other#s P-2047, 004, Erie Boulevard Hydropower, L.P.
 P-2047, 011, Erie Boulevard Hydropower, L.P.
 P-2318, 011, Erie Boulevard Hydropower, L.P.
 P-2482, 014, Erie Boulevard Hydropower, L.P.
 P-2482, 029, Erie Boulevard Hydropower, L.P.
 P-2554, 003, Erie Boulevard Hydropower, L.P.
 P-2554, 012, Erie Boulevard Hydropower, L.P.
 P-12252, 000, Hudson River-Black River Regulating District
- H-13.
 Docket# P-2047, 004, Erie Boulevard Hydropower, L.P.
 Other#s P-2047, 011, Erie Boulevard Hydropower, L.P.
- H-14.
 Docket# P-2554, 003, Erie Boulevard Hydropower, L.P.
 Other#s P-2554, 012, Erie Boulevard Hydropower, L.P.
- H-15.
 Docket# P-4718, 011, Cocheco Falls Associates
 Other#s P-4718, 013, Cocheco Falls Associates
- H-16.
 Docket# P-5, 071, PP&L Montana, LLC and Confederated Salish and Kootenai Tribes of the Flathead Nation
- Energy Projects—Certificates**
- C-1.
 Docket# CP01-384, 000, Islander East Pipeline Company, LLC
 Other#s CP01-384, 001, Islander East Pipeline Company, LLC
 CP01-385, 000, Islander East Pipeline Company, LLC
 CP01-385, 001, Islander East Pipeline Company, LLC
 CP01-386, 000, Islander East Pipeline Company, LLC
 CP01-386, 001, Islander East Pipeline Company, LLC
 CP01-387, 000, Algonquin Gas Transmission Company
 CP01-387, 001, Algonquin Gas Transmission Company
- C-2.
 Docket# CP01-438, 000, Northwest Pipeline Corporation
- C-3.
 Docket# CP02-1, 000, Southern Natural Gas Company
 Other#s CP02-1, 001, Southern Natural Gas Company
- C-4.
 Docket# CP98-150, 000, Millennium Pipeline Company, L.P.
 Other#s CP98-150, 003, Millennium Pipeline Company, L.P.
 CP98-150, 004, Millennium Pipeline Company, L.P.
 CP98-151, 001, Columbia Gas Transmission Corporation
 CP98-151, 002, Columbia Gas Transmission Corporation
 CP98-154, 001, Millennium Pipeline Company, L.P.
 CP98-154, 002, Millennium Pipeline Company, L.P.
 CP98-155, 001, Millennium Pipeline Company, L.P.
 CP98-155, 002, Millennium Pipeline Company, L.P.
 CP98-156, 001, Millennium Pipeline Company, L.P.
 CP98-156, 002, Millennium Pipeline Company, L.P.
- C-5.
 Docket# CP02-124, 000, National Fuel Gas Supply Corporation
- C-6.
 Docket# CP01-176, 000, Georgia Strait Crossing Pipeline LP
 Other#s CP01-176, 001, Georgia Strait Crossing Pipeline LP
 CP01-176, 003, Georgia Strait Crossing Pipeline LP
 CP01-177, 000, Georgia Strait Crossing Pipeline LP

- CP01-177, 001, Georgia Strait Crossing Pipeline LP
 CP01-178, 000, Georgia Strait Crossing Pipeline LP
 CP01-178, 001, Georgia Strait Crossing Pipeline LP
 CP01-179, 001, Georgia Strait Crossing Pipeline LP
 C-7.
 Docket# CP02-204, 000, Transcontinental Gas Pipe Line Corporation
 C-8.
 Docket# CP02-139, 000, Northern Natural Gas Company
 C-9.
 Docket# CP02-31, 000, Iroquois Gas Transmission System, L.P.
 C-10.
 Docket# CP02-381, 000, Texas Eastern Transmission, L.P.
 C-11.
 Docket# CP02-386, 000, MDU Resources Group, Inc.
 C-12.
 Omitted
 C-13.
 Docket# CP02-399, 000, Missouri Interstate Gas, LLC
 Other#s CP02-400, 000, Missouri Interstate Gas, LLC
 CP02-401, 000, Missouri Interstate Gas, LLC
 C-14.
 Docket# CP02-52, 000, Iroquois Gas Transmission System, L.P.
 C-15.
 Docket# CP02-317, 000, Unocal Keystone Gas Storage, LLC
 C-16.
 Docket# CP96-583, 002, Kinder Morgan Texas Pipeline, Inc.
 C-17.
 Docket# CP02-56, 000, Southern Natural Gas Company
 Other#s CP02-56, 001, Southern Natural Gas Company
 CP02-56, 002, Southern Natural Gas Company
 CP02-57, 000, SCG Pipeline, Inc.
 CP02-57, 001, SCG Pipeline, Inc.
 CP02-57, 002, SCG Pipeline, Inc.
 CP02-58, 000, SCG Pipeline, Inc.
 CP02-59, 000, SCG Pipeline, Inc.
 C-18.
 Docket# CP02-99, 000, Transcontinental Gas Pipe Line Corporation
 C-19.
 Docket# CP02-81, 000, Natural Gas Pipeline Company of America
 C-20.
 Docket# CP00-40, 008, Florida Gas Transmission Company

Magalie R. Salas,

Secretary.

[FR Doc. 02-23564 Filed 9-12-02; 12:00 pm]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons To Attend

September 11, 2002.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: September 18, 2002, (30 Minutes Following Regular Commission Meeting).

PLACE: Hearing Room 5, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Non-Public Investigations and Inquiries and Enforcement Related Matters.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 502-8400.

Chairman Wood and Commissioners Massey, Breathitt and Brownell voted to hold a closed meeting on September 18, 2002. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary and her assistant, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

Magalie R. Salas,

Secretary.

[FR Doc. 02-23565 Filed 9-12-02; 12:00 pm]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98-1-000]

Regulations Governing Off-the-Record Communications; Public Notice

September 10, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt

of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications recently received in the Office of the Secretary. These filings are 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.

EXEMPT

Docket No.	Date filed	Presenter or requester
1. CP01-415-000	8-19-02	Steven D. Irvin
2. CP01-415-000	8-22-02	Sam Dickson/Richard Slate.
3. CP01-415-000	8-22-02	Brenda R. Durham.
4. CP00-415-000	8-22-02	Stephen B. Corcoran.
5. CP01-415-000	8-24-02	Donald L. Moss, Jr.
6. CP01-415-000	8-24-02	Phillip J. Kirk, Jr.
7. CP01-415-000	8-29-02	Andrew S. Hall.
8. CP01-415-000	8-29-02	Wayne Sexton.
9. CP01-415-000	8-29-02	Gregory R. Seibert.
10. CP01-415-000	8-29-02	Sharon J. Garner.
11. CP01-415-000	9-3-02	John E. Grogan.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-23445 Filed 9-13-02; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7377-1]

Environmental Laboratory Advisory Board (ELAB) Meeting Date, and Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of teleconference meeting.

SUMMARY: The Environmental Protection Agency's Environmental Laboratory Advisory Board (ELAB) will have a teleconference meeting on October 16, 2002, at 11 A.M. EDT to discuss the ideas, comments, and suggestions presented at the July 11 ELAB Meeting and the August 21 teleconference call, as well as new business. Items to be discussed include: (1) Restructuring of the National Environmental Laboratory Accreditation Conference (NELAC) to allow it to better serve the future needs of EPA, the States, and the private sector, (2) discussion of ELAB recommendations to EPA, (3) recommendations for increasing small laboratory participation in NELAC, and (4) recommendations for increasing the number of States that are Accrediting Authorities, and the upcoming November ELAB meeting in Santa Fe, New Mexico. ELAB is soliciting input from the public on these and other issues related to the National Environmental Laboratory Accreditation Program (NELAP) and the NELAC standards. Written comments on NELAP laboratory accreditation and the NELAC standards are encouraged and should be sent to Mr. Edward Kantor, DFO, P.O. Box 93478, Las Vegas, NV 89193-3478, faxed to (702) 798-2261, or e-mailed to

kantor.edward@epa.gov. Members of the public are invited to listen to the teleconference calls and, time permitting, will be allowed to comment on issues discussed during this and previous ELAB meetings. Those persons interested in attending should call Edward Kantor at 702-798-2690 to obtain teleconference information. The number of lines are limited and will be distributed on a first come, first serve basis. Preference will be given to a group wishing to attend over a request from an individual.

John G. Lyon,

Director, Environmental Sciences Division, National Environmental Research Laboratory.

[FR Doc. 02-23472 Filed 9-13-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-2002-0258; FRL-7274-6]

Exposure Modeling Work Group (EMWG); Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Exposure Modeling Work Group (EMWG) will hold a 1-day meeting on September 24, 2002. This notice announces the location and time for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on September 24, 2002, from 9 a.m. to 3 p.m.

ADDRESSES: This meeting will be held at the Office of Pesticide Programs (OPP), Environmental Protection Agency, Crystal Mall #2, Room 1110, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative

that you identify docket ID number OPP-2002-0258 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Dirk F. Young, Environmental Fate and Effects Division (7507C) Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605-0206; fax number: (703) 308-6309; e-mail address: young.dirk@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to Tribes with pesticide programs or pesticide interests. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP-2002-0258. The official record consists of the documents specifically referenced

in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP-2002-0258 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP-2002-0258. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and Federal Register citation.

II. Tentative Agenda:

This unit provides tentative agenda topics for the 1-day meeting.

1. Welcome and introductions.
2. Disseminate new EMWG charter.
3. Old action items.
4. Brief updates:
 - Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) model.
 - Spray drift task force progress.
 - Rice modeling.
 - European union activities.

- USDA Agricultural Research Service Activities.
 - Environmental fate data base.
 - New meteorological files.
 - Turf umbrella.
5. Environmental Fate and Effects Division priorities for FY 2003.
 6. Refined risk assessment.
 7. PRZM/EXAMS scenarios: industry feedback.
 8. Sci-Grow and PGW data base.
 9. Industry thoughts on ground water modeling.
 10. Update on WARP.
 11. Estuary model development.
 12. Update on standard water body model, fast solution.
 13. Curve number/moisture relationship.

List of Subjects

Environmental protection, Pesticide and pests.

September 10, 2002,

Steven Bradbury,

Acting Division Director, Environmental Fate and Effects Division, Office of Pesticide Programs.

[FR Doc. 02-23580 Filed 9-12-02; 1:25 pm]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7376-9]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation and Liability Act; Amchem CERCLA Removal Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Amchem CERCLA Removal Site, Ambler, Pennsylvania. The administrative settlement was signed by the United States Environmental Protection Agency, Region III's Regional Administrator on August 28, 2002, and is subject to review by the public pursuant to this document.

The Environmental Protection Agency (EPA) is proposing to enter into a settlement pursuant to section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. 9622(h). The proposed settlement resolves EPA's claim for past response costs under section 107 of CERCLA, 42

U.S.C. 9607, against the Union Carbide and Henkel Corporations for response costs incurred at the Amchem CERCLA Removal Site, located in Ambler, Pennsylvania. The proposed settlement requires the Union Carbide and Henkel Corporations, collectively, to pay \$62,500 to the EPA Hazardous Substance Fund.

The Union Carbide and Henkel Corporations, as the Settling Parties, have executed binding certifications of their consent to participate in this settlement. Union Carbide and Henkel Corporations have agreed to pay the \$62,500, collectively, subject to the contingency that EPA may elect not to complete the settlement based on matters brought to its attention during the public comment period established by this document.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. EPA will consider all comments received, and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any written comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on or before October 16, 2002.

ADDRESSES: Comments should be addressed to the Docket Clerk, United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and should reference Amchem CERCLA Removal Site, Ambler, Pennsylvania, U.S. EPA Docket No. CERCLA 03-2002-0106. The proposed settlement agreement is available for public inspection at the United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. A copy of the proposed settlement agreement can be obtained from Lydia Guy, Regional Docket Clerk (3RCOO) Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, telephone number (215) 814-2489.

FOR FURTHER INFORMATION CONTACT: Charles B. Howland, Senior Assistant Regional Counsel, United States Environmental Protection Agency, Office of Regional Counsel (3RC44) 1650 Arch Street, Philadelphia, Pennsylvania

19103, telephone number (215) 814-2645.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 02-23473 Filed 9-13-02; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL LABOR RELATIONS AUTHORITY

Membership of the Federal Labor Relations Authority's Senior Executive Service Performance Review Board

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: Notice is hereby given of the members of the Performance Review Board.

DATES: September 16, 2002.

FOR FURTHER INFORMATION CONTACT:

Douglas Goodell, Director, Human Resources Division, Federal Labor Relations Authority (FLRA), 607 Fourteenth Street, NW., Washington, DC 20424-0001; (202) 482-6690, extension 423.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of title 5, U.S.C., requires that each agency establish, in accordance with the regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The Boards shall review and evaluate the initial appraisal of a senior executive.

The following persons will serve on the FLRA's FY 2002 Performance Review Board:

Solly Thomas, Office of the Executive Director, FLRA.

James Petrucci, Office of the General Counsel, FLRA.

Gloria Joseph, National Labor Relations Board.

Robert Rogowski, U.S. International Trade Commission.

Dated: September 10, 2002.

Douglas Goodell,

Director, Human Resources Division.

[FR Doc. 02-23461 Filed 9-13-02; 8:45 am]

BILLING CODE 6727-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Notice

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-I's and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request For Comment on Information Collection Proposals.

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and

d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before November 15, 2002.

ADDRESSES: Comments may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. However, because paper mail in the

Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by e-mail to regs.comments@federalreserve.gov, or faxing them to the Office of the Secretary at 202-452-3819 or 202-452-3102. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, N.W. Members of the public may inspect comments in Room MP-500 between 9:00 a.m. and 5:00 p.m. on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

A copy of the comments may also be submitted to the OMB desk officer for the Board: Joseph F. Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the reporting form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. West, Federal Reserve Board Clearance Officer (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872-4984, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority to revise the Filing Method for the following reports:

Report title: Financial Statements for Bank Holding Companies

Agency form number: FR Y-9C, FR Y-9LP, FR Y-9SP, and FR Y-9CS

OMB control number: 7100-0128

Frequency: Quarterly, semiannually
Reporters: Bank holding companies (BHCs)

Annual reporting hours: FR Y-9C: 252,675 hours, FR Y-9LP: 40,495 hours, FR Y-9SP: 28,273 hours, FR Y-9CS: 1,200 hours

Estimated average hours per response: FR Y-9C: 33.98 hours, FR Y-9LP: 4.55 hours, FR Y-9SP: 3.89 hours, FR Y-9CS: 30 minutes

Number of respondents: FR Y-9C: 1,859, FR Y-9LP: 2,225, FR Y-9SP: 3,634, FR Y-9CS: 600

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.

Abstract: The FR Y-9C consists of standardized consolidated financial statements similar to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No. 7100-0036). The FR Y-9C is filed quarterly by top-tier bank holding companies that have total assets of \$150 million or more and by lower-tier bank holding companies that have total consolidated assets of \$1 billion or more. In addition, multibank holding companies with total consolidated assets of less than \$150 million with debt outstanding to the general public or engaged in certain nonbank activities must file the FR Y-9C.

The FR Y-9LP includes standardized financial statements filed quarterly on a parent company only basis from each bank holding company that files the FR Y-9C. In addition, for tiered bank holding companies, a separate FR Y-9LP must be filed for each lower tier bank holding company.

The FR Y-9SP is a parent company only financial statement filed semiannually by one-bank holding companies with total consolidated assets of less than \$150 million, and multibank holding companies with total consolidated assets of less than \$150 million that meet certain other criteria. This report, an abbreviated version of the more extensive FR Y-9LP, is designed to obtain basic balance sheet and income statement information for the parent company, information on intangible assets, and information on intercompany transactions.

The FR Y-9CS is a free form supplement that may be utilized to collect any additional information deemed to be critical and needed in an expedited manner. It is intended to supplement the FR Y-9C and FR Y-9SP reports.

CURRENT ACTIONS: The Federal Reserve proposes to require electronic submission of all FR Y-9 reports effective with the June 30, 2003, report date for FR Y-9C and FR Y-9LP filers and the December 31, 2003, report date¹ for

FR Y-9SP filers. The Federal Reserve would no longer accept paper copy reports from BHCs. The current submission deadline would remain 45 calendar days after the report date.

BHCs that do not currently submit their FR Y-9 reports electronically may either develop the appropriate software for electronic submission or contract with a software vendor that can provide the required software and services.² Any BHC that would like to develop its own electronic submission software would be required to contact its district Federal Reserve Bank for guidance.

The Federal Reserve has provided BHCs the option to submit their FR Y-9 reports electronically (via FedLine in 1991 and the Internet in 2000), but has never required electronic submission. The Federal Reserve has continued to promote the use of electronic submission of the FR Y-9 series of reports and other regulatory reports. Currently, approximately 60% of the larger BHCs submit their FR Y-9C and FR Y-9LP reports electronically, while only about 20% of the smaller BHCs submit their FR Y-9SP reports electronically. However, all banks have been required to submit their FFIEC Call Reports electronically since 1997.

The Federal Reserve proposes to require electronic submission of the reports as part of an ongoing effort to provide the public with financial information for U.S. BHCs on a timelier basis. Requiring electronic submission would be the first phase in this effort. The Federal Reserve anticipates that in the future BHCs would be required to build into their electronic submission software data editing capabilities utilizing the Federal Reserve's "validity" and "quality" edits. As part of the electronic submission process,

December 31, 2002. If the FR Y-9ES report is approved it would be subject to the electronic submission requirement for the December 31, 2003 report date. See Federal Register notice (67 FR 49356) published July 30, 2002.

² For further information on available BHC reporting preparation software, a list of some of the vendors who market this software follows: The InterCept Group, 27200 Agoura Road, Suite 100 Calabasas Hills, CA 91301, Telephone: (800) 825-3772, www.intercept.net. DBI Financial Systems, Inc., P.O. Box 90360 Santa Barbara, CA 91390-0360, Telephone: (800) 774-3279, www.e-dbi.com. Milas LLC, 2936 Graceland Way, Glendale, CA 91206, Telephone: (888) 862-7610. Financial Architects US, 80 Slocum Avenue, Bronxville, New York 10708, Telephone: (914) 376-5405, www.finarch.com. Sheshunoff Information Services, P.O. Box 13203 Capital Station, Austin, TX 78711, Telephone: (800) 456-2340, www.sheshunoff.com. S1 Corporation, 2815 Coliseum Centre Drive, Suite 300, Charlotte, NC 28217, Telephone: (704) 423-0394, frs.s1.com. STB Systems, 245 Park Avenue, 39th Floor, New York, NY 10167, Telephone: (212) 792-4136, www.stbssystems.com. This list is not an endorsement from the Federal Reserve of any of these products.

¹ The Federal Reserve is proposing to implement a new annual report (FR Y-9ES) that would be filed by ESOP banking holding companies effective

BHCs would be required to pass all validity edits and provide narrative remarks for all quality edit exceptions prior to data being accepted by the Federal Reserve. The Federal Reserve will submit these data editing requirements for public comment as a separate proposal at a later date.

A list of validity edits is located in the instructions to the FR Y-9 reports (except for the FR Y-9CS) and has been available to BHCs and software vendors for a number of years. These validity edits are principally used by the Federal Reserve to check the mathematical accuracy of financial data submitted in the FR Y-9 reports. The Federal Reserve also employs quality edits, currently not available to BHCs and software vendors, typically used to review the relationships between report line items and schedules. The Federal Reserve anticipates releasing many of the quality edits to BHCs and software vendors in the near future so that they may become familiar with the type of review performed by the Federal Reserve.

The Federal Reserve envisions that when these two requirements, mandated electronic submission and editing, are operating effectively, it could accelerate the public release of BHC financial data in a time frame that is much closer to the submission date. Currently, the Federal Reserve makes available to the public via the Internet (at the Federal Reserve Board's public web site at www.federalreserve.gov) data from the FR Y-9C and FR Y-9LP reports for the 50 largest U.S. BHCs generally within 10 days of the submission deadline. All other FR Y-9 data are typically posted to the Internet within 35 days after the submission date. These data are posted to the Internet after the financial data are reviewed and edited by the Federal Reserve.

The Federal Reserve believes that this approach will result in a more efficient financial data collection and dissemination process. This revised process should not be a significant burden to large or small bank holding companies because of advancements in, and the common use of, computer technology, and because all banks are currently required to submit their Call Reports electronically.

The Federal Reserve plans to extend the electronic submission requirement to other Federal Reserve regulatory reports in the future.

Board of Governors of the Federal Reserve System, September 10, 2002.

Jennifer J. Johnson,
Secretary of the Board.

[FR Doc. 02-23430 Filed 9-13-02; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL TRADE COMMISSION

[File No. 011 0244]

American Institute for Conservation of Historic and Artistic Works; 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 in the draft complaint that accompanies the consent agreement 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 October 10, 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: consent_agreement@ftc.gov, as prescribed below.

FOR FURTHER INFORMATION CONTACT: L. Barry Costilo, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2024.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, 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 September 10, 2002), on the World Wide Web, at <http://www.ftc.gov/os/2002/09/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: consent_agreement@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 an agreement to a proposed consent order from the American Institute for Conservation of Historic and Artistic Works ("AIC"). AIC has its principal place of business in Washington, DC.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and decide whether it should withdraw from the agreement or make final the agreement's proposed order.

AIC is an association of professional conservators. The complaint alleges that AIC engages in substantial activities for the economic benefit of its members. The complaint alleges that AIC has approximately 3,100 members, many of whom provide professional services for a fee or who are employed by organizations that provide such services for a fee.

A conservation professional is a person who manages, cares for, preserves, or treats cultural objects, including artistic, historical, archaeological, scientific, and religious objects. The conservation professional may determine the condition, the need for treatment or restoration, and the appropriate method for preservation of such objects, and perform the required work to minimize deterioration or to restore such objects to their original state.

The complaint charges that AIC has violated Section 5 of the Federal Trade Commission Act by acting as a combination of its members and in agreement with some of its members to restrain price competition among conservation professionals. The

complaint alleges that in furtherance of the combination and agreement AIC has adopted and maintained Commentaries to the Guidelines for Practice of the AIC that state that "the consistent undercutting of local or regional market rates should be understood to be unprofessional behavior." They further state that "when damage to the cultural property is imminent, and funding is limited, a conservation professional may work at reduced fees or *pro bono*." Read together, these provisions mean that only in these limited circumstances can a conservator work for free or at reduced fees without being considered to be engaging in "unprofessional behavior."

The complaint alleges that the above acts and practices constitute unfair methods of competition which have restrained competition unreasonably. It further alleges that the effects of the acts and practices are to discourage and restrict price competition among conservation professionals and to deprive consumers and users of conservation services of the benefit of free and open competition.

AIC has signed a consent agreement containing the proposed consent order. The proposed consent order would prohibit AIC from maintaining or enforcing any policy, ethical rule, interpretation, commentary or guideline that impedes or restricts price competition among conservation professionals, including provision of free or discounted services.

To ensure and monitor compliance, the consent order provides, among other things, that within 90 days after the order becomes final AIC shall remove the provisions that are inconsistent with the order from AIC's Code of Ethics, Guidelines for Practice of the AIC, Commentaries to the Guidelines and AIC's website, and publish the revisions of these documents in such places. In addition, the order requires AIC to publish a copy of the order and complaint in the AIC News. It further provides that the order and complaint shall be published on the AIC web site, with a link placed in a prominent position on the web site's home page. The proposed consent order also contains other provisions to monitor compliance.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02-23468 Filed 9-13-02; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Committee on Smoking and Health Meeting: Correction

ACTION: Notice; Correction.

Name: Interagency Committee on Smoking and Health.

Date and Time: 10 a.m.-4 p.m., October 1, 2002.

Place: Room 615F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., 6th Floor, Washington, DC 20201.

Correction: In the **Federal Register** of September 5, 2002, Volume 67, Number 172, Notices, Page 56845, under "Status" September 23, 2001 should read September 23, 2002.

Correction: In the **Federal Register** of September 5, 2002, Volume 67, Number 172, Notices, Page 56845, "NAME" should read: Interagency Committee on Smoking and Health (ICSH) Cessation Subcommittee.

Correction: In the **Federal Register** of September 5, 2002, Volume 67, Number 172, Notices, Page 56845 PURPOSE" should read: The ICSH advises the Secretary, Department of Health and Human Services, and the Assistant Secretary for Health in the: (a) Coordination of all research and education programs and other activities within the Department and with other federal, state, local and private agencies, and (b) establishment and maintenance of liaison with appropriate private entities, federal agencies, and state and local public health agencies with respect to smoking and health activities. The ICSH Cessation Subcommittee is charged with making recommendations on how best to promote tobacco use cessation.

Correction: In the **Federal Register** of September 5, 2002, Volume 67, Number 172, Notices, Page 56845, "Matter To Be Discussed" should read: The agenda will focus on the evidence base for tobacco use cessation and the establishment, timeline and scope of work of the ICSH Cessation Subcommittee.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and

roster of committee members may be obtained from the Internet <http://www.cdc.gov/tobacco> in November 2002, or from Ms. Monica L. Swann, Committee Management Specialist, Interagency Committee on Smoking and Health, Office on Smoking and Health, NCCDPHP, CDC, 200 Independence Avenue, SW, Room 317B, Washington, DC, 20201, telephone (202) 205-8500.

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: September 10, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02-23456 Filed 9-13-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Committee on Smoking and Health Meeting: Correction

ACTION: Notice; Correction.

Name: Interagency Committee on Smoking and Health.

Date and Time: 9 a.m.-4 p.m., September 30, 2002.

Place: Room 615F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., 6th Floor, Washington, DC 20201.

Correction

In the **Federal Register** of September 5, 2002, Volume 67, Number 172, Notice, Page 56844-56845 "Matter To Be Discuss" should read: The agenda will focus on the roles of the public and private sector in tobacco use reduction.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of committee members may be obtained from the Internet <http://www.cdc.gov/tobacco> in November 2002, or from Ms. Monica L. Swann, Committee Management Specialist, Interagency Committee on Smoking and Health, Office on Smoking and Health, NCCDPHP, CDC, 200 Independence Avenue, SW., Room 317B, Washington, DC, 20201, telephone (202) 205-8500.

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: September 10, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02-23457 Filed 9-13-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis: 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 council meeting.

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Times and Dates: 8:30 a.m.-5 p.m., November 7, 2002, 8:30 a.m.-12 p.m., November 8, 2002.

Place: Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333. Telephone: 404/639-8008.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to be Discussed: Agenda items include issues pertaining to improving TB control efforts in the Southeast, community based TB prevention projects, surveillance of TB-related hepatotoxicity and other TB related topics. Agenda items are subject to change as priorities dictate.

For More Information Contact: Paulette Ford-Knights, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE., M/S E-07, Atlanta, Georgia 30333, telephone 404/639-8008.

Agenda items are subject to change as priorities dictate.

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: September 10, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02-23458 Filed 9-13-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N-0123]

Agency Information Collection Activities; Announcement of OMB Approval; Food Canning Establishment Registration, Process Filing and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Food Canning Establishment Registration, Process Filing and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 22, 2002 (67 FR 47820), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910-0037. The approval expires on August 31, 2005. A copy of the supporting statement for this information collection is available on the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: September 10, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-23505 Filed 9-13-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N-0109]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Dissemination of Information on Unapproved/New Uses for Marketed Drugs, Biologics, and Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information entitled "Dissemination of Information on Unapproved/New Uses for Marketed Drugs, Biologics, and Devices" has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by October 16, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW. rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance. Dissemination of Information on Unapproved/New Uses for Marketed Drugs, Biologics, and Devices (OMB Control Number 0910-0390)—Extension.

In the **Federal Register** of November 20, 1998 (63 FR 64555), FDA published a final rule that added a new part 99 (21 CFR part 99) entitled "Dissemination of Information on Unapproved/New Uses for Marketed Drugs, Biologics, and Devices."

The final rule implemented section 401 of the Food and Drug

Administration Modernization Act (FDAMA) (Public Law 105-115). In brief, section 401 of FDAMA amended the act to permit drug, biologic, and device manufacturers to disseminate certain written information concerning the safety, effectiveness, or benefits of a use that is not described in the product's approved labeling to health care practitioners, pharmacy benefit managers, health insurance issuers, group health plans, and Federal and State Government agencies, provided that the manufacturer complies with certain statutory requirements. For example, the information that is to be disseminated must be about a drug or device that is being legally marketed; it must be in the form of an unabridged reprint or copy of a peer-reviewed journal article or reference publication; and it must not be derived from another manufacturer's clinical research, unless that other manufacturer has given its permission for the dissemination. The information must be accompanied by certain information, including a prominently displayed statement that the information discusses a use or uses that have not been approved or cleared by FDA. Additionally, 60 days before dissemination, the manufacturer must submit to FDA a copy of the information to be disseminated and any other clinical trial information that the manufacturer has relating to the safety or effectiveness of the new use, any reports of clinical experience that pertain to the safety of the new use, and a summary of such information.

The rule sets forth the criteria and procedures for making such submissions to FDA. Under the rule, a submission would include a certification that the manufacturer has completed clinical studies necessary to submit a supplemental application to FDA for the new use and will submit the supplemental application within 6 months of its initial dissemination of information. If the manufacturer has planned, but not completed, such studies, the submission would include proposed protocols and a schedule for conducting the studies, as well as a certification that the manufacturer will complete the clinical studies and submit a supplemental application no later than 36 months of its initial dissemination of information. The rule also permits manufacturers to request extensions of the time period for completing a study and submitting a supplemental application, and to request an exemption from the requirement to submit a supplemental application. The rule prescribes the timeframe within which the manufacturer shall maintain

records that would enable it to take corrective action. The rule requires the manufacturer to submit lists pertaining to the disseminated articles and reference publications and the categories of persons (or individuals) receiving the information, and to submit a notice and summary of any additional research or data (and a copy of the data) relating to the product's safety or effectiveness for the new use. The rule requires the manufacturer to maintain a copy of the information, lists, records, and reports for 3 years after it has ceased dissemination of the information and to make the documents available to FDA for inspection and copying.

FDA based its estimates of the number of submissions it would receive and the number of manufacturers who would take advantage of part 99 on the number of efficacy and new use supplements for approved drugs, biologics, and devices received in fiscal year (FY) 1997 and on a projected increase in supplements due to FDAMA. In FY 1997, FDA received 198 efficacy and new use supplements from 115 manufacturers. The number of supplements increased 100 percent from FY 1995 to FY 1997 as a result of two new initiatives, the Prescription Drug User Fee Act and a new pediatric labeling regulation. If FDAMA results in an additional 50 percent increase in the number of supplements and a corresponding increase in the number of manufacturers, then the estimated number of submissions under part 99 is $297 (198 + (0.5 \times 198))$, and the estimated number of manufacturers is $172 (115 + (0.5 \times 115))$. These figures are reflected in tables 1 and 2 of this document for §§ 99.201(a)(1), 99.201(a)(2), 99.201(a)(3), 99.201(b), 99.201(c), 99.501(a)(1), 99.501(a)(2), 99.501(b)(1), 99.501(b)(3), and 99.501(c).

The estimated burden hours for these provisions are as follows:

Section 99.201(a)(1) requires the manufacturer to provide an identical copy of the information to be disseminated, including any required information. Because the manufacturer must compile this information in order to prepare its submission to FDA, FDA estimates that 40 hours would be required per submission. Because 297 annual responses are expected under § 99.201(a)(1), the total burden for this provision is 11,880 hours (297 responses x 40 hours per response).

Section 99.201(a)(2) requires the manufacturer to submit clinical trial information pertaining to the safety and effectiveness of the new use, clinical experience reports on the safety of the new use, and a summary of the information. FDA estimates 24 burden hours per response for this provision for

assembling, reviewing, and submitting the information and assumes that the manufacturer will have already acquired some of this information in order to decide whether to disseminate information on an unapproved use under part 99. The total burden for this provision is 7,128 hours (297 annual responses x 24 hours per response).

Section 99.201(a)(3) requires the manufacturer to explain its search strategy when assembling its bibliography, and so FDA estimates that only 1 hour would be required for the explanation because the manufacturer would have developed and used its search strategy before preparing the bibliography. Because 297 annual responses are expected under § 99.201(a)(3), the total burden for this provision is 297 hours (297 annual responses x 1 hour per response).

Section 99.201(b) simply requires the manufacturer's attorney, agent, or other authorized official to sign its submissions, and certifications, or requests for an exemption. FDA, therefore, estimates that only 30 minutes are necessary for such signatures. Because 297 annual responses are expected under § 99.201(b), the total burden for this provision is 148.5 hours (297 response x 0.5 hours per response = 148.5 hours).

Section 99.201(c) requires the manufacturer to provide two copies with its original submission. Copying the submission should not be time-consuming, so FDA estimates the burden to be 30 minutes. Because 297 annual responses are expected under § 99.201(c), the total burden for this provision is 148.5 hours.

While the act requires manufacturers to provide a submission to FDA before they disseminate information on unapproved/new uses, it also permits manufacturers to: (1) Have completed studies and promise to submit a supplemental application for the new use within 6 months of the date of initial dissemination; (2) provide protocols and a schedule for completing studies and submitting a supplemental application for the new use within 36 months of the date of initial dissemination; (3) have completed studies and have submitted a supplemental application for the new use; or (4) request an exemption from the requirement to submit a supplemental application. These possible scenarios are addressed in §§ 99.201(a)(4)(i)(A), 99.201(a)(4)(ii)(A), 99.201(a)(5), and 99.205(b) respectively.

To determine the number of responses in §§ 99.201(a)(4)(i)(A), 99.201(a)(4)(ii)(A), 99.201(a)(5), and 99.205(b), FDA began by estimating the

number of requests for an exemption under § 99.205(b). The legislative history indicates that such exemptions are to be limited. In the final rule, FDA estimated that approximately 10 percent of all respondents would seek--or 10 percent of all submissions would contain--an "economically prohibitive" exemption (resulting in 17 total respondents and approximately 30 annual responses) and that the estimated reporting burden per response would be 82 hours. This results in a total hour burden of 2,460 hours for § 99.205(b) (30 submissions x 82 hours per submission).

The estimated increase in the number of exemption requests results in a corresponding decrease in the remaining number of respondents and submissions under §§ 99.201(a)(4)(i)(A), 99.201(a)(4)(ii)(A), and 99.201(a)(5). FDA assumes that the remaining 267 submissions (297 total submissions - 30 submissions containing an exemption request) will be divided equally among § 99.201(a)(4)(i)(A), 99.201(a)(4)(ii)(A), and 99.201(a)(5), resulting in 89 responses in each provision (267 submissions/3 provisions). FDA has estimated the number of respondents in a similar fashion ((172 total respondents - 17 respondents submitting an exemption request)/3 provisions = 51.6, rounded up to 52 respondents per provision).

As stated earlier, § 99.201(a)(4)(i)(A) requires the manufacturer, if the manufacturer has completed studies needed for the submission of a supplemental application for the new use, to submit the protocol(s) for the completed studies, or, if the protocol was submitted to an investigational new drug application (IND) or investigational device exemption (IDE), to submit the IND or IDE number(s), the date of submission of the protocol(s), the protocol number(s), and the date of any amendments to the protocol(s). FDA estimates that 30 hours would be required for this response because this is information that each manufacturer already maintains for its drugs or devices. The total burden for this provision is 2,670 hours (89 annual responses x 30 hours per response).

For manufacturers who submit protocols and a schedule for conducting studies, § 99.201(a)(4)(ii)(A) requires the manufacturer to include, in its schedule, the projected dates on which the manufacturer expects the principal study events to occur. FDA estimates a manufacturer would need approximately 60 hours to include the projected dates because it would have to contact the studies' principal investigator(s) and other company

officials. The total burden for this provision is 5,340 hours (89 annual responses x 60 hours per response).

If the manufacturer has submitted a supplemental application for the new use, § 99.201(a)(5) requires a cross-reference to that supplemental application. FDA estimates that only 1 hour would be needed because manufacturers already maintain this information. The total burden for this provision is 89 hours (89 annual responses x 1 hour per response).

Under § 99.203, a manufacturer who has certified that it will complete studies necessary to submit a supplemental application within 36 months after its submission to FDA, but later finds that it will be unable to complete such studies or submit a supplemental application within that time period, may request an extension of time from FDA. Such requests for extension should be limited, occurring less than 1 percent of the time, because manufacturers and FDA, when developing or reviewing study protocols, should be able to identify when a study will require more than 36 months to complete. Section 99.203 contemplates extension requests under two different scenarios. Under § 99.203(a), a manufacturer may make an extension request before it makes a submission to FDA regarding the dissemination of information under part 99. The agency expects such requests to be limited, occurring less than 1 percent of the time (or 1 annual response), and that such requests will result in a reporting burden of 10 hours per request. The total burden hours for this provision, therefore, is 10 hours (1 annual response x 10 hours per response).

Section 99.203(b) specifies the contents of a request to extend the time for completing planned studies after the manufacturer has provided its submission to FDA. The required information includes a description of the studies, the current status of the studies, reasons why the study cannot be completed on time, and an estimate of the additional time needed. FDA estimates that 10 hours for reporting the required information under § 99.203(b) because it would require consultation between the manufacturer and key individuals (such as the study's principal investigator(s)). As in the case of § 99.203(a), the expected number of responses is very small (one annual response), and the total burden hours for this provision is 10 hours (one annual response x 10 hours per response).

Section 99.203(c) requires two copies of an extension request (in addition to

the request required under section 554(c)(3) of the act), and FDA estimates that these copies would result in a minimal reporting burden of 30 minutes. However, this requirement would apply to extension requests under §§ 99.203(a) and (b), so the total number of annual responses is two, resulting in a total burden hour for this provision of 1 hour (two annual responses x 0.5 hours per response).

The remaining reporting and recordkeeping burdens are as follows:

Section 99.501(a)(1) requires the manufacturer to maintain records that identify recipients by category or individually. Under § 99.301(a)(3), FDA will notify the manufacturer whether it needs to maintain records identifying individual recipients due to special safety considerations associated with the new use. This means that, in most cases, the manufacturer will only have to maintain records identifying recipients by category. In either event, the manufacturer will know whether it must maintain records that identify individual recipients before it begins disseminating information. The time required to identify recipients individually should be minimal, and the time required to identify recipients by category should be even less. Therefore, FDA estimates the burden for this provision to be 10 hours, and, because 297 annual responses are expected under § 99.501(a)(1), the total burden for this provision is 2,970 hours (297 annual responses x 10 hours per response).

Section 99.501(a)(2) requires the manufacturer to maintain a copy of the information it disseminates. This task is not expected to be time-consuming, so FDA estimates the burden to be 1 hour. Because 297 annual responses are expected under § 99.501(a)(2), the total burden for this provision is 297 hours (297 annual responses x 1 hour per response).

Section 99.501(b)(1) requires the manufacturer to submit to FDA semiannually a list containing the articles and reference publications that were disseminated in the preceding 6-month period. FDA tentatively estimates a burden of 8 hours for this provision. The actual burden may be less if the manufacturer develops and updates the list while it disseminates articles and reference publications during the 6-month period (as opposed to generating a completely new list at the end of each 6-month period) and if the volume of disseminated materials is small. The total burden for this provision is 4,752 hours (297 responses submitted semiannually x 8 hours per response = 297 x 2 x 8 = 4,752 hours).

Section 553(a)(2) of the act requires manufacturers that disseminate information to submit to FDA semiannually a list that identifies the categories of providers who received the articles and reference publications. Section 99.501(b)(2) also requires the list to identify which category of recipients received each particular article or reference publication. If each of the 297 submissions under part 99 results in disseminated information, § 99.501(b)(2) would result in 594 lists (297 submissions x 2 submissions/year) identifying which category of recipients received each particular article or reference publication. The agency estimates the burden to be only 1 hour per response because this type of information is maintained as a usual and customary business practice, and the total burden for this provision is 594 hours (594 lists x 1 hour per list).

In relation to § 99.201(a)(2), § 99.501(b)(3) requires the manufacturer to provide, on a semiannual basis, a notice and summary of any additional clinical research or other data relating to the safety and effectiveness of the new use and, if it possesses such research or data, to provide a copy to FDA. This burden should not be as extensive as that in § 99.201(a)(2), so FDA estimates the burden to be 20 hours per response, for a total burden of 11,880 hours for this provision (297 annual responses

submitted semiannually x 20 hours per response = 297 x 2 x 20 = 11,880 hours).

If a manufacturer discontinues or terminates a study before completing it, § 99.501(b)(4) requires the manufacturer to state the reasons for discontinuing or terminating the study in its next progress report. Based on FDA's regulatory experience in monitoring studies to support supplemental applications, FDA estimates this would affect only 1 percent of all applications (297 x 0.01 = 2.97, rounded up to 3) and only 2 manufacturers (172 x 0.01 = 1.72, rounded up to 2). FDA estimates 2 hours of reporting time for this requirement because the manufacturer should know the reasons for discontinuing or terminating the study and would only need to provide those reasons in its progress report. The total burden hours for this provision is 6 hours (three annual responses x 2 hours per response).

Section 99.501(b)(5) requires the manufacturer to submit any new or additional information that relates to whether the manufacturer continues to meet the requirements for the exemption after an exemption has been granted. FDA cannot determine, at this time, how many exemption requests will be granted, but, for purposes of this information collection, has estimated that 10 percent of all submissions will

contain an exemption request (297 total submissions x 0.10 = 29.7, rounded up to 30) and has assumed that all exemption requests will be granted, for a total of 30 annual responses. The information sought under § 99.501(b)(5) pertains solely to new or additional information and is not expected to be as extensive as the information required to obtain an exemption.

Thus, FDA tentatively estimates the burden for § 99.501(b)(5) to be 41 hours per response (or half the burden associated with an exemption request), for a total burden of 1,230 hours for this provision (30 annual responses x 41 hours per response).

Section 99.501(c) requires the manufacturer to maintain records for 3 years after it has ceased dissemination of the information. FDA estimates the burden hour for this provision to be 1 hour. Because 297 annual responses are expected under § 99.501(c), the total burden for this provision is 297 hours.

Description of Respondents: All manufacturers (persons and businesses, including small businesses) of drugs, biologics, and device products.

In the **Federal Register** of April 16, 2002 (67 FR 18626), FDA invited comments on the collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

21 CFR Section	Number of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
99.201(a)(1)	172	1.7	297	40	11,880
99.201(a)(2)	172	1.7	297	24	7,128
99.201(a)(3)	172	1.7	297	1	297
99.201(a)(4)(i)(A)	52	1.7	89	30	2,670
99.201(a)(4)(ii)(A)	52	1.7	89	60	5,340
99.201(a)(5)	52	1.7	89	1	89
99.201(b)	172	1.7	297	0.5	148.5
99.201(c)	172	1.7	297	0.5	148.5
99.203(a)	1	1	1	10	10
99.203(b)	1	1	1	10	10
99.203(c)	2	1	2	0.5	1
99.205(b)	17	1.8	30	82	2,460
99.501(b)(1)	172	3.4	594	8	4,752
99.501(b)(2)	172	3.4	594	1	594
99.501(b)(3)	172	3.4	594	20	11,880

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹—Continued

21 CFR Section	Number of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
99.501(b)(4)	2	1.7	3	2	6
99.501(b)(5)	17	1.8	30	41	1,230
Total Hours					48,644

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

21 CFR Section	Number of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Recordkeeping Hours
99.501(a)(1)	172	1.7	297	10	2,970
99.501(a)(2)	172	1.7	297	1	297
99.501(c)	172	1.7	297	1	297
Total Hours					3,564

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated burden associated with the information collection requirements for this rule is 52,208 hours. In the **Federal Register** of June 9, 1998 (63 FR 31502), the agency requested comments on the proposed collections of information. No comments were received.

Dated: September 10, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–23506 Filed 9–13–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0028]

Medical Devices; Class II Special Controls Guidance Document; Cyclosporine and Tacrolimus Assays; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled “Class II Special Controls Guidance Document; Cyclosporine and Tacrolimus Assays; Guidance for Industry and FDA.” These assays are used as an aid in the management of transplant patients receiving these drugs. Elsewhere in this issue of the **Federal Register**, FDA is issuing a final rule to reclassify cyclosporine and

tacrolimus assays into class II (special controls).

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies on a 3.5” diskette of the guidance document entitled “Class II Special Controls Guidance Document; Cyclosporine and Tacrolimus Assays; Guidance for Industry and FDA” to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this guidance to the Dockets Management Branch (HFZ–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Jean M. Cooper, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Road, Rockville, MD 20850, 301–594–1243.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 21, 2002 (67 FR 7982), FDA published a proposed rule to reclassify

cyclosporine and tacrolimus assays from class III (premarket approval) to class II (special controls) after reviewing information contained in reclassification petitions submitted by Dade Behring, Inc., and Microgenics, Inc. FDA also identified the guidance document entitled “Class II Special Controls Guidance Document; Cyclosporine and Tacrolimus Assays; Draft Guidance for Industry and FDA” as the special control capable of providing reasonable assurance of safety and effectiveness for these devices. These assays are used as an aid in the management of transplant patients receiving these drugs.

Interested persons were invited to comment on the draft guidance by April 22, 2002. FDA received two comments that were supportive of the proposed reclassification, but these comments suggested specific recommendations for changes to the guidance. The guidance has been revised to reflect consideration of these comments.

II. Significance of Guidance

This guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). This guidance represents the agency’s current thinking on special controls for cyclosporine and tacrolimus assays. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations. Following the effective date of this final classification rule, any firm submitting a 510(k) premarket notification for a

cyclosporine or tacrolimus test system will need to address the issues covered in the special control guidance. However, the firm need only show that its device meets the recommendations of the guidance or in some other way provides equivalent assurances of safety and effectiveness.

III. Electronic Access

In order to receive "Class II Special Controls Guidance Document; Cyclosporine and Tacrolimus Assays; Guidance for Industry and FDA" via your fax machine, call the CDRH Facts-On-Demand system at 800-899-0381 or 301-827-0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1380) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. The Center for Devices and Radiological Health (CDRH) maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submission, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at <http://www.fda.gov/cdrh>. "Class II Special Controls Guidance Document; Cyclosporine and Tacrolimus Assays; Guidance for Industry and FDA" will be available at <http://www.fda.gov/cdrh/ode/guidance/1380.pdf>.

IV. Paperwork Reduction Act

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The collection of information in part three of this guidance has been submitted to OMB for review and was approved under OMB control number 0910-0231.

V. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on the guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 19, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02-23507 Filed 9-13-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4734-N-44]

Notice of Submission of Proposed Information Collection to OMB; Application for Eligibility as a Nonprofit Corporation

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 16, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502-0057) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395-6974; e-mail Lauren_Wittenberg@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing

and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Application for Eligibility as a Nonprofit Corporation.

OMB Approval Number: 2502-0057.

Form Numbers: HUD-3433, HUD-3434, HUD-3435.

Description of the Need for the Information and Its Proposed Use: The application identifies the nonprofits' qualification to successfully sponsor a multifamily housing project. A nonprofit is defined as an entity organized for reasons other than financial gain. The information collected will also be used to identify the nonprofit's motive for sponsoring the project, and identify any contractual relationship that exists between HUD and the nonprofit.

Respondents: Not-for-profit institutions, business or other for-profit.

Frequency of Submission: On occasion.

Reporting Burden:	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
.....	270	270		3		90

Total Estimated Burden Hours: 90.
Status: Reinstatement, without change, of previously approval.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 10, 2002.

Wayne Eddins,
*Departmental Reports Management Officer,
 Office of the Chief Information Officer.*
 [FR Doc. 02-23503 Filed 9-13-02; 8:45 am]
BILLING CODE 4210-72-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4734-N-43]

Notice of Submission of Proposed Information Collection to OMB; Customer Service and Satisfaction Survey

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 16, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2507-0001) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395-6974; e-mail Lauren_Wittenberg@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number; if applicable; (4) the description of the need for the information and its proposed use; (5)

the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Customer Service and Satisfaction Survey.

OMB Approval Number: 2507-0001.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Survey measures the resident's level of satisfaction with their living conditions, facilities interaction and communication between PHAs/owners and residents, and guides managers in recognizing areas of concern identified by residents.

Respondents: Individuals or households, business or other for-profit institutions, State, Local or Tribal Government.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	640,780	269,091		0.3		82,903

Total Estimated Burden Hours: 82,903.
Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 10, 2002.

Wayne Eddins,
*Departmental Reports Management Officer,
 Office of the Chief Information Officer.*
 [FR Doc. 02-23504 Filed 9-13-02; 8:45 am]
BILLING CODE 4210-72-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR090-5882-PH; GP2-0382]

Notice of Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Eugene Resource Advisory Committee will hold a meeting in Eugene, Oregon. Agenda topics include review of last meeting minutes, end of year evaluation and discussion of future projects. The meeting is being held under the authority of Public Law 106-393.

DATES: November 7, 2002. The meeting will begin at 9 am. A public comment period will be held during the meeting at 11:30 am. The meeting is expected to adjourn by 4 pm.

ADDRESSES: The meeting will be held at the U.S. Bureau of Land Management office, 2890 Chad Drive, Eugene, Oregon, 97408.

FOR FURTHER INFORMATION CONTACT: Wayne Elliott, Eugene District Office, Eugene, Oregon, (541) 683-6989.

Dated: September 4, 2002.

Wayne Elliott,
Natural Resource Advisor.
 [FR Doc. 02-23429 Filed 9-13-02; 8:45 am]
BILLING CODE 4310-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-160-1430-01; CA 42826]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following BLM public lands in San Luis Obispo County, California have been examined and found suitable for classification for conveyance to the County of San Luis

Obispo under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The lands will not be offered for conveyance until at least 60 days after publication of this Notice in the **Federal Register**:

Mount Diablo Meridian, T. 30 S., R. 14 E.

Section 2 Lot 7, Lot 8, Lot 9, W $\frac{1}{2}$ of Lot 10, Lot 12, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 3 Lot 4, W $\frac{1}{2}$ of Lot 5, S $\frac{1}{2}$ E $\frac{1}{2}$ of Lot 6, Lot 9, Lot 10, Lot 11, Lot 13, S $\frac{1}{2}$ Section 4 SE $\frac{1}{4}$
Containing 1299.81 acres

APNs: portion of 070-351-004, 070-351-005, portion of 070-351-006, portion of 070-361-007.

The County of San Luis Obispo has filed an application to purchase the above BLM land for an addition to the Santa Margarita Lake Regional Park. These lands lie north of the Lake. The primary purpose of the conveyance would be for public recreation, with construction of a trail system and campgrounds. The lands are not needed for Federal purposes. Conveyance is consistent with current BLM land use planning and would be in the public interest.

The conveyance instrument (Federal patent) to be issued to the County will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States; Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals under applicable laws and regulations of the Secretary of the Interior.

4. Any valid existing rights documented on the official public land records at the time of patent issuance.

1. A reversionary clause that will allow the United States to revert title in the event that the subject lands are not used for the purpose for which they were conveyed, or if the County transfers title or control of the subject lands to another party.

6. Any other reservations or conditions that the authorized officer determines appropriate to ensure proper management of the subject lands and interests therein.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Bakersfield Field Office, 3801 Pegasus Drive, Bakersfield, California.

Upon publication of this notice in the **Federal Register**, the subject lands will be removed from their current exchange segregation. At the same time, the subject lands will be segregated from appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed conveyance or classification of the lands to the Field Office Manager, Bakersfield Field Office, 3801 Pegasus Drive, Bakersfield, CA 93308.

Classification Comments: Interested parties may submit comments involving the suitability of the land for an addition to the Regional Park. Comments on the classification must be restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific uses proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for addition to the Regional Park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: July 23, 2002.

John Skibinski,

Acting BLM Field Office Manager.

[FR Doc. 02-23047 Filed 9-13-02; 8:45 am]

BILLING CODE 4310-40-P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 10 a.m., Thursday, September 19, 2002.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request from a Federal Credit Union to Convert to a Community Charter.

2. *Proposed Rule:* Part 740 of NCUA's Rules and Regulations, Advertising.

3. *Proposed Rule:* Section 701.19 of NCUA's Rules and Regulations, Retirement Benefits for Federal Credit Union Employees.

4. *Proposed Rule:* Part 741 of NCUA's Rules and Regulations, Overseas Branching by Federally Insured Credit Unions.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone: 703-518-6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 02-23664 Filed 9-12-02; 4:00 pm]

BILLING CODE 7535-01-M

NATIONAL SCIENCE FOUNDATION

NSF-NASA National Astronomy and Astrophysics Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: NSF-NASA National Astronomy & Astrophysics Advisory Committee (#13883).

Date and Time: October 2 & 3, 2002, 8 am-5 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. G. Wayne Van Citters, Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703-292-4908. If you are attending the meeting and need access to the NSF building please contact Mary Lou Renninger at 703-292-8820 so that your name may be added to the building access list.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF) and the National Aeronautics and Space Administration (NASA) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the two agencies.

Agenda: To hear presentations of current programming by representatives from NSF and NASA; to discuss current and potential areas of cooperation between the two agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: September 10, 2002.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 02-23483 Filed 9-13-02; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-482]

Wolf Creek Nuclear Operating Corporation; Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has denied part of a request by Wolf Creek Nuclear Operating Corporation (the licensee) for an amendment to Facility Operating License No. NPF-42 issued to the licensee for operation of the Wolf Creek Generating Station (WCGS), located in Coffey County, Kansas.

Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on July 26, 2000 (65 FR 46010).

The purpose of the licensee's amendment request was to revise Appendix C, "Antitrust Conditions for Kansas Gas and Electric Company [KGE]," for the WCGS operating license. The revisions (1) add a statement that the antitrust conditions do not restrict the rights of Kansas Electric Power Cooperative, Inc. (KEPCo) or the duties of Kansas Gas and Electric Company (KGE), that may exist beyond, and are not inconsistent with the antitrust conditions, (2) define "KGE members in licensee's service area" in the appendix to include all KEPCo members with facilities in Western Resources' and KGE's combined service area, (3) delete license conditions restricting KEPCo's use of the power from WCGS, (4) remove out-of-date conditions, and (5) update conditions to be consistent with the terms and conditions of Western Resources' Federal Energy Regulatory Commission (FERC) open access transmission tariff. Western Resources is the parent company of KGE.

The NRC staff has concluded that the licensee's proposed deletion of part of Antitrust Condition 2(a) that KGE shall offer an opportunity to participate in other nuclear generating unit(s) (other than WCGS) which KGE may construct, own, and operate, and the proposed deletion of references to Condition 2(a) in Appendix C cannot be granted. The basis for the NRC staff's denial and a more complete description of what part of Condition 2(a) cannot be granted, are documented in the safety evaluation dated September 6, 2002, that supported Amendment No. 147 that approved the remaining parts of the licensee's proposed amendment. The licensee was notified of the Commission's partial denial of the proposed change by letter dated September 6, 2002.

By 30 days from the date of publication of this notice in the **Federal Register**, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.¹

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery to mail to U.S. 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 any petitions 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 U.S. 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 any petitions should also be sent to Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see (1) the application for

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."

amendment dated June 27, 2000, and its supplements dated January 31, 2001, May 2, 2001, October 30, 2001, and May 10, 2002, and (2) the Commission's letter to the licensee dated September 6, 2002.

Documents may be examined, and/or copied for a fee, at the NRC's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and will be accessible electronically through the Agencywide Documents Access and Management System's Public Electronic Reading Room link at the NRC Web site <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 6th day of September 2002.

For the Nuclear Regulatory Commission.

William H. Ruland,

Director, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02-23463 Filed 9-13-02; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-338, 50-339, 50-280, 50-281, 72-16 and 72-2]

North Anna Power Station, Units 1 and 2 and Surry Power Station, Units 1 and 2, North Anna and Surry Independent Spent Fuel Storage Installations; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) Part 40, Section 40.64(b) for Facility Operating License Nos. NPF-4, NPF-7, DPR-32, and DPR-37, issued to Virginia Electric and Power Company (the licensee) for operation of the North Anna and Surry Power Stations, Units 1 and 2, and Special Nuclear Material License Nos. SNM-2507 and SNM-2501 for the Independent Spent Fuel Storage Installations (ISFSIs) at the North Anna and Surry Power Stations, respectively. As required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment*Identification of the Proposed Action*

The proposed action is an exemption from the reporting requirements of Title 10 of the Code of Federal Regulations (10 CFR) Part 40, Section 40.64(b) regarding the schedule for reporting foreign origin material inventory. The proposed exemption would allow the licensee to change the schedule for reporting its foreign origin source material inventory. Instead of reporting within 30 days after September 30 each year, the licensee proposes to submit a statement of their foreign origin source material inventory once each year concurrently with submittal of their material status report.

The proposed action is in accordance with the licensee's application for an exemption dated November 5, 2001.

The Need for the Proposed Action

The proposed action will enable the licensee to make more effective use of its human resources. Utilities generally schedule refueling outages to occur during seasons of lower demand for electric power, *i.e.*, fall and spring. Currently, the September 30 reporting schedule for foreign origin material inventory competes with refueling outages for human resources. Changing the reporting schedule will free up resources to assist with refueling outages.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action involves an administrative activity (a schedular change in reporting foreign origin material inventory) unrelated to plant operations.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental

impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statements for the Surry and North Anna facilities.

Agencies and Persons Consulted

On July 18, 2002, the staff consulted with the Virginia State official, Les Foldesi, of the Virginia Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 5, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams/html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 10th day of September 2002.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02-23462 Filed 9-13-02; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION**Sunshine Act Meeting**

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [67 FR 57255, September 9, 2002]

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, September 12, 2002 at 4 p.m.

CHANGE IN THE MEETING: Additional item.

The following item has been added to the Closed Meeting scheduled for Thursday, September 12, 2002 at 4 p.m. Institution of administrative proceedings of an enforcement nature

Commissioner Campos, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: September 12, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-23662 Filed 9-12-02; 4:00 pm]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION**Sunshine Act Meeting**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 16, 2002:

A Closed Meeting will be held on Thursday, September 19, 2002, at 10 a.m., and an Open Meeting will be held on Thursday, September 19, 2002, at 3:30 p.m., in Room 1C30, the William O. Douglas Room.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (8), (9)(B) and

(10) and 17 CFR 200.402(a)(3), (5), (7), (8), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

The subject matter of the Closed Meeting scheduled for Thursday, September 19, 2002 will be:

- Institution and settlement of injunctive actions;
- Institution and settlement of administrative proceedings of an enforcement nature;
- Formal orders of investigations; and
- Regulatory matters regarding financial institutions.

The subject matter of the Open Meeting scheduled for Thursday, September 19, 2002 will be:

1. The Commission will consider whether to propose amendments to Forms N-1A, N-2, and N-3, and proposed Form N-CSR, that would require mutual funds and other registered management investment companies to disclose the policies and procedures that they use to determine how to vote proxies relating to portfolio securities. The proposed amendments would also require registered management investment companies to file with the Commission, and make available to shareholders, their proxy voting records.

2. The Commission will consider whether to propose new rule 206(4)-6 under the Investment Advisers Act of 1940 that would require registered investment advisers to adopt proxy voting policies and procedures, and to disclose to clients those policies and procedures and how clients can obtain information about how the adviser has voted their proxies. In addition, the Commission will consider an amendment to rule 204-2 under the Investment Advisers Act of 1940 that would require advisers to keep records of how they vote client proxies.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: September 12, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-23663 Filed 9-12-02; 4:00 pm]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9R32]

State of California

Tulare County and the contiguous counties of Fresno, Inyo, Kern and Kings Counties in the State of California constitute an economic injury disaster area as a result of a fire that began on July 21, 2002 and is currently still burning in Tulare County. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance for this disaster until the close of business on June 5, 2003 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853-4795.

The interest rate for eligible small businesses and small agricultural cooperatives is 3.5 percent.

The number assigned for economic injury for this disaster is 9R3200.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: September 5, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02-23408 Filed 9-13-02; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3439]

State of California

Santa Clara County and the contiguous counties of Alameda, San Mateo, San Joaquin, Stanislaus, San Benito, Santa Cruz and Merced in the State of California constitute a disaster area as a result of a fire that occurred on August 19, 2002 in building #7 of the Santana Row Development in San Jose, California. The fire destroyed the unoccupied residential floors of the Santana Row Development and surrounding homes and businesses. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 4, 2002 and for economic injury until the close of business on June 5, 2003 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853-4795.

The interest rates are:

	Percent
For Physical Damage:	

	Percent
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 343905 and for economic damage is 9R3100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 5, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02-23409 Filed 9-13-02; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending September 6, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST-2002-13271.

Date Filed: September 3, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC3 0583 dated 6 September 2002, Mail Vote 233—Resolution 010a, TC3 Special Passenger Amending Resolution between China (excluding Hong Kong SAR and Macau SAR) and Thailand, Intended effective date: 20 September 2002.

Docket Number: OST-2002-13312.

Date Filed: September 6, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC COMP 0961 dated 10 September 2002, Mail Vote 234—Resolution 010b r1-r3, Special Passenger Amending Resolution—East Timor, Intended effective date: 15 September 2002.

Docket Number: OST-2002-13313.

Date Filed: September 6, 2002.

Parties: Members of the International Air Transport Association.

Subject: CTC COMP 0420 dated 10 September 2002, Mail Vote 235—Resolution 010uu r1–r3, Special Cargo Amending Resolution—East Timor, Intended effective date: 15 September 2002.

Docket Number: OST–2002–13314.

Date Filed: September 6, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC COMP 0949 dated 2 August 2002, Composite Resolution r1–r18, PTC COMP 0953 dated 13 August 2002—technical correction, Minutes—PTC COMP 0960 dated 6 September 2002, Intended effective date: 1 April 2003.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02–23477 Filed 9–13–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending September 6, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2002–13302.

Date Filed: September 5, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 26, 2002.

Description: Application of Jetsgo Corporation, pursuant to 49 U.S.C. 41302 *et seq.*, and parts 211 and 302, subpart B, requesting a foreign air carrier permit authorizing it to engage in scheduled and charter foreign air transportation of persons, property and mail between a point or points in Canada and a point or points in the United States, pursuant to the Air Transport Services Agreement between

the United States of America and Canada.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02–23474 Filed 9–13–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2000–8568]

Revised Recertification Procedure for Alternative Voluntary Advisory Groups in Lieu of Councils, Prince William Sound and Cook Inlet, AK

AGENCY: Coast Guard, DOT.

ACTION: Notice of policy.

SUMMARY: The Coast Guard announces a change of policy on recertification procedures for alternative voluntary advisory groups in lieu of councils at Prince William Sound and Cook Inlet regions of Alaska. Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, the Coast Guard must certify, on an annual basis, an alternative voluntary advisory group in lieu of a Regional Citizen's Advisory Council for Prince William Sound and Cook Inlet regions of Alaska. The new policy will require an applicant for recertification to provide the Coast Guard with comprehensive information every three years (triennially). For each of the two years between the triennial applications procedure, applicants need only submit a letter requesting recertification and describe any substantive changes to the information provided at the last triennial recertification.

DATES: This notice of policy is effective September 16, 2002.

ADDRESSES: The public docket for this notice is maintained by the 17th Coast Guard District. Comments and documents, as indicated in this notice, will become part of this docket and will be available for inspection by appointment. Appointments can be made by calling the Chief of Planning and Response, 17th Coast Guard District at (907) 463–2804. Comments regarding this notice or the Regional Citizen's Advisory Council can be sent to Commander 17th Coast Guard District, Office of Response (MOR) P.O. Box 25517 Juneau, AK, 99802.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, please call Commander Spencer Wood at (907) 463–2804. If you have questions on viewing or submitting material to the docket, please call the Chief of Planning

and Response, 17th Coast Guard District at (907) 463–2804.

SUPPLEMENTARY INFORMATION:

Background and Purpose

As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732) (the Act) to foster long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and oil tankers.

Paragraph (o) of the Act permits an alternative voluntary advisory group to represent the communities and interests in the vicinity of the oil terminal facilities in Cook Inlet and Prince William Sound regions of Alaska in lieu of a Council of the type specified in 33 U.S.C. 2732(d), if certain conditions are met. The Act requires that each group enter into a contract to ensure annual funding and receive annual certification from the President that it fosters the general goals and purposes of the Act and is broadly representative of the community and interests in the vicinity of the terminal facilities. Accordingly, in 1991, the President granted certification to both the Cook Inlet Regional Citizen's Advisory Council (RCAC) and the Prince William Sound RCAC alternative voluntary advisory groups (advisory groups).

On October 18, 1991, the President delegated his authority under 33 U.S.C. 2732 (o) to the Secretary of Transportation in Executive Order 12777, section 8(g) (see 56 FR 54757; Oct. 22, 1991). On March 3, 1992, the Secretary redelegated that authority to the Commandant of the Coast Guard (see 57 FR 8582; March 11, 1992). The Commandant redelegated that authority to the Chief, Office of Marine Safety, Security and Environmental Protection (G–M) on March 19, 1992 (letter #5402). The successor to that officer, the Assistant Commandant for Marine Safety and Environmental Protection (G–M) redelegated that authority to the Commander, Seventeenth U.S. Coast Guard District on February 26, 1999 (letter #16450).

The Coast Guard published guidelines on December 31, 1992 (57 FR 62600), to assist groups seeking recertification under the Act. We issued a policy statement on July 7, 1993 (58 FR 36504), to clarify the factors that we would be considering in making our determination as to whether advisory groups should be certified in accordance with the Act; and the procedures, which we would follow in meeting our

certification responsibilities under the Act. Since then, both the Prince William Sound and Cook Inlet advisory groups have been recertified annually. Based on the experiences of the recertification processes conducted from 1993 to 2000, as well as the evolution of the advisory groups from new, untested organizations to stable, functioning organizations, the Coast Guard believes the recertification procedure should be streamlined, reducing the annual administrative burden placed on the advisory groups, the Coast Guard, and the public. Hence, the Coast Guard published a notice of proposal to change procedure; request for comments on December 28, 2000 (65 FR 82451) that asked the public to comment on the proposal to change recertification procedure. Three commenters, including the two advisory groups, submitted comments. All three commenters endorsed the proposed procedural changes for certification. All three commenters agreed that the current annual recertification process involves a lot of time and effort. The commenters also agreed that much of the information that is required remains unchanged from year to year, thus rendering it redundant.

However, one commenter proposed a minor modification to the clause within the proposal that states that "for each of the 2 years between the triennial application procedure, applicants should * * * describe any substantive changes to the information provided at the last triennial recertification." The commenter said that, if this clause is interpreted literally, this provision would appear to require that changes occurring during the first off-year, and described in the application for that year, be described again in the application for the second off-year. The commenter stated that this would be necessary to ensure that all changes since the last triennial recertification were captured in each off-year application. The commenter suggested instead that each off year application be required to capture only changes since the last recertification, without regard to whether it was a triennial recertification or an off-year recertification. This commenter added that a simplified process of recertification would:

- Materially reduce the administrative burden on the Coast Guard and other parties to the process.
- Preserve an appropriate degree of oversight of RCAC activities by the Coast Guard.
- Provide appropriate opportunities for public comment on RCAC activities. Our experience gathered from 1993 to present has shown us that the majority

of information submitted by advisory groups seeking recertification remains unchanged year-to-year and both the government and the public would benefit from a streamlined administrative procedure. Based on the comments received and on that experience, we believe an applicant for recertification should provide the Coast Guard with a comprehensive application once every 3 years (triennially). For each of the 2 years between the triennial application procedures, applicants should submit a letter requesting recertification and describe any substantive changes to the information provided at the last triennial recertification. We propose that this procedure commences with the 2002 certification season, meaning that applicants seeking recertification in 2002 need only submit the streamlined application and that we will not solicit public comments prior to recertification during 2002. The triennial review process will take place in 2005. The Coast Guard will still accept public comments whenever submitted and these comments will be available for viewing by making arrangements with the office listed under **ADDRESSES**.

Dated: September 6, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 02-23481 Filed 9-13-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Fort Bend County, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed transportation project in Fort Bend County, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. John Mack, P.E., Federal Highway Administration, Texas Division, 300 East 8th Street, Room 826, Austin, Texas 78701, Telephone (512) 536-5960.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas Department of Transportation (TxDOT) and Fort Bend County, will prepare an Environmental Impact Statement (EIS) on a proposal to upgrade the existing transportation network in Fort Bend County. The proposed project would be for the development of Segment B of

State Highway 122 (Fort Bend Parkway) from State Highway 6 to segment C of SH 99 (the Grand Parkway) in Fort Bend County, Texas. The proposed action would be a multilane, possibly tolled, facility, approximately 13 miles in length, built within a corridor with the above limits. The majority of this corridor crosses relatively undeveloped properties in Fort Bend County. Cities and towns in the region include Pearland, Arcola, Missouri City and Thompsons.

Fort Bend County proposes to build a facility to provide improved transportation characteristics in the region.

Alternatives to be studied include "no-action" (the no-build alternative), Transportation System Management (TSM)/Transportation Demand Management (TDM) alternative, mass transit alternative and roadway build alternatives.

Potential impacts caused by the construction and operation of the facility will vary for each reasonable alternative alignment considered. Generally, impacts would include the following: transportation impacts (construction detours, construction traffic and mobility improvement), air and noise impacts from construction equipment and operation of the facility, water quality impacts from construction area and roadway storm water runoff, impacts to waters of the United States, including wetlands from right-of-way encroachment, impacts to historic and archaeological resources, impacts to floodplains, impacts to residents and businesses caused by potential displacements and impacts to vegetation that may provide potential habitat to wildlife or other biological resources.

Letters describing the proposed action soliciting comments will be sent to appropriate Federal, State, local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Two simultaneous public scoping meetings will be held on October 15th, 2002, one at Manford Williams Elementary School, 1.5 miles west of Crabb-River Rd. on FM 762 and the other at Sienna Crossing Elementary School, 0.5 miles east of Sienna Parkway on Steep Bank Trace. Both meetings will be at 7 P.M. Public comments on the proposed action and alternatives will be requested. This will be the first of a series of meetings to evaluate the study area, corridor alternatives and design alternative alignments. A public hearing will be held at a later time, with copies of the Draft Environmental Impact Statement (DEIS) available for public and agency

review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the Environmental Impact Statement should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205 Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding governmental consultation on federal programs and activities apply to this program).

Issued on: September 4, 2002.

John R. Mack,

District Engineer, FHWA Texas Division.

[FR Doc. 02-23485 Filed 9-13-02; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on June 21, 2002. No comments were received.

DATES: Comments must be submitted on or before October 16, 2002.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Gearhart, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-1867, FAX 202-366-7901, or e-mail:

elizabeth.gearhart@marad.dot.gov.

Copies of this collection can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Shipbuilding Orderbook and Shipyard Employment.

OMB Control Number: 2133-0029.

Type of Request: Extension of currently approved information collection.

Affected Public: Owners of U.S. shipyards who agree to complete the requested information.

Form(s): MA-172.

Abstract: In compliance with the Merchant Marine Act of 1936, as amended, MARAD conducts this survey to obtain information from the shipbuilding and ship-repair industry to be used primarily to determine if an adequate mobilization base exists for the national defense and for use in a national emergency.

Annual Estimated Burden Hours: 400 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention MARAD Desk Officer.

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

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on September 9, 2002.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02-23487 Filed 9-13-02; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34235]

Genesee & Wyoming Inc.—Control Exemption—Utah Railway Company and Salt Lake City Southern Railroad Company

Genesee & Wyoming Inc. (GWI), a noncarrier, has filed a notice of exemption to acquire control through the acquisition of all of the stock of Utah Railway Company (UTAH),¹ and its

¹ UTAH is a wholly owned subsidiary of Arava Natural Resources Company, Inc., which is a wholly owned subsidiary of Mueller Industries, Inc.

wholly owned subsidiary, the Salt Lake City Southern Railroad Company (SLCS). UTAH is a Class III carrier² operating in Utah and Colorado and SLCS is a Class III carrier operating in Utah.

The proposed transaction was scheduled to be consummated on or after August 27, 2002, the effective date of the exemption (7 days after the notice was filed).

GWI directly controls one Class II carrier, Buffalo & Pittsburgh Railroad, Inc., operating in New York and Pennsylvania, and the following Class III carriers: Allegheny & Eastern Railroad, Inc., operating in Pennsylvania; Bradford Industrial Rail, Inc., operating in Pennsylvania and New York; Corpus Christi Terminal Railroad, Inc., operating in Texas; Dansville and Mount Morris Railroad Company, operating in New York; Genesee & Wyoming Railroad Company, Inc., operating in New York; Golden Isles Terminal Railroad, Inc., operating in Georgia; Savannah Port Terminal Railroad Inc., operating in Georgia; Illinois & Midland Railroad, Inc., operating in Illinois; Louisiana & Delta Railroad, Inc., operating in Louisiana; Pittsburgh & Shawmut Railroad, Inc., operating in Pennsylvania; Portland & Western Railroad, Inc., operating in Oregon; Rochester & Southern Railroad, Inc., operating in New York; South Buffalo Railway Company, operating in New York; and Willamette & Pacific Railroad, Inc., operating in Oregon.

GWI indirectly controls three Class III carriers through its ownership of noncarrier Rail Link, Inc.: Carolina Coastal Railway, Inc., operating in North Carolina; Commonwealth Railway, Inc., operating in Virginia; and Talleyrand Terminal Railroad, Inc., operating in Florida. GWI also indirectly controls three Class III carriers through its ownership of Emons Transportation Group, Inc. (Emons), and its noncarrier holding company, Emons Railroad Group, Inc.: York Railway Company (York), operating in Pennsylvania;³ St. Lawrence & Atlantic Railroad Company, operating in Vermont, New Hampshire, and Maine; and St. Lawrence & Atlantic

² GWI states that, although UTAH has operated as a Class III carrier, its revenue increases in recent years may qualify it as a Class II railroad.

³ Through its control of Emons, GWI also controls two non-operating Class III carriers which separately hold the rail assets over which York operates; Maryland and Pennsylvania Railroad, LLC and Yorkrail, LLC. See *Maryland and Pennsylvania Railroad Company and Yorkrail, Inc.—Intracorporate Family Transaction Exemption*, STB Finance Docket No. 33815 (STB served Dec. 13, 1999).

Railroad (Quebec) Inc., operating in Vermont.

GWJ states that: (i) The rail lines involved in this transaction do not connect with any rail lines in the corporate family; (ii) the control transaction is not part of a series of anticipated transactions that would connect any of the rail lines with each other; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves at least one Class II and one or more Class III rail carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34235, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Troy W. Garris, Weiner Brodsky Sidman Kider PC, 1300 Nineteenth Street, NW., Fifth Floor, Washington, DC 20036-1609.

Board decisions and notices are available on our Web site at "<http://WWW.STB.DOT.GOV>."

Decided: September 6, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02-23376 Filed 9-13-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34245]

Timber Rock Railroad, Inc.—Lease Exemption—The Burlington Northern and Santa Fe Railway Company

Timber Rock Railroad, Inc. (TRRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from The Burlington Northern and Santa Fe Railway Company (BNSF) 99.2 miles of rail line

located between milepost 51.0 near Kirbyville, TX, and milepost 150.2, near Tenaha, TX. TRRR will also acquire 2.49 miles of incidental overhead trackage rights over BNSF's rail line between milepost 150.2, near Tenaha, and milepost 152.69, at BNSF's Tenaha Yard, for the purpose of interchanging traffic with BNSF. TRRR will be the operator of the property.¹

TRRR certifies that its projected revenues as a result of this transaction will not result in its becoming a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction was scheduled to be consummated on or shortly after September 1, 2002.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34245, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morrell, Ball Janik LLP, Suite 225, 1455 F Street, NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at "WWW.STB.DOT.GOV."

Decided: September 6, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02-23095 Filed 9-13-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

Aviation Security Advisory Committee Meeting

AGENCY: Transportation Security Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Aviation Security Advisory Committee (ASAC).

DATES: The meeting will take place on October 1, 2002 from 10 a.m. to 1:30 p.m.

ADDRESSES: The meeting will be held at the Marriott Wardman Park Hotel, 2660

¹ BNSF will retain the right to operate certain overhead trains over the line being leased to TRRR.

Woodley Road, NW., Washington, DC, 20008.

FOR FURTHER INFORMATION CONTACT:

Dean Walter, Office of Security Regulation and Policy, 400 7th St. SW., Washington, DC, 20590, Room 3034, telephone 202-385-1236.

SUPPLEMENTARY INFORMATION: This meeting is announced pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App.11). The agenda for the meeting will include; a discussion of ASAC, its structure and role; a status report on the Transportation Security Administration structure and recent activities; and implementation of the Aviation and Transportation Security Act (Pub. L. 107-71).

The meeting is open to the public, but attendance is limited to the space available. Members of the public must make advance arrangements to present oral statements at the meeting. Written statements may be presented to the committee by providing copies of them to the Chair prior to or at the meeting. Anyone in need of assistance or a reasonable accommodation for the meeting, should contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. In addition, sign and oral interpretation, as well as a listening device, can be made available at the meeting if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on September 10, 2002.

Thomas R. Blank,

Associate Under Secretary for Security Regulation and Policy.

[FR Doc. 02-23475 Filed 9-13-02; 8:45 am]

BILLING CODE 4110-62-P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Claims Against the United States for Amounts Due in the Case of a Deceased Creditor

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, 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 a continuing information collection. By this notice, the Financial Management Service solicits comments concerning "Claim Against the United States for Amounts Due in the Case of a Deceased Creditor."

DATES: Written comments should be received on or before November 15, 2002.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Records and Information Management Branch, Room 135, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Rose Brewer, Judgment Fund Branch, 3700 East West Highway, Room 630F, Hyattsville, MD 20782, (202) 874-6664.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Claim Against the United States for Amounts Due in the Case of a Deceased Creditor.

OMB Number: 1510-0042.

Form Number: None.

Abstract: This form is required to determine who is entitled to the funds of a deceased Postal Savings depositor or deceased award holder. The form, with supporting documentation, enables the government to decide who is legally entitled to payment.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 400.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 400.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget 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: September 9, 2002.

Judith R. Tillman,

Assistant Commissioner, Financial Operations.

[FR Doc. 02-23427 Filed 9-13-02; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS-55-93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking and temporary regulation, PS-55-93 (TD 8528), Certain Elections For Intangible Property (§ 1.197-1T).

DATES: Written comments should be received on or before November 15, 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 regulations 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: Certain Elections For Intangible Property.

OMB Number: 1545-1425. Regulation Project Number: PS-55-93.

Abstract: These regulations provide procedures for taxpayers to make

elections regarding the amortization and depreciation of certain intangible property pursuant to sections 197 and 167(f) of the Internal Revenue Code. The information will be used to verify that a taxpayer is properly reporting its amortization and income taxes.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 100.

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: September 10, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02-23499 Filed 9-13-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service**

[REG-209817-96]

Proposed Collection; Comment Request for Regulation Project**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG-209817-96, Treatment of Obligation-Shifting Transactions (§ 1.7701(l)-2).

DATES: Written comments should be received on or before November 15, 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 regulations 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: Treatment of Obligation-Shifting Transactions.

OMB Number: 1545-1515.

Regulation Project Number: REG-209817-96.

Abstract: This regulation relates to the treatment of certain multiple-party financing transactions in which one party realizes income from leases or similar agreements and another party claims deductions related to that income. In order to prevent tax avoidance, this regulation recharacterizes these transactions in a manner that clearly reflects income. The regulation affects only persons that engage in these transactions. The regulation generally does not apply to routine transactions lacking characteristics of tax avoidance.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Recordkeepers: 100.

Estimated Time Per Recordkeeper: 5 hours.

Estimated Total Annual Recordkeeping Burden: 500.

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: September 10, 2002

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02-23500 Filed 9-13-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS**Privacy Act of 1974; System of Records**

AGENCY: Department of Veterans Affairs.

ACTION: Notice of a new system of records—National Veterans Museum Donation Records—VA.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is adding a new system of records, "National Veterans Museum Donation Records—VA" (120VA047).

DATES: To assure consideration, written comments mailed to the Department as provided below must be postmarked no later than October 16, 2002, and written comments hand delivered to the Department and comments submitted electronically must be received as provided below, no later than 5 p.m. Eastern Time on October 16, 2002. If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by VA, the new system of records statement is effective October 16, 2002.

ADDRESSES: You may mail or hand-deliver written comments concerning the proposed new system of records to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to "OGCRegulations@mail.va.gov." All relevant material received before October 16, 2002 will be considered. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Peter Mulhern, Office of Financial Policy (047GC1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-5570.

SUPPLEMENTARY INFORMATION:**I. Description of the Proposed System of Records**

In accordance with 38 U.S.C. 8301, the Secretary of Veterans Affairs may accept gifts, devise, and bequests. The donor or testator may specify the particular purpose of the gift, devise, or bequest. The Secretary may also accept, for use in carrying out all laws administered by the Secretary, gifts, devise, and bequests that will enhance the Secretary's ability to provide services or benefits. VA maintains information on individual donors making gifts and donations to the National Veterans Museum. This information includes the name of the donor, home address, telephone number, the amount of the gift, whether the gift was made with cash, check or credit card, and the credit card number

and expiration date. Much of the credit card information will be derived from VA Form 5579a, "Donations To National Veterans Museum (Via Credit Card)." The information maintained on individual donors is used to process payments associated with the gifts or donations, as well as to provide a database for future correspondence with the donors.

II. Proposed Routine Use Disclosures of Data in the System

VA is proposing to establish the following routine use disclosures of the information that will be maintained in the system.

1. The record of an individual who is covered by this system may be disclosed to a Member of Congress, or a staff person acting for the member, when the member or staff person requests the record on behalf of and at the written request of the individual.

Individuals sometimes request the help of a Member of Congress in resolving some issue relating to a matter before VA. The Member of Congress then writes VA, and VA must be able to give sufficient information to be responsive to the inquiry.

2. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44 U.S.C.

NARA is responsible for archiving old records no longer actively used, but which may be appropriate for preservation. NARA is responsible in general for the maintenance of the Federal Government's records. VA must be able to turn records over to NARA in order to determine the proper disposition of such records.

3. Records from this system of records may be disclosed to the Department of Justice (DOJ) (including U.S. Attorneys) or in a proceeding before a court, adjudicative body, or other administrative body when litigation or the adjudicative or administrative process is likely to affect VA, its employees or any of its components; or when VA, its employees, or any of its components is a party to the litigation or process, or has an interest in the litigation or process, and the use of such records is deemed by VA to be relevant and necessary to the litigation or process; provided, however, that the disclosure is compatible with the purpose for which the records were collected.

Whenever VA is involved in litigation or an adjudicative or administrative process, or occasionally when another party is involved in litigation or an adjudicative or administrative process

and VA policies or operations could be affected by the outcome of the litigation or process, VA would be able to disclose information to the court, the adjudicative or administrative bodies, or the parties involved. A determination would be made in each instance that, under the circumstances involved, the purpose served by the use of the information in the particular litigation or process is compatible with a purpose for which VA collects the information.

4. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

VA must be able to provide information to contractors and subcontractors with whom VA has a contract or agreement in order to perform the services of the contract or agreement.

5. VA may disclose on its own initiative any information in this system that is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order.

VA must be able to comply with the requirements of agencies charged with enforcing the law and investigations of violations or possible violations of law. VA must also be able to provide information to Federal, State, local, tribal and foreign agencies charged with protecting the public health as set forth in law.

6. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

Abuse of Federal programs costs the Federal Government and taxpayers large sums of money every year. Information contained in VA records may help detect and/or prevent fraud and abuse of other agency programs. VA must be able to assist other Federal agencies in their efforts to detect and prevent fraud and abuse in their programs.

III. Compatibility of the Proposed Routine Use Disclosures

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which VA collected the information. In all of the routine use disclosures described above, the recipient of the information will use the information either in connection with a matter relating to one of VA's programs, or will use the information to provide a benefit to VA, or will disclose as required by law.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB on December 12, 2000 (65FR77677).

Approved: August 30, 2002.

Anthony J. Principi,
Secretary of Veterans Affairs.

120VA047

SYSTEM NAME:

National Veterans Museum Donation Records—VA.

SYSTEM LOCATION:

VA Central Office, Washington, DC; Financial Services Center, Austin, Texas; at the offices of contractors and subcontractors; and VA field facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals making gifts or donations to the National Veterans Museum.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include, but are not limited to: name, home address, telephone number, type of gift or donation (check/credit card/cash), amount of gift or donation, credit card number, expiration date of credit card, date of payment process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 8301.

PURPOSE(S):

These records are used to process payments associated with the gifts or donations to the National Veterans Museum, as well as to provide a database for future correspondence with the donors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a Member of Congress, or a staff person acting for the member, when the member or staff person requests the record on behalf of and at the written request of the individual.

2. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44 U.S.C.

3. Records from this system of records may be disclosed to the Department of Justice (DOJ) (including U.S. Attorneys) or in a proceeding before a court, adjudicative body, or other administrative body when litigation or the adjudicative or administrative process is likely to affect VA, its employees or any of its components; or when VA, its employees, or any of its components is a party to the litigation or process, or has an interest in the litigation or process, and the use of such records is deemed by VA to be relevant and necessary to the litigation or process; provided, however, that the disclosure is compatible with the purpose for which the records were collected.

4. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or

subcontractor to perform the services of the contract or agreement.

5. VA may disclose on its own initiative any information in this system that is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order.

6. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper documents and electronic storage media.

RETRIEVABILITY:

These records may be retrieved using various combinations of name or identification number (credit card number) of the individual on whom the records are maintained.

SAFEGUARDS:

Access to these records is restricted to authorized VA employees, contractors, or subcontractors on a "need to know" basis. Offices where these records are maintained are locked after working hours and are protected from outside access by the Federal Protective Service,

other security officers, and alarm systems. Access to computerized records is restricted to authorized VA employees, contractors, or subcontractors by means of unique user identification and passwords.

RETENTION AND DISPOSAL:

Paper records and electronic storage media are maintained and disposed of in accordance with the NARA records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary for Finance (047), VA Central Office, Washington, DC 20420.

NOTIFICATION PROCEDURE:

Individuals seeking information concerning the existence of a record pertaining to them must submit a written request to the VA station where the records are maintained. Such request must contain a reasonable description of the records requested. In addition, identification of the individual requesting the information will be required in the written request and will consist of the requester's name, signature, and address, as a minimum.

RECORD ACCESS PROCEDURE:

(See Notification procedure above.)

CONTESTING RECORD PROCEDURE:

(See Notification procedure above.)

RECORD SOURCE CATEGORIES:

Information received from individuals.

[FR Doc. 02-23405 Filed 9-13-02; 8:45 am]

BILLING CODE 8320-01-P

Corrections

Federal Register

Vol. 67, No. 179x

Monday, September 16, 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.

Friday, August 30, 2002, make the following corrections:

1. On page 56141, in the table, in the column "Deadline for transmittal of applications", in the first entry, "September 30, 2002" should read "October 29, 2002".

2. On the same page, in the same table, in the same column, in the second entry, "September 30, 2002" should read "October 29, 2002".

[FR Doc. C2-22278 Filed 9-13-02; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AF00

Schedule for Rating Disabilities; the Skin

Correction

In rule document 02-19331 beginning on page 49590 in the issue of Wednesday, July 31, 2002 make the following correction:

§4.118 [Corrected]

1. On page 49596, the Rate Schedule for 7802 is corrected to read as follows:

DEPARTMENT OF EDUCATION

[CFDA No.: 84.133B]

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers (RRTC) Program; Notice Inviting Applications for Fiscal Year (FY) 2003

Correction

In notice document 02-22278 beginning on page 56141 in the issue of

	Rating
7802 Scars, other than head, face, or neck, that are superficial and that do not cause limited motion: Area or areas of 144 square inches (929 sq. cm.) or greater	10
Note (1): Scars in widely separated areas, as on two or more extremities or on anterior and posterior surfaces of extremities or trunk, will be separately rated and combined in accordance with § 4.25 of this part.	
Note (2): A superficial scar is one not associated with underlying soft tissue damage.	

2. On the same page, the Rate Schedule for 7807, 7808 and 7809 is corrected to read as follows:

	Rating
7807 American (New World) leishmaniasis (mucocutaneous, espundia): Rate as disfigurement of the head, face, or neck (DC 7800), scars (DC's 7801, 7802, 7803, 7804, or 7805), or dermatitis (DC 7806), depending upon the predominant disability. Note: Evaluate non-cutaneous (visceral) leishmaniasis under DC 6301 (visceral leishmaniasis).	
7808 Old World leishmaniasis (cutaneous, Oriental sore): Rate as disfigurement of the head, face, or neck (DC 7800), scars (DC's, 7801, 7802, 7803, 7804, or 7805), or dermatitis (DC 7806), depending upon the predominant disability. Note: Evaluate non-cutaneous (visceral) leishmaniasis under DC 6301 (visceral leishmaniasis).	
7809 Discoid lupus erythematosus or subacute cutaneous lupus erythematosus: Rate as disfigurement of the head, face, or neck (DC 7800), scars (DC's 7801, 7802, 7803, 7804, or 7805), or dermatitis (DC 7806), depending upon the predominant disability. Do not combine with ratings under DC 6350.	

3. On page 49597, the Rate Schedule for 7811 is corrected to read as follows:

	Rating
7811 Tuberculosis luposa (lupus vulgaris), active or inactive: Rate under §§ 4.88c or 4.89, whichever is appropriate.	

4. On the same page, the Rate Schedule for 7813 is corrected to read as follows:

	Rating
7813 Dermatophytosis (ringworm: of body, tinea corporis; of head, tinea capitis; of feet, tinea pedis; of beard area, tinea barbae; of nails, tinea unguium; of inguinal area (jock itch), tinea cruris): Rate as disfigurement of the head, face, or neck (DC 7800), scars (DC's 7801, 7802, 7803, 7804, or 7805), or dermatitis (DC 7806), depending upon the predominant disability.	

5. On the same page, the Rate Schedule for 7818, 7819, and 7820 is corrected to read as follows:

	Rating
7818 Malignant skin neoplasms (other than malignant melanoma): Rate as disfigurement of the head, face, or neck (DC 7800), scars (DC's 7801, 7802, 7803, 7804, or 7805), or impairment of function. Note: If a skin malignancy requires therapy that is comparable to that used for systemic malignancies, i.e., systemic chemotherapy, X-ray therapy more extensive than to the skin, or surgery more extensive than wide local excision, a 100-percent evaluation will be assigned from the date of onset of treatment, and will continue, with a mandatory VA examination six months following the completion of such antineoplastic treatment, and any change in evaluation based upon that or any subsequent examination will be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, evaluation will then be made on residuals. If treatment is confined to the skin, the provisions for a 100-percent evaluation do not apply.	
7819 Benign skin neoplasms: Rate as disfigurement of the head, face, or neck (DC 7800), scars (DC's 7801, 7802, 7803, 7804, or 7805), or impairment of function.	
7820 Infections of the skin not listed elsewhere (including bacterial, fungal, viral, treponemal and parasitic diseases): Rate as disfigurement of the head, face, or neck (DC 7800), scars (DC's 7801, 7802, 7803, 7804, or 7805), or dermatitis (DC 7806), depending upon the predominant disability.	

6. On page 49599, the Rate Schedule for 7833 is corrected to read as follows:

	Rating
7833 Malignant melanoma: Rate as scars (DC's 7801, 7802, 7803, 7804, or 7805), disfigurement of the head, face, or neck (DC 7800), or impairment of function (under the appropriate body system). Note: If a skin malignancy requires therapy that is comparable to that used for systemic malignancies, i.e., systemic chemotherapy, X-ray therapy more extensive than to the skin, or surgery more extensive than wide local excision, a 100-percent evaluation will be assigned from the date of onset of treatment, and will continue, with a mandatory VA examination six months following the completion of such antineoplastic treatment, and any change in evaluation based upon that or any subsequent examination will be subject to the provisions of § 3.105(e). If there has been no local recurrence or metastasis, evaluation will then be made on residuals. If treatment is confined to the skin, the provisions for a 100-percent evaluation do not apply.	

[FR Doc. C2-19331 Filed 9-13-02; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

**Monday,
September 16, 2002**

Part II

Department of Commerce

**National Oceanic Atmospheric
Administration**

**50 CFR Part 679
Fisheries of the Exclusive Economic Zone
Off Alaska; Extend the Interim
Groundfish Observer Program Through
December 31, 2007, and Amend
Regulations for the North Pacific
Groundfish Observer Program; Proposed
Rule**

DEPARTMENT OF COMMERCE**National Oceanic Atmospheric Administration****50 CFR Part 679**

[Docket No. 020814193-2193-01; I.D. 070102C]

RIN 0648-AQ05

Fisheries of the Exclusive Economic Zone Off Alaska; Extend the Interim Groundfish Observer Program Through December 31, 2007, and Amend Regulations for the North Pacific Groundfish Observer Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to extend through 2007 the existing regulations for the interim North Pacific Groundfish Observer Program (Observer Program), which otherwise expires December 31, 2002. This proposed rule would also amend regulations governing the Observer Program. These changes would clarify and improve observer certification and decertification processes; change the duties and responsibilities of observers and observer providers to eliminate ambiguities and strengthen the regulations; and grant NMFS the authority to place NMFS staff and other qualified persons aboard vessels and at shoreside or floating stationary plants to increase NMFS' ability to interact effectively with observers, fishermen, and processing plant employees. These parts of the action are necessary to improve Observer Program support of the management objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs) for those industry sectors already subject to such requirements. The intended effect is better managed fishery resources that result in the effective conservation of marine resources and habitat.

DATES: Comments on this proposed rule must be received by October 11, 2002.

ADDRESSES: Comments should be sent to Sue Salvesson, Assistant Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 W 9th Street, Juneau, AK. Copies of the

Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this proposed action also may be obtained from the same address. Send comments on information collection requests to NMFS and to OMB, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Sue Salvesson, 907-586-7228.

SUPPLEMENTARY INFORMATION:**Background**

Groundfish fisheries in waters of the Gulf of Alaska (GOA) and Bering Sea Aleutian Islands management area (BSAI) are managed under quotas set annually for groundfish species and for several other species that the groundfish fishery is prohibited from retaining. Management programs have been implemented to allocate specified quotas among areas, seasons, gear types, processor and catcher vessel sectors, cooperatives, and individual fishermen. Annual quotas are based on stock assessments generated principally by NMFS and on recommendations from the North Pacific Fishery Management Council (Council). NMFS' Alaska Region is responsible for monitoring the progress of fisheries toward attainment of those quotas, and allocations thereof, and for closing the fisheries when quotas are reached. Stock assessments, quota monitoring, and management require collection of data from the fishery to account for all groundfish and prohibited species catch, including the portion of the catch that is discarded. North Pacific groundfish observers aboard vessels and at shoreside or floating stationary processors collect the data necessary for those purposes.

Observer requirements have been in place in Alaska since the mid-1970s, when the Magnuson Fishery Conservation and Management Act (later re-named the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)) was implemented and monitoring and phasing out foreign groundfish fisheries in the U.S. Exclusive Economic Zone (EEZ) was a priority. As these foreign fisheries ended by 1991, the Observer Program infrastructure was changed to provide observer coverage for domestic vessels and shoreside processing plants participating in these Alaskan groundfish fisheries. A domestic Observer Program was developed by the Secretary in consultation with the Council and implemented through Amendment 18 to the GOA FMP and

Amendment 13 to the BSAI FMP (54 FR 50386, December 6, 1989, and 55 FR 4839, February 12, 1990). The Observer Program established observer coverage requirements that have remained generally unchanged through 2002.

High quality observer data are a cornerstone of Alaska groundfish fisheries management. However, NMFS' ability to maintain data quality assurance is constrained by several features of the current program structure. Concerns exist with allowing fishing companies to negotiate directly with observer companies for observer services because this creates a potential conflict of interest and reduces NMFS management controls over the observer companies' performance. Incentives for industry to use this procurement system to its advantage increase as observers assume greater responsibilities for monitoring individual vessel performance. Observer providers are under pressure to provide observers who meet their clients' needs rather than to focus on data quality assurance. Competitive pressure to reduce coverage costs to the industry keeps observer salaries low, resulting in reduced observer availability. Instability in the fishing and observer provider industries has created situations in the past where observers were not paid for work performed. Such circumstances adversely influence data quality by undermining observer morale and increasing observer work force turnover.

NMFS has certified observer providers since 1990, but the current program structure prevents the agency from effectively monitoring provider operations to assess actual performance and to make necessary modifications. As a result, companies that may not meet Observer Program standards are allowed to continue business without significant risk of being decertified.

The Council directed NMFS to address these concerns through development of an alternate program structure requiring all fishery participants to pay a fee toward observer coverage. Under this program, known as the Research Plan, NMFS would collect the fee and contract directly with observer companies, removing the direct link between the fishing industry and the observer providers. The Research Plan and collection of such a fee is authorized under Section 313 of the Magnuson-Stevens Act. The Council adopted the Research Plan in 1992, and NMFS approved and implemented this program in 1994.

Industry concerns about the Research Plan arose during its development and subsequent implementation. These issues included: (1) Redistribution of

observer costs resulting from collection of fees based on a percentage of ex-vessel revenue; (2) no observer cost cap where additional observer coverage might be required in specified management programs; (3) limited coverage levels funded under the Research Plan that could constrain development of programs under consideration by the Council requiring increased observer coverage; and (4) increased costs of coverage due to contractual arrangements between NMFS and observer companies that would fall under the Service Contract Act (SCA).

After consideration of these concerns, the Council voted to repeal the Research Plan in December 1995 and to refund the fees collected from the 1995 fisheries. The Council requested NMFS to develop a new plan to address the data integrity issues the Research Plan was intended to address. Under the new concept endorsed by the Council, a Joint Partnership Agreement (JPA) was developed during 1997 with the Pacific States Marine Fisheries Commission (PSMFC). Fishing operations would continue to pay coverage costs, but payment would be made to PSMFC, which would subcontract with observer companies for services.

At its April 1996 meeting, the Council adopted an interim groundfish Observer Program, based on 1996 coverage requirements, that authorized mandatory groundfish observer coverage through 1997 in order to continue coverage requirements during the development of the JPA.

PSMFC identified an unresolvable legal issue that forestalled efforts to proceed with the JPA. It determined that the risk of a lawsuit through its role as a third party to observer procurement arrangements would be too high, and NMFS could not sufficiently indemnify PSMFC against legal challenge. With the demise of the JPA, the Council, the Council's Observer Advisory Committee (OAC), and NMFS continued to advocate pursuit of an appropriate program structure that would address the issues that the Research Plan and the JPA were to resolve. During the interim period, the Observer Program was extended in 1998 with an expiration date of December 31, 2000.

At its October 1999 meeting, the Council reconvened the OAC with a new chairman and membership. The Council charged the committee with reviewing the Observer Program in its entirety and developing appropriate alternatives to the current program to meet the needs and goals of the Council and NMFS, including those cited for the

development of the Research Plan and the proposed JPA with PSMFC.

In 2000, the interim Observer Program again was extended for two years with an expiration date of December 31, 2002. This action was approved with the expectation that a restructured program would be developed and implemented by that date. Although NMFS has been working with the OAC since March 2000 to develop an alternative program structure, little progress has been made, in large part due to limitations in existing statutory authority that would prohibit funding options other than those developed under the Research Plan. At its April 2002 meeting, the Council again adopted an extension of the interim Observer Program, as well as changes to the program to address several legal concerns, to clarify responsibilities of observers and observer providers and to authorize placement of NMFS staff aboard vessels or at shoreside or floating processors to support observer functions.

This proposed action would extend the current interim program through December 31, 2007, to allow additional time for the development and analysis of alternatives that would address numerous issues facing the Observer Program, including the concern about conflict of interest eroding the quality of data collected by observers. The Council intends that a preferred alternative to address those issues and concerns will be selected and implemented by January 1, 2008.

Further, this proposed action would improve regulations governing observer and observer provider responsibilities through modifications and additions to existing observer and observer provider duties and obligations. This action would further increase the ability of NMFS to interact effectively with observers, fishermen, and processing plant employees by granting NMFS authority to place NMFS staff and authorized individuals aboard groundfish and halibut vessels and at shoreside and stationary floating processors that require observer coverage.

The objective of the proposed management actions is to ensure that the Observer Program will continue to perform and improve its critical scientific, conservation, and management functions. As noted above, data provided by the Observer Program are, collectively, a critical element in the conservation and management of groundfish, other living marine resources, and their habitat. These data are used for assessing the status of groundfish stocks, setting and

monitoring groundfish quotas and allocations thereof, monitoring bycatch of non-groundfish species, assessing effects of the groundfish fishery on other living marine resources and their habitat, and assessing methods for improving the conservation and management of groundfish, of other living marine resources, and of their habitat. Additionally, management of the Western Alaska Community Development Quota (CDQ) program and American Fisheries Act (AFA) fisheries are structured to rely on observer data for individual vessel catch accounting. These data largely factor into the current level of confidence in the management of federally managed fisheries in Alaska. Accurate catch accounting results in prosecution of fisheries at harvest levels that better approach actual allocations without exceeding them, thereby maintaining resource management objectives and avoiding, to the extent practicable, losses of revenue from potential mis-allocations resulting from the underharvest of total allowable catch (TAC).

Because of the critical uses of observer data, extending the Observer Program beyond 2002 is essential. Improvements to the Observer Program are necessary to address both perceived and actual sources of data quality problems. In the absence of observer data or of some equivalent alternative source of fishery data, NMFS cannot fulfill its conservation and management obligations, as prescribed under the Magnuson-Stevens Act and other law.

Initial Permitting or Certification Determination. This proposed action seeks to establish through regulation an application format and/or procedure for both observers and observer providers and to create a mechanism for an official, or board of officials, appointed by the Regional Administrator, Alaska Region, NMFS (Regional Administrator), to review applications, determine who meets the certification or permitting criteria, and issue the appropriate license. This action will also establish a permit application or certification appeals process independent from the Observer Program.

Standards and criteria for issuance of certifications to observers or of permits to observer providers must be comprehensible and must describe clearly the certification/permitting procedures and requirements. This proposed action clearly establishes these requirements. If the applicant fails to meet the certification or permitting criteria, a decision to deny certification of an observer or an application for an observer provider permit must be issued in writing, including an explanation of

the reasoning used in deciding to deny a certification or permit. Notice must be given to the applicant that the decision may be appealed upon request.

The denial of an observer certification or observer provider permit application would be appealable. The Regional Administrator, Office of Administrative Appeals (OAA), would review denials for both observers and observer providers upon request. Each decision from the OAA would be referred to the Regional Administrator who would uphold or overturn the OAA and make the final agency determination. Any further appeal could be taken to the United States District Court. Processes for appeals are described below.

Duration of an Observer's Certification or an Observer Provider's Permit. The duration of a permit or certification is determined by the agency. Several factors may influence this, including the administrative burden for issuing those permit or certification licenses, the character of the work being performed by the licensee, and the duration of the program under which the permit or certification is issued. Currently, an observer's certification expires repeatedly over the course of his or her career. Observer provider certifications have been renewed by rulemaking in recent years. Detailed discussion of the duration of an observer's certification and an observer provider's permit is found below.

Clarity of Performance Standards. This proposed action seeks to clarify language of observer and observer provider performance standards, including responsibilities and prohibitions, which are detailed below.

Due Process in Permit or Certification Sanctions. Current regulations at § 679.50 establish an appeals process in cases of observer or observer-provider certification suspension or decertification. These processes are administered within the same offices of the Observer Program Office and Alaska Regional Office that make the initial determinations for suspension and decertification. This proposed action seeks to establish through regulation appropriate independent appeals processes for both observers and observer providers.

Administrative Record. Reviewers such as the OAA or a court must be able to ascertain both the facts and standards used by the Observer Program and the way it applied the standards to the facts of the individual case. While suspension or decertification records may be available to the public under the Freedom of Information Act (FOIA), subject to FOIA and Privacy Act

restrictions, the observer or observer provider who is directly affected by an agency action should be provided with all records relevant to the decision record unless exempted.

Permitting Procedures and Sanctions for North Pacific Groundfish Observer Providers. The proposed process for evaluation of observer provider applications and issuance of permits would be improved through clearer application requirements, defined evaluation criteria, an evidentiary period for submitting supplemental information, required written decisions by NMFS, and an administratively separate appeals process.

Permit vs. Certification for Observer Providers. This proposed action would change the nomenclature for observer provider licensing that will result in the providers being "permitted", rather than "certified" to provide observer services to industry. Just as commercial fishing is authorized by a permit, observer providers would receive a permit from the agency, clarifying the role of observer providers in the structure of NMFS fishery regulations. Whereas a certification grants permission to the holder to perform tasks with some minimum required training, a permit is more business-oriented, granting permission to perform activities that do not require training by the agency.

Permit Application Requirements. Under the proposed action, new persons wishing to provide observer services in Alaska groundfish fisheries would be required to apply for a permit that authorizes this activity. Applications may be submitted at any time.

Observer providers previously certified by NMFS to provide observers and who actively deployed observers in Alaska groundfish fisheries in 2002 would be considered to be qualified for these permits in 2003 by their demonstrated performance and their existing documentation on file. Such providers would not be required to submit a new application, and the owner(s) would be issued a permit based on their existing record. These observer providers would continue to be accountable for any violations of regulations that occurred while they were functioning as NMFS-certified observer providers prior to January 1, 2003. Upon issuance of a new observer provider permit, these observer provider permit holders would be held accountable to all applicable regulations promulgated by NMFS while participating in the Observer Program. Former program participants, who were NMFS-certified providers, would be held accountable to only those

regulations in force at the time of their participation in the program.

Because accurate identification of the business' ownership would be required for issuance of the permit, each existing NMFS-certified provider would be required to correct or update any changes to ownership, management, and/or contact information within 30 days of receiving a permit under § 679.50(i)(1)(ii)(A) of the proposed rule. Subsequent changes or expansions in ownership of an observer provider would require the original owner to submit a new application prior to the effective date of the new ownership arrangement.

A new applicant for an observer provider permit would be required to submit a narrative application that contains information necessary for NMFS to evaluate the applicant to determine if he or she is qualified to be an observer provider. Observer providers contribute an important service to NMFS by recruiting, hiring, and deploying high-quality individuals to serve as observers. NMFS must ensure that observer providers meet minimum requirements so that this important service is consistently maintained. NMFS would permit all applicants who: (1) demonstrate that they understand the scope of the regulations they will be held to; (2) document how they will comply with those regulations; (3) demonstrate that they have the business infrastructure necessary to carry out the job; (4) are free from conflict of interest; (5) do not have past performance problems on a Federal contract or any history of decertification as either an observer or observer provider; and (6) are free from criminal convictions for certain serious offenses that could reflect on their ability to carry out the role of an observer provider.

Each application for an observer provider permit must contain several elements. These elements and an explanation of need are as follows:

(A) Identification of the management, organizational structure, and ownership structure of the applicant's business, including identification by name and general function of all controlling management interests in the company, including but not limited to owners, board members, officers, authorized agents, and staff. If the applicant is a corporation, the articles of incorporation must be provided. If the applicant is a partnership, the partnership agreement must be provided.

This information is necessary to clearly identify the permit recipient, organization management, and appropriate contacts for particular

issues. Occasionally, operational and compliance problems arise with observer providers, and NMFS attempts to solve these problems at an early stage by contacting appropriate parties in the observer provider's organization. Organizational and management information helps NMFS minimize compliance problems with observer providers. When a business is based outside the United States, an authorized agent must be identified for the observer provider. An authorized agent means a person appointed and maintained within the United States who is authorized to receive and respond to any legal process issued in the United States to an owner or employee of an observer provider.

(B) Contact information for the owner, authorized agent, and company information. This information includes mailing addresses, physical location of the company, telephone and fax numbers, and business e-mail address for each office and authorized agent.

This information enables NMFS to communicate with the owner(s) for official correspondence as well as with contact persons for day-to-day operations at each of the applicant's locations.

In addition, an applicant with ownership based outside of the United States would be required to identify an authorized agent and provide contact information for that agent, including mailing address, and phone and fax numbers where the agent can be contacted for official correspondence.

(C) A signed acknowledgment, under penalty of perjury, from each owner, or owners, board members and officers, of a corporation, certifying that they are free from a conflict of interest as defined in 50 CFR 679.50(i)(3).

This acknowledgment will help ensure that NMFS provides permits only to applicants who are free from a conflict of interest and will ensure that the applicants are aware of this provision of the regulations. NMFS would provide an acknowledgment template form, which applicants could use to satisfy this part of the application.

(D) A statement signed under penalty of perjury from each owner, or owners, board members and officers of a corporation, describing any criminal convictions, performance ratings on any Federal contracts held by the observer provider, and any previous decertification while working as an observer or observer provider.

These declarations will help ensure that NMFS provides permits only to applicants who do not have a record of poor performance or certain criminal

behavior. Although NMFS would not perform background checks unless compelling reasons dictated, screening such declarations will assist NMFS in permitting applicants who will help promote honesty and integrity in the Observer Program.

(E) A description of any prior experience the applicant may have in placing individuals in remote field and/or marine work environments. This includes, but is not limited to recruiting, hiring, deployment, and personnel administration.

This background information would aid NMFS in determining how much assistance the provider would require to remain in compliance with the regulations. For example, one recent applicant had previous experience providing observers to Canada, but not to the United States, and NMFS worked with the applicant to ensure that it understood U.S. fisheries management processes and its obligations and responsibilities as an observer provider under NMFS regulations.

(F) A description of the applicant's ability to carry out the responsibilities and duties of an observer provider, and the arrangements to be used to achieve such responsibilities and duties.

This information would demonstrate the applicant's understanding of the regulations and the applicant's ability to comply with these regulations. NMFS views this information as a critical part of the application because each observer provider's compliance with regulatory responsibilities is important for the overall program to be successful. Specific explanations of how the applicant intends to comply with each component of the regulations would be required for a complete application.

The importance of elements contained in paragraphs A and B necessitates that NMFS add a new responsibility for the observer providers. This new responsibility would require observer providers to notify and update NMFS through the Observer Program Office within 30 days when any of the required elements listed in § 679.50(i)(1)(ii)(A) and (B) of the proposed rule change. This requirement will help facilitate the communication between NMFS and observer providers, which is necessary to ensure that NMFS and observer providers continue to work well together.

Observer Provider Permit Application Evaluation. The Regional Administrator would appoint members from NMFS' staff to a review board that would evaluate applications for an observer provider permit. The board would evaluate each application to determine whether it is complete and whether

established criteria are met (see below) and could seek further clarification from the applicant if necessary. Once the board's review is complete, it would make a determination on the application.

The criteria that would be used to evaluate an application and an explanation of why each criterion is needed are:

(1) Absence of conflict of interest. Observer providers cannot have a conflict of interest as defined under § 679.50(i)(3) of the proposed rule. This provision is included as an evaluation criterion to ensure a permit is not granted to someone who would be in violation of NMFS' regulations. More importantly, this criterion and the conflict of interest regulations helps promote and preserve the integrity of the Observer Program.

(2) Absence of criminal convictions related to embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements or receiving stolen property; or the commission of any other offense indicating a lack of business integrity or business honesty that would seriously and directly affect the fitness of an applicant in providing observer services under this section. This evaluation criterion would help eliminate applicants who have a record of criminal behavior, which could raise questions about the integrity of the observer providers.

(3) Performance ratings on a Federal contract. This evaluation criterion would help eliminate applicants with a history of past performance problems as a Federal contractor. NMFS believes that a past performance problem on a Federal contract should be a consideration in determining whether to grant an observer provider permit because of the further risk of failure as an observer provider. Observer provider failures are disruptive to the industry and to NMFS' groundfish management and are catastrophic to the individual observers employed by that provider. NMFS seeks to minimize that risk.

(4) Absence of any history of decertification as either an observer or observer provider. NMFS believes that a previous decertification as an observer or observer provider should exclude an applicant from consideration because of the further risk of failure. Historically, only one NMFS-certified provider has been decertified, and this provision ensures that the persons involved would not seek to become permitted under this new system.

The review board would make an initial administrative determination to approve the application or provide

written notice of an evidentiary period for the applicant to provide additional information or evidence to support the application. If the review board approves the application, NMFS would issue an observer provider permit to the applicant. The applicant would then be authorized to provide observers to industry and would also be subject to the regulations governing observer providers.

If the review board provides an applicant with written notice of an evidentiary period to provide further information, it would be due to the application being deficient in some manner. The written notice would identify where the application is deficient and provide the applicant with a 60-day period to provide additional information to correct the deficiency. After that 60-day period, the review board would review any additional material provided and issue an Initial Administrative Determination (IAD) that would either approve or deny the application.

An applicant for an observer provider permit who is issued an IAD denying the application may appeal the determination to the OAA. Under existing regulations at § 679.43, the OAA would review the appeal and make an independent judgement. There is no right to administrative appeal for the OAA decision. However, the Regional Administrator, on his or her own initiative, may overturn the OAA decision; in this case, the Regional Administrator's decision would become final agency action. This Regional Administrator discretion would be required to be exercised within 30 days. If the Regional Administrator did not act to overturn the OAA decision within 30 days, the OAA decision would become the final agency action. Final agency actions can be further appealed to the U.S. District Court. As part of the proposed changes to this appeals process, regulations at § 679.43 would also be amended to provide for the establishment of an Address of Record for the observer provider applicant who wishes to appeal an adverse IAD.

Observer Provider Permit Duration. A permit issued to an observer provider would remain effective through December 31, 2007, unless: (1) a new owner of the observer provider company requires that a new permit application process be initiated under § 679.50(i)(1)(vi) of the proposed rule; (2) the permitted provider ceases to deploy observers to groundfish fisheries in the North Pacific during a period of 12 continuous months under § 679.50(i)(1)(vii) of the proposed rule; or (3) the permit issued to an observer

provider is suspended or revoked under § 679.50(i)(1)(viii) of the proposed rule.

If a permit lapses after a period of 12 months of inactivity as described above, NMFS would issue an IAD to the permit holder stating that NMFS records indicate that the permit had lapsed and that the permit holder has the opportunity to appeal the determination. The IAD would also detail the appeals process available to the permit holder. Permit holders who appealed this IAD would be issued an interim permit so they could operate while their appeal was reviewed.

Observer Provider Sanctions. Current regulations at § 679.50(j) set forth the procedures for suspension and decertification of certified observer providers. These procedures currently are administered by the Alaska Regional Office in consultation with the Observer Program Office. Authority to hear appeals from such decisions also resides with the Regional Administrator. However, potential violations of performance standards by an observer provider are investigated by NMFS Enforcement and referred to General Counsel for Enforcement, Alaska Region (GCEL/AK). GCEL/AK may initiate civil prosecution proceedings and a Notice of Violation and Assessment (NOVA) may be issued to the provider. The NOVA advises the provider of the alleged violation and the monetary amount of the assessment. The NOVA also describes the appeals process, which is presided over by an Administrative Law Judge (ALJ).

The Observer Program Office currently refers potential regulatory violations regarding observer providers, including those serious enough to warrant suspension or revocation of the provider's permit, to NMFS Enforcement for investigation. NMFS Enforcement develops the facts for a potential prosecutorial action and forwards the case to GCEL/AK, who makes prosecutorial decisions in consultation with the Observer Program Office. GCEL/AK issues NOVAs or Notices of Permit Sanctions (NOPS), depending on the severity of the violation, and its determination that a provider's permit to provide observers to the North Pacific groundfish industry should be suspended or revoked. The primary change in this action regarding observer provider permit sanctions is that permit revocation or suspension would be implemented through this enforcement process rather than through a separate administrative process conducted by the Observer Program Office and the Alaska Regional Office. Exclusive use of the agency's enforcement process for permit

sanctions would enhance the agency's ability to obtain compliance with its regulations and create a consistent permit suspension and revocation process.

The NOVA and NOPS procedures are established at 15 CFR part 904. The agency proposes to remove all the observer provider suspension and decertification procedure regulations at § 679.50, to the extent they are replaced by 15 CFR part 904. The Observer Program/Alaska Regional Office would not maintain its own process for suspension or revocation of an observer provider permit. Accordingly, the agency would not need a designated official for these actions. Under 15 CFR part 904, appeals of enforcement actions are heard through an ALJ system. The ALJ is an entity independent from NOAA and the observer provider. The ALJ's decision is appealable to the U.S. District Court.

Certification Requirements and Procedures for North Pacific Groundfish Observers. Individuals wishing to be certified as North Pacific Groundfish Observers currently are required by regulation to complete an observer training course and to meet other requirements established by the Observer Program Office. Such certification allows them to be deployed through private observer provider companies to vessels and plants in Alaska that harvest or process groundfish and require observer coverage. NMFS provides certification training throughout the calendar year, depending on the availability of observer training sessions and training needs.

Observers who completed sampling activities between June 30, 2001, and December 31, 2002, and have not since been decertified or had their certification suspended would be considered to have met certification requirements. NMFS would issue each of these observers a new certification and certification training endorsement prior to their first deployment after December 31, 2002. Under the proposed regulations these observers would be required to obtain subsequently the appropriate endorsements (described below) to their certification prior to each subsequent deployment. These observers would be subject to any enforcement actions for violations that occurred prior to January 1, 2003, as well as to all regulations governing observers beginning January 1, 2003.

Certification Process. The proposed changes to regulations reorganize some current observer certification procedures and add some additional requirements. The Observer Program

would continue to require that new candidates for observer certification meet standards developed to ensure that individuals will be able to complete their duties and responsibilities and work safely in the marine environment. Under the proposed action, NMFS would certify individuals who: (1) meet any educational or other requirements for registration in an observer certification training class; (2) successfully complete the NMFS-approved observer training class; and (3) meet all pre-deployment requirements established by the Observer Program.

Substantiating information for certification, with one exception, would be required to be submitted to NMFS by the observer provider at least 5 working days prior to the beginning of a scheduled observer training. If the required observer information is not submitted within 5 working days prior to the beginning of a scheduled training session, the observer provider could still register a candidate for a subsequent training session, provided all relevant materials are submitted in a timely manner for that training session. The exception to the above submission deadline is that the required, signed statement from a licensed physician asserting that the observer candidate is in proper health and physical condition for the job must be submitted prior to certification. While individuals whose certification has expired previously can be re-certified by successfully completing specified requirements, an individual who has previously been decertified cannot obtain a new observer certification.

The determination to either certify or deny certification would be made by a certification official within the Observer Program, appointed by the Regional Administrator. The certification official would be familiar with the content of the training sessions. As is current practice, certification would be issued when the candidate has demonstrated his or her abilities and has met all certification requirements.

If a candidate fails training, he or she would be notified in writing on or before the last day of training. Such notification would indicate the reasons the candidate failed the training and whether the candidate would be allowed to retake the training. If the candidate is allowed to retake the training, the conditions for re-training would be specified in the notice. If a determination is made that the candidate may not pursue further training, notification will be in the form of an IAD denying certification. Observer providers would continue to be kept informed of developing issues

that might cause denial of a certification, so they can better plan to meet their clients' needs.

Candidates' appeals from an IAD to deny certification would be made to the OAA rather than to the Observer Program Office, as is the current practice. Regulations at § 679.43 would be amended to provide for the establishment of an Address of Record for the observer or observer candidate who wishes to appeal an adverse IAD. A candidate who appeals the IAD and prevails would not receive certification until after the final resolution of that appeal. If unsuccessful, the candidate could further appeal to the U.S. District Court.

Endorsements. Basic observer certification currently expires after each deployment, and additional training and briefing requirements exist to "re-certify" observers and ensure that they are prepared for each deployment. Additionally, observers are required to obtain an additional certification to qualify as observers in AFA and CDQ fisheries. These additional certifications are maintained by an observer's successful achievement of specified deployment standards. An observer's performance is evaluated by NMFS after each deployment.

The proposed action would replace the current system of pre-deployment certification with a system of certification endorsements. Under the proposed rule, observers would receive a certification that would expire with the expiration of the proposed interim Observer Program on December 31, 2007. To ensure that observers are properly prepared for each assignment, the following series of endorsements to the certification would be required to deploy as an observer:

(1) Certification training endorsement. A certification training endorsement would signify the successful completion of the training course required to obtain observer certification. This endorsement would be granted with the initial issuance of an observer certification and would be required for any deployment as an observer in the Bering Sea and Aleutian Islands groundfish fisheries or in the Gulf of Alaska groundfish fisheries. This endorsement would expire when the observer has not been deployed and performed sampling duties as required by the Observer Program for a period of time, specified by the Observer Program Office, after his or her most recent debriefing. An observer may renew this endorsement by successfully completing the certification training course once more.

(2) Annual general endorsements. Each observer would be required to

obtain an annual general endorsement to his or her certification prior to his or her first deployment within any calendar year subsequent to a year in which a certification training endorsement is obtained. To obtain an annual general endorsement, an observer would be required to successfully complete the annual briefing requirements specified in writing by the Observer Program Office.

(3) Deployment endorsements. Each observer who has completed an initial deployment after certification or an annual briefing would be required to receive a deployment endorsement to his or her certification prior to any subsequent deployments that year. An observer would be able to obtain a deployment endorsement by successfully completing all pre-cruise briefing requirements, including, but not limited to, all briefing attendance requirements, and by maintaining all performance and conduct standards. These requirements would be specified in writing by the Observer Program Office during the observer's most recent debriefing.

(4) Level 2 endorsements. Observers wishing to deploy aboard vessels participating in CDQ fisheries and in AFA fisheries as "lead" observers currently are required to meet specific levels of observer experience and to successfully complete additional training to obtain a "CDQ" certification. Under this proposed action, these requirements would not change, with one nomenclature exception. The term "CDQ certification" would be changed to "Level 2 endorsement" on the observer's basic certification. This change reflects the similarities in the additional level of experience and training required to monitor the CDQ and AFA fisheries. The term "Level 2" is both more generic in terms of applicability to various fisheries management programs, specifically denoting an observer with a higher level of experience and training. The certification would be changed to an endorsement for the reasons stated above. Similar changes for "Level 2" "lead" observer certifications would be made.

One minor change to criteria for obtaining the Level 2 endorsement is that an observer would be required to receive an evaluation rating that the observer has met NMFS' deployment expectations for his or her most recent deployment. Current regulations require a deployment rating of "1" or "2" (meets or exceeds NMFS' deployment expectations), but the Observer Program has changed its deployment rating system. This action would require that

an observer receive an evaluation by NMFS that indicated that the observer's performance met Observer Program expectations for that deployment.

Observer Sanctions. Observer suspension and decertification proceedings currently occur entirely within the Observer Program, including both initial determinations on sanctions and appeals of those determinations. Only criminal proceedings against observers under 15 CFR part 904 occur outside the Observer Program, with NMFS Enforcement, U.S. Department of Justice and NOAA General Counsel conducting those efforts. NMFS proposes to maintain initial observer suspension and decertification determinations within the purview of the Observer Program but would move appeals of these determinations to the OAA to provide more assurance of objectivity in final decision making. The Observer Program would continue to address less serious observer misconduct or poor performance issues through policies and procedures that currently are in practice. These written policies are available to observers during certification training and subsequently from the Observer Program Office upon request.

Under the proposed action, the Regional Administrator would appoint an observer suspension/decertification officer or officers to review cases referred by Observer Program staff for suspension or decertification, or both, and to issue a written notice to the observer if NMFS intends to proceed with the action. If the action is pursued, this notice would detail the reasons for and the terms of the action. The notice would also indicate to the observer his

or her right to appeal the decision and the procedure for filing such an appeal. The observer would have an opportunity to present documentation that would show mitigating circumstances or refute the evidence before the official. Under this procedure, the Observer Program Office would create a written record, but would not hold hearings. If the observer does not contest the proposal to decertify or suspend the certificate, the Observer Program's initial decision would become final.

If the observer wanted to appeal an adverse initial determination by the Observer Program and the suspension decertification officer(s), the decision would be referred to the OAA. The OAA would provide a hearing officer who has special training in reviewing administrative records. Additionally, the OAA could preside over fact-finding hearings, hear testimony or review evidence and issue written decisions with determinations of factual issues and application of the regulations. The OAA's determination would be referred to the Regional Administrator, who can uphold or overturn the OAA's decision in making the final agency determination.

The OAA system would provide an efficient mechanism for decisions on observer appeals, suited to observers' needs for a straight-forward procedure and for pursuing appeals and resolution. Rather than resulting in monetary fines, these cases result in administrative sanctions, which the OAA is appropriately prepared to address.

The agency would continue to refer to NMFS' Alaska Enforcement Division (AED) certain cases for investigation

that may involve serious observer misconduct, such as the exceptional cases where observers should be prosecuted for criminal offenses or receive monetary sanctions for egregious violations of the regulations. These would be instances of fraud, assault, or other more serious violations. Prosecution of these cases would continue to be handled by NOAA/ GCEL/AK, with appeals directed to ALJs. Successful prosecution of these cases would result in penal sanctions. Penal sanctions are those penalties that result from criminal prosecution or from civil prosecution that result in monetary fines. Predictably, given past experience, these would be very rare actions. Only one such observer case has been referred to GCEL/AK.

Observer and Observer Provider Responsibilities. Several existing regulations at § 679.50(i) and (j) that specify observer and observer provider responsibilities would be modified to clarify NMFS' intent and to eliminate ambiguities. Four new responsibilities, described below, are proposed to better address observer and observer provider performance issues of particular concern. Provisions in the proposed action that would increase NMFS' management controls over observer providers and observers would be expected to maintain or increase the quality of the data provided by the Observer Program.

Modifications to existing responsibilities. Tables 1 and 2 contain side by side comparisons of existing regulatory text for observer and observer provider responsibilities with proposed modified regulatory text.

TABLE 1.—COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER RESPONSIBILITIES

Current citation for 50 CFR 679.50	Existing regulatory text	Proposed citation for 50 CFR 679.50	Proposed modified regulatory text
(h)(2)(ii)(A)	Observers must diligently perform their assigned duties	(j)(2)(ii) (A)	Observers must perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office.

TABLE 1.—COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER RESPONSIBILITIES—
Continued

Current citation for 50 CFR 679.50	Existing regulatory text	Proposed citation for 50 CFR 679.50	Proposed modified regulatory text
(h)(2)(ii)(D)	Observers must refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the Observer Program as a whole. This includes, but is not limited to: (1) Engaging in excessive drinking of alcoholic beverages(2) Engaging in the use or distribution of illegal drugs; or (3) Becoming physically or emotionally involved with vessel or processing facility personnel.	(j)(2)(ii)(D)	Observers must refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the Observer Program as a whole. This includes, but is not limited to: (1) Violating the observer drug and alcohol policy established by the Observer Program; (2) Engaging in the use, possession, or distribution of illegal drugs; (3) Engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or nonperformance of the observer's official duties.

TABLE 2. COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER PROVIDER RESPONSIBILITIES.

Current 50 CFR 679.50	Existing Regulatory Text	Proposed citation for 50 CFR 679.50	Proposed Modified Regulatory Text
(i)(2)(i)	Recruiting, evaluating, and hiring qualified candidates to serve as observers, including minorities and women.	(i)(2)(i) (A) and (B)	Observer providers must provide qualified candidates to serve as observers. (A) To be qualified, a candidate must have: (1) a Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences; (2) have successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course; (3) have successfully completed at least one undergraduate course each in math and statistics with a minimum of 5 semester hours total for both; and (4) computer skills that enable the candidate to work competently with standard database software and computer hardware. (B) Prior to hiring an observer candidate, the observer provider must: (1) provide to the candidate copies of NMFS-provided pamphlets describing observer duties; and (2) provide to the candidate a copy of the Observer Program's drug and alcohol policy. Observer job pamphlets and the drug and alcohol policy are available from the Observer Program Office at the address listed in paragraph (e)(3) of this section.

TABLE 2. COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER PROVIDER RESPONSIBILITIES.—Continued

Current 50 CFR 679.50	Existing Regulatory Text	Proposed citation for 50 CFR 679.50	Proposed Modified Regulatory Text
(i)(2)(viii)	In cooperation with vessel or processing facility owners, ensuring that all observers' in-season catch messages and other required transmissions between observers and NMFS are delivered to NMFS within a time specified by the Regional Administrator.	(i)(2)(i)(C)	<p>A written contract must exist between the observer provider and each observer employed by the observer provider. The contract must be signed by the observer and observer provider prior to the observer's deployment and must contain the following provisions for continued employment:</p> <ul style="list-style-type: none"> (1) that the observer comply with the Observer Program's drug and alcohol policy; (2) that all the observer's in-season catch messages between the observer and NMFS are delivered to the Observer Program Office at least every 7 days, unless otherwise specified by the Observer Program; and (3) that the observer completes in-person mid-deployment data reviews, unless: <ul style="list-style-type: none"> (i) the observer is specifically exempted by the Observer Program, or (ii) the observer does not at any time during his or her deployment travel through a location where Observer Program staff are available for an in-person data review. The written contract must further require that the observer complete a phone or fax mid-deployment data review as described in the Observer Manual.
(i)(2)(ix)	Ensuring that observers complete mid-deployment data reviews when required.	(i)(2)(C)	<p>A written contract must exist between the observer provider and each observer employed by the observer provider. The contract must be signed by the observer and observer provider prior to the observer's deployment and must contain the following provisions for continued employment:</p> <ul style="list-style-type: none"> (1) that the observer comply with the Observer Program's drug and alcohol policy; (2) that all the observer's in-season catch messages between the observer and NMFS are delivered to the Observer Program Office at least every 7 days, unless otherwise specified by the Observer Program; and (3) that the observer completes in-person mid-deployment data reviews, unless: <ul style="list-style-type: none"> (i) the observer is specifically exempted by the Observer Program, or (ii) the observer does not at any time during his or her deployment travel through a location where Observer Program staff are available for an in-person data review. The written contract must further require that the observer complete a phone or fax mid-deployment data review as described in the Observer Manual.

TABLE 2. COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER PROVIDER RESPONSIBILITIES.—Continued

Current 50 CFR 679.50	Existing Regulatory Text	Proposed citation for 50 CFR 679.50	Proposed Modified Regulatory Text
(i)(2)(x)	Ensuring that observers complete debriefing as soon as possible after the completion of their deployment and at locations specified by the Regional Administrator.	(i)(2)(ii)	An observer provider must ensure that observers employed by it do the following in a complete and timely manner: (A) once an observer is scheduled for a final deployment debriefing under paragraph (i)(2)(ix)(E), submit to NMFS all data, reports required by the Observer Manual, and biological samples from the observer's deployment by the completion of the electronic vessel and/or processor survey(s); (B) complete NMFS electronic vessel and/or processor surveys before performing other jobs or duties which are not part of NMFS groundfish observer requirements; (C) report for his or her scheduled debriefing, and that the observer completes all debriefing responsibilities; and (D) return all sampling and safety gear to the Observer Program Office.
(i)(2)(xi)	Ensuring all data, reports, and biological samples from observer deployments are complete and submitted to NMFS by the time of completion of the debriefing survey.	(i)(2)(ii)	An observer provider must ensure that observers employed by it do the following in a complete and timely manner: (A) once an observer is scheduled for a final deployment debriefing under paragraph (i)(2)(ix)(E), submit to NMFS all data, reports required by the Observer Manual, and biological samples from the observer's deployment by the completion of the electronic vessel and/or processor survey(s); (B) complete NMFS electronic vessel and/or processor surveys before performing other jobs or duties which are not part of NMFS groundfish observer requirements; (C) report for his or her scheduled debriefing, and that the observer completes all debriefing responsibilities; and (D) return all sampling and safety gear to the Observer Program Office.
(i)(2)(ii)	Ensuring that only observers provide observer services.	(i)(2)(iii)	An observer provider must assign to vessels or shoreside or floating processors only observers: (A) with valid North Pacific groundfish observer certifications and endorsements to provide observer services; (B) who have informed the provider at the time of embarkation that he or she is not experiencing any new physical ailments or injury since submission of the physician's statement as required in paragraph (i)(2)(ix)(C) of this section that would prevent him or her from performing his or her assigned duties; and (C) who have successfully completed all NMFS required training and briefing before deployment.
(i)(2)(iii)	Providing observers as requested by vessels and processors to fulfill vessel and processor requirements for observer coverage.	(1)(2)(iv)	An observer provider must provide an observer for deployment as requested by vessels and processors to fulfill vessel and processor requirements for observer coverage under sections (c) and (d) of this section. An alternate observer must be supplied in each case where injury or illness prevents the observer from performing his or her duties or where the observer resigns prior to completion of his or her duties.

TABLE 2. COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER PROVIDER RESPONSIBILITIES.—Continued

Current 50 CFR 679.50	Existing Regulatory Text	Proposed citation for 50 CFR 679.50	Proposed Modified Regulatory Text
(i)(2)(vi)	Supplying alternate observers or prospective observers if one or more observers are not approved by NMFS, fail to successfully complete observer training or briefing, are injured and must be replaced, or resign prior to completion of duties.	(1)(2)(v)	An observer provider must provide an observer for deployment as requested by vessels and processors to fulfill vessel and processor requirements for observer coverage under sections (c) and (d) of this section. An alternate observer must be supplied in each case where injury or illness prevents the observer from performing his or her duties or where the observer resigns prior to completion of his or her duties.
(i)(2)(iv)	Providing observers' salary, and any other benefits and personnel services in a timely manner.	(i)(2)(v)	An observer provider must provide to its observer employees salaries and any other benefits and personnel services in accordance with the terms of each observer's contract.
(i)(2)(v)(A)	Observers must not be deployed on the same vessel or at the same shoreside processor or stationary floating processor for more than 90 days in a 12-month period.	(i)(2)(vii)	Unless alternative arrangements are approved by the Observer Program Office, an observer provider must not: (A) deploy an observer on the same vessel or at the same shoreside or stationary floating processor for more than 90 days in a 12-month period; (B) deploy an observer for more than 90 days; (C) include in a single deployment of an observer assignments to more than four vessels, including groundfish and all other vessels, and/or shoreside processors; and (D) move an observer from a vessel or floating or shoreside processor before that observer has completed his or her sampling or data transmission duties.
(i)(2)(v)(B)	A deployment cannot exceed 90 days.	(i)(2)(vii)	Unless alternative arrangements are approved by the Observer Program Office, an observer provider must not: (A) deploy an observer on the same vessel or at the same shoreside or stationary floating processor for more than 90 days in a 12-month period; (B) deploy an observer for more than 90 days; (C) include in a single deployment of an observer assignments to more than four vessels, including groundfish and all other vessels, and/or shoreside processors; and (D) move an observer from a vessel or floating or shoreside processor before that observer has completed his or her sampling or data transmission duties.

TABLE 2. COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER PROVIDER RESPONSIBILITIES.—Continued

Current 50 CFR 679.50	Existing Regulatory Text	Proposed citation for 50 CFR 679.50	Proposed Modified Regulatory Text
(i)(2)(v)(C).	A deployment cannot include assignments to more than four vessels, shoreside, and/or floating stationary processors.	(i)(2)(vii)	Unless alternative arrangements are approved by the Observer Program Office, an observer provider must not: (A) deploy an observer on the same vessel or at the same shoreside or stationary floating processor for more than 90 days in a 12-month period; (B) deploy an observer for more than 90 days; (C) include in a single deployment of an observer assignments to more than four vessels, including groundfish and all other vessels, and/or shoreside processors; and (D) move an observer from a vessel or floating or shoreside processor before that observer has completed his or her sampling or data transmission duties.
(i)(2)(xiii)	Monitoring observers' performance to ensure satisfactory execution of duties by observers and conformance with NMFS' standards of observer conduct.		Deleted. This regulation was deleted because it was replaced with more specific observer provider responsibilities for oversight of particular observer activities and responsibilities.
(i)(2)(vii)	Maintaining communications with observers at sea and shoreside facilities. Each observer contractor must have an employee responsible for observer activities on call 24 hours a day to handle emergencies involving observer logistics, whenever observers are at sea, stationed at shoreside facilities, in transit, or in port awaiting boarding.	(i)(2)(ix)	An observer provider must have an employee responsible for observer activities on call 24 hours a day to handle emergencies involving observers or problems concerning observer logistics, whenever observers are at sea, stationed at shoreside or floating processor facilities, in transit, or in port awaiting vessel or processor reassignment.
(i)(2)(xiv)	Providing [the following] information to the Observer Program Office by electronic transmission (e-mail), fax, or other method specified by NMFS.	(i)(2)(x)	An observer provider must provide all of the following information to the Observer Program Office by electronic transmission (e-mail), fax, or other method specified by NMFS.
(i)(2)(xiv)(A)	Observer training registration consisting of a list of individuals to be hired upon approval by NMFS and a copy of each person's academic transcripts, resume, and a completed application to the observer provider company for observer employment. The list must include the person's name and sex. The person's social security number is requested. Observer briefing registration consisting of a list of the observer's name, requested briefing class, date of class, and briefing location. If the Observer Program Office has excused an observer from attending a briefing, the briefing registration must also include the names of observers excused from briefing, the date the observer was excused and the name of the staff person granting the excuse. This information must be submitted to the Observer Program Office at least 5 working days prior to the beginning of a scheduled observer certification training or briefing session.	(i)(2)(x)(A)	Observer training and briefing. Observer training and briefing registration materials. This information must be submitted to the Observer Program Office at least 5 working days prior to the beginning of a scheduled observer certification training or briefing session. Registration materials consist of the following: (1) Observer training registration. (i) date of requested training; (ii) a list of observer candidates by NMFS. The list must include each candidate's full name (i.e., first, middle and last names), date of birth, and sex; (iii) a copy of each candidate's academic transcripts and resume; and (iv) a statement signed by the candidate under penalty of perjury which discloses the candidate's criminal convictions. (2) Observer briefing registration. (i) date and type of requested briefing session and briefing location; (ii) list of observers to attend the briefing session. Each observer's full name (first, middle, and last names) must be included.

TABLE 2. COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER PROVIDER RESPONSIBILITIES.—Continued

Current 50 CFR 679.50	Existing Regulatory Text	Proposed citation for 50 CFR 679.50	Proposed Modified Regulatory Text
(i)(2)(xiv)(B)	Projected observer assignments that include the observer's name; vessel, shoreside processor, or stationary floating processor assignment, type, and code; port of embarkation; target species; and area of fishing. This information must be submitted to the Observer Program Office prior to the completion of the training or briefing session.	(i)(2)(x)(B)	Projected observer assignments. Prior to the observer or observer candidate's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that include the observer's name; vessel, shoreside processor, or stationary floating processor assignment, gear type, and vessel/processor code; port of embarkation; target species; and area of fishing.
(xiv) (F)	Notification that, based upon a physical examination during the 12 months prior to an observer's deployment, an examining physician has certified that an observer does not have any health problems or conditions that would jeopardize the observer's safety or the safety of others while deployed, or prevent the observer from performing his or her duties satisfactorily, and that prior to examination, the certifying physician was made aware of the dangerous, remote, and rigorous nature of the work. This information, including the date of the physical examination, must be submitted prior to the completion of the training or briefing session.	(i)(2)(x)(C)	Physical examination. A signed and dated statement from a licensed physician that he or she has physically examined an observer or observer candidate. The statement must confirm that, based on that physical examination, the observer or observer candidate does not have any health problems or conditions that would jeopardize that individual's safety or the safety of others while deployed, or prevent the observer or observer candidate from performing his or her duties satisfactorily. The statement must declare that, prior to the examination, the physician was made aware of the duties of an observer and the dangerous, remote, and rigorous nature of the work by reading the NMFS-prepared pamphlet, provided to the candidate by the observer provider as specified in paragraph (i)(2)(i)(B)(1) of this section. The physician's statement must be submitted to the Observer Program Office prior to certification of an observer. The physical exam must have occurred during the 12 months prior to the observer's or observer candidate's deployment. The physician's statement will expire 12 months after the physical exam occurred. A new physical exam must be performed, and accompanying statement submitted, prior to any deployment occurring after the expiration of the statement.
(xiv)(C)	Observer deployment/logistics reports that include the observer's name, cruise number, current vessel, shoreside processor, or stationary floating processor assignment and code, embarkation date, and actual or estimated disembarkation dates. This information must be submitted weekly as directed by the Observer Program Office.	(i)(2)(x)(D)	Observer deployment/logistics reports. A deployment/logistics report must be submitted by Wednesday, 4:30 pm Pacific local time, of each week with regard to each observer deployed by the observer provider during that week. The deployment/logistics report must include the observer's name, cruise number, current vessel, shoreside processor, or stationary floating processor assignment and vessel/processor code, embarkation date, and estimated or actual disembarkation dates. If the observer is currently not assigned to a vessel, shoreside processor, or stationary floating processor, the observer's location must be included in the report.

TABLE 2. COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER PROVIDER RESPONSIBILITIES.—Continued

Current 50 CFR 679.50	Existing Regulatory Text	Proposed citation for 50 CFR 679.50	Proposed Modified Regulatory Text
(xiv)(D)	Observer debriefing registration that includes the observer's name, cruise number, vessel, shoreside processor, or floating stationary processor name (s) and requested debriefing date.	(i)(2)(x)(E)	Observer debriefing registration. The observer provider must contact the Observer Program Office within 5 days after the completion of an observer's deployment to schedule a date, time and location for debriefing. Observer debriefing registration information must be provided at the time of debriefing scheduling and must include the observer's name, cruise number, vessel, or shoreside or stationary floating processor name(s), and requested debriefing date.
(xiv)(E)	Copies of "certificates of insurance", that name NMFS Observer Program leader as the "certificate holder". The certificates of insurance shall verify the following coverage provisions and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.	(i)(2)(x)(F)	Certificates of Insurance. Copies of "certificates of insurance", that name the NMFS Observer Program leader as the "certificate holder", shall be submitted by February 1 of each year. The certificates of insurance shall verify the following coverage provisions and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled: (1) Maritime Liability to cover "seamen's" claims under the Merchant Marine Act (Jones Act) and General Maritime Law (\$1 million minimum).(2) Coverage under the U.S. Longshore and Harbor Workers' Compensation Act (\$1 million minimum).(3) States Worker's Compensation as required.(4) Commercial General Liability.

TABLE 2. COMPARISON OF EXISTING AND PROPOSED REGULATORY TEXT GOVERNING OBSERVER PROVIDER RESPONSIBILITIES.—Continued

Current 50 CFR 679.50	Existing Regulatory Text	Proposed citation for 50 CFR 679.50	Proposed Modified Regulatory Text
(l)(2)(ix)(G)	A completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) an observer contractor has with those entities requiring observer services under paragraphs (c) and (d) of this section and with observers. Completed and unaltered copies of signed and valid contracts with specific entities requiring observer services or with specific observers must be submitted to the Observer Program upon request. Types of signed and valid contracts include the contracts an observer provider has with:(1) vessels required to have observer coverage as specified at paragraphs (c)(1)(i) and (iv) of this section; (2) vessels required to have observer coverage as specified at paragraphs (c)(1)(ii), (v), and (vii) of this section;(3) shoreside processors or stationary floating processors required to have observer coverage as specified at paragraph (d)(1) of this section;(4) shoreside or stationary floating processors required to have observer coverage as specified at paragraph (d)(2) of this section (5) Observers (to include contracts for the various compensation or salary levels of observers....).	(i)(2)(x)(G)	Copies of contracts with observer providers and observers. Observer providers must submit to the Observer Program Office a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under paragraphs (c) and (d) of this section. Observer providers must also submit to the Observer Program Office upon request, a completed and unaltered copy of a signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. Said copies must be submitted to the Observer Program Office via fax or mail at the address or fax number listed in paragraph (e)(3) of this section. Signed and valid contracts include the contracts an observer provider has with:(1) vessels required to have observer coverage as specified at paragraphs (c)(1)(i) and (iv) of this section; (2) vessels required to have observer coverage as specified at paragraphs (c)(1)(ii), (v), and (vii) of this section; (3) shoreside processors or stationary floating processors required to have observer coverage as specified at paragraph (d)(1) of this section; and (4) shoreside processors or stationary floating processors required to have observer coverage as specified at paragraph (d)(2) of this section.(5) Observers.
(xiv)(H)	Reports of observer harassment, concerns about vessel safety, or observer performance problems must be submitted within 24 hours after the observer contractor becomes aware of the problem.	(i)(2)(x)(l)	Reports of the following must be submitted in writing to the Observer Program Office by the observer provider via fax or email address designated by the Observer Program within 24 hours after the observer provider becomes aware of the information:(1) any information regarding possible observer harassment; (2) any information regarding any action prohibited pursuant to 679.7(g) or 600.725(o), (t) and (u); (3) any concerns about vessel or processor safety;(4) any observer illness or injury that prevents the observer from completing any of his or her duties described in the Observer Manual; and (5) any information, allegations or reports regarding observer conflict of interest or breach of the standards of behavior described at (h)(2)(i) or (ii).
(i)(2)(xii)	Ensuring that all sampling and safety gear are returned to the Observer Program Office and that any gear and equipment lost or damaged by observers is replaced according to NMFS requirements.	(i)(2)(xi)	Replacement of lost or damaged gear. An observer provider must replace all lost or damaged gear and equipment issued by NMFS to an observer under contract to that provider. All replacements must be in accordance with requirements and procedures identified in writing by the Observer Program.

New observer provider responsibilities. The Council voted to add five new provisions to the observer provider responsibilities. The provisions would ensure (1) that a new observer drug and alcohol policy is included in observer provider contracts with observers; (2) that observer providers verify valid U.S. Coast Guard vessel safety decals before placing an observer aboard; (3) that limitations placed upon reassignment of observers to vessels and/or processors be followed; (4) that observer duties are completed prior to any employment of the observer by providers for work in crab or other non-groundfish fisheries; and (5) that observer providers implement NMFS observer candidate interview standards and provide observer candidates with a NMFS-produced pamphlet describing the duties of an observer. This proposed action would implement four of these five responsibilities and partially implement the fifth responsibility. The NMFS' observer candidate interview standards have not yet been developed. When NMFS presented this issue to the Council at the Council's April 2002 meeting, the interview standards were perceived as policy guidance that could be developed prior to implementation of the proposed rule. Subsequently, NOAA General Counsel determined that such guidance must be specified as regulatory requirements. These requirements could not be developed within the timeframe necessary to accommodate this proposed rule and would, therefore, be implemented in later rulemaking, once development of the standards is complete. The NMFS-produced pamphlet describing the duties and working environment of the observer could be developed in a timely manner for implementation and would be required to be issued to observer candidates by observer providers during candidate interviews under this proposed rule.

The needs for the new responsibilities proposed here are as follows:

(1) **Observer Drug and Alcohol Policy.** Misuse of alcohol and drugs by observers is a problem because such misuse can cause safety problems and interfere with work. The possession, use, or distribution of illegal drugs is a cause for particular concern to NMFS not only for safety and performance reasons, but also for the reason that NMFS cannot condone such illegal actions. All observer providers currently have a drug and alcohol abuse policy as part of their observer-hiring agreement. However, these policies vary, and NMFS would like to ensure consistency among them. This action would require

observer providers to include in their contracts with observers a provision that observers will abide by the Observer Program's drug and alcohol policy.

NMFS is in the process of developing an appropriate drug and alcohol policy in consultation with, and for adoption by, observer providers. NMFS expects to minimize alcohol and drug abuse by observers under this policy and intends for it to be reasonable and practical for the observer providers to implement. NMFS expects that the providers would implement this policy as part of their standard business practices and employee relations.

(2) **U.S. Coast Guard vessel safety decal verification.** Observer safety is the highest priority of the Observer Program. Vessels carrying observers are required under regulations at § 679.50(f)(1)(ii) to have on board a valid commercial fishing vessel safety decal issued by the Coast Guard. However, obtaining this decal through a Coast Guard inspection is a voluntary program, and vessels are not prevented from operating without one. Therefore, not all vessels carry the decal. Observers are instructed to check for the safety decal before they board the vessel, but this important task sometimes may be overlooked. NMFS believes that the observer providers must bear some responsibility for ensuring a safe working environment for their observers. This action would require observer providers to verify that the vessel has a valid USCG safety decal prior to placing an observer on board.

Such verification by the observer provider entails either of the following: (1) obtaining from the vessel owner or operator a copy of the Coast Guard documentation of the safety inspection and issuance of the decal; or (2) observer provider employees, including observers, would communicate to their employer via phone, fax, or email that they have physically inspected the vessel's Coast Guard safety decal and confirmed that it is valid according to the date issued.

(3) **Observer reassignment limitations.** Observers on vessels delivering to shoreside or floating processors have occasionally been unable to complete their sampling duties. This occurs when observers were either immediately reassigned to other vessels upon arrival at a processor, or the vessel they worked aboard offloaded into a temporary holding tank at the plant and left before the holding tank was emptied. The duties of an observer aboard a vessel delivering to a shoreside or floating processor are complete only when the vessel has finished offloading its catch and the observer has sampled that catch

as it flows past the observer on a conveyor, typically, as the fish enters the plant. This problem has been addressed in the past through Observer Program policy, through which NMFS requested that observer providers allow observers time to complete their processor sampling duties before they returned to sea or are reassigned to another vessel or processor. While observer providers largely have complied with this request, NMFS believes that a regulation is prudent in order to avoid the possibility of non-compliance in the future. Therefore, this proposed action would require observer providers to allow observers the time necessary to complete their sampling and data transmission duties before reassignment to another vessel or processor.

This requirement would not have a noticeable effect on observer logistics because of current observer provider compliance with NMFS' request. In the future, however, it could require some observer providers to hire extra observers to meet the observer coverage needs of the shoreside catcher vessel fleet in some ports such as Kodiak, during the peak of the shoreside pollock season. NMFS and the industry would benefit from receiving more complete and higher-quality data.

(4) **Observer completion of duties.** Occasionally, observers temporarily are assigned by their observer providers to observe in other fisheries, such as the Bering Sea crab fishery, during the middle of a 90-day groundfish deployment. The change in work environment and sampling methodologies can contribute to the degradation of an observer's ability to recall during final debriefing the details of his or her groundfish sampling efforts. This may result in decreased data quality. This proposed rule would require observer providers to ensure that observers complete their NMFS electronic vessel and/or processor surveys, which are a part of each observer debriefing following a groundfish deployment, before performing other jobs or duties that constitute no part of NMFS' groundfish requirements.

All Observer Program field offices are equipped with computers for observers to use in completing their electronic vessel and/or processor surveys. The time it takes to complete a survey depends on the location of the computer that is being used. The fastest computer time is in Anchorage, usually 1 to 3 hours per survey, followed by Kodiak (1 to 4 hours per survey) and Dutch Harbor (1 to 6 hours per survey). Computer time for completing surveys does not have to

be pre-scheduled with the Observer Program Office but can be done on a drop-in basis.

The proposed regulation would require that observers complete a NMFS electronic vessel and/or processor survey prior to their final debriefing, which would help observers to "preserve" their memory of what happened on a particular vessel or processor. This would aid them in completing their final debriefing and data check at the completion of their deployment.

An additional requirement, which was not presented to the Council, but is considered necessary, would be added to observer provider responsibilities. This new responsibility would require observer providers to have a signed written contract with each observer prior to each deployment. Most observer providers already follow this practice. However, this provision is necessary to ensure the observer's protection against potential non-payment for work performed and as added insurance of observer compliance with certain assigned duties and requirements.

Authority to Place NMFS' Staff and Individuals Authorized by NMFS as Observers on Vessels, Shoreside Processors, and Stationary Floating Processors. This proposed action would provide regulatory authority to NMFS to deploy staff and individuals authorized by NMFS as observers on fishing vessels and at shoreside processors and stationary floating processors that currently are required to carry NMFS-certified observers. This action is necessary to improve the ability of observers to operate successfully in these environments, resulting in more effective monitoring of groundfish harvest, bycatch, and impacts to protected species and the marine environment for conservation and management purposes. This action would be expected to improve the working relationship with industry and improve sampling conditions and support for observers in the field by allowing for more interaction and collaboration among NMFS staff, industry, and observers.

Statutory authority to place observers aboard vessels is provided by the Magnuson-Stevens Act to collect information for purposes of conservation and management of a fishery. However, current regulations at § 679.2 define an observer as "any individual who is awarded NMFS certification to serve as an observer under this part, is employed by an observer contractor (provider) for the purpose of providing observer services to vessels, shoreside processors, or

stationary floating processors under this part, and is acting within the scope of his/her employment." This proposed action would modify the definition of an observer to include NMFS staff or individuals authorized by NMFS and would provide the regulatory authority to deploy staff to vessels or processors to perform observer duties or collect related information to be used for the conservation and management of marine resources. Examples of non-NMFS staff that could be issued a letter of authorization by NMFS for such deployments include the University of Alaska Anchorage Observer Training Center staff and individuals to perform scientific or observer-related research projects.

Groundfish observers in Alaska operate in challenging and variable environments, and staff observer deployments would enable NMFS to maintain a working knowledge of observer duties and conditions that would allow the agency to address concerns raised by industry, observer providers, and observers in the field. This would allow NMFS to deploy staff observers under circumstances deemed necessary by NMFS, rather than only when requests for assistance are received from industry. Under current regulations, industry requests may be limited because credit toward observer coverage requirements cannot be granted, even when deployed NMFS staff could perform observer functions in lieu of an observer provided by a private observer provider.

Staff observers would provide information that could be used to better train, support, and debrief groundfish observers. Staff observer deployments would be used to improve fisheries conservation and management through: (1) solving sampling issues specific to individual vessels, shoreside processors, or stationary floating processors; (2) creating new sampling protocols; (3) developing and implementing research projects; (4) maintaining knowledge of current vessel, shoreside processor, or stationary floating processors operations; and (5) providing on-site training for an observer(s) employed by an observer provider.

Solving Sampling Issues Specific to Individual Vessels, Shoreside Processors, or Stationary Floating Processors. NMFS' staff observer deployments are necessary to resolve many vessel and/or fishery specific sampling issues that observers encounter at sea. NMFS currently works to resolve certain issues through written communications or dockside meetings. NMFS would be better able to address

observer-related issues by placing staff or individuals authorized by NMFS in actual working conditions experienced by observers. Such deployments would increase the ability of NMFS to work with industry, observers, and observer providers to resolve the many issues that face the stakeholders in the Alaska groundfish fisheries and foster a more cooperative working relationship with better informed industry participants.

Creating New Sampling Protocols. As Alaska's groundfish fisheries continue to change and management is modified, observer sampling protocols will likely need to be adjusted. This would require NMFS to field test new data collection protocols and adjust current protocols. Staff observer deployments would also allow the agency to keep abreast of the limitations and strengths of observer data and to give NMFS the opportunity to work alongside industry and observers when developing new sampling protocols. A cooperative approach would give industry and observers the opportunity to provide input in this process.

Developing and Implementing Research Projects. The Observer Program completes 10 to 13 special projects each year geared toward satisfying specific data needs of NMFS and its constituents. Not all observers are assigned to these projects, but each project requires specialized training and instruction in methods outside those an observer normally would employ. NMFS' ability to deploy its staff or individuals authorized by it to complete some of these projects or to develop sampling protocols for future projects would greatly enhance its ability to collect this highly valued data. Staff deployments would also afford NMFS the opportunity to discuss the specifics of projects with industry and to gain industry input during the course of the study.

Maintaining Knowledge of Current Vessel, Shoreside Processor, or Stationary Floating Processors Operations. NMFS trainers and observer debriefers, and trainers from the University of Alaska Anchorage Observer Training Center must maintain an in-depth, up-to-date knowledge of observer duties and the variable working conditions under which observers are deployed. A hiring requirement for such staff is that they must be former observers. However, with the constantly changing environment in which observers work, extreme difficulties exist in remaining up-to-date with first-hand knowledge of actual working conditions. Deploying NMFS' staff and other authorized individuals as observers and in other

capacities would keep staff current with the rigors of working at sea, allow for increased industry outreach and an opportunity to assist industry with questions regarding observer duties, improve NMFS' ability to make recommendations regarding sampling and special projects, and increase observer and industry confidence in observer training and debriefing. All these benefits would serve to enhance the effectiveness, efficiency, and capabilities of the Observer Program.

Providing On-Site Training for an Observer(s) Employed by an Observer Provider. Deploying NMFS' staff and individuals authorized by NMFS to work with contracted observers would provide an opportunity to mentor new observers and assist observers working under difficult sampling conditions. Each observer goes through an intensive 3-week training prior to their first deployment, but covering every sampling situation he or she may encounter is not possible. Having the ability to place staff with an observer to resolve sampling issues and provide on-site training would benefit the observer and improve data quality in certain situations. Staff would be able to use their knowledge to help observers develop sampling protocols for their specific sampling environment. This information could also be used during debriefing and to develop new training materials.

Observer Coverage Requirements and Observer Procurement. This proposed action would require vessels, shoreside processors, or stationary floating processors to carry a NMFS staff observer upon written request by the agency. These individuals would be deployed in lieu of, or in addition to, observers procured through private observer provider companies. Determinations regarding the most appropriate use of staff observers would be made with consideration to observer accounts of sampling difficulty, alternative ways to collect data, and improvements that could be made on vessels and at processing facilities that would facilitate data collection and enhance data quality. Evaluation of observer sampling protocols related to new or existing management and research needs would also be considered.

A majority of staff deployments to vessels and processors would be expected to satisfy requirements for observer coverage as specified in § 679.50(c) and (d). A determination on whether any staff deployment will meet coverage requirements for a specific vessel or processor would be made by NMFS in advance of each staff

deployment. Notification of the determination would be made in writing to the vessel owner and/or operator. This determination largely would be based on whether NMFS' staff or individuals authorized by NMFS are deployed to perform the duties of an observer. If the duties of the deployed staff observer did not include complete collection of data normally performed by an observer procured through a permitted observer provider for purposes of meeting regulatory coverage requirements, the staff observer deployment could not be used to satisfy observer coverage requirements.

The Observer Program would work with vessels and processors that are selected to carry NMFS staff or an individual authorized by NMFS to determine when and where deployments would begin and end. NMFS would not have regulatory authority to order a vessel to port to commence such a deployment. However, a vessel selected for a deployment would be required to work with NMFS to develop deployment logistics. This would include communicating vessel schedule and logistics to NMFS. NMFS does not intend to alter fishing operations or schedules in order to facilitate these deployments, and NMFS would be responsible for transportation and shoreside lodging costs associated with staff deployments.

Industry Requests for Staff Observers. Owners and operators of vessels, shoreside processors, and stationary floating processors would be able to submit written requests for assistance from NMFS to improve observer data quality or resolve observer sampling issues. Fulfilling these requests would be at the discretion of NMFS, and requests would be evaluated according to specific needs and staff resources.

Classification

This proposed rule contains collection-of-information requirements subject to the PRA and which have been approved by OMB under OMB control number 0648-0318. These requirements and their associated burden estimates per response are: 60 hours for application for a new observer provider permit; 15 minutes for observer candidates' copies of college transcripts and disclosure statements; 15 minutes for observer provider, observer candidates' copies of college transcripts and disclosure statements; 5 minutes for notice of observer physical examination; 2 hours for observer time for a physical examination; 7 minutes for notice of projected observer assignment; 7 minutes for submission of information

to register observers for different types of briefing sessions; 12 minutes for certificate for insurance; 15 minutes for copies of different types of contracts; 7 minutes for weekly deployment/logistics report; 7 minutes for notice of observer debriefing registration; and 2 hours for report of observer harassment, observer safety concerns, or observer performance problems.

This proposed rule also contains new or revised requirements that have been submitted to OMB for approval. These requirements and their associated burden estimates per response are: 30 minutes for Industry Request for Assistance in Improving Observer Data Quality Issues; 15 minutes for the addition of permit information updates by observer providers to keep permit information current; 40 hours for the observer provider appeals process if a provider disagrees with agency action to deny issuance of a permit; and 20 hours for an observer candidate's appeal if denied certification.

The response times include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared an RIR/IRFA, which describes the impact this proposed rule would have on small entities, if adopted. A copy of this analysis is also available from NMFS (see **ADDRESSES**).

Based on information provided by observer providers and a salary range for

observers that approximates the 2001 unionized salary rate, the total cost per observer day is estimated at \$350, although industry has indicated that it sometimes pays more than \$350/day for an observer. Costs vary on a case-by-case basis depending on duration of observer coverage and observer logistics. Per day costs for observers are expected to increase for 2003 and 2004 due to salary increases and increased insurance costs for observer providers.

An estimate of 36,500 observer deployment days per year and the previously cited estimated cost per observer day results in total annual industry costs for observer coverage of \$13 million and \$13.3 million in 2002 and 2003, respectively, not including the additional insurance costs. Under the proposed action, observer providers would continue to provide approximately the current level of observers services or about 36,500 observer deployment days per year. Continuation of the current program structure would guarantee that NMFS will continue to have access, in a timely manner, to the data that are necessary for the continued effective conservation and management of BSAI and GOA groundfish and other marine assets.

Under the proposed action, observer costs are based on whether or not an observer is aboard and on overall coverage needs. Higher costs are borne by those vessels and plants that require higher levels of coverage. Estimates indicate that for catcher vessels, observer cost as a percent of groundfish ex-vessel revenue, in 2000, averaged a low of 1.5 percent for trawlers between 60 ft (18.3 m) and 124 ft (37.8 m) length overall (LOA), and a high of 3.5 percent for pot gear vessels greater than 124 ft (37.8 m) LOA. For catcher/processors, observer cost as a percent of groundfish product revenue, in 2000, averaged a low of 0.5 percent for surimi trawlers, and a high of 2.0 percent for longliners greater than 124 ft (37.8 m) LOA. The estimates also suggest that some differences in these averages exist for vessels that only fished in either the GOA or BSAI.

The corresponding estimate for shoreside processors is 0.3 percent. For fishing vessels in each of the two observer coverage categories (i.e., 30 percent or 100 percent coverage), the direct observer cost as a percent of groundfish ex-vessel (product) revenue for catcher (catcher/processor) vessels decreases as its average revenue per day increases. Therefore, to the extent that revenue per day in a particular fishery is correlated with vessel size, smaller vessels tend to have a larger observer

cost burden, relative to their groundfish revenue.

The proposed action is expected to increase the quality of the data provided by the Observer Program. This would result in more informed decisions and, therefore, improvements concerning the conservation and management of BSAI and GOA groundfish. The data quality effects of each element of this proposed action or of all the elements combined cannot be quantified. The same is true of the potential benefits from improved conservation and management.

However, each element was selected to decrease one or more deficiencies of the current Observer Program regulations.

The proposed action would clarify and strengthen the duties and responsibilities of observer providers and observers. This would have an added benefit of improved enforcement of the regulations for observer providers and observers. This action would be expected to benefit observer providers by improving communications and the working relationships among the industry, observer providers, observers, and Observer Program Office staff.

Provisions in the proposed action that would increase NMFS management controls over observer providers and observers would be expected to maintain or increase the quality of the data provided by the Observer Program. Overall, these improvements would be expected to increase the direct cost of observer coverage to the industry, improve the quality of the data provided by the Observer Program, and improve communications and the working relationships among the industry, observer providers, observers, and Observer Program Office staff. The increase in direct costs is expected to be minimal because the cost effects of the individual elements will be partially offsetting. A marginal increase in the total cost of providing observers would be expected. Some of the proposed changes would increase costs for observer providers but others would decrease them. Observers are not expected to be subject to additional costs from this proposed action.

The proposed action would increase Observer Program Office, NOAA General Counsel, and NMFS Enforcement collective annual costs by approximately \$0.3 million. However, some of this additional cost would be justified to improve compliance even if none of the proposed changes were made.

Costs associated with placing NMFS staff observers, including individuals authorized by NMFS to act as staff observers, are summarized as follows. This proposed regulatory action would

not limit the number of days NMFS could deploy staff or individuals authorized by NMFS each year. At present funding and staffing levels, NMFS estimates that it is capable of 500 days per year and that only about 150 deployment days per year would occur that would not be credited toward required observer coverage days. At 500 days, NMFS estimates it would expend approximately \$75,000 per year for transportation, per diem, and overtime.

The amount of savings or additional costs would depend on the length of a deployment and the annual number of days that staff are deployed in lieu of observers. At current rates for contracted observers, if 350 observer deployment days provided by observer providers and their observers were replaced with observer days provided by NMFS, the fishing industry would save approximately \$115,000 a year (approximate cost for observers, airfare, and meals). That industry savings would translate into a loss for observer providers and observers, but it would be less than 1 percent of their annual revenue. The fishing industry would incur the cost of feeding an additional person onboard for those 150 days that NMFS would not provide observer coverage. Based on industry estimates of the cost per day to feed crew, that cost would be less than \$4,000. The opportunity cost of providing bunk space would vary by deployment.

An Initial Regulatory Flexibility Analysis (IRFA) was conducted in accordance with the Regulatory Flexibility Act of 1980 and the Small Business Regulatory Enforcement Fairness Act of 1996. The Regulatory Flexibility Act was designed to place the burden on government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete.

In the IRFA the proposed alternatives could affect the following estimated numbers of small regulated entities: 38 small catcher/processors, zero motherships, 5 processing plants, 31 catcher vessels with 100 percent observer coverage, 389 catcher vessels with 30 percent observer coverage, 6 CDQ groups representing 65 western Alaska communities, and 5 currently operating observer providers.

The Regulatory Flexibility Act requires that the IRFA describe significant alternatives to the proposed rule that accomplish the stated objectives of the applicable statutes and minimize any impact on small entities. The IRFA must discuss significant alternatives to the proposed rule such as: (1) establishing different reporting

requirements for small entities that take into account the resources available to small entities, (2) consolidating or simplifying of reporting requirements, (3) using performance rather than design standards, and (4) allowing exemptions from coverage for small entities.

The 'no action' alternative, or status quo, was rejected because it would have resulted in expiration of the Observer Program after December 31, 2001. This would be unacceptable in view of the importance of the Observer Program. The preferred alternative establishes a program expiration date of December 31, 2007. An alternative was considered that would establish a program with no expiration date. This alternative was rejected because it lacked a specific component of the preferred alternative, i.e., having a specific time frame to encourage more fundamental improvements to the Observer Program at little or no cost.

The proposed changes include clarification of regulatory language through elimination of ambiguities and streamlining administrative processes and reporting requirements. Allowing exemptions from this proposed action for the small entities that are currently required to carry observers, beyond efforts to minimize impacts as described below, would not be appropriate, because the objective to ensure uninterrupted observer coverage requirements beyond 2002 could not be achieved if small entities were exempted.

However, this action incorporates the overall implementation of the interim Observer Program, which includes measures that minimize the significant economic impacts of observer coverage requirements on at least some small entities. Vessels less than 60 ft (18.3 m) LOA are not required to carry an observer while fishing for groundfish. Similarly, vessels 60 ft (18.3 m) and longer, but less than 125 ft (38.1 m) LOA, have lower levels of observer coverage than those 125 ft (38.1 m) LOA and above. All pot vessels over 60 ft (18.3 m) are required to have 30 percent observer coverage for all fishing days in a calendar quarter. The lower requirement for pot vessels was established in recognition of low bycatch rates, but benefits are realized by small entities in the pot fishery, as well. Shoreside or floating stationary processors that process less than 1,000 mt/month of groundfish have lower observer coverage requirements than those that process 1,000 mt/month or more. Shoreside or floating stationary processors that process less than 500 mt/month of groundfish are not required to maintain any observer coverage in

that month. These requirements, which have been incorporated into the requirements of the North Pacific Groundfish Observer Program since its inception in 1989, effectively mitigate the economic impacts on some small entities without significantly adversely affecting the implementation of the conservation and management responsibilities imposed by the FMPs and the Magnuson-Stevens Act.

Further exemption of small entities from the proposed action was achieved in selecting the preferred alternative with the option that restricted granting NMFS authority to place staff and individuals authorized by NMFS to act as staff observers only on vessels already subject to observer coverage requirements. In 2000, 1,140 groundfish vessels less than 60 ft (18.3 m) LOA participated in the groundfish fishery and 494 halibut fishing vessels that were not part of the groundfish fleet. Most of these vessels are expected to be small entities. One option included under each of the alternatives would have granted NMFS the authority to place staff and individuals authorized by NMFS to act as staff observers on groundfish or halibut vessels less than 60 ft (18.3 m) LOA. However, this option was not adopted as a preferred alternative because of the burdens that this would place on that sector of the fleet. That sector of the fleet is not currently required to carry an observer at any time during fishing activities.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: August 29, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs National Marine Fisheries Service

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679— FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, the definition for "Observer Contractor" is removed; the definition for "Observer" is revised, and the definition of "Observer Provider" is added in alphabetical order to read as follows:

§ 679.2 Definitions.

Observer means any

(1) individual awarded NMFS observer certification to carry out observer responsibilities under this part, who is employed by an observer provider for the purposes of providing observer services to vessels, shoreside processors or stationary floating processors under this part; or

(2) NMFS staff, or other individual authorized by NMFS, deployed at the direction of the Regional Administrator aboard vessels or at shoreside processors or stationary floating processors for purposes of providing observer services as required for vessels, shoreside processors or stationary floating processors under § 679.50(c) or (d), or for other purposes of conservation and management of marine resources as specified by the Regional Administrator.

* * * * *

Observer Provider means any person or commercial enterprise that is granted a permit by NMFS to provide observer services to vessels, shoreside processors, or stationary floating processors for observer coverage credit as required in subpart E.

* * * * *

3. In § 679.7, paragraph (a)(3) is revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(3) *Groundfish Observer Program.* (i) Fish or process groundfish except in compliance with the terms of the Groundfish Observer Program as provided by subpart E of this part.

(ii) Except where observer services are provided by NMFS staff or other individuals authorized by NMFS under § 679.50(e), provide observer services to the North Pacific Groundfish fisheries without an observer provider permit issued under § 679.50(i)(1).

* * * * *

4. In § 679.43, paragraph (e) is revised to read as follows:

§ 679.43 Determinations and appeals.

* * * * *

(e) *Address of record-- General.* NMFS will establish as the address of record the address used by the applicant in initial correspondence to the NMFS concerning the application. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in writing, with any changes to that address. NMFS bears no responsibility if a notification is sent to the address of record and is not received because the

applicant's actual address has changed without notification to NMFS.

* * * * *

5. Amend § 679.50 as follows:

a. Paragraph (j) is removed; paragraphs (e) through (i) are redesignated as (f) through (j), respectively; a new paragraph (e) is added; and the newly redesignated paragraphs (h), (i), and (j) are revised to read as follows:

b. Revise the references "(h)(1)(i)(D) and (E)" to read "(j)(1)(v)(D) and (E)" in paragraphs (c)(4)(i), (c)(4)(ii), and (c)(4)(vi) (B), and (C);

c. Revise the reference "(h)(1)(i)(D)" to read (j)(1)(v)(D) in paragraphs (c)(4)(iv), (c)(4)(v) (A), and (d)(4)(i);

d. Revise the reference "(h)(1)(i)(E)" to read "(j)(1)(v)(E)" in paragraphs (c)(4)(iii), (c)(4)(v)(B), and (c)(4)(vi)(A);

e. Revise the reference "(h)(1)(i)(E)(1)" to read "(j)(1)(v)(E)" in paragraph (c)(6)(ii).

§ 679.50 Groundfish Observer Program applicable through December 31, 2007.

* * * * *

(e) *NMFS staff observers.* (1) Any vessel, shoreside processor, or stationary floating processor required to comply with observer coverage requirements under paragraph (c) or (d) of this section or under § 679.7(f)(4) must carry, upon written notification by the agency, NMFS staff or an individual authorized by NMFS for purposes of coverage requirements as specified in paragraphs (c) and (d) of this section or for other conservation and management purposes.

(2) Prior to deployment of NMFS staff or individuals authorized by NMFS, the agency will provide written notification to the owner or operator of a vessel, shoreside processor, or stationary floating processor whether observer coverage credit will be granted for that deployment.

(3) Vessel, shoreside processor, and stationary floating processor owners and operators may contact NMFS in writing to request assistance in improving observer data quality and resolving observer sampling issues. Requests may be submitted to: NMFS Observer Program Office, 7600 Sand Point Way NE, BIN C15700 Building 4, Seattle, Washington 98115-0070 or transmitted by facsimile to 206-526-4066.

* * * * *

(h) *Procurement of observer services.* Owners of vessels, shoreside processors, or stationary floating processors required to carry observers under paragraphs (c) and (d) of this section must arrange for observer services from a permitted observer provider, except that:

(1) Owners of vessels, shoreside processors, or stationary floating processors are required to procure observer services directly from NMFS when the agency has determined and notified them under paragraph (e) of this section that their vessel, shoreside processor, or stationary floating processor will carry NMFS staff or an individual authorized by NMFS in lieu of an observer provided through a permitted observer provider to satisfy requirements under paragraphs (c) and (d) of this section.

(2) Owners of vessels, shoreside processors, or stationary floating processors are required to procure observer services directly from NMFS and a permitted observer provider when NMFS has determined and notified them under paragraph (e) of this section, that their vessel, shoreside processor, or stationary floating processor will carry NMFS staff or individuals authorized by NMFS, in addition to an observer provided through an observer provider to satisfy requirements under paragraphs (c) and (d) of this section.

(i) *Observer provider permitting and responsibilities--(1) Observer provider permits--(i) General.* (A) Persons seeking to provide observer services under this section must obtain an observer provider permit from NMFS.

(B) *New observer providers.* An applicant seeking an observer provider permit must submit a completed application by fax or mail to the Observer Program Office at the address listed in paragraph (e)(3) of this section. A change in ownership of an existing observer provider after January 1, 2003, requires a new permit application under paragraph (i)(1)(vi) of this section if the change involves a new person.

(C) *Existing observer providers as of 2002.* NMFS-certified providers who deployed observers under the North Pacific Groundfish Observer Program in 2002 are exempt from the requirement to apply for a permit and will be issued an observer provider permit. Such observer providers must submit to the Observer Program Office within 30 days of receiving the observer provider permit issued under this paragraph any changes or corrections regarding information required under paragraphs (i)(1)(ii)(A) and (B) of this section.

(ii) *Contents of application.* An application for an observer provider permit shall consist of a narrative that contains the following:

(A) Identification of the management, organizational structure, and ownership structure of the applicant's business, including identification by name and general function of all controlling management interests in the company,

including but not limited to owners, board members, officers, authorized agents, and staff. If the applicant is a corporation, the articles of incorporation must be provided. If the applicant is a partnership, the partnership agreement must be provided.

(B) *Contact information--(1) Owner(s) information.* The permanent mailing address, phone and fax numbers where the owner(s) can be contacted for official correspondence.

(2) *Business information.* Current physical location, business mailing address, business telephone and fax numbers, and business e-mail address for each office.

(3) *Authorized agent.* For observer providers with ownership based outside the United States, identify an authorized agent and provide contact information for that agent including mailing address and phone and fax numbers where the agent can be contacted for official correspondence. An authorized agent means a person appointed and maintained within the United States who is authorized to receive and respond to any legal process issued in the United States to an owner or employee of an observer provider. Any diplomatic official accepting such an appointment as designated agent waives diplomatic or other immunity in connection with the process.

(C) A statement signed under penalty of perjury from each owner, or owners, board members, and officers if a corporation, that they are free from a conflict of interest as described under paragraph (i)(3) of this section.

(D) A statement signed under penalty of perjury from each owner, or owners, board members, and officers if a corporation, describing any criminal convictions, Federal contracts they have had and the performance rating they received on the contract, and previous decertification action while working as an observer or observer provider.

(E) A description of any prior experience the applicant may have in placing individuals in remote field and/or marine work environments. This includes, but is not limited to, recruiting, hiring, deployment, and personnel administration.

(F) A description of the applicant's ability to carry out the responsibilities and duties of an observer provider as set out under paragraph (i)(2) of this section, and the arrangements to be used.

(iii) *Application evaluation.* (A) The Regional Administrator will establish an observer provider permit application review board to review and evaluate an application submitted under this paragraph (i)(1). The board will be

comprised of NMFS staff. Issuance of a permit will be based on the completeness of the applicant's application, as well as the following evaluation criteria for each owner, or owners, board members, and officers if a corporation:

(1) Absence of conflict of interest as defined under paragraph (i)(3) of this section;

(2) Absence of criminal convictions related to:

(i) Embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, or

(ii) The commission of any other crimes of dishonesty, as defined by Alaska State law or Federal law that would seriously and directly affect the fitness of an applicant in providing observer services under this section;

(3) Performance ratings on any Federal contracts held by the applicant; and

(4) Absence of any history of decertification as either an observer or observer provider;

(B) The evaluation by the review board will provide a basis for the board's initial agency determination (IAD) on whether the application is complete and all evaluation criteria are met.

(iv) *Evidentiary period.* The observer provider permitting review board will specify, by letter via certified return-receipt mail, a 60-day evidentiary period during which a candidate may provide additional information or evidence to support the application, if the application is found to be deficient.

(v) *Agency determination on an application--(A) Approval of an application.* If an IAD is made to approve the application, the observer provider permit application review board will issue an observer provider permit to the applicant upon determination by the review board that the application is complete and all evaluation criteria are met.

(B) *Denial of an application.* An application will be denied if the observer provider permit application review board determines that the information provided in the application was not complete or all the evaluation criteria were not met. The observer provider permit application review board will prepare and send a written IAD to the applicant upon evaluation of a completed application. The IAD will identify any deficiencies in the application or any information submitted in support of the application. An applicant who receives an IAD that denies his or her application may appeal under § 679.43. An applicant

who appeals the IAD will not be issued an interim observer provider permit. An applicant who appeals an IAD will not receive a permit unless the final resolution of that appeal is in favor of the applicant.

(vi) *Transferability.* An observer provider permit is not transferable. An observer provider that experiences a change in ownership that involves a new person must submit a new permit application and cannot continue to operate until a new permit is issued under this paragraph.

(vii) *Expiration of Permit.* (A) The observer provider permit will expire after a period of 12 continuous months during which no observers are deployed by the provider under this section to the North Pacific groundfish industry.

(B) The Regional Administrator will provide a written determination to an observer provider if NMFS deployment records indicate that the permit has expired. An observer provider who receives a written IAD of permit expiration may appeal under § 679.43. A permit holder who appeals the IAD will be issued an extension of the expiration date of the permit until after the final resolution of that appeal.

(viii) *Sanctions.* Procedures governing sanctions of permits are found at subpart D of 15 CFR part 904.

(2) *Responsibilities of observer providers.* Observer providers must:

(i) *Provide qualified candidates to serve as observers.* (A) To be qualified, a candidate must have:

(1) A Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences;

(2) Successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course;

(3) Successfully completed at least one undergraduate course each in math and statistics with a minimum of 5 semester hours total for both; and

(4) Computer skills that enable the candidate to work competently with standard database software and computer hardware.

(B) Prior to hiring an observer candidate, the observer provider must:

(1) Provide to the candidate copies of NMFS-provided pamphlets and other literature describing observer duties; and

(2) Provide to the candidate a copy of the Observer Program's drug and alcohol policy. Observer job pamphlets and the drug and alcohol policy are available from the Observer Program Office at the address listed in paragraph (e)(3) of this section.

(C) A written contract must exist between the observer provider and each observer employed by the observer provider. The contract must be signed by the observer and observer provider prior to the observer's deployment and must contain the following provisions for continued employment:

(1) That the observer comply with the Observer Program's drug and alcohol policy;

(2) That all the observer's in-season catch messages between the observer and NMFS are delivered to the Observer Program Office at least every 7 days, unless otherwise specified by the Observer Program; and

(3) That the observer completes in-person mid-deployment data reviews, unless:

(i) The observer is specifically exempted by the Observer Program, or

(ii) The observer does not at any time during their deployment travel through a location where Observer Program staff are available for an in-person data review. The written contract must further require that the observer complete a phone or fax mid-deployment data review as described in the observer manual.

(ii) *Ensure that observers complete duties in a timely manner:* An observer provider must ensure that observers employed by it do the following in a complete and timely manner:

(A) Once an observer is scheduled for a final deployment debriefing under paragraph (i)(2)(ix)(E) of this section, submit to NMFS all data, reports required by the Observer Manual, and biological samples from the observer's deployment by the completion of the electronic vessel and/or processor survey(s);

(B) Complete NMFS electronic vessel and/or processor surveys before performing other jobs or duties which are not part of NMFS groundfish observer requirements;

(C) Report for his or her scheduled debriefing and complete all debriefing responsibilities; and

(D) Return all sampling and safety gear to the Observer Program Office.

(iii) *Observer vessel and processor assignment.* An observer provider must assign to vessels or shoreside or floating processors only observers:

(A) With valid North Pacific groundfish observer certifications and endorsements to provide observer services;

(B) Who have informed the provider at the time of embarkation that he or she is not experiencing any new physical ailments or injury since submission of the physician's statement as required in paragraph (i)(2)(ix)(C) of this section

that would prevent him or her from performing their assigned duties; and

(C) Who have successfully completed all NMFS required training and briefing before deployment.

(iv) *Response to industry requests for observers.* An observer provider must provide an observer for deployment as requested by vessels and processors to fulfill vessel and processor requirements for observer coverage under sections (c) and (d) of this section. An alternate observer must be supplied in each case where injury or illness prevents the observer from performing his or her duties or where the observer resigns prior to completion of his or her duties.

(v) *Observer salaries and benefits.* An observer provider must provide to its observer employees salaries and any other benefits and personnel services in accordance with the terms of each observer's contract.

(vi) *Observer deployment logistics.* An observer provider must provide all logistics to place and maintain the observers aboard the fishing vessels or at the site of the processing facility. This includes all travel arrangements, lodging and per diem, and any other services required to place observers aboard vessels or at processing facilities.

(vii) *Observer deployment limitations.* Unless alternative arrangements are approved by the Observer Program Office, an observer provider must not:

(A) Deploy an observer on the same vessel or at the same shoreside or stationary floating processor for more than 90 days in a 12-month period;

(B) Deploy an observer for more than 90 days;

(C) Include in a single deployment of an observer assignments to more than four vessels, including groundfish and all other vessels, and/or shoreside processors; and

(D) Move an observer from a vessel or floating or shoreside processor before that observer has completed his or her sampling or data transmission duties.

(viii) *Vessel safety decal verification.* An observer provider must verify that a vessel has a valid USCG safety decal as required under paragraph (g)(1)(ii)(B) of this section before an observer may get underway aboard the vessel. One of the following acceptable means of verification must be used to verify the decal validity:

(A) an employee of the observer provider, including the observer, visually inspects the decal aboard the vessel and confirms that the decal is valid according to the decal date of issuance; or

(B) the observer provider receives a hard copy of the USCG documentation

of the decal issuance from the vessel owner or operator.

(ix) *Communications with observers.*

An observer provider must have an employee responsible for observer activities on call 24 hours a day to handle emergencies involving observers or problems concerning observer logistics, whenever observers are at sea, stationed at shoreside or floating processor facilities, in transit, or in port awaiting vessel or processor reassignment.

(x) *Communications with the Observer Program Office.* An observer provider must provide all of the following information to the Observer Program Office by electronic transmission (e-mail), fax, or other method specified by NMFS.

(A) *Observer training and briefing.* Observer training and briefing registration materials. This information must be submitted to the Observer Program Office at least 5 working days prior to the beginning of a scheduled observer certification training or briefing session. Registration materials consist of the following:

(1) Observer training registration, including:

(i) Date of requested training;

(ii) A list of observer candidates. The list must include each candidate's full name (i.e., first, middle and last names), date of birth, and sex;

(iii) A copy of each candidate's academic transcripts and resume; and

(iv) A statement signed by the candidate under penalty of perjury which discloses the candidate's criminal convictions.

(2) Observer briefing registration, including:

(i) Date and type of requested briefing session and briefing location; and

(ii) List of observers to attend the briefing session. Each observer's full name (first, middle, and last names) must be included.

(B) *Projected observer assignments.*

Prior to the observer or observer candidate's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that include the observer's name; vessel, shoreside processor, or stationary floating processor assignment, gear type, and vessel/processor code; port of embarkation; target species; and area of fishing.

(C) *Physical examination.* A signed and dated statement from a licensed physician that he or she has physically examined an observer or observer candidate. The statement must confirm that, based on that physical

examination, the observer or observer candidate does not have any health problems or conditions that would jeopardize that individual's safety or the safety of others while deployed, or prevent the observer or observer candidate from performing his or her duties satisfactorily. The statement must declare that, prior to the examination, the physician was made aware of the duties of the observer and the dangerous, remote, and rigorous nature of the work by reading the NMFS-prepared pamphlet, provided to the candidate by the observer provider as specified in paragraph (i)(2)(i)(B)(1) of this section. The physician's statement must be submitted to the Observer Program Office prior to certification of an observer. The physical exam must have occurred during the 12 months prior to the observer's or observer candidate's deployment. The physician's statement will expire 12 months after the physical exam occurred. A new physical exam must be performed, and accompanying statement submitted, prior to any deployment occurring after the expiration of the statement.

(D) *Observer deployment/logistics reports.* A deployment/logistics report must be submitted by Wednesday, 4:30 pm, Pacific local time, of each week with regard to each deployed observer deployed by the observer provider during that week. The deployment/logistics report must include the observer's name, cruise number, current vessel, shoreside processor, or stationary floating processor assignment and vessel/processor code, embarkation date, and estimated or actual disembarkation dates. If the observer is currently not assigned to a vessel, shoreside processor, or stationary floating processor, the observer's location must be included in the report.

(E) *Observer debriefing registration.* The observer provider must contact the Observer Program within 5 days after the completion of an observer's deployment to schedule a date, time and location for debriefing. Observer debriefing registration information must be provided at the time of debriefing scheduling and must include the observer's name, cruise number, vessel, or shoreside or stationary floating processor assignment name(s) and code(s), and requested debriefing date.

(F) *Certificates of Insurance.* Copies of "certificates of insurance", that name the NMFS Observer Program leader as the "certificate holder", shall be submitted to the Observer Program Office by February 1 of each year. The certificates of insurance shall verify the following coverage provisions and state

that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.

(1) Maritime Liability to cover "seamen's" claims under the Merchant Marine Act (Jones Act) and General Maritime Law (\$1 million minimum).

(2) Coverage under the U.S. Longshore and Harbor Workers' Compensation Act (\$1 million minimum).

(3) States Worker's Compensation as required.

(4) *Commercial General Liability.*

(G) *Copies of contracts with observer providers and observers.* Observer providers must submit to the Observer Program Office a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under paragraphs (c) and (d) of this section. Observer providers must also submit to the Observer Program Office upon request, a completed and unaltered copy of the current or most recent signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. Said copies must be submitted to the Observer Program Office via fax or mail within 5 business days of the request for the contract at the address or fax number listed in paragraph (e)(3) of this section. Signed and valid contracts include the contracts an observer provider has with:

(1) Vessels required to have observer coverage as specified at paragraphs (c)(1)(i) and (iv) of this section;

(2) Vessels required to have observer coverage as specified at paragraphs (c)(1)(ii), (v), and (vii) of this section;

(3) Shoreside processors or stationary floating processors required to have observer coverage as specified at paragraph (d)(1) of this section;

(4) Shoreside processors or stationary floating processors required to have observer coverage as specified at paragraph (d)(2) of this section; and

(5) Observers.

(H) *Change in observer provider management and contact information.*

An observer provider must submit notification of any change to the information submitted on the provider's permit application under paragraph (i)(1)(ii)(A) or (B) of this section. Within 30 days of the effective date of such

change, this information must be submitted by fax or mail to the Observer Program Office at the address listed in paragraph (e)(3) of this section.

(I) Reports of the following must be submitted in writing to the Observer Program Office by the observer provider via fax or email address designated by the Observer Program Office within 24 hours after the observer provider becomes aware of the information:

(1) Any information regarding possible observer harassment;

(2) Any information regarding any action prohibited under § 679.7(g) or § 600.725(o), (t) and (u);

(3) Any concerns about vessel safety or marine casualty under 46 CFR 4.05-1 (a)(1) through (7), or processor safety;

(4) Any observer illness or injury that prevents the observer from completing any of his or her duties described in the observer manual; and

(5) Any information, allegations or reports regarding observer conflict of interest or breach of the standards of behavior described at (h)(2)(i) or (ii) of this section.

(xi) *Replacement of lost or damaged gear.* An observer provider must replace all lost or damaged gear and equipment issued by NMFS to an observer under contract to that provider. All replacements must be in accordance with requirements and procedures identified in writing by the Observer Program Office.

(3) *Limitations on conflict of interest.* Observer providers:

(i) Must not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery managed under an FMP for the waters off the coast of Alaska, including, but not limited to,

(A) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish,

(B) Any business involved with selling supplies or services to any vessel, shoreside or floating stationary processing facility participating in a fishery managed pursuant to an FMP in the waters off the coast of Alaska, or

(C) Any business involved with purchasing raw or processed products from any vessel, shoreside or floating stationary processing facilities participating in a fishery managed pursuant to an FMP in the waters off the coast of Alaska.

(ii) Must assign observers without regard to any preference by representatives of vessels, shoreside processors, or floating stationary

processors other than when an observer will be deployed.

(iii) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of observer providers.

(j) *Observer certification and responsibilities--(1) Observer Certification--(i) Applicability.* Observer certification authorizes an individual to fulfill duties as specified in writing by the NMFS Observer Program Office while under the employ of a NMFS-permitted observer provider and according to certification endorsements as designated under paragraph (j)(1)(v) of this section.

(ii) *Observer certification official.* The Regional Administrator will designate a NMFS observer certification official who will make decisions for the Observer Program Office on whether to issue or deny observer certification.

(iii) *Certification requirements.* (A) *Existing Observers.* Observers who completed sampling activities between June 30, 2001, and December 31, 2002, and have not had his or her certification revoked during or after that time period, will be considered to have met certification requirements under this section. These observers will be issued a new certification prior to their first deployment after December 31, 2002.

(B) *New Observers.* NMFS will certify individuals who:

(1) Are employed by a permitted observer provider company at the time of the issuance of the certification;

(2) Have provided, through their observer provider,;

(i) Information identified by NMFS at paragraphs (i)(2)(x)(A)(1)(iii) and (iv) of this section and in writing from the Observer Program; and

(ii) Information identified by NMFS at paragraph (i)(2)(x)(C) of this section regarding the observer candidate's health and physical fitness for the job;

(3) Meets all education and health standards as specified in paragraphs (i)(2)(i)(A) and (i)(2)(x)(C) of this section, respectively;

(4) Has successfully completed a NMFS-approved training as prescribed by the Observer Program.

(i) Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing

all other training requirements established by the Observer Program.

(ii) If a candidate fails training, he or she will be notified in writing on or before the last day of training. The notification will indicate: the reasons the candidate failed the training; whether the candidate can retake the training, and under what conditions, or; whether the candidate will not be allowed to retake the training. If a determination is made that the candidate may not pursue further training, notification will be in the form of an IAD denying certification, as specified under paragraph (j)(1)(iv)(A) of this section.

(5) Have not been decertified under paragraph (j)(3) of this section.

(iv) *Agency determinations on observer certification--(A) Denial of a certification.* The NMFS observer certification official will issue a written IAD denying observer certification when the observer certification official determines that a candidate has unresolvable deficiencies in meeting the requirements for certification as specified in paragraph (j)(1)(iii) of this section. The IAD will identify the reasons certification was denied and what requirements were deficient.

(B) *Appeals.* A candidate who receives an IAD that denies his or her certification may appeal pursuant to § 679.43 of this part. A candidate who appeals the IAD will not be issued an interim observer certification. A candidate who appeals an IAD will not receive a certification unless the final resolution of that appeal is in the candidate's favor.

(C) *Issuance of an observer certification.* An observer certification will be issued upon determination by the observer certification official that the candidate has successfully met all requirements for certification as specified in paragraph (j)(1)(iii) of this section.

(v) *Endorsements.* The following endorsements must be obtained, in addition to observer certification, in order for an observer to deploy as indicated.

(A) *Certification training endorsement.* A certification training endorsement signifies the successful completion of the training course required to obtain observer certification. This endorsement is required for any deployment as an observer in the Bering Sea and Aleutian Islands groundfish fisheries and the Gulf of Alaska groundfish fisheries and will be granted with the initial issuance of an observer certification. This endorsement expires when the observer has not been deployed and performed sampling

duties as required by the Observer Program Office for a period of time, specified by the Observer Program, after his or her most recent debriefing. Renewal can be obtained by the observer successfully completing certification training once more. Observers will be notified of any changes to the endorsement expiration period prior to that change taking place. Observers who have been issued certificates under paragraph (j)(1)(iii)(A) of this section will be issued a new certification training endorsement upon issuance of their observer certification prior to their first deployment after December 31, 2002.

(B) *Annual general endorsements.* Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a certification training endorsement is obtained. To obtain an annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(C) *Deployment endorsements.* Each observer who has completed an initial deployment after certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all pre-cruise briefing requirements. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(D) *Level 2 endorsements.* A certified observer may obtain a Level 2 endorsement to their certification. A Level 2 endorsement is required for purposes of performing observer duties aboard vessels or stationary floating processors or at shoreside processors participating in the CDQ or AFA fisheries as prescribed in paragraphs (c) and (d) of this section. A Level 2 endorsement to an observer's certification may be obtained by meeting the following requirements:

(1) Be a prior observer in the groundfish fisheries off Alaska who has completed at least 60 days of observer data collection;

(2) Receive an evaluation by NMFS for his or her most recent deployment that indicated that the observer's performance met Observer Program expectations for that deployment;

(3) Successfully complete a NMFS-approved Level 2 observer training as prescribed by the Observer Program; and

(4) Comply with all of the other requirements of this section.

(E) An observer who has achieved a Level 2 endorsement to their observer certification as specified in paragraph (j)(1)(v) (D) of this section may additionally receive a Level 2 "lead" observer endorsement by meeting the following requirements:

(1) A Level 2 "lead" observer on a catcher/processor using trawl gear or a mothership must have completed two observer cruises (contracts) and sampled at least 100 hauls on a catcher/processor using trawl gear or on a mothership.

(2) A Level 2 "lead" observer on a catcher vessel using trawl gear must have completed two observer cruises (contracts) and sampled at least 50 hauls on a catcher vessel using trawl gear.

(3) A Level 2 "lead" observer on a vessel using nontrawl gear must have completed two observer cruises (contracts) of at least 10 days each and sampled at least 60 sets on a vessel using nontrawl gear.

(vi) Expiration of a certification. The observer certification will expire on December 31, 2007.

(2) Standards of observer conduct--(i) Limitations on conflict of interest. (A) Observers:

(1) Must not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery managed pursuant to an FMP for the waters off the coast of Alaska, including, but not limited to,

(i) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish,

(ii) Any business involved with selling supplies or services to any vessel, shoreside or floating stationary processing facility participating in a fishery managed pursuant to an FMP in the waters off the coast of Alaska, or

(iii) Any business involved with purchasing raw or processed products from any vessel, shoreside or floating stationary processing facilities participating in a fishery managed pursuant to an FMP in the waters off the coast of Alaska.

(2) May not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS or has interests that may be substantially affected by the

performance or nonperformance of the observers' official duties.

(3) May not serve as observers on any vessel or at any shoreside or floating stationary processing facility owned or operated by a person who previously employed the observers.

(4) May not solicit or accept employment as a crew member or an employee of a vessel, shoreside processor, or stationary floating processor in a North Pacific fishery while employed by an observer provider.

(B) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(ii) *Standards of Behavior.* Observers must avoid any behavior that could adversely affect the confidence of the public in the integrity of the Observer Program or of the government, including but not limited to the following:

(A) Observers must perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office.

(B) Observers must accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(C) Observers must not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or processing facility, an authorized officer, or NMFS.

(D) Observers must refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as

professional scientists, on other observers, or on the Observer Program as a whole. This includes, but is not limited to:

(1) Violating the drug and alcohol policy established by and available from the Observer Program;

(2) Engaging in the use, possession, or distribution of illegal drugs; or

(3) Engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(3) *Suspension and Decertification--(i) Suspension and decertification review official.* The Regional Administrator will establish an observer suspension and decertification review official(s), who will have the authority to review observer certifications and issue initial administrative determinations of observer certification suspension and/or decertification.

(ii) *Causes for suspension or decertification.* The suspension/decertification official may initiate suspension or decertification proceedings against an observer:

(A) When it is alleged that the observer has committed any acts or omissions of any of the following:

(1) Failed to satisfactorily perform the duties of observers as specified in writing by the NMFS Observer Program; or

(2) Failed to abide by the standards of conduct for observers as prescribed under paragraph (j)(2) of this section;

(B) Upon conviction of a crime or upon entry of a civil judgement for:

(1) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties as specified in writing by the NMFS Observer Program;

(2) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of observers.

(iii) *Issuance of initial administrative determination.* Upon determination that suspension or decertification is warranted under paragraph (j)(3)(ii) of this section, the suspension/decertification official will issue a written IAD to the observer via certified mail at the observer's most current address provided to NMFS under § 679.43(e). The IAD will identify whether a certification is suspended or revoked and will identify the specific reasons for the action taken. If the IAD issues a suspension for an observer certification, the terms of the suspension will be specified. Suspension or decertification is effective immediately as of the date of issuance, unless the suspension/decertification official notes a compelling reason for maintaining certification for a specified period and under specified conditions.

(iv) *Appeals.* A certified observer who receives an IAD that suspends or revokes his or her observer certification may appeal pursuant to § 679.43.

* * * * *

[FR Doc. 02-22834 Filed 9-11-02; 2:48 pm]

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Federal Register

**Monday,
September 16, 2002**

Part III

**Securities and
Exchange
Commission**

**17 CFR Parts 210, 229, 240, and 249
Acceleration of Periodic Report Filing
Dates and Disclosure Concerning Web
Site Access to Reports; Final Rule**

SECURITIES AND EXCHANGE COMMISSION**17 CFR Parts 210, 229, 240 and 249**

[Release Nos. 33-8128; 34-46464; FR-63; File No. S7-08-02]

RIN 3235-AI33

Acceleration of Periodic Report Filing Dates and Disclosure Concerning Web Site Access to Reports**AGENCY:** Securities and Exchange Commission.**ACTION:** Final rule.

SUMMARY: We are adopting amendments to our rules and forms to accelerate the filing of quarterly and annual reports under the Securities Exchange Act of 1934 by domestic reporting companies that have a public float of at least \$75 million, that have been subject to the Exchange Act's reporting requirements for at least 12 calendar months and that previously have filed at least one annual report. The changes for these accelerated filers will be phased-in over three years. The annual report deadline will remain 90 days for year one and change from 90 days to 75 days for year two and from 75 days to 60 days for year three and thereafter. The quarterly report deadline will remain 45 days for year one and change from 45 days to 40 days for year two and from 40 days to 35 days for year three and thereafter. The phase-in period will begin for accelerated filers with fiscal years ending on or after December 15, 2002. We also are adopting amendments to require accelerated filers to disclose in their annual reports where investors can obtain access to their filings, including whether the company provides access to its Forms 10-K, 10-Q and 8-K reports on its Internet website, free of charge, as soon as reasonably practicable after those reports are electronically filed with or furnished to the Commission.

DATES: *Effective Date:* November 15, 2002. *Compliance Dates:* The phase-in period for accelerated deadlines of quarterly and annual reports will begin for reports filed by companies that meet the definition of "accelerated filer" as of the end of their first fiscal year ending on or after December 15, 2002. These accelerated filers must comply with the new disclosure requirements concerning website access to reports for their annual reports on Form 10-K to be filed for fiscal years ending on or after December 15, 2002. Registrants voluntarily may comply with the new filing deadlines and disclosure requirement before the compliance dates.

FOR FURTHER INFORMATION CONTACT:

Jeffrey J. Minton, Special Counsel, or Elizabeth M. Murphy, Chief, Office of Rulemaking, at (202) 942-2910, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0312.

SUPPLEMENTARY INFORMATION: We are adopting amendments to Rules 3-01,¹ 3-09² and 3-12³ of Regulation S-X⁴ and Item 101⁵ of Regulation S-K⁶ under the Securities Act of 1933 ("Securities Act"),⁷ Forms 10-Q⁸ and 10-K⁹ under the Securities Exchange Act of 1934 ("Exchange Act")¹⁰ and Exchange Act Rules 12b-2,¹¹ 13a-10¹² and 15d-10.¹³

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¹ 17 CFR 210.3-01.² 17 CFR 210.3-09.³ 17 CFR 210.3-12.⁴ 17 CFR 210.1-01 *et seq.*⁵ 17 CFR 229.101.⁶ 17 CFR 229.10 *et seq.*⁷ 15 U.S.C. 77a *et seq.*⁸ 17 CFR 249.308a.⁹ 17 CFR 249.310.¹⁰ 15 U.S.C. 78a *et seq.*¹¹ 17 CFR 240.12b-2.¹² 17 CFR 240.13a-10.¹³ 17 CFR 240.15d-10.

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I. Background and Overview of Rule Amendments*A. The Exchange Act Reporting System*

The Exchange Act requires public companies to make information publicly available to investors on an ongoing basis to aid in their investment and voting decisions.¹⁴ Issuers that have been subject to the reporting requirements for a certain period of time also can incorporate information from their Exchange Act reports into their registration statements under the Securities Act. Investors purchasing securities in public offerings therefore also rely on Exchange Act disclosure.

The Commission's rules under the Exchange Act now require disclosure at quarterly and annual intervals, with specified significant events reported on a more current basis.¹⁵ Specifically, a domestic issuer subject to the Exchange

¹⁴ See Sections 13(a) and 15(d) of the Exchange Act [15 U.S.C. 78m(a) and 78o(d)]. The following types of companies are subject to the obligation to provide information to the secondary markets through reports filed with the Commission:

A company that has registered a class of equity or debt securities under Section 12(b) of the Exchange Act [15 U.S.C. 78l(b)] so that the securities can be listed and traded on a national securities exchange;

A company that has registered a class of equity securities under Section 12(g)(1) of the Exchange Act [15 U.S.C. 78(g)(1)] and Exchange Act Rule 12g-1 [17 CFR 240.12g-1] because it had total assets of more than \$10 million and the class of equity securities is held by more than 500 record holders as of the last day of the company's fiscal year (and cannot rely on an exemption from such registration);

A company that has voluntarily registered a class of equity securities under Section 12(g) of the Exchange Act;

Under Section 15(d) of the Exchange Act, a company that has filed a registration statement under the Securities Act that became effective and has not met the thresholds for suspension of the reporting requirements; and

Under Exchange Act Rules 12g-3 and 15d-5 [17 CFR 240.12g-3 and 240.15d-5], a company that has succeeded to the obligation of another reporting company.

¹⁵ See, for example, Exchange Act Rules 13a-1, 13a-11, 13a-13, 15d-1, 15d-11 and 15d-13 [17 CFR 240.13a-1, 13a-11, 13a-13, 15d-1, 15d-11 and 15d-13]. In addition, Section 409 of the Sarbanes-Oxley Act of 2002 [Pub. L. 107-204, section 409, 116 Stat. 745 (2002)] added Section 13(l) of the Exchange Act [17 U.S.C. 78m(l)], which also requires disclosure on a rapid and current basis of such additional information concerning material changes in the financial condition or operations of the issuer as the Commission determines, by rule, is necessary or useful for the protection of investors and in the public interest.

Act must, among other obligations, file the following reports:¹⁶

- An annual report on Form 10-K (or Form 10-KSB in the case of a small business issuer¹⁷) no later than 90 calendar days after the end of its fiscal year;¹⁸
- Quarterly reports on Form 10-Q (or Form 10-QSB in the case of a small business issuer) no later than 45 calendar days after the end of the first three quarters of its fiscal year;¹⁹ and
- Current reports on Form 8-K for a number of specified events generally within five or 15 days after their occurrence.²⁰

¹⁶ Reporting companies that are foreign private issuers, as defined in Exchange Act Rule 3b-4(c) [17 CFR 240.3b-4(c)], are subject to different requirements for periodic reports. They are not required to file quarterly reports. They file annual reports on Form 20-F [17 CFR 249.220f]. Instead of current reporting on Form 8-K, foreign issuers provide reports on Form 6-K [17 CFR 249.306]. Certain Canadian issuers may file different reports under the Multijurisdictional Disclosure System. Foreign government issuers, as defined in Exchange Act Rule 3b-4(c), also are subject to different reporting requirements. They file annual reports on Form 18-K [17 CFR 249.318]. Foreign private issuers may elect to file the forms used by domestic reporting companies. If they do so, they are subject to the same deadlines as domestic companies.

¹⁷ The term "small business issuer" is defined in Exchange Act Rule 12b-2 as a U.S. or Canadian issuer with less than \$25 million in revenues and public float that is not an investment company.

¹⁸ Form 10-K (and Form 10-KSB [17 CFR 249.310b]) provides a comprehensive overview of the reporting company on an annual basis. The form currently consists of four parts (Form 10-KSB has three parts, but the categories of required information are similar). Part I requires disclosure regarding the company's business, its properties, legal proceedings and matters submitted to a security holder vote. Part II requires disclosure regarding the market for the company's common equity, sales of unregistered securities, the use of proceeds from recent sales of securities, specified financial statements and information, management's discussion and analysis of financial condition and results of operations and quantitative and qualitative disclosure about market risk. Part III requires disclosure regarding the company's directors and executive officers, executive compensation, security ownership and certain relationships and related party transactions. Part IV requires disclosure of exhibits, financial statement schedules and a list of current reports filed on Form 8-K.

¹⁹ Form 10-Q (and Form 10-QSB [17 CFR 249.308b]) currently consists of two parts. Part I requires disclosure of specified financial statements, management's discussion and analysis of financial condition and results of operations and quantitative and qualitative disclosure about market risk. Part II requires disclosure regarding legal proceedings, changes in securities, sales of unregistered securities, the use of proceeds from recent sales of securities, defaults on senior securities, exhibits and a list of current reports filed on Form 8-K.

²⁰ 17 CFR 249.308. These events currently include change in control of the registrant, the acquisition or disposition of a significant amount of assets, the bankruptcy or receivership of the registrant, changes in the registrant's certifying accountant, the resignation of a member of the registrant's board of directors and any other event that the registrant deems of significance to security

In addition, a company may be required to file transition reports on Form 10-K or 10-KSB or Form 10-Q or 10-QSB when it changes its fiscal year.²¹

B. Proposing Release

In April 2002, we published for comment proposals to shorten the filing deadlines of quarterly and annual reports for many companies as a step in modernizing the periodic reporting system and improving the usefulness of periodic reports to investors.²² The annual and quarterly report deadlines were last changed 32 years ago.²³ We proposed accelerating the deadline for annual reports from 90 days to 60 days after the end of the company's fiscal year and accelerating the deadline for quarterly reports from 45 days to 30 days after the end of the company's first three fiscal quarters. These proposals would have applied to companies that met the definition of an "accelerated filer" as of the end of their first fiscal year ending after October 31, 2002. We proposed the definition of an accelerated filer to include companies that had a public float²⁴ of at least \$75 million, that had been reporting for at least 12 months and that previously had filed at least one annual report.

We also proposed to require a company subject to these accelerated filing deadlines to disclose in its annual report on Form 10-K where investors can obtain timely access to company filings, including whether the company provides access to its Forms 10-K, 10-Q and 8-K reports on its Internet website, free of charge, as soon as reasonably practicable after, and in any event on the same day as, these reports

holders. Item 7 of Form 8-K states that financial statements and related pro forma financial information required to be included on Form 8-K when a company acquires a business may be filed with the initial report or by amendment not later than 60 days after the date that the initial Form 8-K to report the acquisition must be filed. See Item 7(a)(3) of Form 8-K. On June 17, 2002, we proposed adding 11 new items that would require a company to file Form 8-K, moving two items currently required to be included in annual and quarterly reports to Form 8-K, amending several existing Form 8-K disclosure items and shortening the filing deadline for most items to two business days after the triggering event. See Release No. 33-8106 (June 17, 2002) [67 FR 42914].

²¹ See Exchange Act Rules 13a-10 and 15d-10.

²² See Release No. 33-8089; 34-45741 (Apr. 12, 2002) [67 FR 19896] (the "Proposing Release").

²³ See Release No. 34-9000 (Oct. 21, 1970) [35 FR 16919] and Release No. 34-9004 (Oct. 28, 1970) [35 FR 17537].

²⁴ Public float is the aggregate market value of a company's outstanding voting and non-voting common equity (*i.e.*, market capitalization) minus the value of common equity held by affiliates of the company. Public float also is one of the key determinants for eligibility for short-form registration under the Securities Act (Form S-3 [17 CFR 239.13] and Form F-3 [17 CFR 239.33]).

are electronically filed with or furnished to the Commission.²⁵ Under the proposals, a company that did not provide website access in this manner would have been required to disclose why it did not do so and where else investors could access these filings electronically immediately upon filing. The company also would be required to disclose its website address, if it has one.

We received responses to our proposals from 305 commenters.²⁶ 302 commented on the acceleration of periodic report deadlines. Generally, these commenters fell into two groups. The first group (20 commenters) represented primarily investors, institutional investors and other users of company reports who supported the proposals and our objective to provide investors with more timely access to company filings. The second group (282 commenters) represented primarily companies, business associations, law firms and accounting firms who opposed the extent of acceleration and length of transition period proposed because, in their view, preparing reports in the proposed timeframes would be too burdensome and could result in less accurate filings. However, many offered alternatives with longer transition periods or filing deadlines or alternative measures to limit the number of accelerated filers. Most of the 141 commenters expressing a view on the proposals concerning website access supported them, although some suggested refinements.

C. Final Rule Amendments

We have considered the commenters' views and have modified the proposed amendments to reflect these comments. A summary of the final rules follows:

1. Phase-In of Accelerated Deadlines

Commenters representing investors, investor groups and other users of financial information favored receiving reports within a shortened timeframe. Most of the commenters who objected to the proposals believed that the

²⁵ Even if a company chooses not to make its reports available on its website, investors still would be able to access information about the company through our EDGAR system. A company's posting of its reports on its website is not a substitute for filing documents with the Commission. EDGAR is an acronym for the Electronic Data Gathering, Analysis and Retrieval system.

²⁶ The public comments we received, and a summary of the comments prepared by our staff (the "Comment Summary"), can be reviewed in our Public Reference Room at 450 Fifth Street, NW., Washington, DC 20549, in File No. S7-08-02. Public comments submitted by electronic mail and the Comment Summary also are available on our website, www.sec.gov.

proposals were too aggressive in terms of the extent of acceleration and the speed with which we expected companies to begin complying with accelerated deadlines. These commenters offered alternatives to reduce the potential costs and burden to registrants and a possible inadvertent negative impact on disclosure quality. Also, while comments were mixed, the majority of commenters addressing the issue believed it would be more difficult to accelerate filing of the quarterly report than the annual report.

As we stated in our Proposing Release, in establishing the appropriate timeframes for filing periodic reports, we must balance the market's need for information with the time companies need to prepare that information without undue burden. Accordingly, in response to comments, we are phasing-in accelerated deadlines over a three year period, with no change in deadlines for the first year and a less extensive ultimate acceleration of the quarterly report deadline. For companies that meet our revised definition of accelerated filer as of the end of their first fiscal year ending on or after December 15, 2002, the annual report deadline will remain 90 days for year one and will then be reduced 15 days per year over two years to 60 days. The quarterly report deadline for these filers will remain 45 days for year one and will then be reduced five days per year over two years to 35 days. We also are making conforming amendments to transition reports filed by accelerated filers. These changes are summarized in the following table:

For fiscal years ending on or after	Form 10-K deadline (days after fiscal year end)	Form 10-Q deadline (days after fiscal quarter end)
December 15, 2002	90	45
December 15, 2003	75	45
December 15, 2004	60	40
December 15, 2005	60	35

2. Definition of Accelerated Filer

Comments were mixed on the proposed definition of accelerated filer. Several commenters believed all public companies should be subject to the same filing deadlines, regardless of a company's size or experience in preparing filings. Other commenters agreed with the notion of excluding smaller companies that may not have the necessary resources and infrastructure to report on an accelerated basis. Comments also were

somewhat mixed on the proposed use of public float as a method to differentiate between companies. Several commenters thought the \$75 million public float threshold was too low.

After evaluating the comments, we are adopting the proposals substantially as proposed with some minor clarifications. Under the final rules, accelerated deadlines will apply to a company after it first meets the following conditions as of the end of its fiscal year:

- Its common equity public float was \$75 million or more as of the last business day of its most recently completed second fiscal quarter;
- The company has been subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act for a period of at least 12 calendar months;
- The company has previously filed at least one annual report pursuant to Section 13(a) or 15(d) of the Exchange Act; and
- The company is not eligible to use Forms 10-KSB and 10-QSB.

While we agree that there would be benefits from accelerating deadlines for all companies, we must balance the market's need for information with the ability of companies to prepare that information without undue burden. We are adopting the reporting history requirements and the \$75 million public float threshold substantially as proposed, although we changed the determination date for the public float requirement to give companies more time to prepare for accelerated reporting. We believe that a public float test serves as a reasonable measure of size and market interest. A one-year reporting history requirement and a \$75 million threshold excludes nearly half of all publicly traded companies from the category of accelerated filers. These requirements are based primarily on the current eligibility requirements for short-form registration and "shelf registration."²⁷ Further, we believe the adoption of a three-year phase-in period for accelerating deadlines and a less extensive acceleration of the quarterly report deadline militates against the need to raise the threshold.

3. Conforming Amendments for Other Commission Filings

In the Proposing Release, we requested comment on several possible conforming revisions to other Commission rules as a result of the

proposals. Based on the responses we received, we are making several conforming amendments. We are adopting amendments to Regulation S-X to conform the timeliness requirements for the inclusion of financial information in other Commission filings, such as Securities Act and Exchange Act registration statements and proxy statements and information statements under Section 14 of the Exchange Act.²⁸ Under the conforming amendments, financial information included in these documents still will be required to be at least as current as financial information filed under the Exchange Act. However, in response to the concerns of commenters, separate financial statements of subsidiaries not consolidated and 50% or less owned persons required by Rule 3-09 of Regulation S-X will not be accelerated for inclusion in a company's annual report on Form 10-K if the subsidiary or 50% or less owned person is not an accelerated filer. Companies will be able to file these financial statements by amendment within the existing time periods.²⁹ We also are adopting as proposed conforming amendments to maintain an extra 30 days for companies to file schedules required by Article 12 of Regulation S-X³⁰ as an amendment to their annual report on Form 10-K, if needed.

As proposed, we are not shortening the period of time companies have to file their definitive proxy or information statements to allow the incorporation by reference of information required by Part III of Form 10-K. We also are not making conforming revisions to the financial statement filing requirements in Rule 3-05 of Regulation S-X³¹ and Item 7 of Form 8-K for financial statements of businesses acquired.

4. Disclosure Concerning Web Site Access to Company Reports

The vast majority of commenters—representing investors, investor groups, companies and professional associations—supported the proposals that would require disclosure concerning website access to company reports. Accordingly, we are adopting the disclosure requirement substantially as proposed with minor modifications. Since the Proposing Release, we have arranged for real-time access to companies' electronically filed periodic reports through our Internet website.³²

²⁷ "Shelf registration" is the commonly used term for delayed offerings under Securities Act Rule 415 [17 CFR 230.415]. Rule 415 permits offerings to be delayed until some point determined by the registrant after effectiveness of the relevant registration statement.

²⁸ 15 U.S.C. 77n.

²⁹ See revisions to 17 CFR 210.3-09(b).

³⁰ 17 CFR 210.12-01 *et seq.*

³¹ 17 CFR 210.3-05.

³² See Press Release No. 2002-75 (May 30, 2002).

Elimination of the 24-hour delay in accessing EDGAR reports on our website substantially facilitates provision by companies of free, real-time website access to their reports by hyperlinking to our website. We also have eliminated two of the proposed disclosure elements to minimize the amount of disclosure required.

As adopted, the amendments require accelerated filers to disclose the following in their annual reports on Form 10-K beginning with reports for fiscal years ending on or after December 15, 2002:

- The company's website address, if it has one;
- Whether the company makes available free of charge on or through its website, if it has one, its annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and all amendments to those reports as soon as reasonably practicable after such material is electronically filed with or furnished to the Commission;
- If the company does not make its filings available in this manner, the reasons it does not do so (including, where applicable, that it does not have an Internet website); and
- If the company does not make its filings available in this manner, whether the company voluntarily will provide electronic or paper copies of its filings free of charge upon request.

II. Discussion of Amendments

A. Reporting Deadlines for Annual and Quarterly Reports

1. Proposed Rules

The proposed rules would have shortened the filing due date of annual reports from 90 days to 60 days after the end of a company's fiscal year and the filing due date of quarterly reports on Form 10-Q from 45 days to 30 days after the end of a company's first three fiscal quarters for companies that met our proposed definition of "accelerated filer."³³ We proposed similar conforming amendments for transition reports filed on Forms 10-K and 10-Q by an accelerated filer when it changes its fiscal year.

As discussed in the Proposing Release, we believe that periodic reports contain valuable information for investors. While quarterly and annual reports at present generally reflect

³³ As mentioned in the Proposing Release, the Commission previously had requested comment as to whether it should shorten the due dates for quarterly and annual reports for all issuers. See Release No. 33-7606A (Nov. 13, 1998) [63 FR 67174]. Comments received on that release are available through our Public Reference Room under File No. S7-30-98.

historical information, a lengthy delay before that information becomes available makes the information less valuable to investors. While the specific disclosure required in periodic reports has evolved over the past 30 years, and the integrated disclosure system has placed added emphasis on Exchange Act reporting, the basic structure and timeframes that were established in 1970 remain in place today.

The more extensive information in periodic reports is evaluated by investors and particularly analysts and institutional investors as a baseline for the incremental disclosures made by a company. These reports also contain more detailed information that is essential to conduct comparative analyses, as this information is often not contained in earnings releases or other incremental disclosures. Moreover, the information in Exchange Act reports, due to its required nature and the liability to which it is subject, provides a verification function against other statements made by the company in press releases and other public announcements. Investors and other users of the reports can judge previous informal statements by the company against the more extensive and mandated disclosure provided in the reports that have been reviewed by independent public accountants and other advisors.³⁴ Accelerating the availability of this information will enable this verification to occur at an earlier point in time. Accelerating the availability of these reports also may increase the relevance of the reports, as the timeliness of information has considerable value to investors and the markets.

In addition, many public companies issue press releases to announce quarterly and annual results well before they file their reports with us. These earnings announcements reflect the importance of financial information and investors' demand for it at the earliest possible time. Assuming that companies are collecting and evaluating information before they issue these announcements, the availability of this information also suggests that much of the process involved in preparing the financial information contained in periodic reports is substantially complete. However, these earnings announcements themselves are generally less complete in their disclosure than quarterly or annual

³⁴ In addition, the information in these reports must now be certified by the principal executive officer and principal financial officer of the company. See Sections 302 and 906 of the Sarbanes-Oxley Act of 2002 [Pub. L. 107-204, sections 302 and 906, 116 Stat. 745 (2002)].

reports, and they can emphasize information that is less prominent in quarterly or annual reports.³⁵ Investors often must wait for the periodic reports to receive financial statements and the accompanying notes prepared in accordance with generally accepted accounting principles, management's discussion and analysis, or MD&A, and other vitally important financial disclosures. These additional disclosures increase transparency for investors.

In establishing the appropriate timeframes for filing periodic reports, however, we must balance the market's need for information with the time companies need to prepare that information without undue burden. Significant technological advances over the last three decades have both increased the market's demand for more timely corporate disclosure and the ability of companies to capture, process and disseminate this information. However, we acknowledge that, while the deadlines for filing periodic reports have not changed in over 30 years, the disclosure requirements have changed and some companies, particularly those with widespread operations, face additional complexities in today's environment. Not all companies, particularly small and unseasoned companies, may have the resources and infrastructure in place to prepare their reports on a shorter timeframe without undue burden or expense. Our amendments must speed the flow of information to investors without sacrificing accuracy or completeness or imposing undue burden and expense on registrants.

2. Comments on the Proposal

We received responses from 302 commenters on the proposals to accelerate periodic report deadlines. Generally, these commenters fell into two groups. The first group (20 commenters) represented primarily investors, institutional investors and financial analysts who supported the proposals and our objective to provide investors with more timely access to company filings. The second group (282 commenters) represented primarily companies, business associations, law firms and accounting firms who

³⁵ See Release No. 33-8039 (Dec. 4, 2001) [66 FR 63731]. In addition, Section 401(b) of the Sarbanes-Oxley Act of 2002 [Pub. L. 107-204, section 401(b), 116 Stat. 745 (2002)] directs the Commission to issue final rules providing that pro forma financial information included in any periodic or other report, or in any public disclosure or press or other release, shall be presented in a manner that reconciles it with the financial condition and results of operations of the issuer under generally accepted accounting principles.

opposed the extent of acceleration and transition period proposed because, in their view, preparing reports in the proposed timeframes would be too burdensome and could result in less accurate filings. Most of these commenters believed that any incremental benefit from the speed and extent of acceleration proposed was insufficient to warrant the added burdens on registrants and the risk of diminished disclosure quality, although these commenters generally did not analyze the benefits from the perspective of users of the reports.

Many commenters representing investors, users of financial information and several companies believed that shortening deadlines will improve the delivery and flow of reliable information to investors and capital markets and assist in the efficient operation of the markets.³⁶ These commenters emphasized the importance of the extensive information in periodic reports and investors' demand for it at the earliest possible time.³⁷ Several other companies, accounting firms and professional associations agreed in concept that shortening due dates would improve the flow of information, but believed the due dates should reflect concerns about the quality of information to be filed.³⁸ A few companies, law firms and business organizations, however, believed that existing deadlines and market practices are sufficient to satisfy investors'

³⁶ See, for example, the Letters of the American Federal of Labor and Congress of Industrial Organizations ("AFL-CIO"); Association of Investment Management and Research ("AIMR"); AOL Time Warner Inc.; Adrienne Randle Bond; Corporate Communications Broadcast Network ("CCBN"); Council of Institutional Investors ("CII"); Comcast Corporation; CSX Corporation; Delphi Corporation; The Dow Chemical Company; EDGAR Online Inc.; Financial Executives Institute ("FEI"); IMC Global, Inc.; Maverick Capital Ltd.; McDonald's, Inc.; PepsiCo, Inc.; Pfizer Inc.; Pharmacia Corporation; SBC Communications Inc.; Scott H. Schulke; and Teachers Insurance and Annuity Association of America—College Retirement and Equities Fund ("TIAA-CREF"). In addition, one commenter provided the results of an unpublished study that argued that there is statistically reliable evidence of an investor response to periodic reports. See the Letter of Paul A. Griffin.

³⁷ In addition, according to a web-based survey on The Motley Fool's website, 67% of the 1,391 respondents thought that faster information was important to them. See <http://www.fool.com/Community/PollingAllFools/pollingallfoolview.asp?questiondate=5%2F9%2F2002+12%3A45%3A29+PM>.

³⁸ See, for example, the Letters of the American Electric Power; American Institute of Certified Public Accountants ("AICPA"); BDO Seidman, LLP; The Coca-Cola Company; Computer Sciences Corporation; Fidelity Management & Research Company; Investment Company Institute; J.P. Morgan Chase & Co.; KPMG LLP; PG&E Corporation; Sidley Austin Brown & Wood LLP ("Sidley"); and Toys R Us, Inc.

needs.³⁹ These commenters did not think a significant benefit would result from shortening deadlines, but also generally did not attempt to address the question of possible benefits from the perspective of users of the reports.

While some companies commented that they could or already comply with the proposal without undue burden,⁴⁰ the group that objected to the proposal raised several common concerns over the extent of acceleration and transition period proposed. The most common concern was that the proposed deadlines would negatively affect the quality and accuracy of reports.⁴¹ According to one professional association, two-thirds of its survey respondents expected a reduction in the precision of reported information under the original proposals.⁴² Many commenters thought the proposals were contrary to other initiatives that the Commission has undertaken to increase the quantity and quality of company disclosure. Many believed that focusing on and improving accuracy and quality should be the objective, not speed.

Another common concern was that the proposed deadlines would impair the ability of management, external auditors, boards of directors and especially audit committees to scrutinize and review filings properly and give appropriate consideration to the form, substance and priority of disclosures, especially MD&A disclosures and financial statement

³⁹ See, for example, the Letters of the American Bar Association ("ABA"); AFLAC Incorporated; the Association of the Bar of the City of New York ("NYCBA"); BioReliance Corporation; Compass Bankshares, Inc.; Commercial Federal Corporation; Emerson Electric Co.; Greenberg Traurig, P.A.; HealthSouth Corporation; Kellogg Company; Kimball International, Inc.; and SCANA Corporation.

⁴⁰ See, for example, the Letters of Delphi Corporation; The Dow Chemical Company; Microsoft Corporation; Siebel Systems, Inc.; TIAA-CREF; United Technologies Corporation; and V. I. Technologies, Inc.

⁴¹ See, for example, the Letters of the ABA; American Corporate Counsel Association ("ACCA"); Association of Financial Professionals ("AFP"); American Insurance Association ("AIA"); AICPA; American Society of Corporate Secretaries ("ASCS"); Ashland Inc.; AT&T Corp.; BDO Seidman, LLP; The Business Roundtable; The Chubb Corporation; Deloitte & Touche LLP; Dell Computer Corporation; Ernst & Young LLP; Eli Lilly and Company; Financial Institutions Accounting Committee ("FIAC"); Grant Thornton LLP; Joseph A. Grundfest; H&R Block, Inc.; Halliburton Company; HealthSouth Corporation; Kellogg Company; KPMG LLP; Liberty Media Corporation; Merck & Co., Inc.; New York State Bar Association ("NYSBA"); NYCBA; Papa John's International, Inc.; PepsiCo, Inc.; PricewaterhouseCoopers LLP; Securities Industry Association ("SIA"); Ronald S. Stowell; Sullivan & Cromwell; SCANA Corporation; Shearman & Sterling; Sidley, Sotheby's Holdings, Inc.; Washington Mutual, Inc.; The Williams Companies, Inc.; and Kathryn J. Wilson.

⁴² See the Letter of the ASCS.

footnotes.⁴³ These commenters feared that disclosures could be reduced or become more boilerplate if companies have less time to prepare and review them. These commenters believed that accelerating deadlines in the manner proposed would also undermine the governance and review mechanisms that have been put in place to ensure quality. We have separately proposed and the Sarbanes-Oxley Act of 2002 establishes new requirements to ensure that procedures are in place to ensure that a company is able to collect, process and disclose the information required in its periodic reports and for senior officers to certify the accuracy of those reports.⁴⁴

A third concern was that advances in technology over the past 30 years have been largely offset by increases in accounting and disclosure requirements.⁴⁵ Business operations have also become increasingly global and complex, further complicating report preparation. These commenters argued that technological advances that have allowed companies to generate earnings results quickly in an earnings release do not address the additional analysis necessary to prepare periodic reports. Processes and systems would need to be changed to report on an accelerated basis.

Commenters objecting to the original proposals also were concerned that

⁴³ See, for example, the Letters of the ABA; American Counsel of Life Insurers ("ACLI"); ACCA; AFP; AICPA; ASCS; AT&T Corp.; BDO Seidman, LLP; The Bank of New York Company, Inc.; The Chubb Corporation; The Coca-Cola Company; Comcast Corporation; Deloitte & Touche LLP; Ernst & Young LLP; Eli Lilly and Company; FIAC; Grant Thornton LLP; Greenberg Traurig, P.A.; Joseph A. Grundfest; HealthSouth Corporation; KPMG LLP; Liberty Media Corporation; Simon M. Lorne; Marathon Oil Corporation; Merck & Co., Inc.; McGuireWoods LLP; NYCBA; NYSBA; Papa John's International, Inc.; PepsiCo, Inc.; PG&E Corporation; Pharmacia Corporation; PricewaterhouseCoopers LLP; Reed Smith LLP; Sullivan & Cromwell; SCANA Corporation; Shearman & Sterling; SIA; Sidley, Sotheby's Holdings, Inc.; Washington Mutual, Inc.; and The Williams Companies, Inc.

⁴⁴ See Release No. 34-46079 (June 14, 2002) [67 FR 41877]; Release No. 34-46300 (Aug. 2, 2002) [67 FR 51508]; Release No. 33-8124 (Aug. 29, 2002); and Sections 302, 404 and 906 of the Sarbanes-Oxley Act of 2002 [Pub. L. No. 107-204, §§ 302, 404 and 906, 116 Stat. 745 (2002)].

⁴⁵ See, for example, the Letters of the ABA; ACLI; ACCA; AICPA; ASCS; AT&T Corp.; BDO Seidman, LLP; The Bank of New York Company, Inc.; the Business Roundtable; The Coca-Cola Company; Comcast Corporation; Deloitte & Touche LLP; Ernst & Young LLP; Eli Lilly and Company; FIAC; Grant Thornton LLP; Greenberg Traurig, P.A.; Joseph A. Grundfest; H&R Block, Inc.; HealthSouth Corporation; Institute of Management Accountants; KPMG LLP; Liberty Media Corporation; Helen W. Melman; NYCBA; NYSBA; Papa John's International, Inc.; PepsiCo, Inc.; PG&E Corporation; PricewaterhouseCoopers LLP; Sullivan & Cromwell; SBC Communications Inc.; SIA; Sidley; The Southern Company; Sun Trust Banks, Inc.; Washington Mutual, Inc.; and The Williams Companies, Inc.

companies would face an increased burden in preparing reports, particularly with respect to increased costs and audit fees. While a few commenters believed that the original proposals would not have a significant adverse effect on the cost of preparing reports,⁴⁶ most who addressed the subject mentioned that the original proposals would result in increased costs.⁴⁷ Many commenters outlined their process of preparing reports to demonstrate the difficulties of accelerating the process.⁴⁸ Several commenters provided detailed timelines. The particular steps and timing varied depending on the individual company, and not all companies appear to be at the same level of technological sophistication and staffing for preparing reports. Two professional associations noted that there are no current best practices for preparing reports.⁴⁹ As a result, the few cost estimates received varied widely, and many commenters were unable to provide estimates. One company believed it was not possible to put a dollar value on such costs, as it depends on the quality and flexibility of each registrant's present systems, processes and staff.⁵⁰ According to one professional association that surveyed its members, 52% of its survey respondents reported that they expected costs to increase in order to comply with the original proposals.⁵¹ Forty-five percent of respondents indicated they would have to hire additional staff, and 27% of respondents indicated they would have to buy or develop additional systems. Other commenters were concerned that the original proposals would result in increased audit fees, particularly for companies with a calendar fiscal year-end, given a compression in the amount of time

⁴⁶ See, for example, the Letters of the AFL-CIO; AIMR; Delphi Corporation; The Dow Chemical Company; and TIAA-CREF.

⁴⁷ See, for example, the Letters of the ABA; ACLI; AFP; American Bankers Association; The Allstate Corporation; Deloitte & Touche LLP; Dollar Tree Stores, Inc.; Ernst & Young LLP; Halliburton Company; HealthSouth Corporation; KPMG LLP; National Association of Real Estate Companies ("NAREC"); National Association of Real Estate Investment Trusts ("NAREIT"); NYCBA; PricewaterhouseCoopers LLP; Southern Union Company; Ronald S. Stowell; and UnionBanCal Corporation.

⁴⁸ See, for example, the Letters of the ACCA; ASCS; BioReliance Corporation; Community Health Systems, Inc.; Constellation Energy Group, Inc.; Dean Foods Company; HealthSouth Corporation; Merrill Lynch & Co., Inc.; Nucor Corporation; Technitrol, Inc.; Veritas Software Corporation; and Zygo Corporation.

⁴⁹ See the Letters of the ASCS and the Business Roundtable.

⁵⁰ See the Letter of American Electric Power.

⁵¹ See the Letter of the ASCS.

available for auditors to complete their work for these companies.

Objecting commenters mentioned additional concerns over the original proposals, such as an increased need to use estimates to prepare reports⁵² or an increased risk of amendments or restatements because of rushed preparation.⁵³ Several commenters were especially concerned about accelerating deadlines now given recent events with Arthur Andersen LLP.⁵⁴ While comments were mixed, many commenters said that while most audit and review work is substantially complete before the earnings release or the proposed deadlines, the process of preparing reports, including the financial statements and footnotes, is not.⁵⁵ However, other commenters noted that the audit and review process is far from complete by the time a company issues an earnings release and little, if any, assurance can be ascribed to the publicly disclosed results.⁵⁶ While some commenters prepare their reports concurrently with the earnings release, most described the process as a series of sequential steps where the company first closes its financial books, then prepares and releases its earnings release and then turns its attention to the periodic reports. Some companies would need to revise their internal processes to prepare their reports on a more concurrent basis with the earnings

⁵² See, for example, the ABA; ACLI; AFLAC Incorporated; BioReliance Corporation; The Bank of New York Company, Inc.; ChevronTexaco Corporation; The Chubb Corporation; Crescent Real Estate Equities Company; Dean Foods Company; Deloitte & Touche LLP; Ernst & Young LLP; HealthSouth Corporation; J.C. Penney Company, Inc.; Mercury General Corporation; NAREC; NAREIT; PricewaterhouseCoopers LLP; and Washington Mutual, Inc.

⁵³ See, for example, the Letters of the ABA; AFLAC Incorporated; Cleary, Gottlieb, Steen & Hamilton; Halliburton Company; J.C. Penney Company, Inc.; Jones & Keller, P.C.; Perkins Coie LLP; PG&E Corporation; PricewaterhouseCoopers LLP; Sidley; and UnionBanCal Corporation.

⁵⁴ See, for example, the Letters of Brown-Forman Corporation; Caremark Rx, Inc.; Deloitte & Touche LLP; Joseph A. Grundfest; KPMG LLP; Liberty Media Corporation; NYCBA; PricewaterhouseCoopers LLP; and XTO Energy, Inc.

⁵⁵ See, for example, the Letters of the ACCA; ASCS; The Bank of New York Company, Inc.; Cleary, Gottlieb, Steen & Hamilton; Clifford Chance Rogers & Wells LLP; Crowe, Chizek and Company LLP; Greenberg Traurig, P.A.; Halliburton Company; J.P. Morgan Chase & Co.; Mellon Financial Corporation; PepsiCo, Inc.; Pfizer Inc.; SCANA Corporation; Shearman & Sterling; Southern Union Company; and Technitrol, Inc.

⁵⁶ See, for example, the Letters of BDO Seidman, LLP; Ernst & Young LLP; The Great Atlantic and Pacific Tea Company, Inc.; HealthSouth Corporation; KPMG LLP; Merrill Lynch & Co., Inc.; PricewaterhouseCoopers LLP; The Southern Company; and SunTrust Banks, Inc. We are surprised and concerned by these assertions given the importance of these announcements to investors and markets and are considering their implications.

release. Several companies expressed concern that the proposals would be difficult for companies that operate on a decentralized basis with many subsidiaries and operations to consolidate, especially when the subsidiaries and operations are located worldwide or in emerging markets.⁵⁷

Slightly less than half of those objecting to the proposals (129 commenters) did not think any acceleration of deadlines was warranted.⁵⁸ However, slightly more than half of those objecting (153 commenters) objected because they believed the Commission was too aggressive in its proposal.⁵⁹ Many of these commenters generally supported the Commission's objective to provide investors with more timely access to company information and offered alternatives to reduce the potential costs and burden to registrants and any negative impact on disclosure quality. These alternatives fell roughly into three categories:

- A more gradual phase-in or transition period than that proposed (e.g., reducing deadlines by a set number of days per year over several years or delaying the effective date of accelerated filing deadlines).⁶⁰
- Accelerating deadlines less extensively (e.g., 75 days for the annual report and 35 days for the quarterly report) or accelerating only the annual report deadline.⁶¹ In this regard, while comments were mixed, the majority of commenters addressing the issue believed it would be more difficult to

⁵⁷ See, for example, the Letters of the ABA; AICPA; BDO Seidman, LLP; the Business Roundtable; ChevronTexaco Corporation; The Coca-Cola Company; Dean Foods Company; Deloitte & Touche LLP; Eli Lilly and Company; Grant Thornton LLP; HealthSouth Corporation; KPMG LLP; Marathon Oil Corporation; National Investor Relations Institute ("NIRI"); Perkins Coie LLP; PricewaterhouseCoopers LLP; Reed Smith LLP; Shearman & Sterling; Sidley; Southern Union Company; and Western Wireless Corporation.

⁵⁸ See the Comment Summary.

⁵⁹ *Id.*

⁶⁰ See, for example, the Letters of Abbott Laboratories; ACLI; AICPA; AOL Time Warner Inc.; ASCS; the Business Roundtable; Cabot Corporation; Cleary, Gottlieb, Steen & Hamilton; Deloitte & Touche LLP; Ernst & Young LLP; Joseph A. Grundfest; Halliburton Company; KPMG LLP; NYSBA; Pfizer Inc.; PricewaterhouseCoopers LLP; Sullivan & Cromwell; SIA; Sidley; and The Williams Companies, Inc.

⁶¹ See, for example, the Letters of the ACCA; American Bankers Association; The Coca-Cola Company; Eli Lilly and Company; Harrah's Entertainment, Inc.; Lamar Advertising Company; Merck & Co., Inc.; Merrill Lynch & Co., Inc.; Michael McDonald; NAREC; NAREIT; NYCBA; Scholastic Inc.; Southern Union Company; Toys R Us, Inc.; TXU Corp.; UST Inc.; and Washington Mutual, Inc.

accelerate the quarterly report than the annual report.⁶²

- Linking the deadline for filing reports to a company's public announcement of earnings (e.g., the earlier of the existing deadlines or some period of time after a company's issuance of an earnings release).⁶³

In addition to the comments received on the Proposing Release, earlier this year we hosted an investor summit in Washington, DC.⁶⁴ The summit offered individual investors nationwide an opportunity to ask questions and offer comments about our regulatory agenda. Most participants at the investor summit mentioned their support for our proposals to accelerate the delivery of periodic reports to investors.⁶⁵

As mentioned in the Proposing Release, we also hosted roundtable discussions in New York, Washington, DC, and Chicago earlier this year at which investor relations professionals, corporate executives, academics and experienced legal counsel discussed financial disclosure and auditor oversight.⁶⁶ Several participants at these roundtables indicated that reporting within the proposed shortened deadlines was feasible.⁶⁷ Some participants, however, referred to the comment letters on our 1998 request for

comment on accelerating deadlines,⁶⁸ and were concerned about the ability of companies, and smaller companies in particular, to report in a shorter timeframe.⁶⁹ They thought that accelerating deadlines could cause the quality of reports to diminish.⁷⁰ One participant was concerned that shortened deadlines may present more problems for quarterly reports than for annual reports.⁷¹

3. Final Rules

After careful consideration of the comments received, we are adopting a phased-in approach of accelerated deadlines, with no change in deadlines for the first year and a less extensive ultimate acceleration of the deadline for quarterly reports. Specifically, we are phasing-in accelerated deadlines for accelerated filers according to the following schedule:

For fiscal years ending on or after	Form 10-K deadline (days after fiscal year end)	Form 10-Q deadline (days after fiscal quarter end)
December 15, 2002	90	45
December 15, 2003	75	45
December 15, 2004	60	40
December 15, 2005	60	35

We also are accelerating the due dates for transition reports by accelerated filers on Form 10-K and 10-Q on the same schedule. These conforming changes will ensure that the deadlines for transition reports remain similar to the deadlines for periodic reports.⁷² We also are making technical corrections to the codification of financial reporting policies to reflect our amendments.

According to the amendments, if a company with a calendar year fiscal year-end determines it is an accelerated filer as of December 31, 2002 (its first fiscal year ending on or after December

15, 2002), its annual report on Form 10-K for that fiscal year will continue to have a 90 day filing deadline and will be due by March 31, 2003.⁷³ Each of the Form 10-Q reports for the first three quarters of its 2003 fiscal year will continue to have a 45-day deadline. For example, the Form 10-Q for the company's first fiscal quarter ending March 31, 2003 will continue to be due by May 15, 2003. The Form 10-K for the fiscal year ending December 31, 2003 will have a 75-day deadline and will be due by March 15, 2004. Each of the Form 10-Q reports for the first three quarters in the 2004 fiscal year will have a 40-day deadline. For example, the Form 10-Q for the company's first fiscal quarter ending March 31, 2004 will be due by May 10, 2004. The Form 10-K for the fiscal year ending December 31, 2004 will have a 60-day deadline and will be due by March 1, 2005. Each of the Form 10-Q reports for the first three quarters in the 2005 fiscal year will have a 35-day deadline. For example, the Form 10-Q for the company's first fiscal quarter ending March 31, 2005 will be due by May 5, 2005. All subsequent reports on Form 10-K and 10-Q by the accelerated filer will be subject to a 60 and 35-day deadline, respectively.

In establishing this schedule for accelerated deadlines, we agree with the suggestions of many commenters that appropriate focus should be directed toward report quality.⁷⁴ We also agree with investors and other users of financial information that timeliness of information is important. Increased quality and timeliness, with an appropriate balance between the two, assures that investors receive the full and reliable data they deserve at the speed in which they desire it. A phased-in approach of accelerated deadlines allows a greater transition period for companies to adjust their procedures and to develop efficiencies to ensure that the quality and accuracy of reported information will not be sacrificed. Under a phased-in approach, companies will have additional time to plan for and adjust their reporting schedules and processes to ensure that the necessary reviews will not be compromised. Given the recent enactment of the Sarbanes-Oxley Act of 2002, a phased-in approach also allows companies to adjust to significant new changes and requirements in the reporting system. At the same time, a phased-in approach

⁶² Compare, for example, the Letters of AFLAC Incorporated; Bank of America; Capital One Financial Corporation; CH Energy Group, Inc.; Clancy Systems International, Inc.; Constellation Energy Group, Inc.; Dollar Tree Stores, Inc.; FEI; Jefferson-Pilot Corporation; Lamar Advertising Company; Phillips Petroleum Company; The Southern Company; UnionBanCal Corporation and U.S. Bancorp with the Letters of American Electric Power; AOL Time Warner Inc.; Clifford Chance Rogers & Wells LLP; Long Aldridge & Norman LLP and United States Steel Corporation.

⁶³ See, for example, the Letters of the ABA; ACLI; AICPA; BDO Seidman, LLP; Comcast Corporation; Ernst & Young LLP; Grant Thornton LLP; Julia A. Harper; Hibernia Corporation; KPMG LLP; The Pepsi Bottling Group; PepsiCo, Inc.; PG&E Corporation; PricewaterhouseCoopers LLP; Stewart Information Services Corporation; UnumProvident Corporation; and Wild Oats Markets, Inc.

⁶⁴ See SEC Press Release No. 2002-59 (May 1, 2002). The summit was held on May 8, 2002. Archived broadcasts of the investor summit are available to the public on our Internet website at www.sec.gov.

⁶⁵ See, for example, Joseph D. Borg, Bill Mann and Damon Silvers, Remarks at the Investor Summit in Washington, DC (May 8, 2002) (archived broadcast available at www.sec.gov).

⁶⁶ See SEC Press Release Nos. 2002-28 (Feb. 22, 2002) and 2002-46 (Mar. 27, 2002). The New York roundtable was held on March 4, 2002. The Washington DC roundtable was held on March 6, 2002. The Chicago roundtable was held on April 4, 2002. Archived broadcasts of the roundtables are available to the public on our Internet website at www.sec.gov.

⁶⁷ See, for example, Richard Carbone and Raymond Groves, Remarks at the Financial Disclosure and Auditor Oversight Roundtable in Washington, DC (Mar. 6, 2002) (archived broadcast available at www.sec.gov).

⁶⁸ See, for example, John White, Remarks at the Financial Disclosure and Auditor Oversight Roundtable in New York, NY (Mar. 4, 2002) (archived broadcast available at www.sec.gov); and James Cheek, Remarks at the Financial Disclosure and Auditor Oversight Roundtable in Washington, DC (Mar. 6, 2002) (archived broadcast available at www.sec.gov).

⁶⁹ See, for example, Edward Nusbaum, Remarks at the Financial Disclosure and Auditor Oversight Roundtable in Chicago, IL (Apr. 4, 2002) (archived broadcast available at www.sec.gov).

⁷⁰ See note 68 above.

⁷¹ See, for example, Phil Livingston, Remarks at the Financial Disclosure and Auditor Oversight Roundtable in Washington, DC (Mar. 6, 2002) (archived broadcast available at www.sec.gov).

⁷² See, for example, Release No. 33-6823 (Mar. 13, 1989) [54 FR 10306] (Revising transition report rules to conform their filing requirements to those for periodic reports).

⁷³ A one-time extension of time to file a particular periodic report is available under certain circumstances under Exchange Act Rule 12b-25 [17 CFR 240.12b-25].

⁷⁴ For other proposals where we are specifically addressing the quality and content of information disclosed, see notes 20 and 44 above.

allows investors to begin to experience the benefits of an accelerated flow of information. A phased-in approach also will provide the Commission with an opportunity to understand how each incremental change affects the disclosure process.

A phased-in approach helps to alleviate the immediate impact of any costs and burdens that may be imposed on certain registrants. While several commenters indicated that they could report on an accelerated timeframe today, several major business associations that surveyed their members reported that adjustment to accelerated deadlines would be easier with a longer phase-in period.⁷⁵ A longer transition may even help reduce costs as companies will have additional time to develop best practices, long-term processes and efficiencies to prepare reports, as opposed to having to take rushed and possibly inefficient measures to meet a more sudden acceleration.⁷⁶ Also, a longer transition period helps to smooth out any possible impact on the availability of third party advisors used by companies to prepare their reports.

A less extensive acceleration of the quarterly report deadline also will alleviate some of the burdens mentioned by commenters. There will be more time than proposed to gather the necessary data and complete the necessary reviews by company officials, the board of directors and outside advisors. One professional association commented that 80% of its survey respondents reported they could more easily meet a 35-day deadline than a 30-day deadline.⁷⁷ Further, we believe that by imposing a 40-day deadline before finally reducing it to 35 days, we are striking an adequate compromise between the benefits of reducing deadlines with the potential inconvenience, difficulty and cost that may be incurred by some companies.

We considered, but rejected, the alternative of tying the due date of reports to a company's announcement of earnings. Not all companies issue earnings releases or issue them on an accelerated basis. As a result, linking deadlines to earnings releases may not result in more accelerated reporting of information. We also were concerned

⁷⁵ See, for example, the Letters of the ASCS; the Business Roundtable; and FEI. These and other commenters also mentioned, and we are aware of other anecdotal reports that, many companies already are revising their systems and procedures to prepare for accelerated reporting.

⁷⁶ See, for example, the Letters of the ASCS and FEI.

⁷⁷ See the Letter of the ASCS. See also Letter of the Business Roundtable.

that linking report deadlines to earnings announcements could delay earnings announcements, as companies would know that the announcement would trigger the deadline to file reports. While market demand for earnings information could negate this risk, an approach linking deadlines to earnings announcements could have the effect of penalizing companies for early releases of information while rewarding companies that delay their earnings with extended time to file their reports.

Even with a phase-in period, accelerating filing deadlines may create the risk that more companies will file their reports late or need a filing extension. Moreover, if a company is late filing its reports, it will lose availability for short-form registration for at least one year from the date of the late filing. Being late also could render Securities Act Rule 144 temporarily unavailable for security holders' resales of restricted and control securities, and make new filings on Form S-8 temporarily unavailable for resales of employee benefit plan securities.⁷⁸ We considered the suggestions of some commenters to extend the filing extension periods in Exchange Act Rule 12b-25 as an additional method to alleviate any transition difficulties to shortened deadlines.⁷⁹ However, we think a lengthy phase-in period adequately addresses these concerns. A less dramatic acceleration of deadlines over a set schedule each year will provide companies with advance notice of the changes they will be expected to make and will smooth out some of the possible difficulties raised by commenters. Rule 12b-25 in its existing form still will provide companies that face extenuating circumstances the ability to gain a filing extension of five calendar days for quarterly reports and fifteen calendar days for annual reports.

While our proposals did not directly address the contents of earnings releases, many commenters supported additional efforts by the Commission in

⁷⁸ Securities Act Rule 144 [17 CFR 230.144] requires that for such a resale to be valid, the issuer of the securities must have made all filings required under the Exchange Act during the preceding 12 months. Form S-8 [17 CFR 239.16b] requires that an issuer be current in its reporting for the last 12 calendar months (or such shorter period that the issuer was required to file such reports and materials). If a company was late in filing its reports, the company would lose Rule 144 eligibility and eligibility to file a Form S-8 during the time that the company was not current in its reporting.

⁷⁹ See, for example, the Letters of the ASCS; Cleary, Gottlieb, Steen & Hamilton; CSX Corporation; Deloitte & Touche LLP; Ernst & Young LLP; NAREIT; NYSBA; Pharmacia Corporation; PricewaterhouseCoopers LLP; and Triarc Companies, Inc.

this area. Several recommended that earnings or other standardized earnings information be filed with the Commission, such as on Form 8-K.⁸⁰ Others thought the Commission should consider issuing or promoting minimum requirements or guidelines for the contents of earnings releases, such as a GAAP reconciliation.⁸¹ While we will continue to explore ways to improve earnings releases, and the Sarbanes-Oxley Act of 2002 requires us to take steps in this area, we believe these are separate initiatives from the need to accelerate periodic report deadlines.⁸² We recognize that the information in periodic reports is more extensive than that contained in earnings releases, and that it would be difficult to eliminate any gap between the earnings release and the filing of the report. As mentioned above, however, we believe periodic reports contain valuable information for investors, and comments received from the users of this information uniformly indicated their desire to receive the reports at the earliest time that is consistent with receiving quality information.⁸³

B. Definition of "Accelerated Filer"

1. Proposed Rules

We proposed to accelerate the due dates for annual and quarterly reports only for companies with a common equity public float of \$75 million or more, that have been reporting for at least 12 calendar months and that have filed at least one annual report. The public float and reporting history requirements are designed to include the companies that are least likely to find such a change overly burdensome and where investor interest in accelerated filing is likely to be highest. Other companies would continue to file under existing deadlines, including small business issuers that file on Forms 10-KSB and 10-QSB, foreign governments, foreign private issuers that elect to use Form 20-F and companies that do not have a common equity public float. Under the proposed rules,

⁸⁰ See, for example, the Letters of the ABA; Deloitte & Touche LLP; FEI; Joseph A. Grundfest; Investment Company Institute; Intel Corporation; Merrill Lynch & Co., Inc.; Nucor Corporation; SCANA Corporation; SIA; The Southern Company; TIAA-CREF; and Trover Solutions, Inc.

⁸¹ See, for example, the Letters of Ernst & Young LLP; FEI; Fidelity Management & Research Company; Investment Company Institute; KPMG LLP; NAREC; NAREIT; NIRI; Papa John's International, Inc.; Shearman & Sterling; SIA; and Valmont Industries, Inc.

⁸² See, for example, Sections 401(b) and 409 of the Sarbanes-Oxley Act of 2002 [Pub. L. No. 107-204, §§ 401(b) and 409, 116 Stat. 745 (2002)].

⁸³ See, for example, the Letter of Fidelity Management & Research Company.

a company would determine its public float for purposes of determining whether it would become an accelerated filer as of a date no more than 60 and no less than 30 days before the end of its fiscal year. In addition, as proposed, a company would become an accelerated filer at any time during the year if it met the public float test on a previous determination date and subsequently met the reporting requirements during the year.

2. Comments on the Proposal

Comments were mixed on the proposed definition of accelerated filer. Several commenters believed that all public companies should be required to adhere to the same filing deadlines, regardless of a company's size or experience in preparing filings.⁸⁴ These commenters thought it would be confusing to investors and companies to have differing filing deadlines. They also believed that investors in companies with a public float of less than \$75 million should expect the same timely access to prompt disclosure as investors in larger companies. They argued that such prompt disclosure may be even more important for smaller companies. Several commenters also thought that while large firms may have more resources, they tend to have more complex and geographically widespread operations, numerous consolidated entities and segments and complicated financial transactions.⁸⁵

Other commenters agreed with the notion of excluding smaller companies.⁸⁶ Smaller companies may have operations that are just as complicated as large companies. More importantly, accelerated reporting may be particularly burdensome for smaller companies because they may not have the necessary resources or infrastructure to report on an accelerated basis. Many of these issuers have small staffs and limited technological resources, so the imposition of accelerated deadlines may have a disproportionate impact on these companies. In addition, auditors may be more likely to postpone their reviews of smaller companies' financial statements until they have completed their work for larger clients. There also may not be sufficient market interest in these

companies to justify the costs and burdens needed to accelerate a smaller company's reporting processes.⁸⁷

Comments also were somewhat mixed on the use of public float as a method to differentiate between companies.⁸⁸ Several commenters questioned the use of public float as a measure indicative of a company's ability to file sooner. According to these commenters, smaller companies with limited operations and personnel could easily develop a significant public float. These commenters offered several alternative measures, including revenues, assets or some measure of trading volume. Other commenters thought the proposed \$75 million public float threshold was too low.⁸⁹ These commenters recommended a number of alternative thresholds, ranging from \$150 million to \$10 billion. Several other commenters thought the proposed public float measurement date occurred too late in the fiscal year to give companies sufficient time to modify their systems and prepare for accelerated reporting.⁹⁰

In the Proposing Release, we also requested comment on whether the deadline for annual reports of foreign private issuers on Form 20-F should be shortened. Comments were mixed on this request. Some commenters did not think there was a reason to not also shorten deadlines for foreign filers.⁹¹ Others thought that the issues involving foreign issuers are sufficiently different as to warrant a separate study and rule proposal.⁹² A few others thought the deadlines for foreign issuers should not be accelerated at all.⁹³

⁸⁷ See, for example, the Letters of Community Bankshares, Inc.; First Capital Bank Holding Corporation; and GrandSouth Bancorporation.

⁸⁸ Compare, for example, the Letters of the AFP; KPMG LLP; and Western Wireless Corporation with the Letters of the ABA; AICPA; American Bankers Association; Arris Group, Inc.; BDO Seidman, LLP; Ernst & Young LLP; Foley, Hoag & Eliot LLP; Grant Thornton LLP; Joseph A. Grundfest; NYCBA; NYSBA; PricewaterhouseCoopers LLP; Shearman & Sterling; Southern Union Company; and United States Steel Corporation.

⁸⁹ See, for example, the Letters of the AICPA; American Bankers Association; Arris Group, Inc.; Baldwin & Lyons, Inc.; Ernst & Young LLP; HealthSouth Corporation; KPMG LLP; NAREC; NYSBA; Perkins Coie LLP; Triarc Companies, Inc.; and Troutman Sanders LLP.

⁹⁰ See, for example, the Letters of the ABA; AICPA; Ernst & Young LLP; KPMG LLP; and Troutman Sanders LLP.

⁹¹ See, for example, the Letters of the AIMR; Brown-Forman Corporation; Chevron Phillips Chemical Company LLP; Comcast Corporation; Deloitte & Touche LLP; The Dow Chemical Company; Markel Corporation; Maverick Capital Ltd.; and SBC Communications Inc.

⁹² See, for example, the Letters of the AICPA; Ernst & Young LLP; Institute of Management Accountants; KPMG LLP; and PricewaterhouseCoopers LLP.

⁹³ See, for example, the Letters of Cleary, Gottlieb, Steen & Hamilton and NYCBA.

3. Final Rules

After evaluating the comments on this aspect of the proposal, we are adopting the amendments substantially as proposed with some minor clarifications. Under the final rules, accelerated deadlines will apply to a company after it first meets the following conditions as of the end of its fiscal year:

- Its common equity public float was \$75 million or more as of the last business day of its most recently completed second fiscal quarter;
- The company has been subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act for a period of at least 12 calendar months;
- The company has previously filed at least one annual report pursuant to Section 13(a) or 15(d) of the Exchange Act; and
- The company is not eligible to use Forms 10-KSB and 10-QSB.

The public float and reporting history aspects of this definition are being adopted substantially as proposed. These requirements are based primarily on the current eligibility requirements for registration of primary offerings for cash on Form S-3.⁹⁴ These companies can take advantage of short-form registration, including the resultant benefits of incorporation by reference and quick access to the capital markets through "shelf registration." Shortening the periodic reporting deadline for these companies, coupled with our conforming revisions to the financial statement timeliness requirements discussed below, promises that investors will receive information about these companies sooner. This enhances the timeliness of information received for primary purchasers in these offerings in addition to secondary market purchasers. These changes also ensure that investors receive consistent financial information regardless of the particular registration form a company uses. In identifying companies that will be subject to this new requirement, we also thought it would be appropriate to use a pre-existing threshold to reduce regulatory complexity.

While we agree that investors in smaller companies value the timeliness of corporate disclosures, we must balance the market's need for information with the ability of companies to prepare that information without undue burden. The possible detrimental effects of accelerating the reporting process for companies least able to bear the burden of these changes may outweigh the potential advantages

⁹⁴ See General Instructions I.A.3 and I.B.1 of Form S-3.

⁸⁴ See, for example, the Letters of the ABA; FEI; NYCBA; Caremark Rx, Inc.; Comcast Corporation; The Dow Chemical Company; Monsanto Company; and Troutman Sanders LLP.

⁸⁵ See, for example, the Letters of the ABA; American Electric Power; Cleary, Gottlieb, Steen & Hamilton; Grant Thornton, LLP; HealthSouth Corporation; and Union Planters Corporation.

⁸⁶ See, for example, the Letters of the AFL-CIO; Corning Incorporated; Crowe, Chizek and Company LLP; KPMG LLP; NAREC; NAREIT; NYSBA; and The Williams Companies, Inc.

of acceleration if the quality of information suffers. We do not think that having two sets of reporting deadlines will be confusing. Some registrants, such as foreign private issuers, are already subject to different deadlines. We believe it is more important that companies of the same relative size, including the most actively followed companies, are subject to shortened deadlines. We agree that larger companies may have more complex operations, but they also are more likely than smaller companies to have the infrastructure and resources to report on an accelerated timeframe.

We believe that a public float test serves as a reasonable measure of company size and market interest. While several commenters urged raising the proposed threshold, we believe a longer phase-in period for accelerating deadlines and a less extensive acceleration of the quarterly report deadline militates against the need to raise the threshold. The definition of accelerated filer we are adopting today with a \$75 million public float threshold excludes nearly half of all publicly traded companies, as well as all companies eligible for our small business issuer reporting system, all foreign private issuers that file on Form 20-F and all companies that do not have a common equity public float.⁹⁵

A company that does not fall within the "accelerated filer" definition as of its first fiscal year ending on or after December 15, 2002 will have to re-evaluate its status at the end of each fiscal year. To address concerns raised by commenters, a company will determine its public float by looking back at the last business day of its most recently completed second fiscal quarter. This allows companies to know further in advance whether they will become an accelerated filer at the end of their fiscal year and allow them to begin making the appropriate preparations.

As explained in the new definition of "accelerated filer," the determination of whether a non-accelerated filer becomes an accelerated filer as of the end of its

fiscal year governs the annual report to be filed for that fiscal year, the quarterly reports to be filed for the subsequent fiscal year and annual and quarterly reports to be filed thereafter. Under the final rules, a company would not need to determine whether it would become an accelerated filer other than at the end of its fiscal year. We believe this provides increased notice to a company for planning purposes. It also lessens any potential confusion to investors by a sudden change in deadlines.

For example, if a calendar year-end company meets the public float requirement, but has not filed its first annual report as of December 31, 2002, it does not become an accelerated filer and remains subject to existing deadlines for its 2002 annual report and its 2003 quarterly reports. However, if on December 31, 2003, the company meets the public float test as of the last business day of its second fiscal quarter ending June 30, 2003 and meets the other requirements of the accelerated filer definition, the company becomes an accelerated filer subject to the accelerated deadlines for its 2003 annual report, 2004 quarterly reports and all periodic reports thereafter.

As proposed, once a company becomes an accelerated filer, it remains an accelerated filer subject to shortened deadlines unless and until it subsequently becomes eligible to use Forms 10-KSB and 10-QSB for its annual and quarterly reports.⁹⁶ In that case, the issuer ceases to be an accelerated filer unless and until it again meets the accelerated filer criteria. A few commenters thought that the use of different standards for entering and exiting accelerated filer status would be confusing and potentially unfair compared to companies that never had their public float exceed \$75 million, especially for companies that cross the threshold for a certain period of time and then fall back below the threshold but do not otherwise meet the criteria to become a small business issuer.⁹⁷ However, it is our view that, once a company meets the accelerated filer threshold, it is reasonable to minimize a company's fluctuation in and out of accelerated filer status while still allowing the company to exit if it becomes so small for so long that it

becomes eligible to file its reports as a small business issuer. Accordingly, we are adopting the provisions to exit accelerated filer status as proposed.

Currently, companies are required to disclose on the cover page of their annual report on Form 10-K their public float as of a specified date within 60 days before filing. To assist investors and the Commission in evaluating whether a company is subject to accelerated deadlines, we are revising this requirement. We are requiring every company, regardless of whether it is an accelerated filer, to disclose its public float as computed on the last business day of the company's most recently completed second fiscal quarter. We recognize that this will reduce the currency of this disclosure, but we believe such a change will simplify the burdens companies face by requiring them to calculate only one public float amount. Also, to clarify further a company's filing status, we are requiring each company to check a box on the cover of its quarterly and annual reports to indicate whether it is an accelerated filer.

We are not adopting changes today to the deadline for annual reports by foreign private issuers on Form 20-F. As we mentioned in the Proposing Release, we are continuing to consider this issue and Exchange Act filing requirements generally for foreign issuers. We recognize that with the adoption of today's amendments, the discrepancy between the filing deadlines for larger seasoned U.S. issuers and those for foreign private issuers will increase. We will consider the comments received in our continuing review of the issue.

C. Conforming Amendments

In the Proposing Release, we requested comment on several possible conforming revisions to other Commission rules as a result of the proposals. Our decisions on these requests are discussed in this section.

1. Timeliness Requirements in Other Commission Filings

We mentioned in the Proposing Release that we were considering making conforming revisions to accelerate the timeliness requirements in Regulation S-X for the inclusion of financial statements by accelerated filers in other Commission filings, such as Securities Act and Exchange Act registration statements and proxy and information statements under Section 14 of the Exchange Act. We requested comment on whether these changes should be made. Most of the commenters that responded to this request suggested we should make

⁹⁵ We arrived at this estimate by dividing the number of companies in Standard & Poors Research Insight Compustat Database with a market capitalization below \$75 million as of November, 2001 (4,622) by the total number of companies in the Compustat Database with a reported market capitalization for that period (9,325). It is our understanding that the data in the Compustat Database is derived principally from larger companies, so our estimate may understate the actual percentage of companies that would be excluded by the proposals. Further, this figure does not include many additional companies that would not be affected by the amendments, including foreign private issuers that file on Form 20-F and issuers that do not have a common equity public float.

⁹⁶ See Item 10(a)(2) of Regulation S-B [17 CFR 228.10(a)(2)] for the conditions for entering and exiting the small business reporting system. A reporting company that is not a small business issuer must meet the definition of a small business issuer at the end of two consecutive fiscal years before it will be considered a small business issuer for purposes of Form 10-KSB and Form 10-QSB.

⁹⁷ See, for example, the Letters of the ABA and NAREIT.

conforming changes if we change the periodic report deadlines.⁹⁸ We agree.

When the Commission made extensive revisions to its rules, forms and regulations in 1980 to further the integrated disclosure system, it adopted amendments regarding the inclusion of financial information in registration statements and proxy statements that parallel the requirements for financial data in Exchange Act periodic reports.⁹⁹ Parallel requirements facilitate the integrated reporting system by simplifying existing rules. They also improve overall disclosure as investors are assured consistent requirements as to the timeliness of information regardless of the document received. If conforming amendments are not made to keep these requirements parallel, a filing could conceivably be filed under the Securities Act with financial information less current than that filed under the Exchange Act. Accordingly, to facilitate uniform requirements, we are adopting amendments to Regulation S-X to conform the timeliness requirements. Under the conforming amendments we are adopting today, financial statements included in a registration statement or proxy statement still will be required to be at least as current as any financial statements filed under the Exchange Act.

We recognize that in making these conforming changes, for some short period of time, accelerated filers may be prevented from going to market.¹⁰⁰ However, it is our view that, when a company is an accelerated filer and is attempting to raise capital in the marketplace after audited financial information would be required to be filed under the Exchange Act, it is reasonable to delay registration until such financial statements become available. We believe this change is in the best interest of the investing public and will not create any additional burden on the large majority of accelerated filers because the required financial information already will be required to have been filed. Also, as in the past, we will consider waivers to the rules where unusual circumstances dictate the need for them.¹⁰¹

⁹⁸ See, for example, the Letters of American Electric Power; Comcast Corporation; The Dow Chemical Company; Ernst & Young LLP; Eli Lilly and Company; and HealthSouth Corporation.

⁹⁹ See Release No. 33-6234 (Sept. 2, 1980) [45 FR 63682].

¹⁰⁰ For example, after the phase-in period is complete, an accelerated filer would need to include updated financial statements in its registration statements up to 30 days earlier than under the current rules.

¹⁰¹ See, for example, Rule 3-13 of Regulation S-X [17 CFR 210.3-13].

a. Filings Within 90 Days of Year-End

Currently, a reporting issuer is not required to include audited financial statements for its most recent fiscal year until the 90th day after the end of the fiscal year if it satisfies three conditions:

- The company has filed all required Exchange Act reports;
- The company reasonably, and in good faith, expects income, after taxes but before extraordinary items and a cumulative effect of a change in accounting principle, for its most recent fiscal year; and
- For at least one of the two immediately preceding fiscal years, the company has reported income, after taxes but before extraordinary items and cumulative effect of a change in accounting principle.

Unless all three conditions are met, registration statements filed or declared effective or proxy statements mailed after the 45th day following the fiscal year end must include audited financial statements for the most recent fiscal year end.¹⁰²

We are shortening the 90-day deadline to conform to the phase-in periods for accelerated filers to keep this requirement parallel to the requirement to file an annual report under the Exchange Act. In year one of the phase-in period, the deadline will remain at 90 days. In year two of the phase-in period, the deadline will be reduced to 75 days. For year three and subsequent years, the deadline will be reduced to 60 days.

One commenter suggested we eliminate the distinctions among registrants that meet the conditions in Rule 3-01(c) of Regulation S-X.¹⁰³ We are not changing the 45-day deadline for companies that do not meet the three required conditions. This deadline was not previously linked to an Exchange Act reporting requirement, and we continue to think that this shorter deadline is sufficient. This deadline will continue to require audited financial information more current than that required by the Exchange Act reporting requirements for companies that have not reported, and do not expect to report, income.

b. Filings After 134 Days of Year-End

The existing rules require interim financial information in registration statements filed by registrants after 134 days subsequent to the end of the registrant's fiscal year—the period after audited financial statements for the

¹⁰² If the audited financial statements for the most recently completed fiscal year are available or become available before effectiveness or mailing, they must be included in the filing.

¹⁰³ See the Letter of Ernst & Young LLP.

most recently completed fiscal year are already required to be filed by most registrants on Form 10-K or 10-KSB and on or after the date most registrants are required to have filed interim financial statements for the first quarter on Form 10-Q or 10-QSB. Under the conforming amendments, in year one of the phase-in period, the period will remain at 134 days for accelerated filers. In year two of the phase-in period, the period will be reduced from 134 to 129 days for accelerated filers. When a registration statement is filed or is to be declared effective during this period, updated financial statements will now be required as of an interim date within 130 days of the date of filing. For year three and subsequent years, the period will be reduced to 124 days for accelerated filers. Registration statements filed or to be declared effective during this period will be required to include updated financial statements as of an interim date within 125 days of the date of filing. Here again, the amended rules parallel the requirements for filing interim information under the Exchange Act.

c. Age at Effective Date of Filing

Under the existing rules, where financial statements in a filing are as of a date 135 days or more before the date the filing is expected to become effective, or proposed mailing date in the case of a proxy statement, the financial statements must be updated with a balance sheet as of an interim date within 135 days and with statements of income and cash flows on a comparative basis for the interim period between the end of the most recent fiscal year and the date of the interim balance sheet provided.¹⁰⁴ Two exceptions exist under the current rule. First, where the registrant meets the conditions in Rule 3-01 of Regulation S-X and the anticipated effective date or proposed mailing date in the case of a proxy statement falls after 45 days but within 90 days of the end of the fiscal year, the filing need not be updated with financial statements more current than as of the end of the third fiscal quarter of the most recently completed fiscal year provided audited financial statements for such fiscal year are not available. Second, where the registrant does not meet the prescribed conditions referred to above and the anticipated effective date or proposed mailing date falls after 45 days but within 90 days of the end of the fiscal year, the filing must include audited financial statements for the most recent fiscal year. Both exceptions are consistent with the rules

¹⁰⁴ See Rule 3-12 of Regulation S-X.

governing financial statements as of the date of filing.

The conforming amendments revise the updating rule to parallel the requirements for filing financial information under the Exchange Act. In year one of the phase-in period, the general updating period will remain at 135 days for accelerated filers. In year two of the phase-in period, the general updating period will be reduced from 135 days to 130 days for accelerated filers. For year three and subsequent years, the period will be reduced to 125 days. For each of the exceptions, the 90 day period will remain at 90 days for year one and then be reduced to 75 days in year two and 60 days in year three and subsequent years for accelerated filers. We will maintain the two existing exceptions in the rule.¹⁰⁵

d. Unconsolidated Subsidiaries and 50% or Less Owned Persons

Several commenters did not think that the due date in Rule 3-09 of Regulation S-X regarding the inclusion of financial statements of significant equity investees, joint ventures and subsidiaries not consolidated should be accelerated to conform to that of the investor registrant.¹⁰⁶ Accelerating the filing of these financial statements could require a company that does not meet the definition of an accelerated filer to file its financial statements before it would otherwise be required to do so solely because of a minority ownership stake by the investor registrant. In addition, the investor registrant may have difficulty in obtaining these financial statements from these non-wholly owned entities in the appropriate timeframe. This may lead a registrant to either sell its investment, not for business reasons, but in order to remain timely and current in its filing requirements, or cause the investor registrant to be not timely, which could have a number of adverse effects, including the loss of short-form registration.

As part of our conforming amendments, we are amending Rule 3-09 of Regulation S-X to address these concerns. Separate financial statements of subsidiaries not consolidated and 50% or less owned persons required by

Rule 3-09 of Regulation S-X will not be accelerated for inclusion in a company's annual report on Form 10-K if the subsidiary or 50% or less owned person is not an accelerated filer. In that instance, the financial statements of the subsidiary or 50% or less owned person can be filed by amendment within the existing time periods. In addition, we are making conforming amendments to still provide companies with additional time to file the required financial statements if the fiscal years of the investor registrant and the subsidiary or 50% or less owned person differ.

2. Time Allowed to Incorporate Form 10-K Information From Definitive Proxy or Information Statements

In the Proposing Release, we did not propose to make a conforming change to the 120-day period companies have to file their definitive proxy or information statements involving the election of directors to allow the incorporation by reference of the information required by Part III of Form 10-K.¹⁰⁷ We requested comment on whether this period should be shortened. While two commenters supported accelerating the filing of definitive proxy or information statements to ensure that investors have timely information,¹⁰⁸ the majority of commenters that responded to our request objected to a conforming change.¹⁰⁹ The objecting commenters thought that a shortened deadline would be overly burdensome. We see no significant reason to shorten the deadline at this time.

Some commenters were concerned that a reduction of the filing deadline for Form 10-K without a corresponding change in the deadline for incorporating the Part III information by reference from the proxy statement would interfere with the ability of some companies to file new short-form registration statements for securities offerings during the period between the Form 10-K filing date and the filing of the proxy statement.¹¹⁰ This is because these issuers would be required to include the Part III information in the registration statement, either directly or through incorporation by reference from another document, before the proxy

statement is filed. As the ability to incorporate the Part III information from the proxy statement is voluntary and is designed for the benefit of registrants, we do not believe this concern warrants either a change to the deadline to incorporate Part III information from the proxy statement or the Form 10-K deadline. Companies will retain the flexibility to choose the alternative that best suits their individual circumstances.

3. Form 10-K Schedules Required by Article 12 of Regulation S-X

We did propose to make a conforming change to the date by which all schedules required by Article 12 of Regulation S-X may be filed as an amendment to the annual report. We proposed to change this date from 120 calendar days to 90 calendar days for accelerated filers to maintain a 30-day period after the due date of the report to file the amendment. We requested comment on this change.

The majority of commenters responding to this request supported this change.¹¹¹ Several commenters supported eliminating any delay and requiring these schedules to be filed with the Form 10-K.¹¹² However, we understand that in some instances additional time may be necessary to prepare these schedules. As a result, we are adopting conforming amendments to maintain a 30-day period after the due date of the report to file the schedules.

4. Financial Statement Filing Requirements in Rule 3-05 of Regulation S-X and Item 7 of Form 8-K

In the Proposing Release, we requested comment on whether we should make conforming revisions to the financial statement filing requirements in Item 7 of Form 8-K and Rule 3-05¹¹³ of Regulation S-X for financial statements of businesses acquired. The commenters who responded to this request uniformly objected to such a change.¹¹⁴ Many of these commenters believed that the ability to obtain audited financial statements of a significant acquired business generally is unrelated to any

¹⁰⁵ As with the existing rules, the revised updating rule also includes a general provision that if a filing is made near the end of a fiscal year and the audited financial statements for that fiscal year are not included in the original filing, the filing must be updated with those audited financial statements if they become available before the anticipated effective date, or proposed mailing date in the case of a proxy statement.

¹⁰⁶ See, for example, the Letters of the AICPA; Corning Incorporated; Ernst & Young LLP; and KPMG LLP.

¹⁰⁷ See General Instruction I.G.(3) of Form 10-K.

¹⁰⁸ See the Letters of the AIMR and Maverick Capital Ltd.

¹⁰⁹ See, for example, the Letters of American Electric Power; AFLAC Incorporated; ASCS; The Coca-Cola Company; Comcast Corporation; The Dow Chemical Company; Ernst & Young LLP; Intel Corporation; LeBoeuf, Lamb, Green & MacRae; McGuireWoods LLP; NYSBA; PepsiCo, Inc.; PricewaterhouseCoopers LLP; The Southern Company; and Technitrol, Inc.

¹¹⁰ See, for example, the Letters of J.P. Morgan Chase & Co. and NYCBA.

¹¹¹ See, for example, the Letters of American Electric Power; ASCS; The Dow Chemical Company; Ernst & Young LLP; and United States Steel Corporation. But see the Letter of Triarc Companies, Inc.

¹¹² See, for example, the Letters of the AIMR; Maverick Capital Ltd.; and PricewaterhouseCoopers LLP.

¹¹³ 17 CFR 210.3-05.

¹¹⁴ See, for example, the Letters of the AICPA; ASCS; Cleary, Gottlieb, Steen & Hamilton; Deloitte & Touche LLP; Ernst & Young LLP; KPMG LLP; NYCBA; and PricewaterhouseCoopers LLP.

circumstances of the acquirer that cause it to be an accelerated filer for purposes of its own financial statements. We see no significant reason to shorten the deadline at this time, and therefore we are not adopting conforming amendments to these provisions.

D. Website Access to Information

1. Proposed Rules

We proposed to require accelerated filers to provide additional disclosure in their annual reports of where investors can obtain access to company filings. This would have included disclosure regarding the availability of information from the Commission, the company's website address and whether the company makes available free of charge on its website, if it has one, its annual, quarterly and current reports, and all amendments to those reports, as soon as reasonably practicable after, and in any event on the same day as, such material is electronically filed with or furnished to the Commission. If a company chose not to make its filings available on its website in this manner, the proposals would have required it to disclose why it does not do so and where else the public can access these filings immediately upon filing and whether there is a fee for such access. Companies also would have to disclose whether they voluntarily will provide electronic or paper copies of its filings upon request.

Widespread access to timely corporate information promotes the efficient functioning of the secondary markets by enabling investors to make informed investment and voting decisions. Further, ready access to Exchange Act information is critical to short-form registration of securities offerings by seasoned issuers under the Securities Act.¹¹⁵ This form of registration allows certain information about the company conducting the offering to be incorporated by reference from the company's Exchange Act reports without, in many instances, separate delivery of those reports. One rationale for this method of registration is that the information in the company's Exchange Act reports already has been adequately disseminated and evaluated by the marketplace.

The development of the Internet has revolutionized information production, availability, and dissemination.¹¹⁶ The

¹¹⁵ Short-form registration is available in varying degrees for domestic issuers on Forms S-2 [17 CFR 239.12], S-3, S-4 [17 CFR 239.25] and S-8.

¹¹⁶ See, for example, Report to the Congress: The Impact of Recent Technological Advances on the Securities Markets, (Sept. 1997). That report, like all Commission reports issued after 1996, is available on our Internet website (<http://www.sec.gov>).

increased availability of information has helped to promote transparency, liquidity and efficiency in our capital markets. One of the key benefits of the Internet is that companies can make information available to many investors and the financial markets quickly and in a cost-effective manner. Online access to Internet information also helps to democratize the capital markets by enabling many small investors to access corporate information.¹¹⁷

We have taken a number of steps to encourage the dissemination of information electronically via the Internet. For 18 years, we have been continually improving and modernizing electronic access to companies' Exchange Act reports through our EDGAR system, including by providing Internet access to these reports.¹¹⁸ We now provide electronic access to the public on a real-time basis through our Internet website.¹¹⁹

Without regard to EDGAR, an efficient and economical method for companies to make information available about themselves to many investors is through their Internet websites. In addition to other existing sources of company information, such as our website, a company's website is often an obvious place for investors to find information about a company. A company also may use different formats and other approaches to making information available in ways it believes are useful to investors. Most companies, realizing the benefits of this technology for information dissemination, already provide access to their Commission filings through their websites. A study by our Office of Economic Analysis revealed that approximately 83% of companies with a public float of at least \$75 million provide some form of access to their Commission filings through their websites, either via a hyperlink with a third-party service providing real-time access to the filings (45%), by posting the filings directly on their websites (29%) or via a hyperlink to our EDGAR database (15%).

Modernizing the disclosure system under the federal securities laws involves recognizing the importance of the Internet in fostering prompt and more widespread dissemination of information.¹²⁰ We believe company

¹¹⁷ See, for example, Ianthe Jeanne Dugan, "Small Investors United by Web Find New Power," *The Washington Post*, May 30, 1999, at A01.

¹¹⁸ Numerous third-party vendors also make information filed with the Commission electronically available to investors, but many charge fees for this service.

¹¹⁹ See note 32 above.

¹²⁰ Congress has already recognized the importance of utilizing the Internet to disseminate

disclosure should be more readily available to investors on a timely basis in a variety of locations to facilitate investor access to that information. We believe it is important for companies to make investors aware of the different sources that provide access to company information. We applaud those that already provide access to their Commission filings through their websites, and encourage every reporting company to do so.

2. Comments on the Proposal

We received responses from 141 commenters on the proposals for disclosure concerning access to company filings. The vast majority of commenters representing investors, investor groups, companies and professional associations were supportive of the proposals. Sixty commenters supported the requirement as proposed and concurred with our objective to provide investors with information on where they can access company reports.¹²¹ These commenters believed the proposal would aid in encouraging companies to make information available in a variety of locations and hence make corporate information more widely accessible and disseminated. One professional association mentioned that almost 90% of companies in its survey expected to accomplish the objectives of the proposal with ease.¹²² The commenter also referred to other studies demonstrating that corporate websites are a significant source of information to investors and the media.

Forty commenters concurred with our objective but offered modifications to

information. For example, Section 403(a) of the Sarbanes-Oxley Act of 2002 [Pub. L. 107-204, Section 403(a), 116 Stat. 745 (2002)] added Section 16(a)(4) of the Exchange Act [15 U.S.C. 78p(a)(4)] requiring companies to provide Section 16(a) filings on their corporate websites. Other countries also have begun to recognize the importance of the Internet to disseminate information. For example, the listing standards for the S.T.A.R. Market segment of the Italian Exchange (Borsa Italiana) require listed companies to post their periodic reports on their websites. See Article 2.2.3, paragraph 3.e) of Regolamento Dei Mercati Organizzati E Gestiti Da Borsa Italiana S.P.A. [Rules of the Markets Organized and Managed by the Italian Exchange] (July 15, 2002).

¹²¹ See, for example, the Letters of the AFP; AIA; AIMR; The Allstate Corporation; AOL Time Warner Inc.; Armstrong World Industries, Inc.; BDO Seidman, LLP; the Business Roundtable; CCBN; CII; Jason Cook; Deloitte & Touche LLP; Delphi Corporation; Dollar Tree Stores, Inc.; The Dow Chemical Company; EDGAR Online; Eli Lilly and Company; Grant Thornton LLP; Investment Company Institute; Jefferson-Pilot Corporation; NIRI; Pharmacia Corporation; Principal Financial Group, Inc.; SunTrust Banks, Inc.; TIAA-CREF; UnionBanCal Corporation; UnumProvident Corporation; and XTO Energy Inc.

¹²² See the Letter of the NIRI.

the proposal, such as recommending that we allow additional time for companies to post the reports on their websites and suggesting that a permanent statement regarding availability of the company's filings on a web page referring to EDGAR or a standing hyperlink to EDGAR should suffice.¹²³ Twenty other commenters offered similar suggestions to modify the proposal.¹²⁴ Some of the commenters requested interpretive clarifications for complying with the proposals.¹²⁵

Twenty-one commenters questioned the utility of the proposal, especially considering the existence of the Commission's EDGAR website and the Commission's recent announcement that its website now provides real-time access to filings.¹²⁶ Some of these commenters thought the proposal unnecessarily duplicated the Commission's EDGAR system.¹²⁷ One commenter did not agree that a variety of electronic sources provides any more widespread access to information than a single source.¹²⁸ Ten companies suggested that the desired improvement the Commission seeks in instant accessibility of information could be best accomplished by modernizing the EDGAR system, including by making filings immediately available to the public on its website, which we have now done.¹²⁹

¹²³ See, for example, the Letters of the ACCA; American Electric Power; AFLAC Incorporated; Amerada Hess Corporation; the American Bankers Association; Capital One Financial Corporation; The Chubb Corporation; CIGNA Corporation; Cleary, Gottlieb, Steen & Hamilton; Dell Computer Corporation; Ernst & Young LLP; FEI; Halliburton Company; Merrill Lynch & Co., Inc.; NAREC; PepsiCo, Inc.; PG&E Corporation; and UniSource Energy Corporation.

¹²⁴ See, for example, the Letters of the ABA; J.P. Morgan Chase & Co.; McDonald's, Inc.; Mellon Financial Corporation; NAREIT; PricewaterhouseCoopers LLP; and Sullivan & Cromwell.

¹²⁵ See, for example, the Letters of the ABA; Capital One Financial Corporation; and Reed Smith LLP.

¹²⁶ See, for example, the Letters of American Financial Group, Inc.; Allegheny Energy, Inc.; Aztar Corporation; Caremark Rx, Inc.; Chevron Phillips Chemical Company LLP; Compass Bankshares, Inc.; Community Bankshares, Inc.; Edison Electric Institute; First Capital Bank Holding Corporation; GrandSouth Bancorporation; International Bancshares Corporation; J.C. Penney Company, Inc.; M&T Bank Corporation; Marathon Oil Corporation; MDU Resources, Inc.; Pinnacle West Capital Corporation; and Sinclair Broadcast Group, Inc.

¹²⁷ See, for example, the Letters of Allegheny Energy, Inc.; Compass Bankshares, Inc.; Commercial Federal Corporation; Edison Electric Institute; and Pinnacle West Capital Corporation.

¹²⁸ See the Letter of Compass Bankshares, Inc.

¹²⁹ See, for example, the Letters of American Financial Group, Inc.; Caremark Rx, Inc.; Community Bankshares, Inc.; First Capital Bank Holding Corporation; GrandSouth Bancorporation; International Bancshares Corporation; J.C. Penney

3. Final Rules

After evaluating the comments received, we are adopting the proposals with minor revisions. These amendments require accelerated filers to disclose in their annual reports on Form 10-K the following:¹³⁰

- The company's website address, if it has one;
- Whether the company makes available free of charge on or through its website, if it has one, its annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and all amendments to those reports as soon as reasonably practicable after such material is electronically filed with or furnished to the Commission;
- If the company does not make its filings available in this manner, the reasons it does not do so (including, where applicable, that it does not have an Internet website);¹³¹ and
- If the company does not make its filings available in this manner, whether the company voluntarily will provide electronic or paper copies of its filings free of charge upon request.

Accelerated filers must begin complying with the new disclosure requirement starting with their annual reports on Form 10-K to be filed for fiscal years ending on or after December 15, 2002.

In response to comment, we have eliminated the proposed requirement that registrants disclose that filings are available on our website and in our public reference room as unnecessary. We have also eliminated the proposed disclosure relating to where else the public can access company filings immediately upon filing if the company does not provide real-time website access as real-time access to filings is now available through our Web site.

We understand that companies provide website access to their Exchange Act reports in a variety of ways, including by establishing a hyperlink to its Exchange Act reports via a third-party service in lieu of maintaining the reports themselves.¹³² For purposes of the disclosure element for website access to reports, hyperlinking to a third-party service is

Company, Inc.; M&T Bank Corporation; Marathon Oil Corporation; and MDU Resources, Inc.

¹³⁰ See revisions to Item 101(e) of Regulation S-K.

¹³¹ This requirement relates to the company's experience during the period covered by the report, or since the effective date of the amendments if a company has not completed a full fiscal year before its next annual report is due.

¹³² In Release No. 33-7856 (Apr. 28, 2000) [65 FR 25843] (the "2000 Release"), we provided interpretive guidance on the possible effects of hyperlinking to a third party website. See the 2000 Release, at n.48 and the accompanying text.

acceptable so long as the reports are made available in the appropriate time frame and access to the reports is free of charge to the user. To clarify that hyperlinking to a third party website is acceptable, we have slightly modified the proposed language to specify that a company can provide access on or through its website. A company should hyperlink directly to its reports (or to a list of its reports) instead of just to the home page or general search page of the third-party service.¹³³ We note that many companies already provide this level of specificity in their hyperlinks as a matter of best practice.

As we now provide real-time access to Exchange Act reports through our website, hyperlinking directly to a company's reports (or to a list of its reports) on our EDGAR website will allow a company to state that it provides website access to its reports as soon as reasonably practicable after those reports are filed. This will help to decrease further any incremental burdens or costs caused by the new requirement. Despite the availability of these reports through our website, we concluded that disclosure regarding company website access is still desirable as one of our objectives is to encourage the availability of information in a variety of locations and foster best practices for making that information broadly accessible. Hyperlinking through EDGAR will now allow a company to state in all cases that it provides website access as soon as reasonably practicable.¹³⁴

In reference to comments concerned about technical and other obstacles that might lead to violating the "same day" requirement, we have eliminated that requirement. However, we interpret the "as soon as reasonably practicable" standard to mean that the report would be available, barring unforeseen circumstances, on the same day as filing. We could revisit this requirement if posting on the same day does not generally occur.

¹³³ Companies could present the viewer with an intermediate screen stating that the visitor is leaving the company's website. Also, a disclaimer of responsibility for the accuracy of the third party service will not make the website posting ineffective for purposes of the disclosure requirement.

¹³⁴ Several companies already hyperlink to our EDGAR website to provide website access to their reports. As a result of adding real-time EDGAR filing data to our website, new searches located on new webpages are now available on our website that provide access to this real-time data. For companies that currently hyperlink to our website, they will need to revise their hyperlink scripts if they have not already done so to refer to the new search pages providing real-time data. The older search pages will be eliminated in the near future.

Whether a company provides access to its Exchange Act reports either directly or through a third-party service, we recognize that some companies display the reports in electronic formats (for example, PDF) other than the official electronic format used to transmit the filing to our EDGAR system. In fact, we encourage companies to do so if alternative formats enhance readability and accessibility of the reports, so long as all of the information in the reports remains retrievable. However, the use of a particular medium to access the reports should not be so burdensome that the intended recipients cannot effectively access the information provided.¹³⁵

The website access contemplated by the amendments includes access to all exhibits and supplemental schedules electronically filed with the reports or amendments. Information incorporated by reference is not required to be separately posted, although we encourage companies to do so if it will aid investor access to the information.

While the amendments do not cover how long a company's report must be made available on or through its website, we encourage companies to provide ongoing website access to their reports. At a minimum, we suggest companies provide website access to their previous reports for at least a 12 month period. It would be desirable for companies to provide access to their previous reports on an appropriately archived portion of their website over an even longer timeframe. Finally, we encourage companies to provide website access to all of their filings with the Commission, including their filings under the proxy rules and their Securities Act filings.

Regarding the requirement that a company disclose its website address in its annual report on Form 10-K, some commenters were concerned as to whether including the website address in the filing constitutes incorporation by reference of any website information into the filing.¹³⁶ If a company is complying with this disclosure item in its annual report on Form 10-K, the inclusion of the company's website address will not, by itself, include or incorporate by reference the information on the site into the company's Commission filing, unless the company

otherwise acts to incorporate the information by reference.¹³⁷

We understand that a company may have multiple Web sites that it uses for various purposes, such as investor relations, product information and business-to-business activities. We interpret the requirement to disclose the company's website address to mean the website the company normally uses for its investor relations functions.

The revisions we adopt today create new disclosure obligations that are designed to create duties only under Sections 13(a) and 15(d) of the Exchange Act. The new disclosure is not an antifraud rule, and it is not designed to create new duties under the antifraud provisions of the federal securities laws or in private rights of action or to alter any existing liability provisions. The new disclosure also does not separately create or otherwise affect a company's duty to update its prior statements.

As proposed, we are initially limiting the amendments to accelerated filers. Commenters were nearly unanimous in thinking that we should extend the amendments to all filers, including smaller issuers and foreign issuers.¹³⁸ According to these commenters, the utility of information about report access is likely to be just as great or even greater for these issuers compared to the minimal incremental cost that may be associated with the proposals. We will continue to study this issue and consider extending the requirement to all reporting companies after evaluating our initial experience with the requirement by accelerated filers.

III. Paperwork Reduction Act

The amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").¹³⁹ We published a notice requesting comment on the collection of information requirements in the Proposing Release, and we submitted these requirements to the Office of Management and Budget ("OMB") for review.¹⁴⁰ Subsequently,

¹³⁷ In the 2000 Release, we provided interpretive guidance on the effect of including a website address in other situations. See the 2000 Release, note 132 above, at n.41 and the accompanying text. We are not changing that guidance for those other situations.

¹³⁸ See, for example, the Letters of the ABA; ASCS; Comcast Corporation; Deloitte & Touche LLP; The Dow Chemical Company; Institute of Management Accountants; PricewaterhouseCoopers LLP; and TIAA-CREF.

¹³⁹ 44 U.S.C. 3501 *et seq.*

¹⁴⁰ Publication and submission were in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.

OMB approved the proposed information collection requirements.

The titles for the collection of information are "Form 10-K" and "Form 10-Q." 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.

Form 10-K (OMB Control No. 3235-0063) prescribes information that a registrant must disclose annually to the market about its business. Preparing and filing an annual report on Form 10-K is a collection of information.

Form 10-Q (OMB Control No. 3235-0070) prescribes information that a registrant must disclose quarterly to the market about its business. Preparing and filing a quarterly report on Form 10-Q is a collection of information.

We currently estimate that Form 10-K results in a total annual compliance burden of 12,105,360 hours and an annual cost of \$1,210,536,000. The burden was calculated by multiplying the estimated number of respondents filing Form 10-K annually (9,384) by the estimated average number of hours each entity spends completing the form (1,720 hours). We estimate that 75% of the burden is carried by the respondent internally ($9,384 \times 1,720 \times 0.75 = 12,105,360$), and we estimate that 25% of the burden is carried by outside advisors retained by the respondent at an average cost of \$300 per hour ($9,384 \times 1,720 \times 0.25 \times \$300 = \$1,210,536,000$).¹⁴¹ The portion of the burden carried by outside advisors is reflected as a cost.

We currently estimate that Form 10-Q results in a total annual compliance burden of 2,728,092 hours and an annual cost of \$272,809,200. The burden was calculated by multiplying the estimated number of reports on Form 10-Q filed annually (26,746) by the estimated average number of hours each entity spends completing the form (136 hours). We estimate that 75% of the burden is prepared by the respondent ($26,746 \times 136 \times 0.75 = 2,728,092$). We estimate that 25% of the burden is prepared by outside advisors retained by the respondent at an average cost of \$300 per hour ($26,746 \times 136 \times 0.25 \times \$300 = \$272,809,200$). This

¹⁴¹ Our allocation of the burden for Form 10-K and Form 10-Q is a departure from the Proposing Release and our past PRA submissions for Exchange Act periodic reports, for which we estimated that the company carried 25% of the burden internally and 75% of the burden was carried by outside professionals retained by the company. See also Release No. 33-3098 (May 10, 2002) [67 FR 35620]. We believe that this new allocation more accurately reflects current practice for annual and quarterly reports.

¹³⁵ See, for example, Release No. 33-7233 (Oct. 6, 1995) [60 FR 53458], at n. 24 and the accompanying text.

¹³⁶ See, for example, the Letters of the ABA; ASCS; Caremark Rx, Inc.; NYCBA; NYSBA; PricewaterhouseCoopers LLP; and Sullivan & Cromwell.

portion of the burden is reflected as a cost.

A. Summary of Amendments

The amendments will accelerate the filing deadlines of quarterly reports on Form 10-Q and annual reports on Form 10-K by companies subject to specified public float and reporting history requirements. The amendments also require those companies to disclose in their annual reports on Form 10-K where investors can obtain access to company filings, including whether the company provides access to its Exchange Act reports free of charge on its Internet website as soon as reasonably practicable after those reports are electronically filed with or furnished to the Commission. If a company does not provide website access in this manner, it must also disclose the reasons it does not do so. We also require companies to disclose their website address if they have one. We believe that the revisions will promote direct, uniform and more widespread dissemination of timely information to investors and the markets and further the purposes of short-form registration under the Securities Act.

B. Summary of Comment Letters and Revisions to Proposals

We requested comment on the PRA analysis contained in the Proposing Release. We received responses from two companies addressing the Commission's overall estimates for preparing reports.¹⁴² Both commenters questioned our original estimate of the allocation of the burden between the company (25% of the burden) and outside professionals retained by the company (75% of the burden). Both believed the estimate for the amount of work prepared in-house should be much higher.¹⁴³ Subsequent to the Proposing Release, we have changed our estimates of the allocation of the burden between the company and outside advisors to 75% for in-house work and 25% for outside advisors.¹⁴⁴ We recognize that not all companies may utilize in-house resources to the extent mentioned by the commenters, but we believe the new allocation more accurately reflects current practice for annual and quarterly reports.

¹⁴² See the Letters of PPL Corporation and Southern Union Company.

¹⁴³ One commenter believed the estimate should be 90% for in-house work and 10% for outside professionals. See the Letter of PPL Corporation. The other commenter mentioned it prepares over 95% of its reports by in-house personnel. See the Letter of Southern Union Company.

¹⁴⁴ See note 141 above.

One of the commenters believed the Commission's estimate of the average number of hours each entity spends completing Form 10-Q (136 hours) is too low.¹⁴⁵ The commenter also believed that the Commission's estimate of the average number of hours each entity spends completing the Form 10-K (1,720 hours) was more accurate. We have not concluded that our estimates should be changed as a result of this comment, although we will continue to monitor registrant response to our burden hour estimates.

In addition to the concerns raised by commenters, we have made several modifications to the proposals, although the modifications do not affect our estimate of the incremental burden of the amendments. The amendments will change the calculation date for determining the disclosure date of a company's common equity public float that appears on the cover page of its Form 10-K. In addition, companies will be required to check a box on their Form 10-K and 10-Q indicating whether they are an accelerated filer. We believe these changes are minimal and do not affect the total amount of burden hours for preparing the forms.

In addition, we have made several changes to the proposal for disclosure concerning access to company reports in response to comments on the substance of the proposal and to avoid unnecessarily lengthening reports. These changes include revising or eliminating some of the proposed disclosure elements. We do not believe these changes will significantly change our previous estimates of the burden on registrants from this new disclosure item.

C. Revisions to Reporting and Cost Burden Estimates

We estimate that approximately 59% of Form 10-K and Form 10-Q respondents, or 5,494 respondents, will satisfy our proposed definition of accelerated filer, and thus will be subject to accelerated deadlines and the requirement to make the enhanced disclosure in their Form 10-K regarding website access to their Exchange Act reports.¹⁴⁶

¹⁴⁵ The commenter provided an estimate of 400 hours. See the Letter of PPL Corporation.

¹⁴⁶ We arrived at this estimate by multiplying the approximate number of respondents that file on Form 10-K that do not only have a class of securities registered under Section 15(d) of the Exchange Act (and hence are less likely to have listed equity and therefore a public float) (7,384) by 74.4%, which represents the percentage of companies in Standard & Poors Research Insight Compustat Database with a market capitalization above \$75 million out of the total number of companies in the Compustat Database with a

For our amendments regarding filing deadlines, the amount of information required to be included in Exchange Act reports will remain the same.

Accordingly, solely for purposes of the Paperwork Reduction Act, our estimate is that the amount of time necessary to prepare the reports, and hence, the total amount of burden hours, will not change.

As proposed, we estimate that the preparation of the required disclosure regarding information access in a respondent's Form 10-K will add 0.50 burden hours to each annual report on Form 10-K. Thus, we estimate this aspect of the amendments will add an additional 2,747 burden hours to the current Form 10-K (0.50 hours \times 5,494 respondents). We estimate that 75% of the burden is carried by the respondent (0.50 \times 5,494 \times 0.75 = 2,060).¹⁴⁷ We estimate that 25% of the burden is prepared by outside advisors retained by the respondent at an average cost of \$300 per hour (0.50 \times 5,494 \times 0.25 \times \$300 = \$206,025). This portion of the burden is reflected as a cost.

As a result, we estimate the total annual compliance burden for Form 10-K after our revisions to be 12,107,420 hours and an annual cost of \$1,210,742,025, an increase of 2,060 hours and \$206,025 in cost. Compliance with the disclosure requirement will be mandatory. There will be no mandatory retention period for the information disclosed, and responses to the disclosure requirements will not be kept confidential. We do not believe that the imposition of this disclosure requirement will alter significantly the number of respondents that file on Form 10-K.

IV. Cost-Benefit Analysis

The amendments are part of our initiative to modernize and improve the regulatory system for periodic disclosure under the Exchange Act. We are sensitive to the costs and benefits that result from our rules. In this section, we examine the benefits and costs of our amendments.

market capitalization above \$25 million (the upper limit for small business filers on Form 10-KSB). It is our understanding that the data in the Compustat Database is derived principally from larger companies, so our estimate may overstate the actual percentage of companies that would be affected by the proposals.

¹⁴⁷ As discussed in note 141 above, this allocation of the burden is a departure from the Proposing Release, for which we estimated that the respondent carried 25% of the burden internally and 75% of the burden was carried by outside advisors retained by the respondent. We believe that this new allocation more accurately reflects current practice for annual and quarterly reports.

The rule and form changes will enhance the timeliness and availability of disclosure to investors in two ways:

- Shorten the due dates of quarterly and annual reports (and transition reports) for domestic reporting companies that meet certain public float and reporting history requirements;¹⁴⁸ and
- Require companies to disclose in their annual reports on Form 10-K where investors can obtain access to company filings, including whether companies provide access to their Exchange Act reports on their Internet websites.

A. Acceleration of Quarterly and Annual Report Due Dates

1. Benefits

The due dates for quarterly and annual reports by domestic issuers have not changed in over 30 years, despite enormous advances in information technology and productivity. We believe that periodic reports contain valuable information for investors. Shortening the due dates for quarterly, annual and transition reports will provide many benefits. Most importantly, it will accelerate the delivery of information to investors and the capital markets, enabling them to make more informed investment and valuation decisions more quickly.¹⁴⁹ This helps the capital markets function more efficiently, which implies more efficient valuation and pricing. While quarterly and annual reports at present generally reflect historical information, a lengthy delay before that information becomes available makes the information less valuable to investors.

The more extensive information in periodic reports is evaluated by investors and particularly analysts and institutional investors as a baseline for the incremental disclosures made by a company. These reports also contain more detailed information that is essential to conduct comparative analyses, as this information is often not contained in earnings releases or other incremental disclosures. Moreover, the information in Exchange Act reports,

due to its required nature and the liability to which it is subject, provides a verification function against other statements made by the company in press releases and other public announcements. Investors and other users of the reports can judge previous informal statements by the company against the more extensive and mandated disclosure provided in the reports that have been reviewed by independent public accountants and other advisors. Accelerating the availability of this information will enable this verification to occur at an earlier point in time. Accelerating the availability of these reports also may increase the relevance of these reports, as the timeliness of information has considerable value to investors and the markets. Moreover, seasoned issuers incorporate information from their Exchange Act reports in their Securities Act registration statements. Hence, investors buying in these public offerings, particularly in on-going shelf offerings, also may benefit from more timely disclosure.

Many companies now routinely release quarterly and annual results well before they file their formal reports with us. These earnings announcements reflect the importance of financial information and investors' demand for it at the earliest possible time. Assuming that companies are collecting and evaluating information before they issue these announcements, the availability of this information also suggests that much of the process involved in preparing the financial information contained in periodic reports is substantially complete. However, these earnings announcements are generally less complete in their disclosure than quarterly or annual reports, and they can emphasize information that is less prominent in quarterly or annual reports. Investors often must wait for the periodic reports to receive financial statements and the accompanying notes prepared in accordance with generally accepted accounting principles, MD&A and other vitally important financial disclosures. These additional disclosures increase transparency for investors.

We also are making conforming amendments to accelerate the timeliness requirements in Regulation S-X for the inclusion of financial statements by accelerated filers in other Commission filings, such as Securities Act and Exchange Act registration statements and proxy and information statements under Section 14 of the Exchange Act. When the Commission made extensive revisions to its rules, forms and regulations in 1980 to further the

integrated disclosure system, it adopted amendments regarding the inclusion of financial information in registration statements and proxy statements that parallel the requirements for financial data in Exchange Act periodic reports. Parallel requirements facilitate the integrated reporting system by simplifying existing rules. They also improve overall disclosure as investors are assured consistent requirements as to the timeliness of information regardless of the document received. If conforming amendments are not made to keep these requirements parallel, a filing could conceivably be made under the Securities Act with financial information less current than that filed under the Exchange Act. Accordingly, to facilitate uniform requirements, we are adopting amendments to Regulation S-X to conform the timeliness requirements. Under the conforming amendments we are adopting today, financial statements included in a registration statement or proxy statement still will be required to be at least as current as any financial statements filed under the Exchange Act.

Many commenters representing investors, users of financial information and several companies concurred with our assessment of the benefits of the proposals. These commenters believed that shortening deadlines will improve the delivery and flow of reliable information to investors and capital markets and assist in the efficient operation of the markets. These commenters emphasized the importance of the extensive information in periodic reports and investors' demand for it at the earliest possible time. Several other companies, accounting firms and professional associations agreed in concept that shortening due dates would improve the flow of information, but believed the due dates should reflect concerns about the quality of information to be filed.

A small minority of companies, law firms and business organizations, however, believed that existing deadlines and market practices are sufficient to satisfy investors' needs and believed we over-emphasized the importance of periodic reports. These commenters did not think a significant benefit would result from shortening deadlines, but also generally did not attempt to address the question of possible benefits from the perspective of users of the reports. While we recognize that investors and the markets rely on information from a variety of sources in formulating their investment decisions, we agree with the near unanimous view of commenters representing the users of

¹⁴⁸ We also are making conforming amendments to the timeliness requirements for the inclusion of financial information in proxy statements, information statements and Securities Act and Exchange Act registration statements.

¹⁴⁹ Some academic evidence shows that annual reports on Form 10-K filed through the EDGAR system provide incremental information to the market even after the firm has made an earnings announcement. See, for example, Daqing Qi, Woody Wu, and In-Mu Haw, 2000, "The Incremental Information Content of SEC 10-K Reports Filed Under the EDGAR System," *Journal of Accounting, Auditing, and Finance* 15 (Winter) : 25-45. See also the Letter of Paul A. Griffin.

reports that the financial and other information in periodic reports is important to them, and that accelerating the delivery of the reports will provide benefits to investors and the markets.

2. Costs

The amendments will increase costs to some affected reporting companies, although companies may, and some already do, report within the new deadlines voluntarily. Specifically, the amendments may increase the costs of preparing reports because although companies already must prepare the reports, some may have to delay other projects or use additional resources, including in-house personnel, outside legal counsel and outside auditors to prepare the information in a shorter timeframe. Some companies may need to make additional capital investments, such as in additional information systems, to prepare their reports in a shorter timeframe.

While a few commenters believed that the original proposals would not have a significant adverse effect on the cost of preparing reports, most who addressed the subject mentioned that the original proposals would result in some increased costs. Many outlined their process of preparing reports to demonstrate the difficulties of accelerating the process. The particular steps and timing varied depending on the individual company, and not all companies appear to be at the same level of technological sophistication and staffing for preparing reports. Two professional associations noted that there are no current best practices for preparing reports.¹⁵⁰ As a result, the few cost estimates received varied widely, and many commenters were unable to provide estimates. One company believed it was not possible to put a dollar value on such costs, as it depends on the quality and flexibility of each registrant's present systems, processes and staff.¹⁵¹ According to one professional association that surveyed its members, 52% of its survey respondents reported that they expected costs to increase in order to comply with the original proposals.¹⁵² Forty-five percent of respondents indicated they would have to hire additional staff, and 27% of respondents indicated they would have to buy or develop additional systems. Other commenters were concerned that accelerating deadlines would result in increased audit fees, particularly for companies

with a calendar fiscal year-end, given a compression in the amount of time available for auditors to complete their work for these companies.

The amendments may have indirect effects as well. While some companies commented that they could or already comply with the proposal without undue burden, the group that objected to the proposal raised several common concerns over the extent of acceleration and transition period proposed. The most common concern was that the proposed deadlines would negatively affect the quality and accuracy of reports. According to one professional association, two-thirds of its survey respondents expected a reduction in the precision of reported information under the original proposals.¹⁵³ We are not changing the liability standards for reports, nor are we decreasing the amount of information required. Investors and the capital markets may suffer if quality or accuracy diminished, causing the markets to function less efficiently and investment decisions to be impaired.

Another common concern was that the proposed deadlines would impair the ability of management, external auditors, boards of directors and especially audit committees to scrutinize and review filings properly and give appropriate consideration to the form, substance and priority of disclosures, especially MD&A disclosures and financial statement footnotes. These commenters feared that disclosures could be reduced or become more boilerplate if companies have less time to prepare and review them. The commenters believed that accelerating deadlines in the manner proposed would also undermine the governance and review mechanisms that have been put in place to ensure quality. Several other commenters mentioned additional concerns over the proposals, such as an increased need to use estimates or an increased risk of amendments or restatements because of rushed preparation. Several commenters were especially concerned about accelerating deadlines now given recent events with Arthur Andersen LLP.

We have limited direct data on which to base cost estimates of the amendments. However, we reviewed cost estimates provided by respondents to a survey conducted by the American Society of Corporate Secretaries. These estimates were based on the original proposal. We attempted to determine if the survey results were related to issuer characteristics. The cost estimates did not appear to be related to market

capitalization, revenues, industry or number of reporting segments of the underlying company. Based on 46 companies with over \$75 million in public float that provided estimates, 17% reported that they did not expect any additional costs from the proposals. 43.4% expected initial costs to prepare for the proposals. These estimates ranged from \$12,500 to \$5,000,000, with a median value of \$125,000. 50% expected on-going annual costs to comply with the proposals. These estimates ranged from \$27,500 to \$250,000, with a median value of \$90,000. 11% of respondents expected both initial and on-going costs to comply with the proposals. Assuming these estimates are representative of all affected companies, we estimate that initial costs of the original proposal for all affected companies would range from \$29,862,500 to \$11,945,000,000, with a median value of \$298,625,000.¹⁵⁴ Aggregate on-going, annual costs of the original proposal for all affected companies would range from \$75,524,500 to \$686,750,000, with a median value of \$247,230,000.

These estimates may overstate the actual costs from the amendments we are adopting today, however, as we are making several accommodations to address commenters' concerns and to ease compliance, including:

- A gradual phase-in of the new deadlines over three years, with no change in deadlines for the first year;
- A less extensive ultimate acceleration of quarterly reports than proposed;
- Revisions to the definition of accelerated filer to give companies more advance notice and time to prepare for accelerated deadlines; and
- Conforming amendments that allow certain financial statements of subsidiaries to be filed by later amendment if the subsidiary is not an accelerated filer.

A phased-in approach helps to alleviate the immediate impact of any costs and burdens that may be imposed on certain registrants. While several commenters indicated that they could report on an accelerated timeframe today, several major business associations that surveyed their members reported that adjustment to accelerated deadlines would be easier with a phase-in period.¹⁵⁵ A longer transition may even help reduce costs as companies will have additional time to

¹⁵⁰ See the Letters of the ASCS and the Business Roundtable.

¹⁵¹ See the Letter of American Electric Power.

¹⁵² See the Letter of the ASCS.

¹⁵³ *Id.*

¹⁵⁴ This estimate is based on our estimate of the probable number of affected reporting companies determined for purposes of the Paperwork Reduction Act (5,494).

¹⁵⁵ See, for example, the Letters of the ASCS; the Business Roundtable; and FEI.

develop best practices, long-term processes and efficiencies to prepare reports, as opposed to having to take rushed and possibly inefficient measures to meet a more sudden acceleration. Also, a longer transition period helps to smooth out any possible impact on the availability of third party advisors used by companies to prepare their reports.

A less extensive acceleration of the quarterly report deadline also will alleviate some of the burdens mentioned by commenters. There will be more time than proposed to gather the necessary data and complete the necessary reviews by company officials, the board of directors and outside advisors. One professional association commented that 80% of its survey respondents reported they could more easily meet a 35-day deadline than a 30-day deadline.¹⁵⁶ Further, we believe that by imposing a 40-day deadline before finally reducing it to 35 days, we are striking an adequate compromise between the benefits of reducing deadlines with the potential inconvenience, difficulty and cost that may be incurred by some companies.

Regarding our conforming changes to the timeliness requirements in other Commission filings, we recognize that for some short period of time, accelerated filers may be prevented from going to market. However, it is our view that, when a company is an accelerated filer and is attempting to raise capital in the marketplace after audited financial information would be required to be filed under the Exchange Act, it is reasonable to delay registration until such financial statements become available. We believe this change is in the best interest of the investing public and will not create any additional burden on the large majority of accelerated filers because the required financial information already will be required to have been filed. Also, as in the past, we will consider waivers to the rules where unusual circumstances dictate the need for them.

We considered several regulatory alternatives in formulating the final amendments. We considered, but rejected, the alternative of tying the due date of reports to a company's announcement of earnings. Not all companies issue earnings releases or issue them on an accelerated basis. As a result, linking deadlines to earnings releases may not result in more accelerated reporting of information. We also were concerned that linking report deadlines to earnings announcements

could delay earnings announcements, as companies would know that the announcement would trigger the deadline to file reports. While market demand for earnings information could negate this risk, an approach linking deadlines to earnings announcements could have the effect of penalizing companies for early releases of information while rewarding companies that delay their earnings with extended time to file their reports.

Even with a phase-in period, accelerating filing deadlines may create the risk that more companies will file their reports late or need a filing extension. Moreover, if a company is late filing its reports, it will lose availability for short-form registration for at least one year from the date of the late filing. Being late also could render Securities Act Rule 144 temporarily unavailable for security holders' resales of restricted and control securities, and make new filings on Form S-8 temporarily unavailable for resales of employee benefit plan securities. We considered the suggestions of some commenters to extend the filing extension periods in Exchange Act Rule 12b-25 as an additional method to alleviate any transition difficulties to shortened deadlines. However, we think a lengthy phase-in period adequately addresses these concerns. A less dramatic acceleration of deadlines over a set schedule each year will provide companies with advance notice of the changes they will be expected to make and will smooth out some of the possible difficulties raised by commenters. Rule 12b-25 in its existing form still will provide companies that face extenuating circumstances the ability to gain a filing extension.

While our proposals did not directly address the contents of earnings releases, many commenters supported additional efforts by the Commission in this area. Several recommended that earnings or other standardized earnings information be filed with the Commission, such as on Form 8-K. Others thought the Commission should consider issuing or promoting minimum requirements or guidelines for the contents of earnings releases, such as a GAAP reconciliation. While we will continue to explore ways to improve earnings releases, and the Sarbanes-Oxley Act of 2002 requires us to take steps in this area, we believe these are separate initiatives from the need to accelerate periodic report deadlines. As mentioned above, we believe periodic reports contain valuable information for investors, and comments received from the users of this information uniformly indicated their desire to receive the

reports at the earliest time that is consistent with receiving quality information.

We also considered shorter and longer phase-in periods and deadlines. While several commenters indicated they could report on an accelerated timeframe today, several major business associations that surveyed their members reported that adjustment to accelerated deadlines would be easier with a phase-in period. Also, while comments were mixed, the majority of commenters addressing the issue believed it would be more difficult to accelerate the quarterly report than the annual report. Accordingly, the quarterly deadline will only be reduced to a 35-day deadline at the end of the phase-in period, which is five days longer than originally proposed. We think any concerns over possible confusion over changing deadlines during the phase-in period will be temporary and justified by the benefits of giving companies additional time to adjust their reporting schedules.

We considered shortening filing deadlines for all companies. Comments were mixed over excluding smaller issuers. Although we believe investors in less large or unseasoned companies may want and benefit from more timely disclosures just as much as investors in larger, listed companies, we are concerned that this may impose undue burden and expense on these companies. Smaller companies are likely to be more sensitive to any increased costs in preparing their reports. These entities may not have the infrastructure and resources available or necessary to prepare their reports on a shorter timeframe. Accordingly, we are only shortening the filing deadlines for companies with a minimum public float or reporting history as proposed. Of course, smaller companies may file their reports earlier voluntarily.

Comments also were mixed on the proposed \$75 million public float threshold. We considered several different thresholds for shortening deadlines, including thresholds based on revenue, measures of trading volume and listing status. However, based on our past experience, we believe the public float test currently used in Form S-3 is consistent with our purposes. We believe that a public float test serves as a reasonable measure of company size and market interest. While several commenters urged raising the threshold, we believe a longer phase-in period and a less extensive acceleration of the quarterly report deadline militates against the need to raise the threshold. The definition of accelerated filer we are adopting today excludes nearly half of

¹⁵⁶ See the Letter of the ASCS. See also Letter of the Business Roundtable.

all publicly traded companies, as well as all companies eligible for our small business issuer reporting system, all foreign private issuers that file on Form 20-F and all companies that do not have a common equity public float. Selecting a \$75 million public float threshold also is consistent with our conforming amendments to the timeliness requirements for other Commission filings. By using the same threshold as in Form S-3, investors are assured of receiving the most up-to-date information regardless of the particular registration form a company chooses.

B. Web Site Access to Information

1. Benefits

Widespread access to timely company information promotes the efficient functioning of the capital markets. Also, ready access to Exchange Act information is critical to short-form registration of securities offerings. Many aspects of our disclosure system were adopted well before the revolutions in information technology brought about by the Internet. In modernizing and improving our disclosure system, we recognize the benefits of the Internet in promoting more widespread dissemination of information. An efficient and cost effective method for companies to make information available about themselves is through their Internet website. In addition to other existing sources of company information, such as our website, a company's web site is one obvious place for many investors to find information about a company. A company also may use different formats and other approaches to making information available in ways it believes are useful to investors. We believe company disclosure should be more readily available to investors on a timely basis in a variety of locations to facilitate investor access to that information. We believe it is important for investors to know of additional sources where they can access company information.

Providing this disclosure and encouraging companies to post their Exchange Act reports on their websites will provide many benefits, and the vast majority of commenters concurred and were supportive of the proposals. The amendments protect investors by alerting them to sources where they can obtain direct and easy access to the information they should have to make informed investment and valuation decisions. The amendments will help promote consistent, direct, timely and more widespread access of information to investors and the markets, and further the proper functioning of the integrated

disclosure and short-form registration system. An efficiently functioning registration system facilitates capital formation. Not all reporting companies now make their Exchange Act filings available through their websites, and not all the ones that do make information available provide access in real-time. The amendments encourage uniform best practices to aid in an investor's search for timely information, thereby potentially reducing the costs to gather such information.

2. Costs

The amendments may increase the costs to some affected companies, although we seek to minimize those costs. Companies will be required to include minimal additional disclosure in their annual report on Form 10-K. We estimate this will result in a total cost of \$463,525 for all affected companies.¹⁵⁷ The disclosure requirement only will apply to companies that meet specified public float and reporting history requirements, which will help to minimize the impact on companies potentially less able to bear additional costs. The amendments also will not require a company to provide website access, although we encourage all companies to do so.

Commenters were nearly unanimous in their belief that the proposal would result in no or minimal additional costs and would not be unduly burdensome to implement, particularly since it is limited only to accelerated filers.¹⁵⁸ One professional association mentioned that the majority of its survey respondents expected that the proposal would incur no additional costs.¹⁵⁹ Another professional association mentioned that almost 90% of companies in its survey expected to accomplish the objectives of the proposal with ease.¹⁶⁰

Also, as we now provide real-time access to Exchange Act reports through our website, hyperlinking directly to our EDGAR website will allow a company to state that it provides website access in the required timeframe. This will help to decrease further any incremental burdens or costs caused by the

¹⁵⁷ The estimate is based on the burden hour estimates calculated under the Paperwork Reduction Act. For purposes of the Paperwork Reduction Act, we estimate that the additional disclosure will result in 2,060 internal burden hours and \$206,025 in external costs. Assuming a cost of \$125/hour for in-house professional staff, the total cost for the internal burden hours would be \$257,500. Hence the aggregate cost estimate is \$463,525 (\$257,500 + \$206,025).

¹⁵⁸ See, for example, the Letters of the ASCS; Dow Chemical Company; Hibernia Corporation; PricewaterhouseCoopers LLP; and TIAA-CREF.

¹⁵⁹ See the Letter of the ASCS.

¹⁶⁰ See the Letter of the NIRI.

amendments. Some commenters thought the proposal was duplicative of EDGAR, particularly considering that we now provide real-time Internet access to reports. Despite the availability of reports through our website, we concluded that disclosure regarding company website access is still desirable as one of our objectives is to encourage the availability of information in a variety of locations and foster best practices for making that information broadly accessible. In response to comments concerned about the technical and other obstacles that might lead to violating the proposed "same day" requirement, we have eliminated that requirement.

We considered several additional regulatory alternatives. Many companies already voluntarily provide at least some access to their filings on their websites, but not all provide access to all of their filings or in real-time. We considered requiring website access to company reports as an additional eligibility requirement for short-form registration. However, we were concerned that the potential loss of form eligibility from non-compliance with the requirement would be overly burdensome on companies. We are considering the suggestions by many commenters to extend the disclosure requirement to non-accelerated filers.

V. Consideration of Burden on Competition, and Promotion of Efficiency, Competition and Capital Formation

Section 23(a)(2) of the Exchange Act¹⁶¹ requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. In addition, Section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. We have considered the amendments in light of the standards in Section 23(a)(2).

The amendments are intended to improve the timeliness and accessibility of Exchange Act reports to investors and the financial markets. We anticipate these amendments will enhance the proper functioning of the capital markets. This increases the competitiveness of companies participating in the U.S. capital markets. The amendments will affect certain companies and not others, so the impacts of the proposal may not be equally distributed. Also, if not all competitors in a given industry are subject to accelerated deadlines,

¹⁶¹ 15 U.S.C. 78w(a)(2).

information about some competitors may be disclosed ahead of other competitors (for example, the filing of material contracts).¹⁶² This could potentially give some competitors an informational advantage. If the amendments to shorten filing deadlines increased the number of companies who filed their reports late, this could reduce the number of companies eligible for short-form and delayed shelf registration. For our amendments relating to website access, companies that will be subject to accelerated deadlines may incur increased costs from providing additional disclosure that will not be incurred by companies not subject to these deadlines. However, we believe these costs are not significant.

We requested comment on any anti-competitive effects of the proposals. A few commenters suggested that the proposals to accelerate filing deadlines might have some effects on competition. For example, one law firm thought that differing reporting deadlines for accelerated and non-accelerated filers could adversely affect competition.¹⁶³ Non-accelerated filers would enjoy a competitive advantage against accelerated filers who are forced to incur the incremental costs imposed by accelerated deadlines. While we recognize that the impacts of the amendments will not be equally distributed, we also must balance the market's need for information with the ability of companies to report on an accelerated timeframe without undue burden. Not all companies, particularly small and unseasoned companies, may have the resources and infrastructure in place to prepare their reports on a shorter timeframe without undue burden or expense. While any dividing line we ultimately choose could have a possible disproportionate affect at the margin, we believe separating small and large companies balances the needs of investors against the constraints facing smaller issuers. In doing so, the amendments could actually encourage competition because they are designed to avoid imposing onerous burdens and expenses on those companies that are least able to bear them. We will continue to study whether acceleration of deadlines for a broader class of issuers is appropriate.

Several other commenters believed we should not exclude foreign private

issuers from our definition of accelerated filer.¹⁶⁴ These commenters believe foreign filers should be subject to the same rules to create a level playing field for all companies that access the U.S. capital markets. Other commenters thought that the issues involving foreign issuers are sufficiently different as to warrant separate study and rule proposals.¹⁶⁵ We agree with the latter group. We do recognize that with the amendments we adopt today, the discrepancy between the filing deadlines for larger seasoned U.S. issuers and those for foreign private issuers will increase. Foreign issuers are subject to similar obligations as to the information to be reported. There are some categories of information, for example executive compensation, where requirements for foreign issuers are less onerous. Foreign issuers that do not prepare their financial statements in accordance with U.S. GAAP, however, must go through the additional step of preparing a reconciliation of their financial statements to U.S. GAAP. These companies also may have additional home country reporting requirements. We are continuing to consider this issue and Exchange Act filing requirements generally for foreign issuers. However, given that a current filing lag already exists, we do not believe the relative increase in the lag created by the amendments is significant enough to warrant a delay in their adoption. To the extent any anti-competitive effect may arise from the increase in this lag, we believe any such burden would be necessary and appropriate for the protection of investors.

Section 2(b) of the Securities Act¹⁶⁶ and Section 3(f) of the Exchange Act¹⁶⁷ requires us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. We have considered the amendments in light of the standards in these provisions.

The amendments will enhance our reporting requirements in light of technological advances. The purpose of the amendments is to promote greater

timeliness and accessibility of this information so that investors can more easily make informed investment and voting decisions. Informed investor decisions generally promote market efficiency and capital formation. As noted above, however, the proposals could have certain indirect negative effects, such as discouraging or precluding some companies near the threshold from using short-form registration, which could adversely impact their ability to raise capital.

We also are adopting conforming amendments to the timeliness requirements for the inclusion of financial statements in proxy statements, information statements and Securities Act and Exchange Act registration statements. We recognize that in making these conforming changes, for some short period of time, accelerated filers may be prevented from going to market. However, it is our view that, when a company is an accelerated filer and is attempting to raise capital in the marketplace after audited financial information would be required to be filed under the Exchange Act, it is reasonable to delay registration until such financial statements become available. We believe this change is in the best interest of the investing public and will not create any additional burden on the large majority of accelerated filers because the required financial information already will be required to have been filed. Also, as in the past, we will consider waivers to the rules where unusual circumstances dictate the need for them.

We requested comment on how the proposals would affect efficiency, competition and capital formation. Many commenters representing investors, investor organizations as well as some companies believed that shortening deadlines will improve the delivery and flow of reliable information to investors and capital markets and assist in the efficient operation of the markets. A larger group of commenters representing primarily companies, business associations, law firms and accounting firms objected to the extent of acceleration and transition period proposed because, in their view, preparing reports in the proposed time frame could result in less accurate filings, which could stifle efficiency. Some commenters also were concerned that the proposed deadlines may increase the number of late filings. In addition to adverse market reaction, filing late could cause companies to lose eligibility to use short-form registration statements for at least one year, which could raise the cost of capital.

¹⁶² The Commission does have rules in place that allow for the non-disclosure of certain limited information filed with the Commission. See, for example, Exchange Act Rule 24b-2 [17 CFR 240.24b-2].

¹⁶³ See, for example, the Letter of Troutman Sanders LLP.

¹⁶⁴ See, for example, the Letters of Chevron Phillips Chemical Company LLP; Eastman Kodak Company; and Maverick Capital Ltd.

¹⁶⁵ See, for example, the Letters of the AICPA; Ernst & Young LLP; Institute of Management Accountants; KPMG LLP; and PricewaterhouseCoopers LLP.

¹⁶⁶ 17 U.S.C. 77b(b).

¹⁶⁷ 15 U.S.C. 78c(f).

In response to these concerns, we are phasing-in deadlines over a three-year period and adopting a less extensive acceleration of the quarterly report deadline. A phased-in approach of accelerated deadlines allows a greater transition period for companies to adjust their procedures and develop efficiencies to ensure that the quality and accuracy of reported information will not be sacrificed. With a less extensive acceleration of the quarterly report deadline, there will be more time than proposed to gather the necessary data and complete the necessary reviews by company officials, the board of directors and outside advisors. Also, Exchange Rule 12b-25 in its existing form still will provide companies that face extenuating circumstances the ability to gain a filing extension.

VI. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis, or FRFA, has been prepared in accordance with the Regulatory Flexibility Act.¹⁶⁸ This FRFA relates to amendments to the rules and forms under the Securities Act and the Exchange Act to:

- Shorten the due dates of quarterly and annual reports (and transition reports) for domestic reporting companies that meet certain public float and reporting history requirements;¹⁶⁹ and
- Require companies to disclose in their annual reports on Form 10-K where investors can obtain access to company filings, including whether companies provide access to their Exchange Act reports on their Internet websites.

A. Need for the Amendments

The amendments have two primary objectives. First, we are accelerating the disclosure of information to investors and the capital markets by shortening the due dates of quarterly and annual periodic reports and transition reports for domestic reporting companies that meet certain minimum public float and reporting history requirements. These due dates have not changed in over 30 years, despite advances in information technology and productivity and increases in the pace of and need for communications in the capital markets. Accelerating the delivery of information to the capital markets will help enhance the efficient functioning of those

markets. The more extensive information in periodic reports is evaluated by investors and particularly analysts and institutional investors as a baseline for the incremental disclosures made by a company, and these reports also contain more detailed information that is essential to conduct comparative financial analyses. Many companies routinely release quarterly and annual financial results before they file their formal reports with us. However, these earnings announcements are generally less complete in their disclosure than periodic reports, and they can emphasize information that is less prominent than in the reports. Shortening the deadlines will shorten this information gap, thereby increasing the relevance of those reports. Investors buying in public offerings of issuers that incorporate their Exchange Act reports in their Securities Act registration statements also will benefit from more timely disclosure.

Second, we wish to encourage more direct and widespread accessibility and dissemination of timely information to investors and the capital markets in a variety of locations. Accordingly, we are requiring companies subject to the accelerated filing deadlines to disclose in their annual reports on Form 10-K where investors can obtain access to company filings, including whether the company provides access to its Exchange Act reports free of charge on its Internet website as soon as reasonably practicable after those reports are electronically filed with or furnished to the Commission. These amendments will help promote consistent, direct, timely and more widespread access of information to investors and the markets and further the proper functioning of the integrated disclosure and short-form registration system. Not all public companies currently make their filings available on their websites, and not all provide access to all of their reports or in real-time. The amendments will thus promote greater access for investors.

B. Significant Issues Raised by Public Comment

The Initial Regulatory Flexibility Analysis, or IRFA, appeared in the Proposing Release.¹⁷⁰ We requested comment on any aspect of the IRFA, including the number of small entities that would be affected by the proposals, the nature of the impact, how to quantify the number of small entities that would be affected and how to quantify the impact of the proposals. We

received no comment letters responding to that request.

C. Small Entities Subject to the Amendments

The amendments will affect certain small entities that are required to file quarterly and annual periodic reports and transition reports under the Exchange Act, but only if those small entities meet the definition of an “accelerated filer” that we are adopting today. For purposes of the Regulatory Flexibility Act, Exchange Act Rule 0-10(a)¹⁷¹ defines the term “small business” to be an issuer, other than an investment company, that, on the last day of its most recent fiscal year, has total assets of \$5 million or less. The Securities Act defines a “small business” issuer, other than investment companies, to be an issuer that, on the last day of its most recent fiscal year, has total assets of \$5 million or less and is engaged in or proposes to engage in an offering of securities of \$5 million or less.¹⁷²

We estimate that there are approximately 2,500 companies, other than investment companies, subject to the reporting requirements of Sections 13 or 15(d) of the Exchange Act that have assets of \$5 million or less. The amendments to shorten the deadlines for annual and quarterly periodic and transition reports and the amendments regarding access to Exchange Act reports will apply to these small entities if they have a public float of \$75 million or more, have been subject to the Exchange Act’s reporting requirements for at least one year, have filed at least one annual report and are not eligible for our small business issuer reporting system. We have no way to determine exactly how many small entities meet these requirements, although it is likely that only a very small number of these entities will meet the public float requirement. In addition, small entities are not affected if they are eligible to use our small business issuer reporting system.

According to the Standard & Poors Research Insight Compustat Database, of the 711 reporting companies listed with assets of \$5 million or less, 10, or 1.4%, had a market capitalization greater than \$75 million.¹⁷³ Assuming that this sample is representative of all small entities, the public float requirement

¹⁷¹ 17 CFR 240.0-10(a).

¹⁷² 17 CFR 230.157.

¹⁷³ It is our understanding that the data in the Compustat Database is derived principally from larger companies, so our estimate could understate the actual percentage of companies that would be affected by the proposals.

¹⁶⁸ 5 U.S.C. 603.

¹⁶⁹ We also are making conforming amendments to the timeliness requirements for the inclusion of financial information in proxy statements, information statements and Securities Act and Exchange Act registration statements.

¹⁷⁰ See the Proposing Release at Section VI.

will have the effect of almost completely excluding all small entities.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

For reporting companies that meet the public float and reporting history requirements, we are phasing-in shortened due dates for annual reports on Form 10-K and quarterly reports on Form 10-Q over three years. The Form 10-K deadline will be reduced over three years from the current deadline of 90 days after the end of the company's fiscal year to 60 days after the end of the company's fiscal year. The Form 10-Q deadline will be reduced over three years from the current deadline of 45 days after the end of the company's first three fiscal quarters to 35 days after the end of the first three fiscal quarters. We are making similar changes to transition reports these companies must file when they change their fiscal year and the timeliness requirements for financial information that must be included in other Commission filings such as proxy statements, information statements and Securities Act and Exchange Act registration statements. We are not changing the filing deadlines for other companies, including small business issuers eligible to rely on our small business reporting system, at this time.

While the amount of information required to be included in Exchange Act reports, and hence the amount of time necessary to prepare them, will remain the same, affected companies may be required to use additional resources, including in-house personnel, in preparing their reports on a shorter timeframe. Small entities that meet the public float and reporting history requirements may incur additional costs in seeking the help of outside experts, particularly outside legal counsel and auditors, or in making any necessary technological investments to speed their reporting process.

Companies that are late in filing their reports will lose eligibility for short-form registration for at least one year, and Securities Act Rule 144 and new filings on Form S-8 will be temporarily unavailable during the period of noncompliance.¹⁷⁴ On the margin, affected small entities that are unable, or cannot afford, to prepare their reports on a shorter timeframe may be discouraged from remaining public companies or accessing the public

markets. This may adversely affect their ability to raise capital.

We also are requiring accelerated filers to disclose in their annual reports on Form 10-K where investors can obtain access to company filings, including whether the company provides access to its Exchange Act reports free of charge on its Internet website as soon as reasonably practicable after those reports are electronically filed with or furnished to the Commission. If a company does not provide such access, it must also disclose why it does not do so. In formulating these amendments, we have sought to minimize its costs, particularly on small entities. The requirement will apply only to companies that met the public float and reporting history requirements. Companies will not be required to establish an Internet website for purposes of this requirement if they did not otherwise have one. Also, a company can elect not to provide website access to their reports as long as it disclosed that it has elected not to do so and the reasons it has elected not to do so. Accordingly, these elements of the amendments, coupled with the fact that almost all small entities will be effectively excluded from the proposal, lead us to believe that the requirement will not have a disproportionate effect on small entities.

E. Agency Action to Minimize Effect on Small Entities

As required by the Regulatory Flexibility Act, we have considered alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the amendments, we considered several alternatives, including:

- Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Clarifying, consolidating or simplifying compliance and reporting requirements under the rules for small entities;
- Using performance rather than design standards; and
- Exempting small entities from all or part of the requirements.

Our amendments to shorten the filing deadlines will apply only to entities that meet minimum public float and reporting history requirements, which should serve to exclude almost all small entities. As a result, different timetables will apply for almost all small entities. We strive to strike a balance between timely delivery of information to investors and giving companies enough

time to prepare their reports. We considered the alternative of only shortening the filing deadlines for companies whose securities are listed on the NYSE or AMEX or quoted on Nasdaq National Market System or Small Cap Market. However, we believe investors in companies that are not as large or listed but nevertheless meet the public float or reporting history requirements may want and benefit from more timely disclosures just as much as investors in larger, listed companies. Accordingly, we rejected exempting small entities in their entirety from the coverage of the amendments.

In addition, we are not aware of how to further clarify, consolidate or simply these proposals for small entities. In this regard, we already are limiting the shortened deadlines to entities that meet minimum public float and reporting history requirements. We do not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection in the present context. Because specified information in Exchange Act reports must be reported in a timely manner to be useful, design standards are necessary to achieve the objectives of the amendments. Accelerating the delivery of mandated information is one of the goals of the amendments.

Our amendments regarding disclosure of website access to company reports are designed to enhance the accessibility and dissemination of information to investors. These amendments also will apply only to entities that meet minimum public float and reporting history requirements, which should serve to exclude almost all small entities. We believe our amendments strike a balance between providing investor access to information and giving companies alternatives in providing this access. Different compliance or reporting requirements for affected small entities or exemptions for all affected small entities are not considered warranted at this time because it is just as important that information be adequately disseminated and easily available for affected small entities as it is for large entities, if not more so. We have made a number of changes to the proposal that we believe decrease further the impact on all issuers, including small entities. First, we have narrowed the scope of disclosure required. Second, we now provide real-time access to EDGAR filings through our website for free, which allows companies an easy and low cost method to provide real-time access if they choose to do so. The

¹⁷⁴ One-time extensions of due dates are available under certain circumstances under Exchange Act Rule 12b-25. Also, companies that are not timely will not meet the timeliness requirements for their proxy statements, information statements and Securities Act and Exchange Act registration statements.

expected low costs of complying with the proposal, as well as the effect of the public float requirement in lessening the impact on small entities, also contributed to our decision not to exclude small entities in their entirety.

Companies can choose whether to provide website access and therefore the disclosure that will be necessary in their annual report on Form 10-K. This allows companies, including small entities, the flexibility to choose the alternative that best suits their individual circumstances. We believe this freedom should apply to all entities, large and small. We are not aware of ways to further clarify, consolidate or simply these proposals for small entities.

VII. Update to Codification of Financial Reporting Policies

The Commission amends the "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) as follows:

1. By amending Section 102.05.(2) to read as follows:

(2) *Conforming the Filing Requirements of Transition Reports to the Current Requirements for Forms 10-Q and 10-K*

To conform to the current filing periods for reports on Forms 10-K and 10-Q, the filing period for transition reports on Form 10-K is 90, 75 or 60 days for accelerated filers, as applicable depending on the issuer's fiscal year specified in Rules 13a-10 and 15d-10, and 90 days for other issuers after the close of the transition period or the date of the determination to change the fiscal year, whichever is later, and for transition reports on Form 10-Q, the filing period is 45, 40 or 35 days for accelerated filers, as applicable depending on the issuer's fiscal year specified in Rules 13a-10 and 15d-10, or 45 days for other issuers after the later of these two events.

2. By amending Section 102.05. to add the following preliminary note to the "Appendix" to Section 102.05.:

Preliminary Note: The following examples are applicable if the issuer is not an accelerated filer. If the issuer is an accelerated filer, substitute 75 or 60 days, as applicable depending on the issuer's fiscal year specified in Rules 13a-10 and 15d-10, for 90 days in the examples for transition reports on Form 10-K, and substitute 40 or 35 days, as applicable depending on the issuer's fiscal year specified in Rules 13a-10 and 15d-10, for 45 days in the examples for transition reports on Form 10-Q.

3. By amending Section 302.01.a. to:

a. Replace the phrase "after 45 days but within 90 days of the end of the registrant's fiscal year" with the phrase "after 45 days but within 90, 75 or 60 days of the end of the registrant's fiscal year for accelerated filers, as applicable depending on the registrant's fiscal year (or after 45 days but within 90 days of the end of the registrant's fiscal year for other registrants)" in the second paragraph of Section 302.01.a.; and

b. Replace the phrase "after 45 days but within 90 days of the end of its fiscal year (*i.e.*, February 16 to March 31 for calendar year companies)" with the phrase "after 45 days but within 90, 75 or 60 days of the end of its fiscal year if the registrant is an accelerated filer, as applicable depending on the company's fiscal year (*i.e.*, February 16 to March 31, 15 or 1 for calendar year companies) (or after 45 days but within 90 days of the end of its fiscal year for other registrants (*i.e.*, February 16 to March 31 for calendar year companies))" in the first sentence of the fourth paragraph of Section 302.01.a.

4. By amending Section 302.01.b. to:

a. Replace the phrase "134 days subsequent to the end of a registrant's fiscal year" with the phrase "134, 129 or 124 days subsequent to the end of a registrant's fiscal year if the registrant is an accelerated filer, as applicable depending on the registrant's fiscal year (or 134 days subsequent to the end of a registrant's fiscal year for other registrants)" in the first sentence of Section 302.01.b.;

b. Replace the phrase "135 days of the date of the filing" with the phrase "135, 130 or 125 days of the date of the filing if the registrant is an accelerated filer, as applicable depending on the registrant's fiscal year (or 135 days of the date of the filing for other registrants)" in the second sentence of Section 302.01.b.; and

c. Removing the words "135 day" in the footnote to the fourth sentence of Section 302.01.b.

5. By amending Section 302.01.c. to:

a. Replace the phrase "135 days or more" with the phrase "135, 130 or 125 days or more, if the registrant is an accelerated filer, as applicable depending on the registrant's fiscal year (or 135 days or more for other registrants)" in the first paragraph of Section 302.01.c.;

b. Replace the phrase "as of an interim date within 135 days" with the phrase "as of an interim date within 135, 130 or 125 days, if the registrant is an accelerated filer, as applicable depending on the registrant's fiscal year (or 135 days for other registrants)" in the first paragraph of Section 302.01.c.; and

c. Replace the phrase "after 45 days but within 90 days of the end of the fiscal year" with the phrase "after 45 days but within 90, 75 or 60 days of the end of the fiscal year if the registrant is an accelerated filer, as applicable depending on the registrant's fiscal year (or after 45 days but within 90 days of the end of the fiscal year for other registrants)" in the second and third sentences of the second paragraph of Section 302.01.c.

The Codification is a separate publication of the Commission. It will not be published in the **Federal Register** or Code of Federal Regulations.

VIII. Statutory Authority and Text of Rule Amendments

The amendments contained in this document are being adopted under the authority set forth in Sections 3(b) and 19(a) of the Securities Act and Sections 12, 13, 15(d) and 23(a) of the Exchange Act.

Text of Rule Amendments

List of Subjects in 17 CFR Parts 210, 229, 240 and 249

Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows.

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, INVESTMENT ADVISERS ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. The authority citation for part 210 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77aa(25), 77aa(26), 78c, 78j-1, 78l, 78m, 78n, 78o(d), 78q, 78u-5, 78w(a), 78ll, 78mm, 79e(b), 79j(a), 79n, 79t(a), 80a-8, 80a-20, 80a-29, 80a-30, 80a-37(a), 80b-3, 80b-11 unless otherwise noted.

2. Section 210.3-01 is amended by:

a. Removing the phrase "90 days of the end of the registrant's fiscal year" and adding, in its place, the phrase "the number of days of the end of the registrant's fiscal year specified in paragraph (i) of this section" in the introductory text of paragraph (c) and paragraph (d); and b. Revising paragraph (e) and adding paragraph (i) to read as follows:

§ 210.3-01 Consolidated balance sheets.

* * * * *

(e) For filings made after the number of days specified in paragraph (i) of this section, the filing shall also include a balance sheet as of an interim date within the following number of days of the date of filing:

(1) For accelerated filers (as defined in § 240.12b-2 of this chapter):

(i) 135 days for fiscal years ending on or after December 15, 2002 and before December 15, 2004;

(ii) 130 days for fiscal years ending on or after December 15, 2004 and before December 15, 2005; and

(iii) 125 days for fiscal years ending on or after December 15, 2005; and

(2) 135 days for all other registrants.

* * * * *

(i)(1) For purposes of paragraph (c) and (d) of this section, the number of days shall be:

(i) For accelerated filers (as defined in § 240.12b-2 of this chapter):

(A) 90 days for fiscal years ending on or after December 15, 2002 and before December 15, 2003;

(B) 75 days for fiscal years ending on or after December 15, 2003 and before December 15, 2004; and

(C) 60 days for fiscal years ending on or after December 15, 2004; and

(ii) 90 days for all other registrants.

(2) For purposes of paragraph (e) of this section, the number of days shall be:

(i) For accelerated filers (as defined in § 240.12b-2 of this chapter):

(A) 134 days subsequent to the end of the registrant's most recent fiscal year for fiscal years ending on or after December 15, 2002 and before December 15, 2004;

(B) 129 days subsequent to the end of the registrant's most recent fiscal year for fiscal years ending on or after December 15, 2004 and before December 15, 2005; and

(C) 124 days subsequent to the end of the registrant's most recent fiscal year for fiscal years ending on or after December 15, 2005; and

(ii) 134 days subsequent to the end of the registrant's most recent fiscal year for all other registrants.

3. Section 210.3-09 is amended by:

a. Removing the authority citation following § 210.3-09;

b. Removing the phrase “§ 210.1-02(v)” and adding, in its place, the phrase “§ 210.1-02(w)” in the first sentence of paragraph (a); and

c. Revising the last sentence of paragraph (b) and adding paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) to read as follows:

§ 210.3-09 Separate financial statements of subsidiaries not consolidated and 50 percent or less owned persons.

* * * * *

(b) * * * For purposes of a filing on Form 10-K (§ 249.310 of this chapter):

(1) If the registrant is an accelerated filer (as defined in § 240.12b-2 of this chapter) but the 50 percent or less owned person is not an accelerated filer, the required financial statements may be filed as an amendment to the report within 90 days, or within six months if the 50 percent or less owned person is a foreign business, after the end of the registrant's fiscal year.

(2) If the fiscal year of any 50 percent or less owned person ends within the *registrant's number of filing days* before the date of the filing, or if the fiscal year ends after the date of the filing, the required financial statements may be filed as an amendment to the report within the *subsidiary's number of filing days*, or within six months if the 50 percent or less owned person is a foreign business, after the end of such subsidiary's or person's fiscal year.

(3) The term *registrant's number of filing days* means:

(i) If the registrant is an accelerated filer:

(A) 90 days for fiscal years ending on or after December 15, 2002 and before December 15, 2003;

(B) 75 days for fiscal years ending on or after December 15, 2003 and before December 15, 2004; and

(C) 60 days for fiscal years ending on or after December 15, 2004; and

(ii) If the registrant is not an accelerated filer, 90 days.

(4) The term *subsidiary's number of filing days* means:

(i) If the 50 percent or less owned person is an accelerated filer:

(A) 90 days for fiscal years ending on or after December 15, 2002 and before December 15, 2003;

(B) 75 days for fiscal years ending on or after December 15, 2003 and before December 15, 2004; and

(C) 60 days for fiscal years ending on or after December 15, 2004; and

(ii) If the 50 percent or less owned person is not an accelerated filer, 90 days.

* * * * *

4. Section 210.3-12 is amended by:

a. Removing the phrase “135 days” and adding, in its place, the phrase “the number of days specified in paragraph (g) of this section” in both instances where it appears in the first sentence of paragraph (a);

b. Removing the phrase “90 days subsequent to the end of the fiscal year” and adding, in its place, the phrase “the number of days subsequent to the end of the fiscal year specified in paragraph (g) of this section” in the first sentence of paragraph (b); and

c. Adding paragraph (g) to read as follows:

§ 210.3-12 Age of financial statements at effective date of registration statement or at mailing date of proxy statement.

* * * * *

(g)(1) For purposes of paragraph (a) of this section, the number of days shall be:

(i) For accelerated filers (as defined in § 240.12b-2 of this chapter):

(A) 135 days for fiscal years ending on or after December 15, 2002 and before December 15, 2004;

(B) 130 days for fiscal years ending on or after December 15, 2004 and before December 15, 2005; and

(C) 125 days for fiscal years ending on or after December 15, 2005; and

(ii) 135 days for all other registrants.

(2) For purposes of paragraph (b) of this section, the number of days shall be:

(i) For accelerated filers (as defined in § 240.12b-2 of this chapter):

(A) 90 days for fiscal years ending on or after December 15, 2002 and before December 15, 2003;

(B) 75 days for fiscal years ending on or after December 15, 2003 and before December 15, 2004; and

(C) 60 days for fiscal years ending on or after December 15, 2004; and

(ii) 90 days for all other registrants.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S-K

5. The authority citation for part 229 continues to read, in part, as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z-2, 77z-3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78l, 78m, 78n, 78o, 78u-5, 78w, 78ll(d), 78mm, 79e, 79n, 79t, 80a-8, 80a-29, 80a-30, 80a-31(c), 80a-37, 80a-38(a) and 80b-11, unless otherwise noted.

* * * * *

6. Section 229.101 is amended by revising paragraph (e) to read as follows:

§ 229.101 (Item 101) Description of business.

* * * * *

(e) *Available information.* Disclose the information in paragraphs (e)(1), (e)(2) and (e)(3) of this section in any registration statement you file under the Securities Act (15 U.S.C. 77a *et seq.*), and disclose the information in paragraphs (e)(3) and (e)(4) of this section if you are an accelerated filer (as defined in § 240.12b-2 of this chapter)

filing an annual report on Form 10-K (§ 249.310 of this chapter):

(1) Whether you file reports with the Securities and Exchange Commission. If you are a reporting company, identify the reports and other information you file with the SEC.

(2) That the public may read and copy any materials you file with the SEC at the SEC's Public Reference Room at 450 Fifth Street, NW., Washington, DC 20549. State that the public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. If you are an electronic filer, state that the SEC maintains an Internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (<http://www.sec.gov>).

(3) You are encouraged to give your Internet address, if available, except that if you are an accelerated filer filing your annual report on Form 10-K, you must disclose your Internet address, if you have one.

(4)(i) Whether you make available free of charge on or through your Internet website, if you have one, your annual report on Form 10-K, quarterly reports on Form 10-Q (§ 249.308a of this chapter), current reports on Form 8-K (§ 249.308 of this chapter), and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act (15 U.S.C. 78m(a) or 78o(d)) as soon as reasonably practicable after you electronically file such material with, or furnish it to, the SEC;

(ii) If you do not make your filings available in this manner, the reasons you do not do so (including, where applicable, that you do not have an Internet website); and

(iii) If you do not make your filings available in this manner, whether you voluntarily will provide electronic or paper copies of your filings free of charge upon request.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

8. Section 240.12b-2 is amended by adding the definition of "Accelerated filer" before the definition of "Affiliate" to read as follows:

§ 240.12b-2 Definitions.

* * * * *

Accelerated filer. (1) The term "accelerated filer" means an issuer after it first meets the following conditions as of the end of its fiscal year:

(i) The aggregate market value of the voting and non-voting common equity held by non-affiliates of the issuer is \$75 million or more;

(ii) The issuer has been subject to the requirements of Section 13(a) or 15(d) of the Act (15 U.S.C. 78m or 78o(d)) for a period of at least twelve calendar months;

(iii) The issuer has filed at least one annual report pursuant to Section 13(a) or 15(d) of the Act; and

(iv) The issuer is not eligible to use Forms 10-KSB and 10-QSB (§ 249.310b and § 249.308b) for its annual and quarterly reports.

Note to paragraph (1): The aggregate market value of the issuer's outstanding voting and non-voting common equity shall be computed by use of the price at which the common equity was last sold, or the average of the bid and asked prices of such common equity, in the principal market for such common equity, as of the last business day of the issuer's most recently completed second fiscal quarter.

(2) *Entering and Exiting Accelerated Filer Status.* (i) The determination for whether a non-accelerated filer becomes an accelerated filer as of the end of the issuer's fiscal year governs the annual report to be filed for that fiscal year, the quarterly and annual reports to be filed for the subsequent fiscal year and all annual and quarterly reports to be filed thereafter while the issuer remains an accelerated filer.

(ii) Once an issuer becomes an accelerated filer, it will remain an accelerated filer unless the issuer becomes eligible to use Forms 10-KSB and 10-QSB for its annual and quarterly reports. In that case, the issuer will not become an accelerated filer again unless it subsequently meets the conditions in paragraph (1) of this definition.

* * * * *

9. Section 240.13a-10 is amended by:

a. Removing the phrase "90 days" and adding, in its place, the phrase "the number of days specified in paragraph (j) of this section" in the first sentence of paragraph (b) and the second sentence of paragraph (f);

b. Removing the phrase "45 days" and adding, in its place, the phrase "the number of days specified in paragraph

(j) of this section" in the first sentence of paragraph (c), the second sentence of paragraph (e)(2), and the third sentence of paragraph (f); and

c. Adding paragraph (j) before the *Note* to read as follows:

§ 240.13a-10 Transition reports.

* * * * *

(j)(1) For transition reports to be filed on the form appropriate for annual reports of the issuer, the number of days shall be:

(i) For accelerated filers (as defined in § 240.12b-2):

(A) 90 days for fiscal years ending on or after December 15, 2002 and before December 15, 2003;

(B) 75 days for fiscal years ending on or after December 15, 2003 and before December 15, 2004; and

(C) 60 days for fiscal years ending on or after December 15, 2004; and

(ii) 90 days for all other issuers; and

(2) For transition reports to be filed on Form 10-Q or Form 10-QSB (§ 249.308a or § 249.308b of this chapter), the number of days shall be:

(i) For accelerated filers (as defined in § 240.12b-2):

(A) 45 days for fiscal years ending on or after December 15, 2002 and before December 15, 2004;

(B) 40 days for fiscal years ending on or after December 15, 2004 and before December 15, 2005; and

(C) 35 days for fiscal years ending on or after December 15, 2005; and

(ii) 45 days for all other issuers.

* * * * *

10. Section 240.15d-10 is amended by:

a. Removing the phrase "90 days" and adding, in its place, the phrase "the number of days specified in paragraph (j) of this section" in the first sentence of paragraph (b) and the second sentence of paragraph (f);

b. Removing the phrase "45 days" and adding, in its place, the phrase "the number of days specified in paragraph (j) of this section" in the first sentence of paragraph (c), the second sentence of paragraph (e)(2), and the third sentence of paragraph (f); and

c. Adding paragraph (j) before the *Note* to read as follows:

§ 240.15d-10 Transition reports.

* * * * *

(j)(1) For transition reports to be filed on the form appropriate for annual reports of the issuer, the number of days shall be:

(i) For accelerated filers (as defined in § 240.12b-2):

(A) 90 days for fiscal years ending on or after December 15, 2002 and before December 15, 2003;

(B) 75 days for fiscal years ending on or after December 15, 2003 and before December 15, 2004; and

(C) 60 days for fiscal years ending on or after December 15, 2004; and

(ii) 90 days for all other issuers; and

(2) For transition reports to be filed on Form 10-Q or Form 10-QSB (§ 249.308a or § 249.308b of this chapter), the number of days shall be:

(i) For accelerated filers (as defined in § 240.12b-2):

(A) 45 days for fiscal years ending on or after December 15, 2002 and before December 15, 2004;

(B) 40 days for fiscal years ending on or after December 15, 2004 and before December 15, 2005; and

(C) 35 days for fiscal years ending on or after December 15, 2005; and

(ii) 45 days for all other issuers.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

11. The authority citation for part 249 continues to read, in part, as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted.

* * * * *

12. Section 249.308a is revised to read as follows:

§ 249.308a Form 10-Q, for quarterly and transition reports under sections 13 or 15(d) of the Securities Exchange Act of 1934.

(a) Form 10-Q shall be used for quarterly reports under Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)), required to be filed pursuant to § 240.13a-13 or § 240.15d-13 of this chapter. A quarterly report on this form pursuant to § 240.13a-13 or § 240.15d-13 of this chapter shall be filed within the following period after the end of the first three fiscal quarters of each fiscal year, but no quarterly report need be filed for the fourth quarter of any fiscal year:

(1) For accelerated filers (as defined in § 240.12b-2 of this chapter):

(i) 45 days after the end of the fiscal quarter for fiscal years ending on or after December 15, 2002 and before December 15, 2004;

(ii) 40 days after the end of the fiscal quarter for fiscal years ending on or after December 15, 2004 and before December 15, 2005; and

(iii) 35 days after the end of the fiscal quarter for fiscal years ending on or after December 15, 2005; and

(2) 45 days after the end of the fiscal quarter for all other registrants.

(b) Form 10-Q also shall be used for transition and quarterly reports filed pursuant to § 240.13a-10 or § 240.15d-

10 of this chapter. Such transition or quarterly reports shall be filed in accordance with the requirements set forth in § 240.13a-10 or § 240.15d-10 of this chapter applicable when the registrant changes its fiscal year end.

13. Form 10-Q (referenced in § 249.308a) is amended by revising General Instruction A.1. and by adding a paragraph before the title “Applicable Only to Issuers Involved in Bankruptcy Proceedings During the Preceding Five Years:” on the cover page to read as follows:

Note: The text of Form 10-Q does not, and this amendment will not, appear in the Code of Federal Regulations.

**Form 10-Q
General Instructions**

A. Rule as to Use of Form 10-Q.

1. Form 10-Q shall be used for quarterly reports under Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)), filed pursuant to Rule 13a-13 (17 CFR 240.13a-13) or Rule 15d-13 (17 CFR 240.15d-13). A quarterly report on this form pursuant to Rule 13a-13 or Rule 15d-13 shall be filed within the following period after the end of each of the first three fiscal quarters of each fiscal year, but no report need be filed for the fourth quarter of any fiscal year:

a. For accelerated filers (as defined in 17 CFR 240.12b-2):

(i) 45 days after the end of the fiscal quarter for fiscal years ending on or after December 15, 2002 and before December 15, 2004;

(ii) 40 days after the end of the fiscal quarter for fiscal years ending on or after December 15, 2004 and before December 15, 2005; and

(iii) 35 days after the end of the fiscal quarter for fiscal years ending on or after December 15, 2005; and

b. 45 days after the end of the fiscal quarter for all other issuers.

* * * * *

FORM 10-Q

* * * * *

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes No

APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDINGS DURING THE PRECEDING FIVE YEARS:

* * * * *

14. Section 249.310 is revised to read as follows:

§ 249.310 Form 10-K, for annual and transition reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

(a) This form shall be used for annual reports pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) for which no other form is prescribed. This form also shall be used for transition reports filed pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

(b) Annual reports on this form shall be filed within the following period:

(1) For accelerated filers (as defined in § 240.12b-2 of this chapter):

(i) 90 days after the end of the fiscal year covered by the report for fiscal years ending on or after December 15, 2002 and before December 15, 2003;

(ii) 75 days after the end of the fiscal year covered by the report for fiscal years ending on or after December 15, 2003 and before December 15, 2004; and

(iii) 60 days after the end of the fiscal year covered by the report for fiscal years ending on or after December 15, 2004; and

(2) 90 days after the end of the fiscal year covered by the report for all other registrants.

(c) Transition reports on this form shall be filed in accordance with the requirements set forth in § 240.13a-10 or § 240.15d-10 of this chapter applicable when the registrant changes its fiscal year end.

(d) Notwithstanding paragraphs (b) and (c) of this section, all schedules required by Article 12 of Regulation S-X (§§ 210.12-01-210.12-29 of this chapter) may, at the option of the registrant, be filed as an amendment to the report not later than 30 days after the applicable due date of the report.

15. Form 10-K (referenced in § 249.310) is amended by revising General Instruction A. and the paragraph before the “Note” on the cover page to read as follows:

Note: The text of Form 10-K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10-K

* * * * *

General Instructions

A. Rule as to Use of Form 10-K.

(1) This Form shall be used for annual reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) (the “Act”) for which no other form is prescribed. This Form also shall be used for transition reports filed pursuant to Section 13 or 15(d) of the Act.

(2) Annual reports on this Form shall be filed within the following period:

(a) For accelerated filers (as defined in 17 CFR 240.12b-2):

(i) 90 days after the end of the fiscal year covered by the report for fiscal years ending on or after December 15, 2002 and before December 15, 2003;

(ii) 75 days after the end of the fiscal year covered by the report for fiscal years ending on or after December 15, 2003 and before December 15, 2004; and

(iii) 60 days after the end of the fiscal year covered by the report for fiscal years ending on or after December 15, 2004; and

(b) 90 days after the end of the fiscal year covered by the report for all other registrants.

(3) Transition reports on this Form shall be filed in accordance with the requirements set forth in Rule 13a-10 (17 CFR 240.13a-10) or Rule 15d-10 (17 CFR 240.15d-10) applicable when the registrant changes its fiscal year end.

(4) Notwithstanding paragraphs (2) and (3) of this General Instruction A., all schedules required by Article 12 of Regulation S-X (17 CFR 210.12-01-210.12-29) may, at the option of the registrant, be filed as an amendment to the report not later than 30 days after the applicable due date of the report.

* * * * *

FORM 10-K

* * * * *

Indicate by check mark whether the registrant is an accelerated filer (as

defined in Rule 12b-2 of the Act).
Yes ___ No ___

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter.

* * * * *

Dated: September 5, 2002.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-23072 Filed 9-13-02; 8:45 am]

BILLING CODE 8010-01-P

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/hara/nara005.html>. Some laws may not yet be available.

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To amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act. (Aug. 21, 2002; 116 Stat. 1050)

H.R. 309/P.L. 107-212

Guam Foreign Investment Equity Act (Aug. 21, 2002; 116 Stat. 1051)

H.R. 601/P.L. 107-213

To redesignate certain lands within the Craters of the Moon National Monument, and for other purposes. (Aug. 21, 2002; 116 Stat. 1052)

H.R. 1384/P.L. 107-214

Long Walk National Historic Trail Study Act (Aug. 21, 2002; 116 Stat. 1053)

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James Peak Wilderness and Protection Area Act (Aug. 21, 2002; 116 Stat. 1055)

H.R. 2068/P.L. 107-217

To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, "Public Buildings, Property, and Works". (Aug. 21, 2002; 116 Stat. 1062)

H.R. 2234/P.L. 107-218

Tumacacori National Historical Park Boundary Revision Act of 2002 (Aug. 21, 2002; 116 Stat. 1328)

H.R. 2440/P.L. 107-219

To rename Wolf Trap Farm Park as "Wolf Trap National Park for the Performing Arts", and for other purposes. (Aug. 21, 2002; 116 Stat. 1330)

H.R. 2441/P.L. 107-220

To amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes. (Aug. 21, 2002; 116 Stat. 1332)

H.R. 2643/P.L. 107-221

Fort Clatsop National Memorial Expansion Act of 2002 (Aug. 21, 2002; 116 Stat. 1333)

H.R. 3343/P.L. 107-222

To amend title X of the Energy Policy Act of 1992, and for other purposes. (Aug. 21, 2002; 116 Stat. 1336)

H.R. 3380/P.L. 107-223

23 To authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park. (Aug. 21, 2002; 116 Stat. 1338)

Last List August 12, 2002

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-048-00001-1)	9.00	Jan. 1, 2002
3 (1997 Compilation and Parts 100 and 101)	(869-048-00002-0)	59.00	¹ Jan. 1, 2002
4	(869-048-00003-8)	9.00	⁴ Jan. 1, 2002
5 Parts:			
1-699	(869-048-00004-6)	57.00	Jan. 1, 2002
700-1199	(869-048-00005-4)	47.00	Jan. 1, 2002
1200-End, 6 (6 Reserved)	(869-048-00006-2)	58.00	Jan. 1, 2002
7 Parts:			
1-26	(869-048-00001-1)	41.00	Jan. 1, 2002
27-52	(869-048-00008-9)	47.00	Jan. 1, 2002
53-209	(869-048-00009-7)	36.00	Jan. 1, 2002
210-299	(869-048-00010-1)	59.00	Jan. 1, 2002
300-399	(869-048-00011-9)	42.00	Jan. 1, 2002
400-699	(869-048-00012-7)	57.00	Jan. 1, 2002
700-899	(869-048-00013-5)	54.00	Jan. 1, 2002
900-999	(869-048-00014-3)	58.00	Jan. 1, 2002
1000-1199	(869-048-00015-1)	25.00	Jan. 1, 2002
1200-1599	(869-048-00016-0)	58.00	Jan. 1, 2002
1600-1899	(869-048-00017-8)	61.00	Jan. 1, 2002
1900-1939	(869-048-00018-6)	29.00	Jan. 1, 2002
1940-1949	(869-048-00019-4)	53.00	Jan. 1, 2002
1950-1999	(869-048-00020-8)	47.00	Jan. 1, 2002
2000-End	(869-048-00021-6)	46.00	Jan. 1, 2002
8	(869-048-00022-4)	58.00	Jan. 1, 2002
9 Parts:			
1-199	(869-048-00023-2)	58.00	Jan. 1, 2002
200-End	(869-048-00024-1)	56.00	Jan. 1, 2002
10 Parts:			
1-50	(869-048-00025-4)	58.00	Jan. 1, 2002
51-199	(869-048-00026-7)	56.00	Jan. 1, 2002
200-499	(869-048-00027-5)	44.00	Jan. 1, 2002
500-End	(869-048-00028-3)	58.00	Jan. 1, 2002
11	(869-048-00029-1)	34.00	Jan. 1, 2002
12 Parts:			
1-199	(869-048-00030-5)	30.00	Jan. 1, 2002
200-219	(869-048-00031-3)	36.00	Jan. 1, 2002
220-299	(869-048-00032-1)	58.00	Jan. 1, 2002
300-499	(869-048-00033-0)	45.00	Jan. 1, 2002
500-599	(869-048-00034-8)	42.00	Jan. 1, 2002
600-End	(869-048-00035-6)	61.00	Jan. 1, 2002
13	(869-048-00036-4)	47.00	Jan. 1, 2002

Title	Stock Number	Price	Revision Date
14 Parts:			
1-59	(869-048-00037-2)	60.00	Jan. 1, 2002
60-139	(869-048-00038-1)	58.00	Jan. 1, 2002
140-199	(869-048-00039-9)	29.00	Jan. 1, 2002
200-1199	(869-048-00040-2)	47.00	Jan. 1, 2002
1200-End	(869-048-00041-1)	41.00	Jan. 1, 2002
15 Parts:			
0-299	(869-048-00042-9)	37.00	Jan. 1, 2002
300-799	(869-048-00043-7)	58.00	Jan. 1, 2002
800-End	(869-048-00044-5)	40.00	Jan. 1, 2002
16 Parts:			
0-999	(869-048-00045-3)	47.00	Jan. 1, 2002
1000-End	(869-048-00046-1)	57.00	Jan. 1, 2002
17 Parts:			
1-199	(869-048-00048-8)	47.00	Apr. 1, 2002
200-239	(869-048-00049-6)	55.00	Apr. 1, 2002
240-End	(869-048-00050-0)	59.00	Apr. 1, 2002
18 Parts:			
1-399	(869-048-00051-8)	59.00	Apr. 1, 2002
400-End	(869-048-00052-6)	24.00	Apr. 1, 2002
19 Parts:			
1-140	(869-048-00053-4)	57.00	Apr. 1, 2002
141-199	(869-048-00054-2)	56.00	Apr. 1, 2002
200-End	(869-048-00055-1)	29.00	Apr. 1, 2002
20 Parts:			
1-399	(869-048-00056-9)	47.00	Apr. 1, 2002
400-499	(869-048-00057-7)	60.00	Apr. 1, 2002
500-End	(869-048-00058-5)	60.00	Apr. 1, 2002
21 Parts:			
1-99	(869-048-00059-3)	39.00	Apr. 1, 2002
100-169	(869-048-00060-7)	46.00	Apr. 1, 2002
170-199	(869-048-00061-5)	47.00	Apr. 1, 2002
200-299	(869-048-00062-3)	16.00	Apr. 1, 2002
300-499	(869-048-00063-1)	29.00	Apr. 1, 2002
500-599	(869-048-00064-0)	46.00	Apr. 1, 2002
600-799	(869-048-00065-8)	16.00	Apr. 1, 2002
800-1299	(869-048-00066-6)	56.00	Apr. 1, 2002
1300-End	(869-048-00067-4)	22.00	Apr. 1, 2002
22 Parts:			
1-299	(869-048-00068-2)	59.00	Apr. 1, 2002
300-End	(869-048-00069-1)	43.00	Apr. 1, 2002
23	(869-048-00070-4)	40.00	Apr. 1, 2002
24 Parts:			
0-199	(869-048-00071-2)	57.00	Apr. 1, 2002
200-499	(869-048-00072-1)	47.00	Apr. 1, 2002
500-699	(869-048-00073-9)	29.00	Apr. 1, 2002
700-1699	(869-048-00074-7)	58.00	Apr. 1, 2002
1700-End	(869-048-00075-5)	29.00	Apr. 1, 2002
25	(869-048-00076-3)	68.00	Apr. 1, 2002
26 Parts:			
§§ 1.0-1.60	(869-048-00077-1)	45.00	Apr. 1, 2002
§§ 1.61-1.169	(869-048-00078-0)	58.00	Apr. 1, 2002
§§ 1.170-1.300	(869-048-00079-8)	55.00	Apr. 1, 2002
§§ 1.301-1.400	(869-048-00080-1)	44.00	Apr. 1, 2002
§§ 1.401-1.440	(869-048-00081-0)	60.00	Apr. 1, 2002
§§ 1.441-1.500	(869-048-00082-8)	47.00	Apr. 1, 2002
§§ 1.501-1.640	(869-048-00083-6)	44.00	⁷ Apr. 1, 2002
§§ 1.641-1.850	(869-048-00084-4)	57.00	Apr. 1, 2002
§§ 1.851-1.907	(869-048-00085-2)	57.00	Apr. 1, 2002
§§ 1.908-1.1000	(869-048-00086-1)	56.00	Apr. 1, 2002
§§ 1.1001-1.1400	(869-048-00087-9)	58.00	Apr. 1, 2002
§§ 1.1401-End	(869-048-00088-7)	61.00	Apr. 1, 2002
2-29	(869-048-00089-5)	57.00	Apr. 1, 2002
30-39	(869-048-00090-9)	39.00	Apr. 1, 2002
40-49	(869-048-00091-7)	26.00	Apr. 1, 2002
50-299	(869-048-00092-5)	38.00	Apr. 1, 2002
300-499	(869-048-00093-3)	57.00	Apr. 1, 2002
500-599	(869-048-00094-1)	12.00	⁵ Apr. 1, 2002
600-End	(869-048-00095-0)	16.00	Apr. 1, 2002
27 Parts:			
1-199	(869-048-00096-8)	61.00	Apr. 1, 2002

Title	Stock Number	Price	Revision Date	Title	Stock Number	Price	Revision Date
200-End	(869-048-00097-6)	13.00	Apr. 1, 2002	100-135	(869-044-00151-9)	38.00	July 1, 2001
28 Parts:				136-149	(869-044-00152-7)	55.00	July 1, 2001
*0-42	(869-048-00098-4)	58.00	July 1, 2002	150-189	(869-044-00153-5)	52.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001	190-259	(869-044-00154-3)	34.00	July 1, 2001
29 Parts:				260-265	(869-044-00155-1)	45.00	July 1, 2001
0-99	(869-044-00100-4)	45.00	July 1, 2001	266-299	(869-044-00156-0)	45.00	July 1, 2001
100-499	(869-048-00101-8)	21.00	July 1, 2002	300-399	(869-044-00157-8)	41.00	July 1, 2001
500-899	(869-044-00102-1)	47.00	⁶ July 1, 2001	400-424	(869-044-00158-6)	51.00	July 1, 2001
900-1899	(869-048-00103-4)	35.00	July 1, 2002	425-699	(869-044-00159-4)	55.00	July 1, 2001
*1900-1910 (§§ 1900 to 1910.999)	(869-048-00104-2)	58.00	July 1, 2002	700-789	(869-044-00160-8)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869-044-00105-5)	42.00	July 1, 2001	790-End	(869-044-00161-6)	44.00	July 1, 2001
1911-1925	(869-044-00106-3)	20.00	⁶ July 1, 2001	41 Chapters:			
1926	(869-044-00107-1)	45.00	July 1, 2001	1, 1-1 to 1-10		13.00	³ July 1, 1984
1927-End	(869-044-00108-0)	55.00	July 1, 2001	1, 1-11 to Appendix, 2 (2 Reserved)		13.00	³ July 1, 1984
30 Parts:				3-6		14.00	³ July 1, 1984
1-199	(869-044-00109-8)	52.00	July 1, 2001	7		6.00	³ July 1, 1984
200-699	(869-044-00110-1)	45.00	July 1, 2001	8		4.50	³ July 1, 1984
700-End	(869-044-00111-7)	53.00	July 1, 2001	9		13.00	³ July 1, 1984
31 Parts:				10-17		9.50	³ July 1, 1984
0-199	(869-044-00112-8)	32.00	July 1, 2001	18, Vol. I, Parts 1-5		13.00	³ July 1, 1984
200-End	(869-044-00113-6)	56.00	July 1, 2001	18, Vol. II, Parts 6-19		13.00	³ July 1, 1984
32 Parts:				18, Vol. III, Parts 20-52		13.00	³ July 1, 1984
1-39, Vol. I		15.00	² July 1, 1984	19-100		13.00	³ July 1, 1984
1-39, Vol. II		19.00	² July 1, 1984	1-100	(869-044-00162-4)	22.00	July 1, 2001
1-39, Vol. III		18.00	² July 1, 1984	101	(869-044-00163-2)	45.00	July 1, 2001
1-190	(869-044-00114-4)	51.00	⁶ July 1, 2001	102-200	(869-044-00164-1)	33.00	July 1, 2001
191-399	(869-044-00115-2)	57.00	July 1, 2001	201-End	(869-044-00165-9)	24.00	July 1, 2001
400-629	(869-048-00116-6)	47.00	July 1, 2002	42 Parts:			
630-699	(869-044-00117-9)	34.00	July 1, 2001	1-399	(869-044-00166-7)	51.00	Oct. 1, 2001
700-799	(869-044-00118-7)	42.00	July 1, 2001	400-429	(869-044-00167-5)	59.00	Oct. 1, 2001
800-End	(869-044-00119-5)	44.00	July 1, 2001	430-End	(869-044-00168-3)	58.00	Oct. 1, 2001
33 Parts:				43 Parts:			
1-124	(869-044-00120-9)	45.00	July 1, 2001	1-999	(869-044-00169-1)	45.00	Oct. 1, 2001
125-199	(869-044-00121-7)	55.00	July 1, 2001	1000-end	(869-044-00170-5)	56.00	Oct. 1, 2001
200-End	(869-044-00122-5)	45.00	July 1, 2001	44	(869-044-00171-3)	45.00	Oct. 1, 2001
34 Parts:				45 Parts:			
1-299	(869-044-00123-3)	43.00	July 1, 2001	1-199	(869-044-00172-1)	53.00	Oct. 1, 2001
300-399	(869-044-00124-1)	40.00	July 1, 2001	200-499	(869-044-00173-0)	31.00	Oct. 1, 2001
400-End	(869-048-00125-5)	59.00	July 1, 2002	500-1199	(869-044-00174-8)	45.00	Oct. 1, 2001
35	(869-048-00126-3)	10.00	⁶ July 1, 2002	1200-End	(869-044-00175-6)	55.00	Oct. 1, 2001
36 Parts:				46 Parts:			
1-199	(869-048-00127-1)	36.00	July 1, 2002	1-40	(869-044-00176-4)	43.00	Oct. 1, 2001
*200-299	(869-048-00128-0)	35.00	July 1, 2002	41-69	(869-044-00177-2)	35.00	Oct. 1, 2001
300-End	(869-044-00129-2)	55.00	July 1, 2001	70-89	(869-044-00178-1)	13.00	Oct. 1, 2001
37	(869-044-00130-6)	45.00	July 1, 2001	90-139	(869-044-00179-9)	41.00	Oct. 1, 2001
38 Parts:				140-155	(869-044-00180-2)	24.00	Oct. 1, 2001
0-17	(869-044-00131-4)	53.00	July 1, 2001	156-165	(869-044-00181-1)	31.00	Oct. 1, 2001
18-End	(869-044-00132-2)	55.00	July 1, 2001	166-199	(869-044-00182-9)	42.00	Oct. 1, 2001
39	(869-044-00133-1)	40.00	July 1, 2002	200-499	(869-044-00183-7)	36.00	Oct. 1, 2001
40 Parts:				500-End	(869-044-00184-5)	23.00	Oct. 1, 2001
1-49	(869-044-00134-9)	54.00	July 1, 2001	47 Parts:			
50-51	(869-044-00135-7)	38.00	July 1, 2001	0-19	(869-044-00185-3)	55.00	Oct. 1, 2001
52 (52.01-52.1018)	(869-044-00136-5)	50.00	July 1, 2001	20-39	(869-044-00186-1)	43.00	Oct. 1, 2001
52 (52.1019-End)	(869-044-00137-3)	55.00	July 1, 2001	40-69	(869-044-00187-0)	36.00	Oct. 1, 2001
53-59	(869-048-00138-7)	29.00	July 1, 2002	70-79	(869-044-00188-8)	58.00	Oct. 1, 2001
60 (60.1-End)	(869-044-00139-0)	53.00	July 1, 2001	80-End	(869-044-00189-6)	55.00	Oct. 1, 2001
60 (Apps)	(869-044-00140-3)	51.00	July 1, 2001	48 Chapters:			
61-62	(869-048-00141-7)	38.00	July 1, 2002	1 (Parts 1-51)	(869-044-00190-0)	60.00	Oct. 1, 2001
63 (63.1-63.599)	(869-044-00142-0)	53.00	July 1, 2001	1 (Parts 52-99)	(869-044-00191-8)	45.00	Oct. 1, 2001
63 (63.600-63.1199)	(869-044-00143-8)	44.00	July 1, 2001	2 (Parts 201-299)	(869-044-00192-6)	53.00	Oct. 1, 2001
63 (63.1200-End)	(869-044-00144-6)	56.00	July 1, 2001	3-6	(869-044-00193-4)	31.00	Oct. 1, 2001
64-71	(869-044-00145-4)	26.00	July 1, 2001	7-14	(869-044-00194-2)	51.00	Oct. 1, 2001
72-80	(869-044-00146-2)	55.00	July 1, 2001	15-28	(869-044-00195-1)	53.00	Oct. 1, 2001
81-85	(869-044-00147-1)	45.00	July 1, 2001	29-End	(869-044-00196-9)	38.00	Oct. 1, 2001
86 (86.1-86.599-99)	(869-044-00148-9)	52.00	July 1, 2001	49 Parts:			
86 (86.600-1-End)	(869-044-00149-7)	45.00	July 1, 2001	1-99	(869-044-00197-7)	55.00	Oct. 1, 2001
87-99	(869-044-00150-1)	54.00	July 1, 2001	100-185	(869-044-00198-5)	60.00	Oct. 1, 2001
				186-199	(869-044-00199-3)	18.00	Oct. 1, 2001
				200-399	(869-044-00200-1)	60.00	Oct. 1, 2001
				400-999	(869-044-00201-9)	58.00	Oct. 1, 2001
				1000-1199	(869-044-00202-7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
1200-End	(869-044-00203-5)	21.00	Oct. 1, 2001
50 Parts:			
1-199	(869-044-00204-3)	63.00	Oct. 1, 2001
200-599	(869-044-00205-1)	36.00	Oct. 1, 2001
600-End	(869-044-00206-0)	55.00	Oct. 1, 2001
CFR Index and Findings			
Aids	(869-044-00047-0)	59.00	Jan. 1, 2002
Complete 2001 CFR set		1,195.00	2001
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		290.00	2000
Complete set (one-time mailing)		247.00	1999

¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

³ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁴ No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

⁵ No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

⁶ No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

⁷ No amendments to this volume were promulgated during the period April 1, 2001, through April 1, 2002. The CFR volume issued as of April 1, 2001 should be retained.