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Presidential Documents

Title 3—

The President

Executive Order 13274 of September 18, 2002

Environmental Stewardship and Transportation Infrastructure Project Reviews

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to enhance environmental stewardship and streamline the environmental review and development of transportation infrastructure projects, it is hereby ordered as follows:

Section 1. *Policy.* The development and implementation of transportation infrastructure projects in an efficient and environmentally sound manner is essential to the well-being of the American people and a strong American economy. Executive departments and agencies (agencies) shall take appropriate actions, to the extent consistent with applicable law and available resources, to promote environmental stewardship in the Nation's transportation system and expedite environmental reviews of high-priority transportation infrastructure projects.

Sec. 2. *Actions.* (a) For transportation infrastructure projects, agencies shall, in support of the Department of Transportation, formulate and implement administrative, policy, and procedural mechanisms that enable each agency required by law to conduct environmental reviews (reviews) with respect to such projects to ensure completion of such reviews in a timely and environmentally responsible manner.

(b) In furtherance of the policy set forth in section 1 of this order, the Secretary of Transportation, in coordination with agencies as appropriate, shall advance environmental stewardship through cooperative actions with project sponsors to promote protection and enhancement of the natural and human environment in the planning, development, operation, and maintenance of transportation facilities and services.

(c) The Secretary of Transportation shall designate for the purposes of this order a list of high-priority transportation infrastructure projects that should receive expedited agency reviews and shall amend such list from time to time as the Secretary deems appropriate. For projects on the Secretary's list, agencies shall to the maximum extent practicable expedite their reviews for relevant permits or other approvals, and take related actions as necessary, consistent with available resources and applicable laws, including those relating to safety, public health, and environmental protection.

Sec. 3. *Interagency Task Force.* (a) *Establishment.* There is established, within the Department of Transportation for administrative purposes, the interagency ''Transportation Infrastructure Streamlining Task Force'' (Task Force) to: (i) monitor and assist agencies in their efforts to expedite a review of transportation infrastructure projects and issue permits or similar actions, as necessary; (ii) review projects, at least quarterly, on the list of priority projects pursuant to section 2(c) of this order; and (iii) identify and promote policies that can effectively streamline the process required to provide approvals for transportation infrastructure projects, in compliance with applicable law, while maintaining safety, public health, and environmental protection.

(b) *Membership and Operation.* The Task Force shall promote interagency cooperation and the establishment of appropriate mechanisms to coordinate Federal, State, tribal, and local agency consultation, review, approval, and permitting of transportation infrastructure projects. The Task Force shall consist exclusively of the following officers of the United States: the Secretary

of Agriculture, Secretary of Commerce, Secretary of Transportation (who shall chair the Task Force), Secretary of the Interior, Secretary of Defense, Administrator of the Environmental Protection Agency, Chairman of the Advisory Council on Historic Preservation, and Chairman of the Council on Environmental Quality. A member of the Task Force may designate, to perform the Task Force functions of the member, any person who is part of the member's department, agency, or office and who is either an officer of the United States appointed by the President with the advice and consent of the Senate or a member of the Senior Executive Service. The Task Force shall report to the President through the Chairman of the Council on Environmental Quality.

Sec. 4. *Report.* At least once each year, the Task Force shall submit to the President a report that: (a) Describes the results of the coordinated and expedited reviews on a project-by-project basis, and identifies those procedures and actions that proved to be most useful and appropriate in coordinating and expediting the review of the projects.

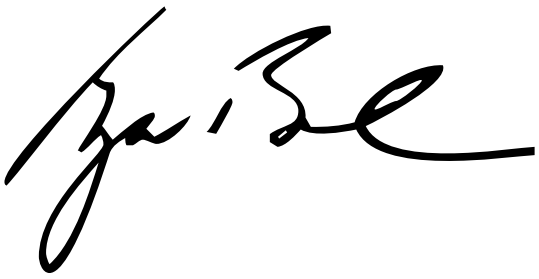
(b) Identifies substantive and procedural requirements of Federal, State, tribal, and local laws, regulations, and Executive Orders that are inconsistent with, duplicative of, or are structured so as to restrict their efficient implementation with other applicable requirements.

(c) Makes recommendations regarding those additional actions that could be taken to: (i) address the coordination and expediting of reviews of transportation infrastructure projects by simplifying and harmonizing applicable substantive and procedural requirements; and (ii) elevate and resolve controversies among Federal, State, tribal, and local agencies related to the review or impacts of transportation infrastructure projects in a timely manner.

(d) Provides any other recommendations that would, in the judgement of the Task Force, advance the policy set forth in section 1 of this order.

Sec. 5. *Preservation of Authority.* Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals.

Sec. 6. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.



THE WHITE HOUSE,
September 18, 2002.

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Billing code 3195–01–P

Rules and Regulations

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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

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 01–132–2]

Gypsy Moth Host Material From Canada; Removal of Infested Areas in British Columbia, Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning gypsy moth host material from Canada by removing the areas in British Columbia from the list of gypsy moth infested areas. Surveys have shown that those areas in British Columbia have been free of gypsy moth for the past 2 years. This action removes restrictions on the importation of regulated articles from British Columbia that are no longer necessary.

EFFECTIVE DATE: September 23, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick A. Thomas, Export Operations Officer, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–8367.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest and shade trees. The regulations in ''Subpart—Gypsy Moth Host Material from Canada'' (7 CFR 319.77–1 through 319.77–5, referred to below as the regulations) restrict the importation of certain gypsy moth host material (regulated articles) from Canada to prevent the spread of gypsy moth from Canada into noninfested areas of the United States. The regulations in § 319.77–2 identify the following as regulated articles: Trees without roots (*e.g.,* Christmas trees), unless greenhouse-grown throughout the year; trees with roots, unless greenhouse-grown throughout the year; shrubs with roots and persistent woody stems, unless greenhouse-grown throughout the year; logs with bark attached; pulpwood with bark attached; outdoor household articles; and mobile homes and their associated equipment. Regulated articles must meet specific certification or destination requirements if they are intended to be moved into or through areas of the United States that are not infested with gypsy moth. Section 319.77–3 lists those areas of Canada known to be infested with gypsy moth. The descriptions of those infested areas were provided by the Canadian Food Inspection Agency (CFIA). Prior to this rule, the areas were in British Columbia, New Brunswick, Nova Scotia, Ontario, and Quebec. Section 319.77–4 contains the conditions for the importation into the United States of regulated articles from Canada.

It has been our policy, agreed upon by CFIA, that an area must be free from gypsy moth for a period of 2 consecutive years before it will be removed from the list of gypsy moth infested areas. This is consistent with our practice under the provisions of our domestic quarantine regulations on gypsy moth in 7 CFR 301.45 through 301.45–12. Those areas in British Columbia that have been listed in the regulations as gypsy moth infested areas have been surveyed and found free of gypsy moth for the past 2 years, and have thus met our standard for removal from the list of gypsy moth infested areas. Therefore, in a proposed rule published in the **Federal Register** on June 14, 2002 (67 FR 40874–40876, Docket 01–132–1), we proposed to remove the areas in British Columbia from the list of gypsy moth infested areas.

We solicited comments concerning our proposal for 60 days ending August 13, 2002. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is warranted to relieve restrictions on the importation of regulated articles from British Columbia that are no longer necessary, as surveys have shown that the areas in British Columbia affected by this rule have been free of gypsy moth for the past 2 years. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the regulations concerning gypsy moth host material from Canada by removing areas in British Columbia from the list of gypsy moth infested areas. Surveys have shown that those areas in British Columbia have been free of gypsy moth for the past 2 years. This action relieves the specific certification and destination requirements of the regulations for certain gypsy moth host material imported into the United States from British Columbia.

The articles that are affected by this final rule are trees without roots (*e.g.,* Christmas trees), unless greenhouse-grown throughout the year; trees with roots, unless greenhouse-grown throughout the year; shrubs with roots and persistent woody stems, unless greenhouse-grown throughout the year; logs with bark attached; pulpwood with bark attached; outdoor household articles; and mobile homes and their associated equipment. In 2000, the United States imported nearly $282 million in live plants and trees, about $64 million in Christmas trees and foliage, and more than $253 million in wood in the rough (*i.e.,* logs with bark and pulpwood). Table 1 shows the total values of these imported products in 2000 and the percentage coming from Canada. Canada ranks first among the sources of U.S. imports of these products.

TABLE 1.—U.S. IMPORTS OF LIVE TREES, PLANTS, AND ROUGH WOOD IN 2000

Commodity group	Total value of imports ($ million)	Percentage from Canada
0602	$281.9	72
060491	64.2	71
44010	4.0	85
4403	249.4	92

Note: The numbers identifying the commodities denote the harmonized system for classifying commodities in trade. These digits denote the general classes of live trees, plants, and rough wood traded. The first group, 0602, includes live roses, live fruit or nut trees, rhododendrons and azaleas, live orchid plants, chrysanthemums with soil attached, poinsettias with soil attached, herbaceous perennials, and trees and shrubs with soil attached. The second category, 060491, includes fir, northern Douglas, and other evergreen Christmas trees (also included in this category is foliage). The third group, 44010, includes fuel wood in logs, billets, and twigs. The fourth group, 4403, is wood in the rough.

Source: World Trade Atlas, Global Trade Information Services: Calendar Year 2000.

Canada is the major source of all U.S. imports of the regulated articles covered by the regulations, and British Columbia supplies a large portion of those Canadian exports. Table 2 shows U.S. imports of regulated articles from British Columbia during the period 1996–2000.

TABLE 2.—U.S. IMPORTS OF LIVE TREES, PLANTS, AND ROUGH WOOD FROM BRITISH COLUMBIA, 1996–2000

Commodity group	1996 ($ million)	1997 ($ million)	1998 ($ million)	1999 ($ million)	2000 ($ million)
0602	$14.2	$18.3	$23.2	$31.9	$42.4
060491	3.1	2.8	2.5	2.7	2.1
440110	1.1	1.2	1.4	1.5	1.7
4403	45.4	43.0	60.9	110.8	155.2

Source: Statistics Canada.

With the exception of outdoor household articles and mobile homes and their associated equipment, regulated articles originating in a Canadian infested area that are to be moved into or through U.S. noninfested areas must be accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that the regulated articles have been inspected and found free of gypsy moth or that the regulated articles have been treated for gypsy moth in accordance with the Plant Protection and Quarantine Treatment Manual. Logs or pulpwood originating in a Canadian infested area may also be moved into or through U.S. noninfested areas if they are moved to a specified U.S. processing plant or mill under compliance agreement with the Animal and Plant Health Inspection Service for specified handling or processing that will mitigate the risk of gypsy moth. Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian infested area into or through U.S. noninfested areas may be imported into the United States only if they are accompanied by a statement, signed by their owner, stating that they have been inspected and found free of gypsy moth.

Under the regulations, logs or pulpwood with bark attached, trees, and shrubs originating in a Canadian noninfested area that are to be moved into or through a U.S. noninfested area must be accompanied by a certification of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur. (As defined in § 319.77–1, a certification of origin is a signed, accurate statement certifying the area in which a regulated article was produced or grown that may be provided directly on the shipping documents accompanying shipments of commercial wood products from Canada, or may be provided on a separate certificate.) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian noninfested area may be imported into any area of the United States without restriction.

Our removal of areas in British Columbia from the list of Canadian infested areas eliminates the costs associated with the phytosanitary certificates required by our Canadian gypsy moth regulations for most regulated articles moved from British Columbia into or through U.S. noninfested areas. Some regulated articles, *i.e.*, trees with roots and shrubs with roots and persistent woody stems, will still require a Canadian phytosanitary certificate under our nursery stock regulations in 7 CFR 319.37–4. For most affected entities, therefore, the costs associated with phytosanitary certifications will be replaced with the costs associated with certifications of origin. The cost of a Canadian phytosanitary certificate is $7 or $17 (Canadian), depending on the value of the shipment; the fee for an associated pre-export inspection ranges from $15 to $50 (Canadian) per lot, depending on the type of article presented for inspection. The costs associated with certifications of origin, which are prepared and signed by the exporter, are minimal, given that those certifications require little processing time and no inspection costs or administrative fees.

While we do not have information on the number and size of entities in British Columbia that might be affected by this final rule, the areas within British Columbia that we are removing from the list of gypsy moth infested areas represent a small portion of the province as a whole, so few entities are likely to be affected. Therefore, we expect this final rule will have little economic effect on affected entities, whether small or large.

In addition, Canada has been and is by far the largest source of U.S. imports of the regulated products, and British Columbia is a large source within Canada. This continued to be the case even after our regulations concerning gypsy moth host material from Canada were established in 1999. Therefore, the decrease in costs is not expected to have a significant effect on this pattern. Thus, the overall effect upon price and competitiveness is expected to be positive but relatively insignificant.

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

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 319

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

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

PART 319—FOREIGN QUARANTINE NOTICES

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

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

§ 319.77–3 [Amended]

2. In § 319.77–3, paragraph (a) is removed and paragraphs (b) through (e) are redesignated as (a) through (d), respectively.

Done in Washington, DC, this 17th day of September 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–24102 Filed 9–20–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 02–021]

RIN 2115–AA97

Safety Zone; Crazy Horse Campground, Colorado River, Lake Havasu, AZ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the Lake Havasu Region on the navigable waters of the Colorado River during the Skat Trak World Championships. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 7 a.m. (PST) on October 6, 2002 until to 6 p.m. (PST) on October 13, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (COTP San Diego 02–021) and are available for inspection or copying at Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Austin Murai, USCG, c/o U.S. Coast Guard Captain of the Port, at (619) 683–6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Final approval and permitting of this event were not issued in time to engage in full notice and comment rulemaking. Publishing a NPRM and delaying the effective date would be contrary to the public interest since the event would occur before the rulemaking process was complete.

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**. In addition to the reasons stated above, it would be contrary to the public interest not to publish this rule because the event has been permitted and participants and the public require protection.

Background and Purpose

The International Jet Sports Boating Association is sponsoring the Skat Trak World Championships, which is held at the Crazy Horse Campgrounds, Lake Havasu City, AZ. This temporary safety zone is established during the Skat Trak World Championships, a marine event that includes participating vessels racing along an established and marked course on Lake Havasu, AZ. This temporary safety zone is necessary to provide for the safety of the crews, spectators, and participants of the Skat Trak World Championships and is also necessary to protect other vessels and users of the waterway.

Discussion of Rule

The following area is a temporary safety zone: the area enclosed by a line beginning from a point on land at 32°28′18″ N, 114°21′04″ W, thence northerly to a point 34°28′06″ N, 114°21′55″ W, thence easterly to a point 34°28′05″ N, 114°21′02″ W, thence southerly along the shoreline to the point of origin. All coordinates are North American Datum 1983.

The Coast Guard is establishing one (1) safety zone that will be enforced everyday from 7 a.m. (PST) to 6 p.m. (PST) from October 6, 2002 to October 13, 2002. This safety zone is necessary to provide for the safety of the crews, spectators, and participants of the Skat Trak World Championships and to protect other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

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, l979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary because of its limited duration of eleven

(11) hours per day for a period of eight (8) days and the limited geographic scope of the safety zone.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This safety zone would not have a significant economic impact on a substantial number of small entities because this safety zone is limited in scope and duration (in effect for only eleven (11) hours per day for a period of eight (8) days, from October 6 2002 to October 13, 2002). In addition the Coast Guard will publish local notice to mariners (LNM) before the safety zone is enforced.

Assistance for Small Entities

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

Collection of Information

This 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 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.lD, this rule is categorically excluded from further environmental documentation because we are proposing to establish a safety zone. 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; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

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

§ 165.T11–033 Safety Zone; Crazy Horse Campground, Lake Havasu, Colorado River, AZ.

(a) *Location.* The following area is a temporary safety zone: the area enclosed by a line beginning from a point on land at 32°28′18″ N, 114°21′04″ W, thence northerly to a point 34°28′06″ N, 114°21′55″ W, thence easterly to a point 34°28′05″ N, 114°21′02″ W, thence southerly along the shoreline to the point of origin. All coordinates are North American Datum 1983.

(b) *Effective dates.* This section will be in effect from 7 a.m. (PST) on October 6, 2002 until 6 p.m. on October 13, 2002. The zone will be enforced everyday from 7 a.m. (PST) to 6 p.m., from October 6, 2002 until October 13, 2002. If the need for the safety zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request

authorization to do so from the Patrol Commander, who will be Petty Officer Austin Murai of the U.S. Coast Guard Marine Safety Office San Diego. He may be contacted via VHF-FM Channel 16.

Dated: September 9, 2002.

S.P. Metruck,

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

[FR Doc. 02–24124 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIP NO. MT–001–0032, MT–001–0039; FRL–7374–4]

Approval and Promulgation of Air Quality Implementation Plans; Montana; State Implementation Plan Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: On January 26, 1989, we approved the Butte Total Suspended Particulate (TSP) State Implementation Plan (SIP), and on March 11, 1994, we approved the Butte Particulate Matter with an aerodynamic diameter less than or equal to 10 micrometers (PM–10) SIP. The Butte PM–10 SIP replaced the Butte TSP SIP and therefore, EPA is making a correction to remove the Butte TSP SIP from the approved SIP. In addition, on August 13, 2001, EPA approved the recodification and revisions to the Administrative Rules of Montana (ARM). In the regulatory material of the August 13, 2001 rule, EPA inadvertently referenced the wrong date. We are correcting the date in this document. Also, in Federal Register documents published on September 21, 2001, November 15, 2001 and November 19, 2001, we incorporated by reference (IBR) materials that contained omission errors in the text. We are correcting the errors contained in the IBR material.

DATES: This rule is effective on September 23, 2002.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA, Region 8, (303) 312–6144.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'' or ''our'' is used it means EPA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting incorrect text in previous rulemakings. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

I. Corrections

A. Correction to ***Federal Register*** *Document Published on March 11, 1994 (59 FR 11550)*

When we approved the Butte PM–10 SIP on 3/11/94 (59 FR 11550) (codified at 40 CFR 52.1370(c)(29)) we should have removed our prior approval of the Butte TSP plan that was approved on 1/26/89 (codified at 40 CFR 52.1370(c)(21)). Page 47.10.9(4) of the SIP narrative of the Butte PM–10 plan adopted on 11/15/91 indicates that the PM–10 control plan approved by the Montana Board of Health and Environmental Science (MBHES) on November 15, 1991 will replace the entire Butte TSP SIP. The SIP narrative explains that the PM–10 plan is more stringent than what was required in the TSP plan. Specifically street sweeping and street flushing requirements and permit requirements are more stringent in the PM–10 plan than was required in the TSP plan. Additionally, street paving projects identified in the TSP plan have been completed. We agree with the State's assessment and under 110(k)(6) of the Clean Air Act, we are removing 40 CFR 52.1370(c)(21) from the approved SIP.

B. Correction to ***Federal Register*** *Document Published on August 13, 2001 (66 FR 42427)*

On August 13, 2001 (66 FR 42427), EPA approved, for the most part, a recodification and revisions to the Administrative Rules of Montana. In the regulatory text of that rulemaking, we erroneously identified an effective date of a rule. Specifically, in the introductory text of 40 CFR 52.1370(c)(49) we indicated that we were replacing in the SIP all previously approved Montana air quality regulations except for the Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 13, 1972, and the Stack Heights and Dispersion Techniques Rule, ARM 16.8.1204–1206, effective June 13, 1986, with those regulations listed in paragraph (c)(49)(i)(A). The correct effective date for the Kraft Pulp Mill Rule is December 31, 1972 and not December 13, 1972. We are correcting the introductory text of 40 CFR 52.1370(c)(49) to show the correct effective date for the Kraft Pulp Mill Rule as December 31, 1972.

C. Correction to ***Federal Register*** *Documents Published on September 21, 2001 (66 FR 48561), November 15, 2001 (66 FR 57391), and November 19, 2001 (66 FR 57882)*

In our September 21, 2001 (66 FR 48561) rulemaking, and subsequent rule correction on November 19, 2001 (66 FR 57882), we approved ARM 17.8.1305, Conformity, and made a rule correction to the regulatory text. With the September 21, 2001 and November 19, 2001 rules, we inadvertently submitted IBR material that had text missing. Specifically, the ''*'' under Table B (page 9.2.2.13 (5)) should read: ''* If consultation on draft does not result in any revisions, distribution of a separate final document is not required. In this case consulted agencies may simply be notified that the draft has been adopted as final.'' Therefore, we are correcting this error by resubmitting page 9.2.2.13 (5) of 17.8.1305 of the IBR material for the September 21, 2002 and November 19, 2001 rules to the Air and Radiation Docket and Information Center for incorporation into the SIP.

In our November 15, 2001 (66 FR 57391) rulemaking, we approved revisions to the Missoula County Air Pollution Control Program. With the November 15, 2001 rule, we inadvertently submitted IBR material that had text missing. Specifically, Rule 17.6.107(6), on page 32.9.1(41) was omitted. Therefore, we are correcting this error by resubmitting page 32.9.1(41) of the IBR material for the Missoula County Air Quality Program to the Air and Radiation Docket and Information Center for incorporation into the SIP.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. 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. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not

subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in the March 11, 1994 rule, approving the Butte PM–10 plan, the August 13, 2001 rule, approving, for the most part, a recodification and revisions to the Administrative Rules of Montana, the September 21, 2001 rule, approving Montana's conformity, and the November 15, 2001 rule, approving revisions to the Missoula County Air Pollution Control Program.

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of October 23, 2002. 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. These corrections to the identification of plan for Montana is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 27, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

40 CFR part 52 of chapter I, title 40 is amended as follows:

PART 52—[CORRECTED]

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

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

Subpart BB—Montana

2. Section 52.1370 is amended by revising the introductory text of paragraphs (c)(29) and (c)(49) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(29) The Governor of Montana submitted a portion of the requirements for the moderate nonattainment area PM10 State Implementation Plan (SIP) for Butte, Montana with a letter dated July 9, 1992, with technical corrections dated May 17, 1993. The submittals were made to satisfy those moderate PM10 nonattainment area SIP requirements due for Butte on November 15, 1991. The Butte PM10 SIP replaces the prior approved Butte total suspended particulate (TSP) SIP approved in paragraph (c)(21).

* * * * *

(49) On September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999 and March 3, 2000, the Governor submitted a recodification and revisions to the Administrative Rules of Montana. EPA is replacing in the SIP all of the previously approved Montana air quality regulations except that the Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 31, 1972, and Stack Heights and Dispersion Techniques Rule, ARM 16.8.1204–1206, effective June 13, 1986, with those regulations listed in paragraph (c)(49)(i)(A) of this section. The Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 31, 1972, and Stack Heights and Dispersion Techniques Rule, ARM 16.8.1204–1206, effective June 13, 1986 remain a part of the SIP. In addition, the Governor submitted Yellowstone County's Local Regulation No. 002—Open Burning.

* * * * *

[FR Doc. 02–22975 Filed 9–20–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 078–0036; FRL–7380–9]

Revision to the Arizona State Implementation Plan, Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a full disapproval of a revision to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP). This action was proposed in the Federal Register on December 18, 2000 and concerns visible emission sources. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action directs Arizona to correct the deficiencies in Rule R18–2–702.

EFFECTIVE DATE: Today's final rule is effective on October 23, 2002.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect a copy of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, AZ 85007.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415)947–4118.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On December 18, 2000 (65 FR 79037), EPA published a notice of proposed rulemaking (NPRM) proposing a full disapproval of the rule that was submitted for incorporation into the Arizona SIP.

TABLE 1.—SUBMITTED RULE

Local agency	Rule #	Rule title	Amended	Submitted
ADEQ	R18–2–702	General Provisions	11/15/93	07/15/98

The NPRM contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. We extended this comment period on March 16, 2001 (66 FR 15212) to receive comments by April 16, 2001 and received comments from the following parties:

Chuck Shipley, Arizona Mining Association (AMA); letter dated February 16, 2001 and received February 16, 2001.

Scott Davis, Pinnacle West Capital Corporation (PWCC); letter dated February 15, 2001 and received February 16, 2001.

Nancy Wrona, ADEQ; letter dated April 16, 2001 and received April 16, 2001.

The comments and our responses are summarized below.

Comment I: AMA disagrees with EPA's position that the Rule R18–2–702 procedure for an alternative opacity standard (AOS) is a SIP relaxation and is unacceptable. AMA states that a less rigorous ADEQ AOS procedure was previously approved into the SIP by EPA in old ADEQ Rule R9–3–501.

AMA also states that 40 CFR 60.11(e)(6)-(8) in the General Provisions of EPA's New Source Performance Standards (NSPS) establishes a similar procedure for sources to receive a new opacity standard. AMA asserts that the ADEQ AOS procedure in Rule R18–2–702 is ''nearly identical'' to the federal NSPS procedure.

Response: AMA appears to argue that the AOS procedure is not a relaxation because it is at least as stringent as the AOS procedure already approved in the SIP in Rule R9–3-501. This, however, is not relevant to the basis for EPA's disapproval. As explained in the NPRM, Rule R18–2–702 is deficient because it allows for a potential relaxation of the opacity standard to an AOS less than the ''RACM/RACT'' that should be prescribed by the Rule. *See* CAA §§ 172(c)(1) and 189(a)(1)(C) (requiring reasonably available control measures (RACM), including reasonably available control technology (RACT), in moderate PM–10 nonattainment areas). The fact that EPA previously approved in error the ADEQ AOS procedure in Rule R9–3–501 is not a legal justification to reinforce this error in our action on Rule R18–2–702.

EPA also cited as a deficiency the effect on federal enforceablility of the ADEQ Director's discretion to establish an AOS. The procedure does not ensure that the AOS will be adequately enforceable by EPA because it fails to require approval by EPA. EPA notes, however, that ADEQ may be able to revise the AOS procedure to include an opportunity for public comment and to require any AOS to be submitted to EPA for approval. This could reasonably ensure that RACM/RACT requirements were fulfilled for the AOS and that the AOS is adequately enforceable by EPA.

AMA's reference to the NSPS is not persuasive. The two rules are significantly different for the simple reason that the federal NSPS regulations require EPA review of any petition to adjust the opacity standards. EPA also notes that the NSPS procedure differs from the ADEQ AOS procedure in that the NSPS procedure allows for public review and comment. The ADEQ AOS procedure requires publication of the AOS, but does not allow for public comment. Thus, under Rule R18–2–702, EPA has no reasonable means to assure that the AOS will comply with RACM/RACT and be adequately enforceable by EPA.

EPA concludes that Rule R18–2–702 is deficient because it allows for the potential relaxation of opacity standards below levels that are considered RACM/RACT and does not provide an opportunity for EPA to review such changes and ensure enforceability.

Comment II: AMA disagrees with EPA's position that the revision limiting the applicability of the opacity standard to ''existing sources'' is a SIP relaxation. AMA notes that the term ''existing sources'' in Rule R18–2–101(41) includes any source (including a new source) that is not subject to an applicable NSPS. As a result, AMA asserts, all sources are covered by an opacity standard contained in at least one of the following citations:

- ADEQ new source performance standards in ADEQ article 9 [R18–2–9xx series rules].
- ADEQ article 7 for existing specific sources [R18–2–7xx series rules].
- ADEQ 40% opacity standard for existing general sources [submitted Rule R18–2–702].

Response: Not all NSPSs contain opacity standards. Thus, the following new sources of PM–10 would be subject to an applicable NSPS but would not be covered by an opacity standard in any of the above citations:

- Fossil-Fuel-Fired Steam Generators for Which Construction Is Commenced after August 17, 1971. Rule R18–2–901, subpart D.
- Electric Utility Steam Generating Units for Which Construction Is Commenced after September 18, 1978. Rule R18–2–901, subpart Da.
- Industrial-Commercial-Institutional Steam Generating Units. Rule R18–2–901, subpart Db.
- Small Industrial-Commercial-Institutional Steam Generating Units. Rule R18–2–901, subpart Dc.
- Incinerators. Rule R18–2–904.
- Nitric Acid Plants. Rule R18–2–901, subpart G.
- Primary Copper Smelters. Rule R18–2–901, subpart P.

Therefore, by limiting Rule R18–2–702 to only ''existing sources,'' the

revisions to the rule amount to a relaxation compared to SIP Rule R9–3–501, which applies to all sources.

Because this revision would amount to a relaxation of a rule approved into the SIP before the 1990 Clean Air Act Amendments and applicable in nonattainment areas, the revision is precluded under section 193 of the Act.

Comment III: AMA and PWCC assert that EPA is not determining a RACM/RACT 20% opacity standard consistent with EPA's *PM–10 Guideline Document,* EPA–452/R093–008. Specifically, they argue that RACM/RACT must not be a blanket, nationwide determination, and EPA or ADEQ must evaluate available control measures for reasonableness, considering the technological feasibility and the cost of control in the applicable area. AMA and PWCC point to an EPA statement in the Fort Hall PM–10 federal implementation plan (FIP) (64 FR 7308, 7335 (Feb. 12, 1999)) for the proposition that while the ''general trend'' in State opacity limits is to a 20% standard and higher limits ''are rare,'' less stringent State limits theoretically could be considered RACT in certain circumstances. AMA and PWCC thus argue that ADEQ should be given the opportunity to do a RACM/RACT evaluation and that until ADEQ has performed that evaluation EPA has no basis to disapprove the 40% opacity standard of Rule R18–2–702.

Response: EPA disagrees with the assertion that we have no basis to disapprove the 40% opacity standard pending a RACM/RACT evaluation by the State. To the contrary, it would be difficult to provide a rational basis for approving the proposed changes without a demonstration by the State that the rule meets the requirements of the Clean Air Act.

The ADEQ opacity rule applies to major sources located in PM–10 nonattainment areas of the State. Clean Air Act sections 172(c)(1) and 189(a)(1)(C) together require SIPs for PM–10 moderate nonattainment areas to provide for RACM as expeditiously as practicable. In our April 16, 1992, General Preamble for the Implementation of title I (''General Preamble''), we outlined our expectations for how States would comply with the requirement for RACM/RACT in PM–10 nonattainment area SIPs. 57 FR 13498, 13540–41. We explained, sbull I11''The EPA believes it is reasonable for all available control measures that are technologically and economically feasible to be adopted for areas that do not demonstrate attainment.'' *Id.* at 13544. We added, ''EPA expects States to prepare a reasoned justification for rejection of any available control measure.'' *Id.* at 13540.

One way a State can reject a control measure is to demonstrate that emissions from the sources affected by the measure are insignificant and, therefore, controls on these sources would not be reasonable. *Id.* In general, however, unless the State has made this demonstration, EPA believes it is appropriate to disapprove control measures, including substantive revisions to such measures, that do not ensure the application of RACM/RACT. *See Ober* v. *EPA,* 243 F.3d 1190, 1195 (9th Cir. 2001) (noting that Agency has authority to exempt *de minimis* sources from RACM requirements but only where Agency ''cite[s] information to explain why it exempted certain sources as de minimis * * *''). Without an explanation from ADEQ as to why this control measure represents RACT or why the sources subject to this rule are not significant, we believe it is reasonable to disapprove the SIP revision before us.

Commenters do not try to argue that the 40% opacity standard is in fact RACM/RACT. Commenters acknowledge that 20% opacity standards are in place in many parts of the country, and do not dispute that the technology to achieve these standards is generally available. Table 2 lists some of the states and local agencies with a 20% opacity standard, or its equivalent of No. 1 Ringlemann, in their SIP rules.

TABLE 2.—STATE OR DISTRICT OPACITY EMISSION STANDARDS

State	Local agency	Per cent opacity	Ringlemann No. opacity	SIP rule No.
Michigan		20		R336.1301
New Mexico		20		20–2–61
Texas		20		111.111
Washington		20		173–400–040
California	Bay Area AQMD	20	1	Reg 6
California	Imperial County APCD		1	401
California	Mojave Desert AQMD		1	401
California	Sacramento Metropolitan AQMD		1	401
California	San Diego APCD		1	50
California	San Joaquin Valley Unified APCD		1	4101
California	South Coast AQMD		1	401

Commenters' reference to the Fort Hall FIP only supports EPA's general expectation that an opacity standard should require 20% in order to be considered RACM/RACT. Commenters try to make an argument out of EPA's acknowledgment that higher limits, though ''rare,'' might be approved as RACM/RACT. Commenters, however, do not attempt to argue that this particular control measure fits within that ''rare'' exception. Without a demonstration by ADEQ, no such finding can reasonably be supported.

At bottom, commenters appear to misconstrue EPA's finding in the NPRM. EPA is not promulgating a national RACM/RACT opacity standard by today's action. However, we believe that the widespread application of the 20% opacity standard, or its equivalent No. 1 Ringlemann, across the country is generally achievable and reasonably available unless the State demonstrates otherwise given particular local circumstances. Based on the significant information before the Agency showing that a more stringent opacity standard is generally considered RACM/RACT and lacking a demonstration from the State to rebut this significant information, it is reasonable for EPA to conclude the 40% opacity limit of Rule R18–2–702 fails to fulfill RACM/RACT. *See National Steel Corp.* v. *Gorsuch,* 700 F.2d 314, 323 (6th Cir. 1983) (''Where a state fails to supply the information necessary for a proper [RACT] evaluation by the EPA, the EPA must be free to use its own acquired knowledge.''). After this final disapproval action, the ADEQ will have

the opportunity to perform any appropriate RACM/RACT demonstration in a revised submittal of Rule R18–2–702.

Comment IV: AMA and PWCC disagree with the EPA statement that ''the area regulated by the rule contains five counties that are PM–10 moderate nonattainment areas'' and asserts that the nonattainment areas are small parts of these counties. PWCC argues that, at a minimum, EPA should approve this rule for all areas of the State except the small PM–10 nonattainment areas.

Response: EPA agrees that only portions of the counties mentioned in the proposal are nonattainment for PM–10. In addition, some portions of these counties have been redesignated from nonattainment to maintenance and some portions of other Arizona counties are also nonattainment for PM–10 and subject to this rule. None of this, however, changes the nature of our review. Because the rule applies to sources in PM–10 nonattainment areas, we review the SIP revision against the requirements of CAA section 110 and part D, subparts 1 and 4. For the reasons discussed above, Rule R18–2–702 does not meet these requirements for PM–10 nonattainment area SIPs.

EPA's disapproval of the rule means that it will not be incorporated into the SIP for any portion of the State. EPA declines to follow PWCC's recommendation to approve the rule for the attainment areas of the State. First, the rule was not presented to EPA in a form that would allow EPA to approve a separable portion of the rule that applies only in the attainment areas. Thus, EPA has no mechanism to approve the rule in one part of a state and to disapprove it in another. Moreover, limited approval/disapproval of the rule would not be reasonable because the rule does not, as a whole, strengthen the SIP and is deficient not only with respect to the nonattainment requirements for RACT but also with respect to the more general requirements regarding enforceability. Finally, EPA notes that full disapproval should not create a problem for protecting air quality in attainment areas because the current SIP-approved version contains the same 40% opacity standard as provided in the disapproved rule.

Comment V: AMA notes that it is not clear whether EPA's reference to ''PCAQCD Rule R18–2–702'' is referring to ADEQ, Pima County, or Pinal County Rule R18–2–702.

Response: EPA acknowledges the typographical error where ''PCAQCD Rule R18–2–702'' should have been ''ADEQ Rule R18–2–702.'' However, we believe our intention was clear from the context.

Comment VI: ADEQ comments that the State does not necessarily agree, as a matter of State policy, that the rule is contrary to federal requirements, but believes that the rule should be reexamined and commits to do so.

Response: No response is required.

III. EPA Action

No comments were submitted that would cause us to change from our proposed action on the rule. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a full disapproval of the submitted rule. As a result, sanctions will be imposed unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the CAA as described in 59 FR 39832 (August 4, 1994). In addition, EPA must promulgate a FIP under section 110(c) unless we approve a subsequent SIP revision that corrects the rule deficiencies within 24 months of the effective date of today's final rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

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 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks and is not economically significant.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 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 ldquo;substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. 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. Thus, Executive Order 13175 does not apply to this rule.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

EPA's disapproval of the state request under section 110 and title I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. 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 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 costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action acts on pre-existing requirements under State or local 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.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

I. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 22, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: August 25, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 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 D—Arizona

2. Section 52.133 is amended by adding paragraph (e) to read as follows:

§ 52.133 Rules and regulations.

* * * * *

(e) Rule R18–2–702 of the Arizona Department of Environmental Quality Rules and Regulations sets an opacity standard for emissions from stationary sources of PM–10. The standard does not fulfill the RACM/RACT requirements of section 189(a) of the CAA. The rule also does not comply with enforceability requirements of section 110(a) and SIP relaxation requirements of sections 110(l) and 193. Therefore, Rule R18–2–702 submitted on July 15, 1998 is disapproved.

[FR Doc. 02–23986 Filed 9–20–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR PART 136

RIN 0917–AA02

Indian Child Protection and Family Violence Prevention Act; Minimum Standards of Character

AGENCY: Indian Health Service, DHHS.

ACTION: Interim final rule with comment period.

SUMMARY: This is an Interim Final Rule with comment period implementing regulations as mandated by section 408 of the Indian Child Protection and Family Violence Prevention Act (the ''Act''), as amended by section 814 of the Native American Laws Technical Corrections Act of 2000, that prescribe minimum standards of character and suitability of employment criteria for individuals who are employed or are being considered for employment in positions with duties and responsibilities that involve regular contact with or control over Indian children.

We will send copies of this Interim Final Rule to each Indian Tribe. The IHS welcomes comments regarding this Interim Final Rule especially from the Tribes and Tribal organizations affected by them.

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

Comments Due Date: November 22, 2002.

ADDRESSES: Send your written comments to: Betty Gould, Regulations Officer, Division of Regulatory and Legal Affairs, IHS, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20857, Telephone 301–443–7899. (This is not a toll-free number.) Comments received will be available for inspection at the address above from 9 a.m. to 3 p.m., Monday through Friday, beginning approximately two weeks after publication.

FOR FURTHER INFORMATION CONTACT: Ramona Williams, Child Protection Coordinator, 12300 Twinbrook Parkway, Suite 605, Rockville, Maryland 20852, (301) 443–1539 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 25, 1999, the IHS published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (64 FR 14560) proposing regulations as mandated by section 408 of the Act, that prescribe minimum standards of character for individuals with duties and responsibilities that involve regular contact with or control over Indian children. The IHS proposed in the NPRM that the minimum standards of character as required by section 408 of the Act have been met only after individuals in positions involving regular contact with or control over Indian children have been the subject of a satisfactory background investigation, and it has been determined that these individuals have not been found guilty of or entered a plea of nolo contendere or guilty to an offense under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; or crimes against persons.

The Act requires that Tribes or Tribal organizations who receive funds under the Indian Self-Determination and Education Assistance Act (ISDEA), Pub. L. 93–638, employ individuals in positions involving regular contact with or control over Indian children only if the individuals meet standards of character no less stringent than those prescribed under these regulations. Thus, the minimum standards of character as proposed by the NPRM would be the basis for Tribes or Tribal organizations to use when developing their own minimum standards of character and suitability for employment of individuals.

The IHS presented an earlier draft of the NPRM at the 14th Annual National Indian Health Board Consumer Conference. In addition, the IHS provided a copy of the draft NPRM to the tribal leader of each federally recognized tribe for their review and comment. The NPRM was modified to reflect the Tribal comments received.

The NPRM provided interested persons until May 24, 1999 to submit written comments and on May 26, 1999, the IHS extended the comment period to July 26, 1999, in response to Tribal requests for more time to analyze the NPRM and to prepare their comments.

On December 27, 2000, Congress enacted technical amendments to section 408 of the Act, pursuant to section 814 of S. 3031, the Native American Laws Technical Corrections Act of 2000. Section 408 of the Act, as amended now reads:

> The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) have been found guilty of, or entered a plea of nolo contendere or guilty to, *any felonious offense, or any of 2 or more misdemeanor offenses,* under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; *or offenses committed against children.* [emphasis added]

The technical amendments were intended to remedy a situation where the original provision was overly broad. Federal employees with a single misdemeanor offense, possibly committed many years ago and which involved no violence or crimes against children, were being prohibited from holding positions for which they were otherwise qualified.

In developing the Interim Final Rule, the agency has revised its regulations by adopting the statutory language contained in the technical amendments. The following is a summary of changes made to the Interim Final Rule incorporating the statutory amendments. Specifically, § 136.403 contains a definition of *''offenses committed against children''* to mean any felonious or misdemeanor crime under Federal, State, or Tribal law committed against a victim that has not attained the age of eighteen years. In determining whether a crime falls within this category, reference may be made to the applicable Federal, State, or Tribal law under which the individual was convicted or pleaded guilty or nolo contendere.

The agency developed this definition based on research of definition of crimes involving children contained in Federal or State laws. The definition of ''offenses against children'' varies from State to State and therefore, we are proposing a general definition with reference to applicable Federal, State or Tribal law. In defining ''offenses against children'', we propose using the word crime in the definition to limit its application to criminal offenses not civil offenses. We believe this position is consistent with the technical amendments clarifying that any felonious offense, or any of two or more misdemeanor offenses require removal and that Congress did not intend to encompass all possible offenses but limited the applicability to crimes as evidenced by the reference to felonies and misdemeanors.

In addition, the Interim Final Rule has been amended to provide that the minimum standards of character to hold a position involving regular contact with or control over an Indian child must ensure that the individual has not been guilty of, or entered a plea of nolo contendere or guilty to *any felonious offense or any of two or more misdemeanor offenses* under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; *or offenses committed against children.* Specifically, §§ 136.405, 136.406(c), 136.414(e)(5) and 136.416 have been

revised to incorporate the statutory amendments.

Section 136.412, which includes the questions required by the agency as part of the background investigation, has been revised to reflect the technical amendments. Section 136.412(a)(2) has been modified to include the additional category of crimes ''offenses against children''. Section 136.412(a)(2) has been further modified to require individuals who are applying for, or are currently in, a position involving regular contact with or control over Indian children to answer whether they have ever been found guilty of, or entered a plea of nolo contendere or guilty to, *any felonious or misdemeanor* offense under Federal, State or Tribal law involving any of the enumerated crimes. The agency retains the discretion not to hire an individual applying for, or to remove an individual from, a covered position if it determines that such individual places Indian children at risk.

The agency has determined that the technical amendments to the Act were effective December 27, 2000 and the agency began implementing the amendments as of that date. The agency believes that the technical amendments are not retroactive and therefore all final determinations issued before December 27, 2000, remain unchanged.

Prior to the technical amendments being enacted, the agency was prepared to issue a Final Rule based on comments received in response to the NPRM published in March 1999. However, as a result of the technical amendments, the agency further revised its regulations to reflect the statutory language. Therefore, we believe an Interim Final Rule is appropriate to solicit public comment specifically on those portions of the Interim Final Rule that have been revised to reflect the technical amendments.

The agency received several comments from Tribes and Tribal Organizations in response to the March 1999 NPRM. We carefully analyzed the submissions by individuals, groups, Indian and non-Indian organizations. To the extent possible, the agency has, in preparing this Interim Final Rule, accommodated the comments received from Tribes and Tribal organizations. A discussion of the comments and the Secretary's response is as follows:

We received several comments in support of the regulation and the purpose of the law for which it was intended. We received several comments regarding the application of the law to conviction of crimes that occurred many years prior to employment with the IHS. We also received several comments regarding the definitions. We received several comments regarding the financial cost and personnel time of conducting the background investigation of current and prospective employees. We received miscellaneous comments addressed more specifically below.

These comments can be organized into the following subject matters for purposes of analysis and discussion.

1. Issue of retroactivity
2. Definitions
3. Background investigations
4. Miscellaneous issues

Issue of retroactivity

Comment: The agency received several comments that the agency should not consider convictions or pleas of nolo contendere or guilty to crimes that occurred many years ago. Some commenters believed that section 408 of the Act should not be applied retroactively to convictions that occurred prior to enactment of the Act. Some commenters believed that the agency should not consider convictions that occurred several years prior to the person's employment with the agency, especially those convictions that occurred when the employee was young and where the employee has not had any convictions since then. Some commenters believed that the agency should consider mitigating factors surrounding the incident and/or should not consider the conviction unless there is a nexus between the conduct and the employee's performance on the job.

Response: Subsequent to the publication of the NPRM, the agency removed four employees who as a result of a background investigation had been determined as not meeting the minimum standards of character in section 408 of the Act, because each of the respective employees had been convicted of at least one of the enumerated crimes. Before removing these employees, the agency searched for available vacant positions to which the employees could have been reassigned; however, no such positions were available that did not have contact with Indian children. The employees appealed their removal to the Merit Systems Protection Board (MSPB). The final decision of the MSPB sustained the agency's removals of these employees and reversed the MSPB's initial decision regarding interpretation of section 408 of the Act.

The final decision of the MSPB found that the minimum standards of character in section 408 of the Act applied to both current and prospective employees and that the plain language in the statute mandated the removal actions. The MSPB found that Congress authorized the agency to ''prescribe by regulations minimum standards of character'' and mandated that those standards must ''ensure that none of the individuals appointed to [covered] positions * * * have been found guilty of, or entered a plea of nolo contendere or guilty to * * *'' a covered crime. The MSPB determined that the only way to ensure that none of the individuals appointed to a covered position have been found guilty of, or entered into a plea of nolo contendere or guilty to a covered crime is to make that prohibition the base eligibility requirement for obtaining and/or retaining employment in a covered position. Therefore, under its plain meaning, the MSPB found that section 408 of the Act requires, as the minimum eligibility standard for holding a covered position, that the individual who is employed or is being considered for employment must not have been found guilty of, or entered a plea of nolo contendere or guilty to, a covered crime.

The MSPB also rejected the employees' claims that the penalty of removal is unreasonable and that it should be mitigated by consideration of factors in 5 CFR 731.202, otherwise known as the Douglas factors. Although the MSPB acknowledged that it could reduce a penalty imposed by an agency if certain mitigating circumstances existed under Douglas, the MSPB determined that the plain meaning of the statute prohibited individuals from holding a covered position if they have been found guilty of, or entered a plea of nolo contendere or guilty to, a covered crime.

The MSPB found that Congress, by enacting the mandatory language of section 408 of the Act, created a presumption of nexus between an employee's violation of the minimum standards of character and appointment to or continued service in a covered position. Even though the employees who were removed argued that a nexus could not be presumed because the convictions/violations occurred more than ten years ago, the MSPB found that the language of the statute does not limit its coverage to a specific time period. The MSPB disagreed with the employees that a nexus could not be presumed and found that the history and purpose of the statute established the vital connection between the employees' off duty conduct and the efficiency of the service.

Four of the employees appealed the MSPB's final decision to the United States Court of Appeals, Federal Circuit, *see Johnson* v. *Dep't of Health and Human Services,* 2001 U.S. App. LEXIS

14175, 18 Fed. Appx. 837 (2001) and *DeLong* v. *Dep't of Health and Human Services,* 264 F.3d 1334.[1] On appeal, the employees alleged that the MSPB's decision was arbitrary, capricious, and not in accordance with the law. The employees also alleged their right to substantive due process under the Fifth Amendment. On June 22, 2001, in *Johnson* v. *Dep't of Health and Human Services,* and on September 5, 2001 in *DeLong* v. *Dep't of Health and Human Services,* 264 F.3d 1334, the Federal Circuit affirmed the final decision of the MSPB finding that substantial evidence supported the MSPB's final decision and that such decision was not arbitrary, capricious, or an abuse of discretion. The Federal Circuit also found that the employees had not met their burden of establishing that there is no rational connection between their removal under section 408 of the Act and a valid interest of Congress.

Many of the comments received regarding the applicability of the Act to convictions that occurred several years ago were addressed in the MSPB and Federal Circuit decisions. As indicated above, the MSPB and the Federal Circuit have determined that the plain meaning of the statute requires mandatory removal of individuals in covered positions who have been convicted of or plead nolo contendere or guilty to covered crimes no matter when the conviction occurred. The MSPB found that the language of the statute does not limit its coverage to a specific time period. Further, the MSPB determined that based on the purpose and language in the statute that Congress has presumed a nexus between certain crimes committed and the efficiency of the service. To the extent that the MSPB decision has addressed these issues and upheld the agency's interpretation of section 408 of the Act, the agency does not have the discretion to revise or modify its regulations to address the concerns. However, we believe that through technical amendments to the statute, Congress has attempted to address some of these concerns. The Congress has clarified that the minimum standards of character must ensure that those individuals who have been convicted of or have plead guilty to any felonious offense or any two or more misdemeanor offenses involving certain enumerated crimes shall not hold covered positions. By delineating any felonious offenses or two or more misdemeanor offenses, the impact of section 408 of the Act on those individuals who, as a result of youthful indiscretions, might have been convicted of or plead guilty to one misdemeanor is lessened.

Comment: The agency received comments regarding whether convictions or pleas of nolo contendere or guilty to should be considered if there has been a pardon, expungement, set aside or other court order of the conviction or plea.

Response: The agency has clarified these regulations by adding an additional provision at § 136.407 that explains that all convictions or pleas should be considered in making final determinations unless a pardon, expungement, set aside or other court order reaches the plea of guilty, the plea of nolo contendere or the finding of guilt. This means that for instance, if an individual is pardoned for political reasons, then the pardon does not reach a finding of innocence or not guilty, and thus should still be considered in making a determination under these regulations. However, if an individual is pardoned or has a conviction expunged due to new evidence, (e.g., DNA evidence), proving that the individual is innocent, then the conviction should not be considered in making a determination under these regulations. The adjudicating official could request supporting or explanatory documents from the individual. The Office of General Counsel is available to review the court's order and any proposed determination.

Comment: One commenter suggested that the term suitability should be deleted and replaced with the word ''eligibility.'' The commenter explains that the term ''suitability'' implies that mitigating factors would apply, but section 408 of the Act has been interpreted to not allow the agency to consider mitigating factors in hiring and retention.

Response: We agree and we have made appropriate changes to §§ 136.409, 136.410, 136.411, and 136.414.

Definitions

Comment: Several comments were received regarding the definition of crimes, and specifically the definitions of crimes of violence and crimes against persons. Many of the commenters were concerned that the definitions were too broad and that felonies should be included but not all misdemeanors. One commenter suggested narrowing the list of crimes under the definition of crimes and adding language to ensure that only relatively serious crimes are included. Some commenters thought that conviction of sexual crimes should be considered as prohibitive to holding a covered position but conviction of other crimes should be considered as part of an adjudicatory process to determine if an individual should be appointed to a covered position.

Response: The definitions in the regulations are based on the language in the statute. As indicated in the preamble to the NPRM, the agency determined it did not have discretion to consider only certain category of crimes; *e.g.* felonies vs. misdemeanors; and nor did it have discretion to mitigate certain categories of crimes; *e.g.* sexual vs. non-sexual. Since the publication of the NPRM, the Congress enacted legislative amendments and clarified that the minimum standards of character must ensure that those individuals who have been convicted of or have plead guilty to any felonious offense, or any two or more misdemeanor offenses, involving certain enumerated crimes do not hold covered positions. Thus, Congress has delineated between felonies and two or more misdemeanors and these regulations have been modified to reflect the legislative amendments.

Comment: Some commenters believe that the definition of crimes should be left to the discretion of the Tribes.

Response: There is no discretion in law for Tribes to define crimes less stringent than the definitions as defined in these regulations because the Tribes are required to establish minimum standards of character no less stringent than the Federal government. Because the minimum standards of character require that a person not be convicted or have plead guilty to certain enumerated crimes, the definition of crimes is directly related to the minimum of standards of character and such definitions cannot be less stringent than those defined in these regulations. Tribes could develop definitions of crimes that are more stringent or more encompassing than the Federal government, but not less than.

Comment: Some commenters were concerned about the different definitions contained in the Bureau of Indian Affairs (BIA) regulations and recommended that the definitions be consistent.

Response: The BIA regulations at 25 CFR part 63 state that ''crimes against persons'' are defined by local laws. The IHS definition of ''crimes against

[1] The status of the two other employees; appeals are described as follows. One employee appealed to the Federal Circuit in *Case* v. *Department of Health and Human Services,* Fed. Cir. No: 00–3451, MSPB No: DA0752990315–I–1. His case was dismissed by the Federal Circuit for failure to pay the docket fees. The other employee appealed to the Eastern District of Oklahoma in *Daugherty* v. *Tommy Thompson, Secretary of Department of Health and Human Services,* and Department of Health and Human Services, No. 01–168–P (E.D. OK 2001). The federal district court judge granted the Defendant's Motion for Summary Judgment on November 30, 2001. The employee appealed to the Tenth Circuit, No. 02–7015, on January 28, 2002.

persons'' was developed based on a survey of state criminal codes. Both of the IHS and BIA-definition of ''crimes against persons'' reference the applicable Federal, State or Tribal law and thus, are not defined inconsistently.

Comment: Some commenters suggested the word ''offense'' in the definition should be replaced by the term ''crime'' because the term ''offense'' could be interpreted to include not just criminal convictions but traffic violations or other civil offenses.

Response: We agree and have deleted from the definitions of crimes against person and crimes of violence, the word ''offense'' and replaced it with ''crime''. We believe this position is consistent with the technical amendments clarifying that any felonious or two or more misdemeanor offenses require removal and that Congress did not intend to encompass all possible offenses but limited the applicability to crimes as evidenced by the reference to felonies and misdemeanors.

Comment: Some commenters suggest deleting the enumeration of sexual crimes in the definition of crimes against persons since those sexual crimes are listed in other provisions of the law.

Response: We disagree. Congress specifically enumerated sexual offenses because of potential harm to children. The definitions of crimes against person and crimes of violence inherently encompass sexual offense crimes and we believe it helps clarify Congressional intent.

Comment: Some commenters were concerned that the definition of crimes of violence is vague and overlaps with the definition of crimes against persons.

Response: The definitions follow the statute and Congressional intent to be all encompassing in order to protect Indian children.

Comment: One commenter suggests the definition should not include crimes involving property.

Response: We disagree. Crimes involving property go to a person's moral and ethical character.

Comment: One commenter recommends deleting the reference to applicable Federal, State or Tribal law because it is confusing. Another commenter suggested the language referencing applicable Federal, State, or Tribal law in determining whether a crime is within the scope of these definitions of crimes might lead to inconsistent treatment of employees who have committed similar crimes in different states.

Response: The reference to applicable law was intended to serve as a means for adjudicating officials conducting background investigations to verify if a person was convicted of one of the covered crimes, if otherwise unclear from the background investigation documents. The fact that convictions might vary from State to State is a result of State's power to define crimes within its jurisdiction. In order to address any confusion regarding the reference to applicable Federal, State or Tribal law, the IHS has revised its definitions of crimes of violence, crimes against persons and offenses against children to clarify that in determining whether a crime is within the scope of these definitions the applicable Federal, State or Tribal law is controlling.

Comment: One commenter wrote that the term ''individuals'' was used inconsistently throughout the regulations and that another term such as employee would be more appropriate.

Response: We disagree with this comment. The term individual as defined in these regulations includes other persons than employees.

Comment: One commenter suggested a new definition of individuals by deleting the term individual from definition of ''individuals'' and using the term person in its place.

Response: We agree with these comments and have revised the definition of individuals consistent with these comments.

Comment: One commenter suggested a new definition of prostitution to include only those crimes that involve exploitation of other people and excludes prostitution crimes committed by a prostitute on the basis that many prostitutes are victims of child abuse.

Response: We disagree with the comment and have not included a separate definition of prostitution.

Comment: One commenter suggested a new definition of ''regular contact with or control over Indian children'' by deleting the word ''access'' and replacing it with the word ''contact'' so that a person is not covered just because they might have access but must have contact with Indian children. This same commenter suggested to delete the phrase ''that could potentially place an Indian child at risk'' because Congress has already determined that Indian children are at risk if minimum standards of character are not applied to individuals who have regular contact with Indian children.

Response: We had written the definition in such a way so that employees who might have access to children would be covered only if that access could potentially place an Indian child at risk, *e.g.*, a janitor that has keys to inpatient rooms occupied by children in a hospital and could access those rooms during off-peak hours. However, we agree with the commenter that individuals must have contact with children, not just ''access'' to children, in order to be covered under section 408 of the Act and have revised the definition consistent with these comments. Under this revised definition, the agency, depending upon the circumstances at the facility, could determine that a janitor that has keys to inpatient rooms occupied by children in a hospital, and could access those rooms during off-peak hours, has contact with children and is covered by this definition and these regulations.

Comment: One commenter wrote that there should be a separate definition of Tribal government agency in § 136.408(b) to clarify that Indian Tribes or Tribal organizations can access criminal records.

Response: We disagree that a separate definition of Tribal government agency is needed. For clarification, we have deleted the term in § 136.410 and replaced it with Tribes or Tribal organizations as defined in these regulations at § 136.403.

Background Investigation

Comment: One commenter indicated that gaining sufficient access to relevant background materials has proven difficult for some Tribal organizations. The commenter suggested that the regulations be amended to clarify that Federal and State agencies are permitted to provide assistance and to give Tribes and Tribal organizations access to relevant information. The commenter suggested that § 136.410(b) be amended as follows:

(b) Indian Tribes and Tribal organizations may conduct their own background investigations, contract with private firms, or request that a Federal or State agency conduct all or part of the investigations. (FBI criminal history information, however, may only be received or evaluated by governmental agencies, including Tribal organizations and Tribal governmental agencies, and may not be disseminated to private firms or other entities. The results of searches by state human service agencies may be provided to Tribal organizations and Tribal governmental agencies in summary form. The investigation should cover the past five years of the individual's employment, education, etc.

Response: We have revised § 136.410(b) to include reference to state agencies so that Tribes can gain greater access and ability to conduct background investigations.

Comment: One commenter objected to the requirement in § 136.413(b) that Indian Tribes and Tribal organizations

comply with the privacy requirements of the Federal, State, or other Tribal agency providing the background investigations. The commenter viewed this requirement as possibly interfering with the ability of Tribes and Tribal organizations to gain access to the records they need to conduct the background investigations since they may well need to challenge the applicability of certain requirements or negotiate exceptions to certain restrictions when they are incompatible with Tribal duties under the Act. The commenter suggested that the first sentence in subparagraph (b) be deleted to preserve the ability of Tribal employers to do this.

Response: We disagree. The purpose of this provision is to protect the privacy rights of the applicant or employee and we cannot waive by these regulations the privacy protections that Federal, State or Tribal agencies must adhere to in conducting background investigations.

Comment: We received several comments regarding § 136.414(b) of the March 1999 NPRM, implementing Section 1094 of the Crime Control Act as amended by Pub. L. 102–190. Section 1094 allows the Department of Health and Human Services to provisionally hire individuals in child care related positions before the completion of a background check. However, at all times while children are in the care of that individual, the child care provider must be within sight and under the supervision of a staff person whose background check has been successfully completed. One commenter suggested that the provisional license and the safety net be removed from the regulations. The commenter believed that the IHS staff person must complete a successful background investigation before they perform work for the Tribal members. One commenter suggested language changes to specifically exclude provisional employees from the definition of individuals covered by these regulations and to define provisional employees as a separate definition.

Response: To address any concerns regarding this provision, we have developed a new section, *see* § 136.417, by adding a separate question that now reads ''May the IHS hire individuals pending completion of a background investigation?'' and by moving old § 136.414(b) as the response to this question. We disagree with the commenter that the agency should not hire staff until a complete background investigation is completed. The agency, under certain circumstances, needs the discretion to hire individuals in positions involving regular contact with children, pending completion of a background investigation. The agency believes that children are not at risk as long as this provisional employee is in sight and under supervision of a staff person. The agency disagrees that a separate definition of provisional worker is necessary because such definition is not consistent with Federal personnel laws and regulations. However, we believe we have addressed the commenter's concerns by revising the definition of individuals, as defined in § 136.403, to include temporary employment.

Comment: One commenter wrote that the proposed regulations were confusing because they appeared to combine substantive and procedural requirements and were not clear as to what provisions the Tribes were required to comply with and what provisions were at Tribal option. The commenter suggested language changes to § 136.409(c) as follows:

> (c) In conducting background investigations and adjudicating suitability for employment in Tribal positions that allow regular contact with or control over Indian children, Indian Tribes or Tribal organizations may, but are not required to adopt portions of the rules in this subpart that are specifically applicable to employment within the IHS, including 42 CFR §§ 136.409–136.415.

Response: In the March 1999 NPRM, the agency included language in § 136.409(c) to explain that the Tribes or Tribal organizations are not required to adopt those provisions in the regulations that are specifically applicable to IHS employment. However, in response to this comment, the agency has revised old § 136.409. We have moved old § 136.409(a) to § 136.414(e)(4). We have deleted old § 136.409(b) in its entirety as the agency received comments that investigation of employees every five years is a burdensome requirement. In deleting § 136.409(b), the agency determined that employees do not have to be investigated every five years, because it receives information regarding current arrest and/or conviction records of its employees on a regular basis. We have created a new § 136.411 to clarify that the background and adjudication requirements for the IHS and Tribes or Tribal organizations are different. However, we have not included reference to specific provisions in the regulations applicable to IHS employment as the agency believes those provisions are self-evident.

Comment: One commenter wrote that the Act does not require a FBI fingerprint check. The commenter believes that this is an unnecessary requirement and that the requirement should be deleted from the proposed rule. Conducting investigations will place a burden on the Tribes' finances and resources. Some commenters questioned if there will be additional funds allocated to Tribes to perform the background investigations.

Response: The agency has determined that fingerprint checks are the only effective means to verify past conviction of enumerated crimes. Also, we have determined as required by Executive Order 12866 that fingerprint investigations are not a financial burden.

Comment: One commenter requests clarification as to which law enforcement agency will receive the background check request and what criteria determines the decision to check city, county, State, Federal or Tribal agencies. The commenter also asked for clarification as to how will the consistency of results received from one agency be evaluated against those from another agency.

Response: We believe the regulations address these issues. As proposed in § 136.410, the OPM conducts the background investigations for Federal employees, and Tribes are responsible for conducting background investigations of its Tribal employees. Section 136.406 outlines the requirements of a satisfactory background investigation and outlines those law enforcement agencies that should receive a background check request.

Miscellaneous Issues

Comment: One commenter requested clarification as to whether urban Indian programs funded under Title V of the Indian Health Care Improvement Act, Public Law (P.L.) 94–437, 25 U.S.C.1601 *et seq.*, are affected by these regulations since urban Indian clinics are not funded by Public Law 93–638.

Response: Section 408 of the Act does not apply to urban Indian programs. However, Section 231 of the Crime Control Act of 1990, Public Law 101–647, 42 U.S.C. 13041, applies to urban Indian programs. Section 231 provides that an individual employed by a Federal agency by direct hire or under contract may be displaced from consideration or continuing employment if such individual had been convicted of a sex crime, an offense involving a child victim or a drug felony, or any crime if such conviction bears on an individual's fitness to have responsibility for the safety or well-being of children.

Comment: One commenter suggested that although the Act specifically requires the IHS to compile a list of positions, this requirement does not apply to Tribes and Tribal organizations. The commenter believed there are other rational ways a Tribal employer might make these determinations, and suggested revising § 136.404 (b) to recognize that Tribal employers may develop their own procedures.

Response: Section 136.404(b) requires the Tribe to identify those positions having regular contact with or control over Indian children but does not require the Tribe to compile a list as in § 136.404(a). We have not amended § 136.404(b) as suggested by the commenter because we believe § 136.404(b) is consistent with the statute. However, we have amended the language in § 136.409(b) to clarify that Tribes do not have to develop a list but may develop procedures to determine which of its positions involve regular contact with children.

Comment: One commenter suggested that IHS include a new section in its regulations as follows:

§ 136.416 Who is responsible for ensuring IHS and other Federal employees who are detailed to Tribes and Tribal organizations pursuant to the Intergovernmental Personal Act meet minimum standards of character?

(a) The IHS will ensure that Federal employees detailed to Tribes and Tribal organizations meet the minimum character standards established in 42 CFR 36.405.

(b) A Tribe or Tribal organization is permitted, but not required, to accept the IHS determination in lieu of conducting its own investigation and making its own determination.

(c) At the request of a Tribe or Tribal organization, the IHS will either (1) apply the character standards of the particular Tribe or Tribal organization to the Federal employee to determine whether he or she meets them or (2) provide the Tribe or Tribal organization with copies of its own investigation records so that the Tribe or Tribal organization can determine for itself whether the Federal employee meets its own character standards.

Response: Intergovernmental Personnel Act/Memorandum of Agreement (IPA/MOA) employees are covered by the definition of individuals in § 136.403. IPA/MOA employees are Federal employees and the agency is responsible for conducting the background investigation and making a personnel decision to hire or remove an IPA/MOA employee. Thus, we cannot accept the suggested language. However a Tribe or Tribal organization has the discretion to apply more stringent standards in determining whether to place an IPA/MOA employee at a Tribally operated site.

Comment: Some commenters believe that the Tribes should establish the minimum standards of character to allow Tribes to adopt higher qualification standards for individuals with regular contact or control over Indian children.

Response: The statute provides that the Secretary shall establish minimum standards of character that ensure that no individual appointed or retained to a position, that has regular contact or control over a child, has been found guilty of or entered a plea of guilty to any felonious offense or any two or more misdemeanor offenses under Federal, State or Tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution, crimes against persons; or offenses committed against children. The Secretary has prescribed by these regulations the minimum standards of character consistent with the statute. Tribes may adopt more stringent standards such as higher qualification standards, but may not adopt less stringent standards than as prescribed by these regulations.

Comment: One commenter wrote that § 136.401 B Purpose B does not clearly delineate the purpose of the regulations. The commenter suggested that the statement of purpose be revised as follows:

The purpose of the regulations in this subpart is to establish minimum standards for Federal employees working in the IHS, including standards of character to ensure that individuals having regular contact with or control over Indian children have not been convicted of certain types of crimes as mandated by 25 U.S.C. 3207; fitness standards to ensure child care service employees are fit to have responsibility for the safety and well-being of children, as mandated by the Crime Control Act of 1990 (P.L. 101–647); suitability standards to ensure that individuals have not acted in a manner that places others at risk or raised questions about their trustworthiness, as mandated by 5 CFR Part 731; and efficiency standards to ensure that individuals are qualified for the positions they hold or seek, as mandated by 25 U.S.C 3207 ACharacter Investigation (Indian Child Protection and Family Violence Act)

Response: We agree and have made the suggested changes to § 136.401. In addition, we have added language to § 136.401 to clarify that a secondary purpose of these regulations will be to serve as guidance for Tribes or Tribal organizations to use when developing their own minimum standards of character that cannot be less stringent than prescribed by these regulations.

Comment: One commenter indicated that § 136.402—Policy inaccurately suggests that the proposed regulations will implement only the Act.

Response: The agency has revised § 136.402 by moving the explanation of the minimum standards of character to § 136.405 where the minimum of standards is defined. Furthermore, the agency created an additional section in § 136.406 that includes many of the provisions from old § 136.405 that pertain more to procedure than substance.

Executive Order 12866

This Interim Final Rule is a significant regulatory action under Executive Order (E.O.) 12866 and has been reviewed by the Office of Management and Budget (OMB). Depending upon the number of positions for which determinations of suitability for employment are required, the cost of the background investigations (including the cost of each FBI fingerprint check) may have an economic effect on each Tribal government and Tribal organization under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) and require additional outlays by Tribal governments, Tribal organizations, and the Federal Government. OPM conducts background investigations of Federal employees and charges $85.00 per background check. IHS estimates that 2,000 people apply for positions requiring background checks annually because they have regular contact with Indian children (primarily doctors, nurses and other hospital staff). The annual cost of OPM background investigation for 2,000 people is $170,000. The cost of the background investigations by Tribes or Tribal organizations is estimated to be approximately $20,000. Many of the Tribes receive fingerprint checks from the FBI at $22.00 per fingerprint check. The $20,000 annual cost estimate assumes that Tribes will offer positions to about 900 people who have regular contact with Indian children each year. Section 202 of the Unfunded Mandates Reform Act (Public Law 104–4) requires an assessment of anticipated costs and benefits before proposing any rule that may result in expenditure by State, local, and Tribal governments, in aggregate, or by the private sector, of $110 million in any one year (adjusted annually for inflation). We have determined that this rule is consistent with the principles set forth in the Executive Order and in these statutes and find that this rule will not have an effect on the economy that exceeds $110 million in any one year. Therefore, no further analysis is required under the Unfunded Mandates Reform Act.

Executive Order 13132 Federalism

The Department has determined that this Interim Final Rule does not have significant federalism effects under E.O. 12612 and will not interfere with the roles, rights and responsibilities of states. The Act requires the Tribes or Tribal organizations to develop minimum standards of character that cannot be less stringent than prescribed by these regulations. Tribes or Tribal organizations are responsible for identifying positions involving regular contact with children or control over Indian children and conducting background investigations of these individuals. In conducting background investigations and adjudicating eligibility for employment in these positions, Tribes or Tribal organizations may, but are not required to, adopt portions of the rules that are specifically applicable to Federal employment. The statutory amendments provide more reasonable minimum standards of character and thus, the Tribes have more flexibility in hiring individuals who might otherwise been ineligible for employment under the stricter standards.

Paperwork Reduction Act

Under the Paperwork Reduction Act (PRA) of 1995, agencies are required to provide notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the OMB for review and approval. In order to fairly evaluate whether a information collection should be approved by OMB, section 3506 (c)(2)(A) of the PRA requires that we solicit public comment on the following issues; whether the information collection is necessary and useful to carry out the proper functions of the agency, the accuracy of the agency's estimate of the information collection burden, the quality, utility, and clarity of the information to be collected, and recommendations to minimize the information collection burden on the affected public, including automated collection techniques. When the agency published a NPRM of these proposed regulations on March 25, 1999, the agency requested comments on the following proposed information collection requirements discussed below. The Office of Management and Budget (OMB) did not receive any comments. As indicated previously, Congress enacted technical amendments to section 408 of the Act by delineating between any felonious or any of two or more misdemeanor offenses of enumerated crimes. In addition, Congress added an additional category of crimes, namely, Aoffenses against children. As a result of the technical amendments, the data collection instrument has been revised. The agency has revised the questions required by the agency as part of the background investigation to delineate between felony or misdemeanor offenses. The agency believes that the questions should require the individual to identify a conviction or a plea to any of the covered offenses, whether a felony or misdemeanor conviction or plea, because the agency retains the discretion not to hire this individual to, or to remove this individual from, a covered position if it determines that such an individual places Indian children at risk. We are soliciting public comment on these issues for the data collection instrument to be used to collect the requested information.

For respondent convenience and to limit the response burden, IHS opted to utilize item 16, ''Continuation Space/ Agency Optional Questions'' of the U.S. Office of Personnel Management, Optional Form 306, ''Declaration for Federal Employment,'' (OMB approved No. 3206–0182). Through use of a one page addendum to the Declaration for Federal Employment IHS is able to receive the information and the certification required in this rule. The IHS anticipates there will be approximately 2000 respondents on an annual basis who will require no more than 15 minutes each to respond to these questions and sign the required certification. The total estimated annual burden for this collection of information is 500 hours. Emergency PRA clearance request. To implement the rule and protect American Indian children at the earliest date, IHS is submitting an emergency PRA clearance request to OMB for approval of the data collection instrument. As stated in this notice, the information collection requirements contained in the rule will be effective 60 days from the date of this publication.

Direct Comments to OMB: Send your written comments and suggestions regarding the information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Suite 10235, Washington, DC 20503, Attention: Allison H. Eydt, IHS Desk Officer. To help ensure timely receipt of your comments you are encouraged to fax your comments directly to Ms Allison H. Edyt at 202–395–6974 within 50 days of this publication. To request information regarding this data collection activity or to obtain a copy of the data collection instrument(s) and/or instruction(s), contact: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852.1601. You may call non-toll free (301) 443–1116, send a FAX to (301) 443–2316 or e-mail your request for information regarding this data collection activity or to obtain a copy of the data collection instrument to *lhodahkw@hqe.ihs.gov.*

List of Subjects in 42 CFR Part 36

American Indians, Alaska Natives, Children, Child health, Health, Employment.

Dated: May 8, 2002.

Michel E. Lincoln,

Deputy Director.

Dated: June 25, 2002.

Tommy G. Thompson,

Secretary.

For the reasons set out in the preamble, the Department amends 42 CFR chapter I by adding subpart K to part 136 to read as follows:

PART 136—INDIAN HEALTH

Subpart K—Indian Child Protection and Family Violence Prevention

Sec.

136.401 Purpose.
136.402 Policy.
136.403 Definitions.
136.404 What does the Indian Child Protection and Family Violence Prevention Act require of the Indian Health Service and Indian Tribes or Tribal organizations receiving funds under the ISDEA?
136.405 What are the minimum standards of character for individuals placed in, or applying for, a position that involves regular contact with or control over Indian children?
136.406 Under what circumstances will the minimum standards of character be considered to be met?
136.407 Under what circumstances should a conviction, or plea of nolo contendere or guilty to, be considered if there has been a pardon, expungement, set aside, or other court order of the conviction or plea?
136.408 What are other factors, in addition to the minimum standards of character, that may be considered in determining placement of an individual in a position that involves regular contact with or control over Indian children?
136.409 What positions require a background investigation and determination of eligibility for employment or retention?
136.410 Who conducts the background investigation and prepares determinations of eligibility for employment?
136.411 Are the requirements for Indian Health Service adjudication different

from the requirements for Indian Tribes and Tribal organizations?
136.412 What questions must the IHS ask as part of the background investigation?
136.413 What protections must the IHS and Tribes or Tribal organizations provide to individuals undergoing a background investigation?
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136.418 What should the IHS do if an individual has been charged with an offense but the charge is pending or no disposition has been made by a court?

Authority: 25 U.S.C. 3201—3211, 5 U.S.C. 301; 42 U.S.C. 13041.

Subpart K—Indian Child Protection and Family Violence Prevention

§ 136.401 Purpose.

(a) The purpose of the regulations in this subpart is to establish minimum standards for Federal employees working in the Indian Health Service (IHS), including standards of character to ensure that individuals having regular contact with or control over Indian children have not been convicted of certain types of crimes as mandated by section 408 of the Indian Child Protection and Family Violence Prevention Act (the ''Act''), Public Law (Pub. L.) 101–630, 104 Stat. 4544, 25 U.S.C. 3201–3211, as amended by section 814 of the Native American Laws Technical Corrections Act of 2000. In order to implement these minimum standards of character, these regulations also address:

(1) The efficiency standards to ensure that individuals are qualified for the positions they hold or seek, as mandated by Section 408 of the Act.

(2) Fitness standards to ensure child care service employees are fit to have responsibility for the safety and well-being of children, as mandated by Section 231 of the Crime Control Act of 1990, Pub. L. 101–647, 42 U.S.C. 13041.

(3) Suitability standards to ensure that individuals have not acted in a manner that places others at risk or raised questions about their trustworthiness, as mandated by 5 CFR part 731.

(b) The Act requires that Tribes or Tribal organizations who receive funds under the Indian Self-Determination and Education Assistance Act (ISDEA), Pub. L. 93–638, employ individuals in positions involving regular contact with or control over Indian children only if the individuals meet standards of character no less stringent than those prescribed under these regulations. Thus, the minimum standards of character as defined in these regulations will become the basis for Tribes or Tribal organizations to use when developing their own minimum standards of character that cannot be less stringent than as prescribed herein.

§ 136.402 Policy.

In enacting the Indian Child Protection and Family Violence Prevention Act, (the ''Act'') the Congress recognized there is no resource more vital to the continued existence and integrity of Indian Tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian Tribe. The minimum standards of character as prescribed by the regulations in this subpart are intended to ensure that Indian children are protected.

§ 136.403 Definitions.

Crimes against Persons means a crime that has as an element the use, attempted use, or threatened use of physical force or other abuse of a person and includes, but is not limited to, homicide; assault; kidnapping; false imprisonment; reckless endangerment; robbery; rape; sexual assault, molestation, exploitation, contact, or prostitution; and other sexual offenses. In determining whether a crime falls within this category, the applicable Federal, State, or Tribal law under which the individual was convicted or pleaded guilty or nolo contendere shall be controlling.

Crimes of violence means a crime that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other crime that is a felony and that, by its nature, involves substantial risk that physical force against the person or property of another may be used in the course of committing the crime. In determining whether a crime falls within this category, reference may be made to the applicable Federal, State, or Tribal law under which the individual was convicted or pleaded guilty or nolo contendere.

Indian means any individual who is a member of an Indian Tribe, as defined below.

Indian child means any unmarried person under the age of eighteen who is either a member of an Indian Tribe or eligible for membership in an Indian Tribe and is the biological child of a member of an Indian Tribe.

Indian Tribe means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq., which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Individuals means persons with duties and responsibilities that involve regular contact with or control over Indian children and includes but is not limited to the following:

(a) Persons in the competitive or excepted service (including temporary employment), the Commissioned Corps, or the Senior Executive Service in the IHS;

(b) Persons who perform service for or under the supervision of the IHS while being permanently assigned to another IHS office or to another organization, such as a Federal agency, State, or Tribe;

(c) Persons who volunteer to perform services in IHS facilities;

(d) Persons who contract with the IHS to perform services in IHS facilities.

Must or shall indicates a mandatory or imperative act or requirement.

Offenses against children means any felonious or misdemeanor crime under Federal, State, or Tribal law committed against a victim that has not attained the age of eighteen years. In determining whether a crime falls within this category, the applicable Federal, State, or Tribal law under which the individual was convicted or pleaded guilty or nolo contendere shall be controlling.

Regular contact with or control over an Indian child means responsibility for an Indian child(ren) within the scope of the individual's duties and responsibilities or contact with an Indian child(ren) on a recurring and foreseeable basis.

Tribal Organization as defined in the ISDEA, means the recognized governing body of any Indian Tribe or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

§ 136.404 What does the Indian Child Protection and Family Violence Prevention Act require of the IHS and Indian Tribes or Tribal organizations receiving funds under the ISDEA?

(a) The IHS must compile a list of all authorized positions with duties and responsibilities that involve regular contact with or control over Indian children; investigate the character of each individual who is employed or is being considered for employment in such a position; and prescribe minimum standards of character that each individual must meet to be appointed or employed in such positions.

(b) All Indian Tribes or Tribal organizations receiving funds under the authority of the ISDEA must identify those positions that permit regular contact with or control over Indian children; conduct an investigation of the character of each individual who is employed or is being considered for employment in a position that involves regular contact with or control over Indian children; and employ only individuals who meet standards of character that are no less stringent than those prescribed by regulations in this subpart.

§ 136.405 What are the minimum standards of character for individuals placed in, or applying for, a position that involves regular contact with or control over Indian children?

The minimum standards of character shall mean a benchmark of moral, ethical, and emotional strengths established by character traits and past conduct to ensure that the individual is competent to complete his/her job without harm to Indian children. In order to protect Indian children, the IHS has established minimum standards of character requiring completion of a satisfactory background investigation that ensures that no individuals who have been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense or any of two or more misdemeanor offenses under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children, are placed in positions involving regular contact with or control over Indian children.

§ 136.406 Under what circumstances will the minimum standards of character be considered to be met?

The minimum standards of character shall be considered met only after the individual has been the subject of a satisfactory background investigation. The background investigation shall include a review of:

(a) The individual's trustworthiness, through inquiries with the individual's references and places of employment and education;

(b) A criminal history background check, which includes a fingerprint check through the Criminal Justice Information Services Division of the Federal Bureau of Investigation (FBI), under procedures approved by the FBI, and inquiries to State and Tribal law enforcement agencies for the previous five years of residence listed on the individual's application; and

(c) A determination as to whether the individual has been found guilty of or entered a plea of nolo contendere or guilty to any felonious offense or any of two or more misdemeanor offenses under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children.

§ 136.407 Under what circumstances should a conviction, or plea of nolo contendere or guilty to, be considered if there has been a pardon, expungement, set aside, or other court order of the conviction or plea?

All convictions or pleas of nolo contendere or guilty to should be considered in making a determination unless a pardon, expungement, set aside or other court order reaches the plea of guilty, plea of nolo contendere, or the finding of guilt.

§ 136.408 What are other factors, in addition to the minimum standards of character, that may be considered in determining placement of an individual in a position that involves regular contact with or control over Indian children?

(a) All Federal employees are subject to suitability criteria contained in 5 CFR part 731 as a condition of employment.

(b) Section 231 of the Crime Control Act of 1990, Pub. L. 101–647, 42 U.S.C. 13041, provides that an individual may be disqualified from consideration or continuing employment if such individual has been convicted of a sex crime, an offense involving a child victim or a drug felony, or any other crime if such conviction bears on an individual's fitness to have responsibility for the safety and well-being of children.

(c) Tribes or Tribal organizations may but are not required to apply additional criteria in determining whether an individual is suitable for a position with duties and responsibilities that involve regular contact with or control over Indian children. Any additional suitability criteria established by Tribes or Tribal organizations beyond the minimum standards of character described in § 136.405 and § 136.406 would be determined by each individual Tribe or Tribal organization in accordance with its own personnel policies and procedures.

§ 136.409 What positions require a background investigation and determination of eligibility for employment or retention?

(a) All positions that allow an individual regular contact with or control over Indian children are subject to a background investigation and determination of eligibility for employment. The IHS has compiled a list of positions within the agency in which the duties and responsibilities could involve regular contact with or control over Indian children. The list will be periodically updated and made available at all IHS Personnel Offices upon request. Positions should be reviewed on a case-by-case basis to determine whether the individual in that position has regular contact with or control over Indian children.

(b) Tribes and Tribal organizations may use the list compiled by the IHS or develop their own procedures to determine within their program those positions that involve regular contact with or control over Indian children.

§ 136.410 Who conducts the background investigation and prepares determinations of eligibility for employment?

(a) The IHS must use the Office of Personnel Management (OPM) to conduct background investigations for Federal employees. The IHS must designate qualified security personnel to adjudicate the results of background investigations.

(b) Indian Tribes and Tribal organizations may conduct their own background investigations, contract with private firms, or may request that a Federal or State agency conduct investigations. (FBI criminal history record information, however, may only be received or evaluated by governmental agencies, including Tribes or Tribal organizations as defined in these regulations at § 136.403, and may not be disseminated to private entities.)

§ 136.411 Are the requirements for IHS adjudication different from the requirements for Indian Tribes and Tribal organizations?

Yes, in conducting background investigations and adjudicating eligibility for employment in Tribal positions that allow regular contact with or control over Indian children, Indian Tribes or Tribal organizations may, but are not required to, adopt portions of the

rules in this subpart that are specifically applicable to employment with the IHS.

§ 136.412 What questions must the IHS ask as part of the background investigation?

(a) Applications for employment with the IHS must include the following questions:

(1) Has the individual been arrested or charged with a crime involving a child? If yes, the individual must provide the date, explanation of the violation, disposition of the arrest or charge, place of occurrence, and the name and address of the police department or court involved.

(2) Has the individual ever been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious or misdemeanor offense, under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children? If yes, the individual must provide an explanation of the violation, place of occurrence, date and disposition of the court proceeding, and the name and address of the police department or court involved.

(b) The IHS must require that the individual sign, under penalty of perjury, a statement verifying the truth of all information provided in the employment application and acknowledging that knowingly falsifying or concealing a material fact is a felony that may result in fines up to $10,000 or five years imprisonment, or both.

(c) The IHS must inform the individual that a criminal history record check is a condition of employment and require the individual to consent in writing to a criminal history record check.

§ 136.413 What protections must the IHS and Tribes or Tribal organizations provide to individuals undergoing a background investigation?

(a) The IHS must comply with all policies, procedures, criteria, and guidance contained in other appropriate guidelines, such as the OPM policies, procedures, criteria, and guidance. Questions asked in § 136.412 will be added as an addendum to item #16 of the OPM Optional Form 306, ''Declaration for Federal Employment.'' The information is collected as part of the OPM Optional Form 306 and is safeguarded in accordance with Privacy Act provisions.

(b) Indian Tribes and Tribal organizations must comply with the privacy requirements of the Federal, State, or other Tribal agency providing the background investigations. Indian Tribes and Tribal organizations may establish their own procedures that safeguard information derived from background investigations.

§ 136.414 How does the IHS determine eligibility for placement or retention of individuals in positions involving regular contact with Indian children?

(a) Adjudication is the process IHS uses to determine eligibility for placement or retention of individuals in positions involving regular contact with Indian children. The adjudication process protects the interests of the employer and the right of applicants and employees. Adjudication requires uniform evaluation to ensure fair and consistent judgment.

(b) Each case is judged on its own merits. All available information, both favorable and unfavorable, should be considered and assessed in terms of accuracy, completeness, relevance, seriousness, overall significance, and how similar cases have been handled in the past.

(c) The adjudicating official who conducts the adjudication must first have been the subject of a favorable background investigation.

(d) Each adjudicating official must be thoroughly familiar with all laws, regulations, and criteria involved in making a determination for eligibility.

(e) The adjudicating official must review the background investigation to determine the character, reputation, and trustworthiness of the individual. At a minimum, the background investigation must:

(1) Review each security investigation form and employment application and compare the information provided.

(2) Review the results of written record searches requested from local law enforcement agencies, former employers, former supervisors, employment references, and schools.

(3) Review the results of the fingerprint charts maintained by the FBI or other law enforcement information maintained by other agencies.

(4) Review any other information obtained through a background investigation, including the results of searches by State human services agencies, the OPM National Agency Check and Inquiries, the OPM Security/Suitability Investigations Index, and the Defense Clearance and Investigations Index.

(5) Determine whether the individual has been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense, or any of two or more misdemeanor offenses under Federal, State, or Tribal law, involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children.

(f) After an opportunity has been afforded the individual to respond, pursuant to § 136.415, and it is adjudicated that the individual has been found guilty of or entered a plea of nolo contendere or guilty to an enumerated offense under paragraph (e)(5) of this section, that individual shall not be placed or retained in a position involving regular contact with or control over Indian children.

(g) For individuals who have been determined to be ineligible for employment in positions having regular contact with or control over Indian children, the IHS may use Federal adjudicative standards to certify that an individual is suitable for employment in a position, if available, that does not involve regular contact with or control over Indian children. The adjudicating official must determine that the individual's prior conduct will not interfere with the performance of duties and will not create a potential risk to the safety and well-being of any Indian children after consideration of the following factors:

(1) The nature and seriousness of the conduct in question.

(2) The recency and circumstances surrounding the conduct in question.

(3) The age of the individual at the time of the incident.

(4) Societal conditions that may have contributed to the nature of the conduct.

(5) The probability that the individual will continue the type of behavior in question.

(6) The individual's commitment to rehabilitation and a change in the behavior in question.

(7) The degree of public trust and the possibility the public would be placed at risk if the individual is appointed to the position.

§ 136.415 What rights does an individual have during this process?

(a) The individual must be provided an opportunity to explain, deny, or refute unfavorable and incorrect information gathered in an investigation, before the adjudication is final. He/she should receive a written summary of all derogatory information and be informed of the process for explaining, denying, or refuting unfavorable information.

(b) The adjudicating officials must not release the actual background investigative report to an individual. However, they may issue a written summary of the derogatory information.

(c) The individual who is the subject of a background investigation may

request, to the extent permissible by law, a copy of the reports from the originating (Federal, State, or other Tribal) agency and challenge the accuracy and completeness of any information maintained by that agency.

(d) The results of an investigation cannot be used for any purpose other than to determine eligibility for employment in a position that involves regular contact with or control over Indian children.

(e) Investigative reports contain information of a highly personal nature and must be maintained confidentially and secured in locked files. Investigative reports must be seen only by those officials who, in performing their official duties, need to know the information contained in the report.

§ 136.416 When should the IHS deny employment or dismiss an employee?

The IHS must deny employment to an individual or dismiss an employee, when the duties and responsibilities of the position the individual person would hold or holds involve regular contact with or control over Indian children, and it has been adjudicated, pursuant to § 136.414 and § 136.415, that the individual has been found guilty of, or entered a plea of guilty or nolo contendere to, any felonious offense, or any of two or more misdemeanor offenses, under Federal, State or Tribal law involving a crime of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children. The IHS has the discretion to place such an individual in a position, if available, that does not involve regular contact with or control over Indian children, if a determination has been made that such placement would not put Indian children at risk and the individual would be able to perform the duties and responsibilities of this position.

§ 136.417 May the IHS hire individuals pending completion of a background investigation?

Pursuant to section 231 of the Crime Control Act of 1990, Pub. L. 101–647, 42 U.S.C. 13041, as amended by Pub. L. 102–190, the IHS may hire provisionally individuals as defined in these regulations, prior to the completion of a background investigation if, at all times prior to receipt of the background investigation during which children are in the care of the individual, the individual is within the sight and under the supervision of a staff person and a satisfactory background investigation has been completed on that staff person.

§ 136.418 What should the IHS do if an individual has been charged with an offense but the charge is pending or no disposition has been made by a court?

(a) The IHS may deny the applicant employment until the charge has been resolved. (b) The IHS may deny the employee any on-the-job contact with children until the charge is resolved.

(c) The IHS may detail or reassign the employee to other duties that do not involve regular contact with children.

(d) The IHS may place the employee on indefinite suspension, in accordance with statutory and regulatory requirements, until the court has disposed of the charge.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 020819200–2200–01; I.D. 021202A]

RIN 0648–AP93

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

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

ACTION: Final rule.

SUMMARY: The NMFS is amending the regulations that implement the Atlantic Large Whale Take Reduction Plan (ALWTRP), specifically with regard to the straight set of gillnets in the southeast U.S. restricted area in waters off the coasts of Georgia and Florida. This final rule prohibits straight sets of gillnets at night from November 15 through March 31, annually, to reduce the risk of entanglement of large whales, including the western North Atlantic right whale (right whale).

DATES: This final rule is effective October 23, 2002.

ADDRESSES: Copies of the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Regulatory Flexibility Act (RFA) analysis are available from Protected Resources Division, NMFS /Southeast Region, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432. ALWTRP Compliance guide, Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and a progress report on implementation of the ALWTRP may be obtained by writing to Diane Borggaard, NMFS /Northeast Region, 1 Blackburn Dr., Gloucester, MA 01930 or to Katie Moore, NMFS/Southeast Region, 9721 Executive Center Dr., St. Petersburg, FL 33702–2432. Copies of the EA, the RIR, and the RFA analysis can also be obtained from the ALWTRP Web site listed under the Electronic Access portion of this document. A copy of the most recent Stock Assessment Report (SAR) can be obtained by writing to Richard Merrick, 166 Water St., Woods Hole, MA 02543 or can be downloaded from the NMFS Protected Resources Web site listed under the Electronic Access portion of this document.

FOR FURTHER INFORMATION CONTACT: Katie Moore, NMFS, Southeast Region, 727–570–5312; Diane Borggaard, NMFS, Northeast Region, 978–281–9145; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for this final rule and the take reduction planning process can be downloaded from the ALWTRP Web site: *http://www.nero.nmfs.gov/whaletrp/*. Copies of the most recent SARs may be downloaded from the Internet at *http://www.nefsc.nmfs.gov/psb/assesspdfs.htm*. Information on disentanglement events is available on the Web page of NMFS' whale disentanglement contractor, the Center for Coastal Studies, *http://www.coastalstudies.org/*.

Background

This final rule implements approved modifications contained in the ALWTRP recommended by the ALWTRT to satisfy the requirements of the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA). Details concerning the justification for and development of this rule were provided in the preamble to the proposed rule (66 FR 14690, March 27, 2002) and are not repeated here.

The proposed rule provided a 60–day public comment period to provide feedback to NMFS via postmarked mail or via facsimile. NMFS also issued a press release announcing the availability of the proposed rule and

summarizing its purpose and requirements. Information in the press release was sent to more than 500 people in the southeast U.S. including permitted fishers, state representatives, fishery management council members, and industry representatives. The NMFS also posted the proposed rule on the ALWTRP Web site (listed under the Electronic Access portion of this document).

Changes Proposed for the ALWTRP for Gillnet Gear

This final rule prohibits the straight set of gillnets at night from November 15 through March 31, annually, in the southeast U.S. restricted area, (unless the exemption under 50 CFR 229.32(f)(3)(iii), which relates to shark gillnets, applies). This final rule regulates the MMPA's List of Fisheries (LOF) definition for the Southeast Atlantic gillnet fishery which includes any type of gillnet gear for any species (except shark gillnetting effort using 5–inch (12.7–cm) or greater stretched mesh south of the North Carolina/Georgia border) in waters south of a line extending due east of the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico (50 CFR 600.105). The southeast U.S. restricted area consists of those waters from 27°51′ N. lat. (near Sebastian Inlet, FL) to 32°00′ N. lat. (near Savannah, GA) extending from the shore outward to 80° W long. Night means any time between one-half hour before sunset and one-half hour after sunrise, as per the ALWTRP (50 CFR 229.2). The gillnet gear is fished as strikenets or straight sets. Fishing with strikenet gear means a gillnet that is designed so that, when it is deployed, it encircles or encloses an area of water either with the net or by utilizing the shoreline to complete encirclement or to fish with such a net and method. A straight set is the deployment of a gillnet in a straight line, as opposed to the deployment of a gillnet in a circular manner, for example, around a school of fish. Both deployment types are currently fished in the proposed management area, the southeast U.S. restricted area, which includes a nursery area for right whale mothers and calves.

Right whales generally occur in the southeast U.S. restricted area from around November 15 through March 31, annually. Within the time period and geographical area in which the right whale is known to have become entangled, a prohibition would afford additional protection to the concentrations of right whales. NMFS believes straight set gillnets deployed during daytime are of very minimal threat to whales. Such gear is retrieved within about one-half hour of every set; thus, the fisher would be on-site in the possible event of an entanglement, and could subsequently contact the disentanglement network for action. Straight sets at night pose a higher level of risk of entanglement to whales than strike sets or straight sets during the day, because fishers are not as actively involved with straight set gear (in comparison to the strike set method used in southeast Atlantic waters), and whales are much more difficult to spot at night due to darkness. Through this final rule, NMFS aims to reduce the potential for the entanglement of right whales in straight set gillnet gear. Due to the gear restrictions, the final rule will also reduce the likelihood of effort influx into the fishery in the future, thereby further reducing the potential likelihood of entanglements.

Figure 1 shows the boundaries for the southeast U.S. restricted area. Currently the Southeast U.S. shark gillnet fishery is regulated using these boundaries (50 CFR 229.32 (f)(1)).

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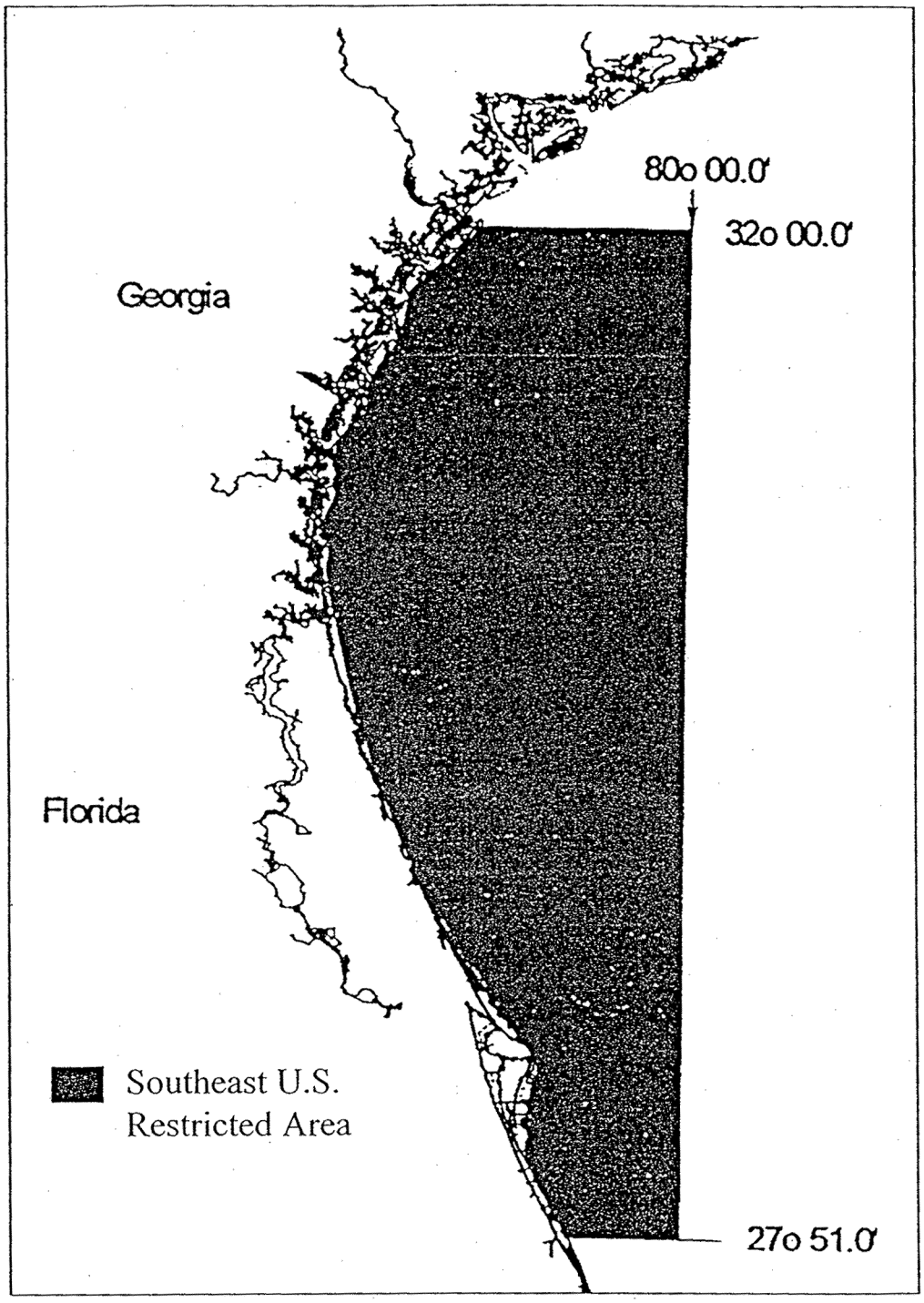
Figure 1



November 15 to March 31 Straight Set Gillnet Restrictions

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Comments and Responses

NMFS received eight sets of written comments on the proposed rule by the May 28, 2002, deadline. The comments were considered in developing this final rule to amend the regulations that implement the ALWTRP and are responded to here.

General Comments

Comment 1: Seven commenters generally supported the proposed rule to reduce entanglement risk to right whales. Two of the seven commenters generally believed that the proposed prohibition would protect whales and reduce the potential for whale entanglements. One commenter urged NMFS to expedite the publication of the final rule.

Response: By this final rule, NMFS is amending the regulations that implement the ALWTRP to provide further protection for large whales, with an emphasis on right whales due to their critical status. Based on NMFS' current understanding of the right whale population and local fisheries, NMFS believes the prohibition defined by this final rule should reduce entanglement risk to right whales.

Comment 2: Two commenters generally believed that the regulations were not restrictive enough. Two commenters believed NMFS needs to do more, such as implementing a year-round ban on gillnets in all waters, similar to what some states have implemented in the southeast United States. One commenter supported a ban on all nets that kill both target and non-target species. One commenter suggested that further action may be necessary, such as a proactive, precautionary approach in order to offer real bycatch risk reduction.

Response: Taking into account the economics of the affected fisheries, technological feasibility, and stock status, NMFS believes the final regulations adequately reduce the potential for right whale entanglement due to gillnets in the southeast United States. At this time, NMFS does not support a year-round ban on gillnets in all waters including Federal waters to protect marine animals. Should new scientific information indicate the necessity for additional management measures, NMFS will reconvene also take the ALWTRT's recommendations into consideration and conduct the necessary environmental and economic analyses to determine the potential benefits and costs associated with any proposed measures.

Comment 3: One commenter urged NMFS to continue working with coastal states on marine mammal conservation.

Response: NMFS agrees with the necessity and utility of cooperating with coastal states on marine mammal conservation, and NMFS plans to continue its current partnerships. Some of the current efforts which NMFS plans to continue include interagency cooperation on marine mammal stranding issues, instituting ESA section 6 agreements with states, entering into Memorandums of Agreement with states on conservation issues, facilitating regional policy discussions, and participating in the Southeast U.S. Implementation Team to implement the right whale recovery plan.

Comment 4: One commenter emphasized the need to continue research on Atlantic whale survival and management efforts to return the populations to viable levels.

Response: NMFS is actively conducting and supporting research on Atlantic whales and Atlantic fisheries' gear modifications. NMFS has gear laboratories and research teams that specifically focus on gear development and testing, has marine mammalogists and statisticians conducting the science necessary to better understand Atlantic whales and the risks associated with them, and has fishery management specialists whose time is completely dedicated to implementing management actions to protect and conserve Atlantic whales and provides financial support to numerous entities involved in whale research and gear research activities. NMFS makes its management decisions on the best available information, and it spends a great deal of money and resources to expand its knowledge base. NMFS will continue to expand these programs as funding allows.

Comment 5: One commenter requested that NMFS expand the management area southward another 60 miles to east of Jupiter Inlet or to Latitude 27°0.0′ to protect right whales and other marine species such as leatherback turtles and sharks.

Response: Given the results of a recent data analysis, NMFS believes this final rule should include only those waters designated by the existing southeast U.S. restricted area in order to protect right whales from potential entanglement due to straight sets of gillnets. NMFS believes the most important winter/calving areas known are within the latitudinal boundaries identified in the existing ALWTRP rule (50 CFR 229.32), although northern right whales are occasionally sighted outside this area. NMFS, with the assistance of the Florida Fish and Wildlife Conservation Commission's Florida Marine Research Institute (FMRI), conducted an analysis of aerial survey data to determine the frequency of right whale sightings, as a measure of the likelihood of right whale presence in the expanded management area recommended by the commenter. The analysis reviewed the aerial survey tracks flown by FMRI over the waters bounded by 27°51.0′N. to 27°0.0′N., from Florida's Eastern coastline to 80° W. The analysis consisted of 127 days between February 14, 1992, and March 31, 2001, though several days had limited search effort in the area. During the 127 days, there were six right whale sighting events, totaling 11 individuals. NMFS does not believe that the number of animals sighted over the 10–year period warrants the requested area expansion to waters south of 27°51.0′N. Public feedback on right whale sightings is important to the agency, and the agency will take public sightings into consideration along with aerial survey data as it periodically reviews critical habitat and the southeast U.S. restricted area boundaries.

NMFS has the authority to regulate U.S. waters for ESA listed species such as leatherback turtles; however, NMFS does not believe at this point in time that an expansion of the gillnet restriction area, as defined by this final rule, is warranted for leatherback turtles or sharks. Furthermore, this would be an inappropriate rationale for action on a rule implementing take reduction provisions under the MMPA.

Comment 6: Based on economic effects, one commenter objected to the definition of ''night'' used in the proposed rule. ''Night'' is defined as any time between one-half hour before sunset and one-half hour after sunrise, as per the ALWTRP (50 CFR 229.2). Instead of the proposed rule's definition, the commenter requested that NMFS define ''night'' as any time between one-half hour after sunset and one-half hour before sunrise. The commenter stated that fishers rely on the low light conditions to catch a substantial amount of fish. The commenter believed that the fishery's temporal feature has not had an adequate economic analysis.

Response: The commenter suggests a change in the definition of night which would result in two extra hours of permitted fishing each day (as compared to the proposed rule) in which straight sets of gillnets in the Southeast Atlantic gillnet fishery would be legal. NMFS believes the change in the definition of night for this measure is not warranted on an economic impact basis.

Available data do not demonstrate that the fishing behavior or methodology restricted by this final rule (straight set gillnets at night) is utilized

to a great extent in the restricted area. Data on average trip times, landings, soak times, and vessel characteristics indicate that the fishery is primarily prosecuted as a day fishery generating less than $167 per year of gross revenues. Taking into account the number of vessels participating in the straight set gillnet fishery (from 41 to 62), vessels average less than $4 income annually, indicating that the fishery is likely of lowly economic profitability to the fleet as a whole. Virtually all recorded gillnet harvests from this area and season are attributed to runaround gillnets and not straight set gillnets. Whether spread over multiple participants or attributed to a single vessel, NMFS believes restricting the use of this gear during the times defined as ''night'' will not significantly reduce profits for fishery participants. Therefore, any direct economic impacts on the fishery will be minimal since the fishery does not substantially operate in the manner being restricted.

NMFS believes the current definition of ''night'' used in this final rule takes into consideration stakeholders' economic concerns and does not result in substantial economic impact sufficient to warrant changing the definition of night as requested.

Comment 7: One commenter requested that NMFS reconvene the ALWTRT and the southeast sub-group to review and re-evaluate bycatch mitigation strategies.

Response: NMFS values the ALWTRT's input to reduce the incidental take of large whales in commercial fisheries and believes the regional sub-group process is an effective means of addressing regionally specific management needs. During the early months of 2002, NMFS implemented several management actions including Dynamic Area Management, Seasonal Area Management, and gear modifications. NMFS intends to reconvene the ALWTRT to discuss the effectiveness of these measures and to determine if further measures are warranted based on the best available information. Though NMFS has not finalized meeting dates at this time, in order to ensure public participation in commercial fishery management, NMFS will inform both the ALWTRT and the general public of the logistics of future meetings of the ALWTRT.

Two comments were received after the close of the public comment period. Since the comments reflected unique thoughts not previously identified during the public comment period, NMFS has chosen to respond to them.

Comment 8: One commenter suggested that NMFS consider a visibility threshold such as ''no sets anytime when visibility is less than 400 yds'' (366 m). NMFS stated in the proposed rule that ''straight sets at night pose a higher level of risk to entanglement to whales . . . because whales are much more difficult to spot at night due to darkness.'' The commenter was concerned that whales can be difficult to spot in the dense fog which often occurs in the right whale calving area during the winter.

Response: Taking into account technological feasibility and stock status, NMFS believes the final regulations adequately reduce the potential for right whale entanglement due to gillnets in the southeast United States. At this time, NMFS does not support further restrictions on the non-shark gillnet fishery which would only allow operation at times where visibility is equal to or greater than 400 yds (366 m). Should additional scientific information indicate the necessity for additional management measures such as a visibility threshold on gillnets similar to the shark gillnetters, NMFS will reconvene the ALWTRT to discuss this potential management measure and others. NMFS will take the ALWTRT's recommendations into consideration and conduct the necessary environmental and economic analyses to fully disclose the potential benefits and costs associated with all proposed measures.

Comment 9: One commenter suggested that NMFS better define the subject gillnet gear's characteristics in order to differentiate the gear from that used in the shark gillnet fishery. The commenter said that the subject gear in the proposed rule differs from gillnet gear used to target sharks, because the subject gear is relatively low in tensile strength, has small sized mesh, and the deployed gear is small in scope. One suggestion for defining the subject gillnet gear's characteristics was to include a maximum ceiling on net length, mesh size, and/or tensile strength in this final rule.

Response: The proposed rule uses the MMPA's LOF definition for the Southeast Atlantic Gillnet Fishery, and NMFS believes further gear descriptions by tensile strength, mesh size, or target species are not necessary to clarify the proposed rule and its affected fishers.

Under the MMPA's LOF, there are two types of gillnet gear categorized in the southeast United States: Southeast Atlantic Gillnet and Southeastern U.S. Atlantic Shark Gillnet. NMFS currently has restrictions on the Southeastern U.S. Atlantic Shark Gillnet Fishery which has been defined in 50 CFR 229.32 as any gillnets which fish in waters south of the South Carolina/Georgia border with webbing of 5 inches (12.7 cm) or greater stretched mesh.

Under the ESA, additional whale conservation measures were required for gillnet gear which did not have adequate management restrictions in place to reduce the likelihood of whale entanglement. Therefore, through the proposed rule, NMFS proposed whale conservation measures for the Southeast Atlantic Gillnet Fishery which includes any type of gillnet gear for any species (except shark gillnetting effort using 5–inch (12.7 cm) or greater stretched mesh south of the South Carolina/Georgia border) in waters south of a line extending due east from the North Carolina/South Carolina border and south and east of the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico (50 CFR 600.105). Through the proposed rule and the pre-existing requirements for shark gillnetters, NMFS regulated the full suite of gillnet users in the Atlantic south of the South Carolina/Georgia border. Further descriptions in the subject rule to differentiate the two fisheries beyond their current LOF definitions may inadvertently exclude a part of the gillnet fishery population which this regulation is attempting to address. Therefore, NMFS does not believe that further gear descriptions are necessary. NMFS will take this recommendation into advisement during future LOF actions to ensure that fishery descriptions are clear.

Classification

This final rule does not include a collection-of-information requirement subject to the Paperwork Reduction Act.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The basis for this certification follows:

The MMPA provides the statutory basis for the rule. The final rule would prohibit the use of straight set gillnets in the southeast U.S. restricted area at night from November 15 through March 31, annually, unless the fishing activity was exempted under 50 CFR 229.32(f)(3)(iii), which pertains to fishing for sharks with strikenet gear. Strikenet gear is exempt if no nets are set at night or when visibility is less than 400 yards (460m), each set is made under the observation of a spotter plane, if a right, humpback, fin or minke whale

moves within 3 nautical miles o the set gear, the gear is removed immediately from the water.

The objective of this final rule is to eliminate serious injuries or mortalities of right whales attributable to entanglements with fishing gear and takes into account the time and area during which right whale calves are born.

Available data do not demonstrate that the fishing behavior or methodology restricted by this final rule (straight set gillnets at night) is utilized to a great extent in the restricted area. Data on average trip times, landings, soak times, and vessel characteristics indicate that the fishery is primarily prosecuted as a day fishery generating less than $167 per year of gross revenues. Taking into account the number of vessels participating in the straight set gillnet fishery, vessels average less than $4 income annually, indicating that the fishery is likely of lowly economic profitability to the fleet as a whole. Virtually all recorded gillnet harvests from this area and season are attributed to runaround gillnets and not straight set gillnets. Whether spread over multiple participants or attributed to a single vessel, the economic impacts associated with this rule will not significantly reduce profits for a substantial number of small entities. Therefore, any direct economic impacts on the fishery will be minimal since the fishery does not substantially operate in the manner being restricted.

Generally, a fish-harvesting business is considered a small business if it is independently owned and operated, not dominant in its field of operation, and has annual receipts not in excess of $3.5 million. One hundred and two unique entities (vessels or persons) have reported landings in this fishery over the 1997–2000 fishing seasons. Total dockside value of commercial harvests by these entities from all fishing activities and all gears averaged from $16,000 to $24,000 per year over this period. The maximum gross revenues were less than $300,000. All of these entities are considered small business entities. Thus, business operations in this fishery consist solely of small business entities.

The determination of significant economic impact can be ascertained by examining two criteria: Disproportionality and profitability. The disproportionality question is: Do the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities? All business entities participating in the area of the South Atlantic Gillnet Fishery are considered small business entities. Thus, the issue of disproportionality does not arise in the present case.

The profitability question is: Do the regulations significantly reduce profit for a substantial number of small entities? The predominant harvest methodology in this fishery is runaround (i.e., strike) gillnets and day trips and not the methodology restricted by this document. Less than $500, or $167 per year, of reported landings from all participants over the 1997–2000 fishing seasons (1997–98, 1998–99, 1999–2000) is potentially attributable to straight set gillnets. On this basis, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule would not have a significant economic impact on a substantial number of small entities. NMFS received only one public comment relating to the economic impacts of this final rule. NMFS considered this comment before it approved this final rule, and NMFS characterized and responded to it in the ''Comments and Responses'' section of the preamble to this final rule, as comment/response number 6. No changes to this final rule were made as a result of the comment received. NMFS believes the economic analysis adequately characterized the impact of the proposed rule on affected fisheries and the RFA analysis and copies of the RIR are available (see **ADDRESSES**).

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

NMFS requested consultation under section 7 of the ESA regarding the proposed action. As described in the proposed rule, the proposed action was developed to address a Reasonable and Prudent Alternative (RPA) identified in four Biological Opinions (BOs) on the multispecies, spiny dogfish, monkfish, and lobster fisheries on June 14, 2001. The objective of the RPA is to eliminate mortality and serious injuries of right whales, eliminate serious and prolonged right whale entanglements, and significantly reduce the total number of right whale entanglements. On February 7, 2002, NMFS concluded that since the proposed action would implement an RPA under existing BOs, the action did not warrant further analysis under the ESA at that time. NMFS stated that the issuance of the proposed action does not change the basis for the finding of the June 14, 2001, BOs; instead, the rule directly addresses the gear restriction RPA from those findings.

NMFS requested an Essential Fish Habitat (EFH) review of the proposed action and received a determination that the proposed gillnet restrictions would not adversely affect EFH of species managed by the NMFS or the South Atlantic Fishery Management Council.

NMFS has determined that the final action is consistent to the maximum extent practicable with the coastal zone management programs of those affected Atlantic coastal states that have approved coastal zone management programs: Georgia and Florida. The proposed rule, RIR, RFA analysis, and EA were submitted to the responsible state agencies for their review under section 307 of the Coastal Zone Management Act. Florida concurred that the proposed action is consistent to the maximum extent practicable with their applicable CZMA regulations.

The Georgia Coastal Management Program (GCMP) objected to NMFS' determination that the amendment to the ALWTRP is consistent to the maximum extent practicable with the enforceable policies of the GCMP, pursuant to 15 CFR part 930, subpart C. NMFS is required by law to rely on the best scientific information available to develop fishery management actions. NMFS believes a complete gillnet prohibition, as suggested by Georgia, would be in direct conflict with several of NMFS' statutory obligations because there is not sufficient documented evidence at this time to justify the gillnet prohibition. Therefore, current statutory obligations restrict NMFS' ability to be fully consistent with the GCMP, and the proposed action remains the legally appropriate decision at this time.

NMFS shares Georgia's concern regarding bycatch and bycatch mortality rates in gillnet fisheries and continues to dedicate resources to evaluate the degree to which gillnet fisheries affect protected species. NMFS encourages Georgia and all coastal states to submit data collected through state activities, and NMFS will continue to work with Georgia to address the issues with gillnet fisheries in Federal waters off the coasts of Georgia and Florida.

NMFS prepared a draft EA for the proposed action, as described in the proposed rule. NMFS did not receive any comments on the EA during the public comment period. The Assistant Administrator for Fisheries, NOAA has determined, based on an EA prepared under the National Environmental Policy Act (NEPA), that implementation of these regulations would not have a significant impact on the human environment. As a result of this determination, an environmental impact

statement is not required. A copy of the final EA prepared for this rule is available upon request (see **ADDRESSES**).

Federalism Impact Statement

This final rule contains policies with federalism implications that were sufficient to warrant preparation of a federalism summary impact statement under Executive Order 13132. Accordingly, the Assistant Secretary for Legislative and Intergovernmental Affairs provided notice of the proposed action to the appropriate officials of the affected state and local governments through a letter mailed to those officials in April 2002. Specifically, the letter was sent to the state of Florida and Georgia. The letter described NMFS' position supporting the need to issue the regulation, specifically the need to reduce the risk of entanglement of large whales, including right whales. The state and local officials did not raise any concerns in direct response to the April 2002 letter.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, and Marine mammals.

Dated: September 17, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory programs, national marine Fisheries Services.

For the reasons set out in the preamble, the National Marine Fisheries Service amends 50 CFR part 229 as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: Authority: 16 U.S.C. 1371 *et seq.*

1. In § 229.3, paragraph (k) is revised to read as follows:

§ 229.3 Prohibitions.

* * * * *

(k) It is prohibited to fish with gillnet gear in the areas and for the times specified in § 229.32(f)(1) through (f)(4), unless the gear or the person with gillnet gear complies with the gear marking requirements specified in § 229.32(f)(2), the requirements for observer coverage as specified in § 229.32(f)(3), and the closures, requirements, and other restrictions as specified in § 229.32(f)(4).

* * * * *

4. In § 229.32, the heading of paragraph (f) and paragraph (f)(3) are revised; and paragraph (f)(4) is added to read as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

* * * * *

(f) *Restrictions applicable to the southeast U.S. restricted area and the southeast U.S. observer area.* * * *

* * * * *

(3) Observer requirement. No person may fish with shark gillnet gear in the southeast U.S. observer area from November 15 through March 31 of the following year unless the operator of the vessel calls the SE Regional Office in St. Petersburg, FL not less than 48 hours prior to departing on any fishing trip in order to arrange for observer coverage. If the Regional Office requests that an observer be taken on board a vessel during a fishing trip at any time from November 15 through March 31 of the following year, no person may fish with shark gillnet gear aboard that vessel in the southeast U.S. observer area unless an observer is on board that vessel during the trip.

(4) *Restricted period, closure and restrictions, and exemption.* (i) Restricted period. The restricted period for the southeast U.S. restricted area is from November 15 through March 31 of the following year, unless the Assistant Administrator revises this restricted period in accordance with paragraph (g) of this section.

(ii) *Closure for shark gillnet gear.* Except as provided under paragraph (f)(4)(iv) of this section, no person may fish with shark gillnet gear in the southeast U.S. restricted area during the restricted period.

(iii) *Restrictions for straight sets.* Except as provided for shark gillnet gear under paragraph (f)(4)(iv) of this section, no person may fish with a straight set of gillnet gear at night in the southeast U.S. restricted area during the restricted period. A straight set is defined as a set in which the gillnet is placed in a line in the water column, as opposed to a circular set in which the gillnet is placed to encircle an area in the water column.

(iv) *Special provision for strikenets.* Fishing for sharks with strikenet gear is exempt from the restrictions under paragraphs (f)(4)(ii) and (f)(4)(iii) of this section if:

(A) No nets are set at night or when visibility is less than 500 yards (460m).

(B) Each set is made under the observation of a spotter plane.

(C) No net is set within 3 nautical miles of a right, humpback, fin or minke whale.

(D) If a right, humpback, fin or minke whale moves within 3 nautical miles of the set gear, the gear is removed immediately from the water.

* * * * *

[FR Doc. 02–24155 Filed 9–20–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 091302A]

Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

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

ACTION: Atlantic bluefin tuna retention limit adjustments.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) General category daily retention limit should be adjusted in order to allow for maximum utilization of the General category September time-period subquota. Therefore, NMFS increases the daily retention limit to two large medium or giant BFT through September 30, 2002. Additionally, NMFS adjusts the BFT daily retention limit for vessels participating in the recreational fishery that are permitted in the Atlantic Highly Migratory Species (HMS) Charter/Headboat category and that are licensed by the U.S. Coast Guard (USCG) to carry more than six passengers. The daily retention limit for these vessels is adjusted to one BFT per angler, up to a maximum of 20 per vessel through October 31, 2002. These actions are being taken to provide increased fishing opportunities in all areas without risking overharvest of the quotas established for the respective categories.

DATES: The BFT General category daily retention limit adjustment is effective September 20, 2002 through September 30, 2002.

The daily retention limit for vessels permitted in the HMS Charter/Headboat category, and licensed by USCG to carry more than six passengers, is effective September 20, 2002 through October 31, 2002.

FOR FURTHER INFORMATION CONTACT: Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*)

and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, and General category effort controls (including time-period subquotas and restricted fishing days (RFDs)) are specified annually under 50 CFR 635.23(a) and 635.27(a). The 2002 BFT Quota Specifications and General category effort controls were proposed on June 27, 2002 (67 FR 43266).

General Category

Under § 635.23 (a)(4), NMFS may increase or decrease the General category daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. Based on a review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds, NMFS has determined that an increase of the daily retention limit for the second half of September is appropriate and necessary to allow full use of the September subquota. Therefore, NMFS adjusts the General category daily retention limit through September 30, 2002, to two large medium or giant BFT per vessel.

The intent of this adjustment is to allow for maximum utilization of the General category subquota for the September time-period (specified under 50 CFR 635.27(a)) by General category participants in order to help achieve optimum yield in the General category fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the HMS FMP.

Angling Category

A recommendation of ICCAT requires that NMFS limit the catch of school BFT to no more than 8 percent by weight of the total domestic landings quota over each 4–consecutive-year period. NMFS is implementing this ICCAT recommendation through annual and inseason adjustments to the school BFT retention limits, as necessary, and through the establishment of a school BFT reserve (64 FR 29090, May 28, 1999; 64 FR 29806, June 3, 1999).

Under § 635.23(b)(3), NMFS may increase or reduce the recreational angler retention limit for any size class BFT or may change an angler limit to vessel trip limit or vice versa. Size class categories of BFT are defined as follows: School size BFT measure 27 to less than 47 inches (69 to less than 119 cm) curved fork length (CFL); large school BFT measure 47 to less than 59 inches (119 to less than 150 cm) CFL; small medium BFT measure 59 to less than 73 inches (150 to less than 185 cm) CFL; large medium BFT measure 73 to less than 81 inches (185 to less than 206 cm) CFL; and giant BFT measure 81 inches or greater (206 cm or greater) CFL.

Regulations at 50 CFR 635.23(b) restrict vessels fishing under the BFT Angling category quota to one BFT per vessel per day, which may be from the school, large school, or small medium category and, in addition, one large medium or giant BFT per vessel per year. This retention limit is subject to inseason adjustment to provide for maximum utilization of the quota and enhanced fishing opportunities over the range of the recreational fisheries. NMFS had issued an adjustment notice on June 11, 2002 (67 FR 39869) to allow vessels fishing under the Angling category quota a total of four BFT per day, measuring 27 to less than 73 inches CFL, effective June 11, 2002, through October 31, 2002.

Over the last several years, NMFS has received comments that a retention limit of three or four BFT per vessel per day does not provide reasonable fishing opportunities for headboats, which may carry up to 40 passengers on a tuna fishing trip. In order to increase fishing and data collection opportunities in all sectors of the recreational BFT fishery, NMFS is implementing an alternative retention limit for headboats in the 2002 fishing year. NMFS set a differential retention limit for headboats in 2001 and received favorable comments on that action. For headboats, defined as vessels that possess an Atlantic HMS Charter/Headboat category permit and that are inspected and licensed by the Coast Guard to carry more than six passengers, the daily retention limit through October 31, 2002, is adjusted to one BFT per passenger (not including Captain and crew) in any combination of the school, large school or small medium size classes, with a maximum of 20 fish per vessel. NMFS selected the daily retention limit and the duration of the daily retention limit adjustment after examining past catch and effort rates and the available quota for the 2002 fishing year.

Subsequent Adjustments

From November 1, 2002 through May 31, 2003, the daily retention limit for all vessels fishing under the Angling category quota will be one large school or small medium BFT per vessel. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that an interim closure or an additional retention limit adjustment is necessary to enhance scientific data collection from, and fishing opportunities in, all geographic areas. Additionally, NMFS may determine that an allocation from the school BFT reserve is warranted to further fishery management objectives. Closures or subsequent adjustments to the daily retention limit, if any, will be announced through publication in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at (888) 872–8862 or (978) 281–9305 for updates on quota monitoring and retention limit adjustments.

Landings Reports

NMFS will continue to monitor the Angling category fishery closely through the Automated Landings Reporting System, the state harvest tagging programs in North Carolina and Maryland, and the Large Pelagic Survey. All BFT landed under the Angling category quota must be reported within 24 hours of landing to the NMFS Automated Landings Reporting System via toll-free phone at (888)872–8862; or the Internet (*www.nmfspermits.com*); or, if landed in the states of North Carolina or Maryland, to a reporting station prior to offloading. Information about these state harvest tagging programs, including reporting station locations, can be obtained in North Carolina by calling (800) 338–7804, and in Maryland by calling (410) 213–1531.

Catch and Release

Anglers aboard permitted vessels may continue to tag and release BFT of all sizes under a tag-and-release program, provided the angler tags all BFT so caught, regardless of whether previously tagged, with conventional tags issued or approved by NMFS, returns such fish to the sea immediately after tagging with a minimum of injury, and reports the tagging, and, if the BFT was previously tagged, the information on the previous tag (50 CFR 635.26).

Classification

These actions are taken under 50 CFR 635.23(a)(4) and under 50 CFR 635.23(b)(3) and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: September 17, 2002.

Virginia M. Fay,

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

[FR Doc. 02–24021 Filed 9–17–02; 4:21 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 184
Monday, September 23, 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.

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AC07

Loan Policies and Operations; Young, Beginning, and Small Farmers and Ranchers

AGENCY: Farm Credit Administration (FCA).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Farm Credit Administration (FCA or agency) is considering whether regulatory changes are needed to enhance the Farm Credit System's (System) service to young, beginning, and small farmers, ranchers, and producers or harvesters of aquatic products (YBS farmers and ranchers) and the agency's measurement and reporting of the System's YBS activities and performance.

DATES: You may send us comments by December 23, 2002.

ADDRESSES: Send us your comments by electronic mail to or through the Pending Regulations section of our Web site, *www.fca.gov.* You may also send written comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or by facsimile transmission to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Samuel R. Coleman, CFA, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434; or, Wendy R. Laguarda, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–2020.

SUPPLEMENTARY INFORMATION:

I. Objectives

To ensure that the System accommodates the current and evolving needs of YBS farmers and ranchers for credit and closely related services, we seek comments in this ANPRM on ways to:

1. Develop clear, meaningful, and results-oriented guidelines for System YBS policies and programs;
2. Effectively measure the System's YBS performance to ensure that the System is fulfilling its YBS statutory mission; and
3. Provide adequate reporting and disclosure to the public on the System's compliance with its statutory YBS mission.

II. Background

The FCA's mission is to promote a safe and sound, competitive System to finance agriculture and rural America as authorized by Congress. The System has a special public purpose concerning YBS farmers and ranchers. Since 1980, Congress has required the System to prepare programs for furnishing sound and constructive credit and related services to YBS farmers and ranchers. Specifically, section 4.19(a) of the Farm Credit Act of 1971, as amended (Act) states:

> Under policies of the district Farm Credit Bank board, each Federal land bank association and production credit association [1] shall prepare a program for furnishing sound and constructive credit and related services to young, beginning, and small farmers and ranchers. Such programs shall assure that such credit and services are available in coordination with other units of the Farm Credit System serving the territory and with other governmental and private sources of credit.

Even before the issuance of the Act and its 1980 amendments, the System had been serving all categories of YBS farmers and ranchers. The agency believes the System's continued success at serving all three categories, ''young,'' ''beginning,'' and ''small'' farmers and ranchers is crucial to a future generation of farmers and ranchers and a strong agricultural economy.

A. FCA's Focus on YBS Lending

In 1998, the FCA Board adopted a policy statement that called for a renewed commitment by the System to YBS lending, provided guiding principles for enhanced service to YBS farmers and ranchers, and revised definitions for ''young,'' ''beginning,'' and ''small'' farmers and ranchers.[2] To implement the policy statement, the FCA also issued a bookletter to the System that provided the revised YBS definitions and reporting procedures that were fully phased in by January 1, 2001.[3] FCA also requires the System to respond each year to a comprehensive questionnaire about the management and credit components of its YBS and outreach programs.

Since 1999, YBS lending programs have been a ''focus area'' of agency examinations where, among other factors, the agency has looked at the System's YBS board policies and procedures; YBS credit enhancement programs and underwriting standards; YBS coordination with Federal, state, System or other credit sources; demographic studies; marketing, advertising, and other outreach programs; and the quality of YBS reporting to System boards and FCA.

In addition to this examination focus area, the FCA Board and staff have advocated greater attention on the System's mission to serve YBS farmers and ranchers. For example, the agency recently recognized several System associations for their successful YBS programs.[4]

B. Report by the General Accounting Office

On March 8, 2002, the General Accounting Office (GAO) issued a report on the FCA's oversight of the System's mission to serve YBS farmers and ranchers.[5] The GAO, after conducting

[1] Thr requirements of this section of the Act also apply to Federal land credit associations as defined in 12 CFR 619.9155 and agricultural credit associations as defined in 12 CFR 619.9015

[2] FCA–PS–75, Farm Credit System Service to Young, Beginning, and Small Farmers and Ranchers, effective December 10, 1998, available on the FCA Web site, www.fca.gov (under Legal Info., FCA Handbook).

[3] FCA BL–040, Policy and Reporting Changes for Young, Beginning, and Small Farmers and Ranchers Programs, issued December 11, 1998, available on the FCA Web site, www.fca.gov (under Legal Info., FCA Handbook).

[4] See remarks by the Honorable Michael M. Reyna before the 19th Annual Farm Credit Council meeting, January 22, 2002, available on the FCA Web site, www.fca.gov (under About FCA, FCA Board, Testimony, Statements, and Speeches).

[5] Farm Credit Administration: Oversight of Special Mission to Serve Young, Beginning, and Small Farmers Needs to be Improved (GAO–02–

Continued

its review that began in July 2001, recommended that the agency strengthen its oversight role of the System's YBS lending, promote YBS compliance, and highlight the System's efforts to provide service to YBS by:

1. Promulgating a regulation that outlines specific activities and standards that constitute an acceptable program to implement the YBS statutory requirement;

2. Ensuring that examiners follow the guidance and complete the appropriate examination procedures related to YBS, and adequately document the work performed and conclusions drawn during examinations; and

3.Publicly disclosing the results of the examinations for YBS compliance for individual System associations.

In its response to Congress, the FCA noted its commitment to address the issues raised in the GAO report. Seeking public input through an ANPRM is a valuable step in ensuring that the System designs comprehensive YBS policies and programs that have a realistic and reasonable likelihood of success.

III. Questions

1. What type of guidelines should FCA implement for YBS policies and programs? In your comments to this question, please consider whether:

a. FCA should make regulatory or policy changes to enhance YBS policies and programs;

b. Guidelines should require YBS programs to include both quantitative (such as YBS loan volume and portfolio percentage goals) and qualitative (such as YBS marketing and outreach strategies, special credit and related services programs, and joint YBS efforts) performance goals;

c. Guidelines should be different for each YBS category—that is, different guidelines for ''young,'' ''beginning,'' and ''small'' farmers and ranchers;

d. FCA should require YBS programs to include special credit treatment for YBS loans (including guarantors, concessionary underwriting standards, loan fees, interest rates, and differential loan covenants);

e. In addition to its recent recognition of successful YBS programs, FCA should provide incentives, regulatory or otherwise, to the System to promote YBS programs;

f. The System currently offers appropriate related services, such as farm business consulting, record keeping, insurance, and tax planning and preparation services to YBS farmers and ranchers;

g. Certain types of marketing and outreach activities most help promote YBS programs;

h. Certain types of System partnerships, alliances, or other joint efforts most help promote YBS programs; and

i. The System should more effectively use Other Financing Institutions (OFIs), the Federal Agricultural Mortgage Corporation (Farmer Mac), loan participations, loan guarantees, specialized risk pools under § 614.4165(c) of our regulations, and Federal, state, or private programs to promote YBS programs within each System association's risk-bearing capacity.

2. How should FCA measure the System's YBS performance? In your comments to this question, please consider whether:

a. FCA should establish a formal rating system for YBS performance similar to the agency's current Financial Institution Rating System (FIRS). If so, what rating components should we include in such a system and should we weigh each component equally?;

b. The data currently available to assess YBS market penetration in System territories adequately and accurately measures the number of YBS farmers and ranchers in the territory. If not, what meaningful alternative data is available?;

c. The data collected by the agency should focus on the ''borrowers'' or ''loans'' when measuring each category of YBS farmers and ranchers;

d. FCA should require System associations to conduct demographic studies and develop strategies to address inconsistencies between the YBS market in their lending area and their penetration of that market; and

e. FCA should take into account the demographics of a System association's territory in rating YBS performance.

3. How should FCA report and publicly disclose the System's YBS performance? In your comments to this question, please consider whether:

a. The data that FCA currently collects from the System accurately portrays the System's YBS performance. If not, what additional or alternative data should the agency collect from the System? For example, should FCA require the System to report the number and amount of YBS loans made by OFIs, made through loan participations, made through risk pools created under § 614.4165(c) of our regulations, or made through alliances, joint ventures, or other joint efforts with System or non-System entities?;

b. FCA should require the System to report the number and volume of YBS loans sold to Farmer Mac, other secondary market entities, or non-System lenders;

c. FCA should require the System to report the number and type of related services that YBS farmers and ranchers are using, as well the success or lack of success of individual related services programs (currently, the agency only requires the reporting of the types of related services offered);

d. FCA should require the System to report the types of, and costs associated with, YBS educational programs, technical assistance programs, marketing and outreach activities, and coordinated programs in which YBS farmers and ranchers have participated, as well the success or lack of success of individual programs (currently, the agency only requires the reporting of the types of programs offered);

e. FCA should require the System to separately report loan performance information on each category of YBS farmer and rancher loans;

f. FCA should make available to the public the YBS reports of each System bank and association and the agency's examination results of YBS performance; and

g. FCA should require the System to include YBS performance reports and the agency's examination results of YBS performance in quarterly or annual reports to shareholders or would other disclosure methods be more effective.

The agency welcomes any other comments you may have for us to consider in developing guidelines for System YBS policies and programs. We thank you for your comments.

The FCA may also conduct public meetings at some future date to solicit information from the public on ways to enhance the System's service to YBS farmers and ranchers. If such meetings are planned, the agency will provide public notice through the **Federal Register**, as well as provide other methods for public announcement and invitation.

Dated: September 17, 2002.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 02–24031 Filed 9–20–02; 8:45 am]

BILLING CODE 6705–01–P

304), available on the GAO Web site, www.gao.gov/cgi-bin/getrpt?GAO–02–304.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–173–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 airplanes. This proposal would require a one-time inspection for chafing of the RDB wire bundle against the automatic direction finder (ADF) receiver located at the aft end of the forward right radio rack; repair or replacement, if necessary; and modification of the wire bundle. This action is necessary to prevent chafing of the RDB wire bundle against the ADF receiver, which could result in electrical arcing and consequent smoke and/or fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 7, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–173–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–173–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: *Technical Information*: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Editor/Writer; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov*. Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–173–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–173–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating chafing of an RDB wire bundle against the automatic direction finder (ADF) receiver located at the aft end of the forward right radio rack, due to inadequate clearance. The chafing was found on a McDonnell Douglas MD–90–30 airplane. Investigation revealed that this condition may exist on airplanes with a No. 2 ADF receiver installed adjacent to a large diameter wire bundle. The manufacturer has determined that splitting the wire bundle into two smaller bundles will minimize potential chafing. Chafing of the RDB wire bundle against the ADF receiver, if not found and fixed, could result in electrical arcing and consequent smoke and/or fire in the cockpit.

Explanation of Relevant Service Information

We have reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–24A051, Revision 02, dated August 14, 2002, which describes procedures for a visual inspection to find chafing of the RDB wire bundle against the automatic direction finder (ADF) receiver located at the aft end of the forward right radio rack of the airplane at approximately station Y=160.000, and repair or replacement if necessary. The service bulletin also provides instructions for modification of the wire bundle by installation of three new tie mounts using new screws and clip nuts, removal of the existing tie straps and splitting the wire bundle into two separate bundles, installation of six new straps, and verification of adequate clearance between the wire bundle and the ADF receiver. Following the modification, the service bulletin specifies a return-to-service test on the ADF receiver. The service bulletin also specifies reporting inspection findings (chafing or no chafing) to the manufacturer.

The service bulletin references McDonnell Douglas Wire Diagram

Manual for repair or replacement of the wire bundles, and McDonnell Douglas Airplane Maintenance Manual for the return-to-service test.

Explanation of Requirements of Proposed Rule

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

Differences Between Service Information and This Proposed Rule

The service bulletin refers only to a ''visual inspection'' to find chafing of the RDB wire bundle, but this proposed AD would require a ''general visual inspection.'' Note 2 has been included in this proposed AD to define this type of inspection.

Although the service bulletin requests that operators report inspection findings of chafing or no chafing to the manufacturer after inspecting the RDB wire bundle, this proposed AD does not contain such a reporting requirement.

Cost Impact

There are approximately 96 airplanes of the affected design in the worldwide fleet. The FAA estimates that 21 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by AD on U.S. operators is estimated to be $1,260, or $60 per airplane.

It would take approximately 4 work hours per airplane to accomplish the proposed modification of the RDB wire bundle, at an average labor rate of $60 per work hour. Parts cost would be minimal. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $5,040, or $240 per airplane.

Should an operator be required to accomplish the repair or replacement of the wire bundle, it would take approximately 2 work hours per airplane to accomplish the proposed actions, at an average labor rate of $60 per work hour. Parts cost would be minimal. Based on these figures, the cost impact of the repair or replacement proposed by this AD would be $120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2001–NM–173–AD.

Applicability: Model MD–90–30 airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A051, Revision 02, dated August 14, 2002; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the RDB wire bundle against the automatic direction finder (ADF) receiver, which could result in electrical arcing and consequent smoke and/or fire in the cockpit, accomplish the following:

Inspection/Repair or Replacement/ Modification

(a) Within 6 months after the effective date of this AD, do the requirements specified in paragraphs (a)(1) and (a)(2) of this AD, per McDonnell Douglas Alert Service Bulletin MD90–24A051, Revision 02, dated August 14, 2002.

(1) Do a one-time general visual inspection for chafing of the RDB wire bundle against the ADF receiver located at the aft end of the forward right radio rack. If any chafing is found, before further flight, repair or replace the affected wire bundle.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(2) Modify the RDB wire bundle (including installation of three new tie mounts using new screws and clip nuts, removal of the existing tie straps and splitting the wire bundle into two separate bundles, installation of six new straps, and verification of adequate clearance between the wire bundle and the ADF receiver), and do the return-to-service test.

(b) Accomplishment of the actions specified in paragraphs (a)(1) and (a)(2) of this AD, per McDonnell Douglas Alert Service Bulletin MD90–24A051, dated October 28, 1999; or Revision 01 dated March

26, 2001, before the effective date of this AD, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their 1 requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

Special Flight Permit

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

Issued in Renton, Washington, on September 12, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24019 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–45–AD]

RIN 2120–AA64

Airworthiness Directives; Hartzell Propeller Inc., Model HD–E6C–3B/E13890K Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Hartzell Propeller Inc. HD–E6C–3B/E13890K propellers. This proposal would require the reduction of the original hub certified service (fatigue) life from unlimited hours to 37,400 flight hours. This proposal is prompted by a reevaluation by Hartzell Propeller Inc. of the D–5108-( ) original hub service life certification calculations. The actions specified by the proposed AD are intended to prevent fatigue failure of D–5108-( ) hubs, which may result in loss of airplane control.

DATES: Comments must be received by November 22, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–45–AD, 12 New England Executive Park, Burlington, MA 01803–5299. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone; (847) 294–7031, fax; 847 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–45–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–45–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

As a result of an in-service occurrence of a cracked hub, Hartzell

Propeller Inc. has reevaluated the service (fatigue) life of the D–5108-( ) hub installed in the HD–E6C–3B/E13890K propeller. Hartzell has reduced the original hub certified service (fatigue) life from unlimited hours to 37,400 flight hours. Exceeding this life limit could result in fatigue failure of the hub, which may result in loss of airplane control. The 37,400 flight hour life limit is documented in the Airworthiness Limitations section of Hartzell Manual 161.

Determination of an Unsafe Condition

Since an unsafe condition has been identified that is likely to exist or develop on other Hartzell Propeller Inc. HD–E6C–3B/E13890K propellers of the same type design, the proposed AD would require the reduction of D–5108–( ) hub certified service (fatigue) life from unlimited hours, to 37,400 flight hours.

Economic Analysis

There are approximately 250 propellers of the affected design in the worldwide fleet. The FAA estimates that 140 propellers installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 30 work hours per propeller to do the proposed actions, and that the average labor rate is $60 per work hour. The approximate cost of a new hub is $20,000. Based on these figures, the total cost of the proposed AD on U.S. operators is estimated to be $3,052,000.

Regulatory Analysis

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action''

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Hartzell Propeller Inc.: Docket No. 2000–NE–45–AD.

Applicability: This airworthiness directive (AD) is applicable to Hartzell Propeller Inc., Model HD–E6C–3B/E13890K propellers with D–5108–( ) hubs installed. These propellers are installed on, but not limited to, Fairchild Dornier GmbH 328–100 series airplanes.

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

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent fatigue failure of Hartzell D–5108–( ) hubs, which may result in loss of airplane control, do the following:

(a) Remove from service D–5108–( ) hubs before exceeding 37,400 flight hours and replace with a serviceable hub.

(b) After the effective date of this AD, do not install any D–5108–( ) hub that has accumulated 37,400 flight hours.

Alternative Methods of Compliance

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

Special Flight Permits

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

Issued in Burlington, Massachusetts, on September 13, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–24018 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[KS–023–FOR]

Kansas Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Kansas regulatory program (Kansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kansas proposes to revise its regulatory program by updating its adoption by reference of applicable portions of 30 CFR part 700 to End from the July 1, 1995, version to the July 1, 2001, version. Kansas intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Kansas program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., c.d.t., October 23, 2002. If requested, we will hold a public hearing on the amendment on October 18, 2002. We will accept requests to speak at a hearing until 4 p.m., c.d.t. on October 8, 2002.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to John W. Coleman, Mid-Continent Regional Coordinating Center, at the address listed below.

You may review copies of the Kansas program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

John W. Coleman, Mid-Continent Regional Coordinating Center, Office of Surface Mining, Alton Federal Building, 501 Belle Street, Alton, Illinois 62002, Telephone: (618) 463–6460, Internet: *jcoleman@osmre.gov.*

Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, Kansas 66763, Telephone: (316) 231–8540.

FOR FURTHER INFORMATION CONTACT: John W. Coleman, Mid-Continent Regional Coordinating Center. Telephone: (618) 463–6460. Internet: *jcoleman@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

II. Description of the Proposed Amendment

III. Public Comment Procedures

IV. Procedural Determinations

I. Background on the Kansas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things,''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kansas program on January 21, 1981. You can

find background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the January 21, 1981, **Federal Register** (46 FR 5892). You can also find later actions concerning the Kansas program and program amendments at 30 CFR 916.10, 916.12, 916.15, and 916.16.

II. Description of the Proposed Amendment

By e-mail dated July 24, 2002 (Administrative Record No. KS–623), Kansas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Kansas sent the amendment at its own initiative and in response to a letter dated August 23, 2000 (Administrative Record No. KS–618), that we sent to Kansas in accordance with 30 CFR 732.17(c). Below is a summary of the changes proposed by Kansas. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

A. Adoptions by reference of 30 CFR Part 700 to End revised as of July 1, 2001

Kansas proposes to update its adoption by reference of applicable sections of 30 CFR part 700 to End from the July 1, 1995, version to the July 1, 2001, version and to revise terms and cross-references, as required.

Kansas Administrative Regulations (K.A.R.)	Topic
47–2–75	Definitions.
47–3–2	Application for mining permit.
47–3–42	Application for mining permit.
47–5–5a	Civil penalties.
47–5–17	Alternative enforcement.
47–6–3	Permit renewal.
47–6–4	Permit transfers, assignments, and sales.
47–6–6	Permit conditions.
47–6–8	Termination of jurisdiction.
47–6–9	Exemption for coal extraction incident to government finance highway or other construction.
47–6–10	Exemption for coal extraction incidental to the extraction of other minerals.
47–6–11	Post-permit issuance requirements.
47–7–2	Coal exploration.
47–8–9	Bonding procedures.
47–9–1	Adoption by reference.
47–9–4	Interim performance standards.
47–10–1	Adoption by reference; underground mining.
47–11–8	Small operator assistance program.
47–12–4	Lands unsuitable for surface mining.
47–13–4	Training and certification of blasters.
47–14–7	Employee financial interest.
47–15–1a	Inspection and enforcement.

B. K.A.R. 47–2–75. Definitions; adoption by reference

In paragraph (a)(4), Kansas proposes to add the address of the Federal Register Library.

C. K.A.R. 47–4–14a. Administrative hearing procedure

In paragraph (c)(2), Kansas proposes to update the address of the administrative appeals section of the Kansas Department of Health and Environment.

D. K.A.R. 47–6–1. Permit review

Kansas proposes to designate the existing paragraph as paragraph (a) and to add new paragraphs (b) through (f) to read as follows:

(b) Permits with variances granted in accordance with K.A.R. 47–3–42(a)(41), variances for delay in contemporaneous reclamation requirement in combined surface and underground mining activities, shall be reviewed no later than 3 years from the date of issuance.

(c) Permits containing experimental practices issued in accordance with K.A.R. 47–3–42(a)(39) shall be reviewed as set forth in the permit or at least every 2½ years from the date of issuance as required by the regulatory authority, in accordance with K.A.R. 47–3–42(a)(39), adopting by reference 30 CFR 785.13(g)

(d) After the review required by this section, or at any time, the Kansas department of health and environment may, by order, require reasonable revision of a permit in accordance with K.A.R. 47–6–2 to ensure compliance with the state act and the regulatory program.

(e) Any order of the Kansas department of health and environment requiring revision of a permit shall be based upon written findings and shall be subject to the provisions of administrative and judicial review in K.S.A. 49–407(d), 49–416a, 49–422a, and article 4 of chapter 47 of the Kansas administrative regulations. Copies of the order shall be sent to the permittee.

(f) Permits may be suspended or revoked in accordance with articles 5 and 15 of chapter 47 of the Kansas administrative regulations.

E. Update of cross-references

Kansas proposes to update the cross-references in the following sections of its regulations: K.A.R. 47–16–9. Contractor responsibility and K.A.R. 47–16–10. Exclusion of certain noncoal reclamation sites.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the

Mid-Continent Regional Coordinating Center may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: [KS–023–FOR]'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Mid-Continent Regional Coordinating Center at (618) 463–6460.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on October 8, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

In this rule, the State is proposing valid existing rights standards that are similar to the standards in the Federal definition at 30 CFR 761.5. Therefore, this rule has the same takings implications as the Federal valid existing rights rule. The takings implications assessment for the Federal valid existing rights rule appears in Part XXIX.E of the preamble to that rule. *See* 64 FR 70766, 70822–27, December 17, 1999.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

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

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether

this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 15, 2002.

Ervin J. Barchenger,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 02–24016 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

36 CFR Chapter I

Public Meeting Dates of the Negotiated Rulemaking Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting dates.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), of a meeting of the Negotiated Ruelmaking Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore (36 CFR 7.20).

DATES: The Committee meeting scheduled for September 13–14, 2002 has been rescheduled for November 8–9, 2002.

ADDRESSES: The meeting will begin at 9 a.m. and will be held at Dowling College, New York.

FOR FURTHER INFORMATION CONTACT: Barry Sullivan, Acting Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, NY 11772, 631–289–4810 (Ext. 221).

SUPPLEMENTARY INFORMATION: The Committee was established pursuant to the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561–570). The purpose of the Committee is to advise the National Park Service with regard to proposed rulemaking governing off-road vehicle use at Fire Island National Seashore. Notice of intent to establish this committee was published in 65 FR 70674–70675, November 27, 2000.

Dated: September 6, 2002.

Barry T. Sullivan,

Acting Superintendent, Fire Island National Seashore.

[FR Doc. 02–24046 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7380–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the Rocky Mountain Arsenal National Priorities List Site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 announces its intent to delete the Western Tier Parcel of the Rocky Mountain Arsenal National Priorities List Site (RMA/NPL Site) On-Post Operable Unit (OU) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This partial deletion of the RMA/NPL Site is proposed in accordance with 40 CFR 300.425(e) and Notice of Policy Change: Partial Deletion of Sites listed on the National Priorities List (November 1, 1995).

EPA bases its proposal to delete the western tier of the RMA/NPL Site on the determination by EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), that all appropriate actions under CERCLA have been implemented to protect human health, welfare and the environment and that no further response action by responsible parties is appropriate.

This partial deletion pertains only to the western tier of the On-Post OU of the RMA/NPL Site and does not include the rest of the On-Post OU or the Off-Post OU. The rest of the On-Post OU and the Off-Post OU will remain on the NPL and response activities will continue at those OUs.

DATES: Comments concerning this proposed partial deletion may be submitted on or before October 23, 2002.

ADDRESSES: Comments may be mailed to: Catherine Roberts, Community Involvement Coordinator (8OC), U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466, 1–800–227–8917 or (303) 312–6025.

Comprehensive information on the RMA/NPL Site, as well as information specific to this proposed partial deletion, is available through EPA's Region 8 Superfund Records Center in Denver, Colorado. Documents are available for viewing by appointment from 8:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays by calling (303) 312–6473. The Administrative Record for the RMA/NPL Site and the Deletion Docket for this partial deletion are maintained at the Joint Administrative Records Document Facility, Rocky Mountain Arsenal, Building 129, Room 2024, Commerce City, Colorado 80022–1748, (303) 289–0362. Documents are available for viewing from 12:00 p.m. to 4:00 p.m., Monday through Friday or by appointment.

FOR FURTHER INFORMATION CONTACT: Ms. Laura Williams, Remedial Project Manager (8EPR–F), U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver Colorado, 80202–2466, (303) 312–6660.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Partial Site Deletion

I. Introduction

The United States Environmental Protection Agency (EPA) Region 8 announces its intent to delete the western tier parcel of the Rocky Mountain Arsenal National Priorities List (RMA/NPL) Site, Commerce City, Colorado, from the National Priorities List (NPL) and requests comment on this proposed action. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9605. EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Site is proposed in accordance with 40 CFR 300.425(e) and Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List (60 FR 55466 (November 1, 1995)). As described in 40 CFR 300.425(e)(3), portions of a site deleted from the NPL remain eligible for further remedial actions if warranted by future conditions.

EPA will accept comments concerning its intent for partial deletion of the RMA/NPL Site for thirty days after publication of this notice in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this proposed partial deletion. Section IV discusses the western tier of the RMA/NPL Site and explains how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making such a determination pursuant to section 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i). Responsible parties or other persons have implemented all appropriate response actions required; or

Section 300.425(e)(1)(ii). All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(iii). The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities for portions not deleted from the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts. The U.S. Army and Shell Oil Company will be responsible for all future remedial actions required at the area deleted if future site conditions warrant such actions.

III. Deletion Procedures

Upon determination that at least one of the criteria described in § 300.425(e) of the NCP has been met, EPA may formally begin deletion procedures. The following procedures were used for this proposed deletion of the western tier of the RMA/NPL Site:

(1) EPA has recommended the partial deletion and has prepared the relevant documents.

(2) The State of Colorado, through the CDPHE, has concurred with publication of this notice of intent for partial deletion.

(3) Concurrent with this national Notice of Intent for Partial Deletion, a local notice has been published in a newspaper of record and has been distributed to appropriate federal, State, and local officials, and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which ends on October 23, 2002, based upon publication of this notice in the **Federal Register** and a local newspaper of record.

(4) EPA has made all relevant documents available at the information repositories listed previously for public inspection and copying.

Upon completion of the thirty calendar day public comment period, EPA Region 8 will evaluate each significant comment and any significant new data received before issuing a final decision concerning the proposed partial deletion. EPA will prepare a responsiveness summary for each significant comment and any significant new data received during the public comment period and will address concerns presented in such comments and data. The responsiveness summary will be made available to the public at the EPA Region 8 office and the information repository listed above and will be included in the final deletion package. Members of the public are encouraged to contact EPA Region 8 to obtain a copy of the responsiveness summary. If, after review of all such comments and data, EPA determines that the partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the **Federal Register**. Deletion of the western tier of the RMA/NPL Site does not actually occur until a final notice of partial deletion is published in the **Federal Register**. A copy of the final partial deletion package will be placed at the EPA Region 8 office and the information repository listed above after a final document has been published in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following information provides EPA's rationale for deletion of the western tier of the RMA/NPL Site from the NPL and EPA's finding that the proposed final deletion satisfies 40 CFR 300.425(e) requirements:

RMA/NPL Site Background

The On-Post OU of the RMA/NPL Site encompasses 27 square miles in southern Adams County, Colorado, approximately 8 miles northeast of downtown Denver. The Rocky Mountain Arsenal was established in 1942 by the U.S. Army, and was used to manufacture chemical warfare agents and incendiary munitions for use in World War II. Prior to this, the area was largely undeveloped ranch and farmland. Following the war and through the early 1980s, the facilities continued to be used by the Army. Beginning in 1946, some facilities were leased to private companies to manufacture industrial and agricultural chemicals. Shell Oil Company, the principal lessee, primarily manufactured pesticides from 1952 to 1982. After 1982, the only activities at the Arsenal involved remediation.

Complaints of ground water pollution north of the RMA/NPL Site began to surface in 1954. Common industrial and waste disposal practices used during these years resulted in contamination of structures, soil, surface water, and ground water. As a result of this contamination, the Arsenal was proposed for inclusion on the NPL in October 15, 1984. The listing of RMA on

the NPL, excluding Basin F, was finalized on July 22, 1987. Basin F was added to the RMA/NPL Site listing on March 13, 1989. On February 17, 1989, an interagency agreement—referred to as a Federal Facility Agreement (FFA)—formalizing the process framework for selection and implementation of cleanup remedies at the RMA/NPL Site, became effective. The FFA was signed by the Army, Shell Oil Company, EPA, U.S. Department of the Interior, U.S. Department of Justice, and the Agency for Toxic Substances and Disease Registry.

Western Tier of the On-Post OU

A remedial investigation (RI) completed in January 1992 studied each of the five environmental media at the RMA/NPL Site including soils, water, structures, air, and biota. Based upon evidence gathered during the RI, the western tier of the RMA/NPL Site was exposed to minimal contamination and is considered a ''non-source'' area. A structures survey program identified eight structures within the western tier all which have no potential contamination history.

Several ground water plumes below the western tier parcel have been identified but are not attributable to the RMA/NPL Site. Because the ground water does not meet drinking water standards, the Klein Water Treatment Facility was built in 1989—prior to completion of the RI—to treat the ground water contamination that is now known to originate from non-RMA/NPL sources. The Klein Water Treatment Facility is located within the area to be deleted; however, its continued operation, and associated 5-year review requirements, have been incorporated as part of the Chemical Sales Company Superfund Site.

The Irondale Containment System (ICS) was constructed during development of the RI/FS as an interim response action (IRA). The ICS was partially located on the western tier and installed to extract and treat ground water emanating from the Rail Yard and the Motor Pool areas, both of which are in close proximity to the western tier.

A feasibility study (FS) was finalized in October 1995 and a proposed plan prepared and presented to the public in October 1995 as well. On June 11, 1996, the On-Post Record of Decision (ROD) was signed by the Army, EPA, and the State of Colorado. The ROD specified no remedial action for soil within the western tier of the On-Post OU as the soil does not pose a risk to humans or biota. The remedy for structures included the dismantling of three of the eight structures found on the western tier. The selected ground water remedy consisted of continued operation of the ICS. The ROD also required continued use restrictions for the property.

On October 2, 1998, EPA published a notice of intent for partial deletion (NOIDp) in the **Federal Register** which proposed to delete the western tier parcel from the RMA/NPL Site. EPA received several comments during the public comment period including one expressing a concern for the potential future placement of a child daycare facility at the western tier parcel and reiterating previous concerns that RMA, and hence the western tier parcel, might be contaminated with dioxins. Based on the comments, EPA postponed action on the partial deletion until additional soil sampling and analysis of the western tier parcel could be conducted. These studies specifically include the Soil Sampling Risk Report, Denver Front Range Soil Dioxin Study, Section 9 Borrow Area Report, and Site Reconnaissance Report. Additional studies and reports include Surface Flux Chamber Testing, Geophysical Survey on Section 9, Vapor Pathway Analysis, Assessment of Residual Ecological Risk Report, and Potential Ordnance/Explosives and Recovered Chemical Warfare Materiel Hazards Report.

Community Involvement

Since 1988, each of the parties involved with the Arsenal cleanup has made extensive efforts to ensure that the public is kept informed on all aspects of the cleanup program. More than 100 fact sheets about topics ranging from historical information to site remediation have been developed and made available to the public. Following the release and distribution of the draft Detailed Analysis of Alternatives report (a second phase of the FS), the Army held an open house for about 1,000 community members. The open house provided opportunity for individual discussion and understanding of the various technologies being evaluated for cleanup of the RMA/NPL Site.

The Proposed Plan for the On-Post OU was released for public review on October 16, 1995. On November 18, 1995, a public meeting was held, attended by approximately 50 members of the public, to obtain public comment of the Proposed Plan. As a result of requests at this meeting, the period for submitting written comments on the plan was extended one month, concluding on January 19, 1996. No public comments were received on the alternatives presented for the western tier of the On-Post OU.

Based on public comment received for the NOIDp published on October 2, 1998, EPA postponed action on partial deletion until additional soil sampling and analysis of the western tier parcel could be conducted. Members of the Site Specific Advisory Board also requested that National Ombudsman, Robert Martin, include deletion of the western tier parcel as one of fifty-two issues to be investigated at RMA. The Ombudsman held two public meetings, one on January 26, 2000, followed by the second on November 6, 2000. EPA, Region 8, continues to coordinate with the Ombudsman's office on this process.

Upon completion of the thirty calendar day public comment period for this NOIDp, EPA Region 8 in consultation with the State and the Army, will evaluate each comment and any significant new data received before issuing a final decision concerning the proposed partial deletion.

Current Status

Of the three structures slated for demolition, one was determined to no longer exist (a building foundation), and the other two structures (survey tower and septic tank) were demolished in October 1997. Since the ROD was signed, three structures referred to as ''vaults'' were found in section 9 of the western tier parcel. These structures were used for housing antennae associated with the Titan I Missile system during the late 1950s through the mid-1960s. Evaluation of the vaults confirmed that no radiological, chemical or biological materials were utilized in these structures. The vaults were demolished and disposed of from the western tier during the week of July 20, 1998.

The ICS extraction wells have met the ROD shut-off criteria and were shut down on October 1, 1997. Extraction wells for the Motor Pool IRA have also met shut-off criteria in March 1998; therefore, the ICS facility was demolished and removed on May 7, 2002. A treatment system was constructed at the Rail Yards to more directly treat the contaminated groundwater associated with the Rail Yards. The Rail Yard IRA and Treatment System, Motor Pool IRA, and Irondale facility are not associated with the western tier parcel. Monitoring of the ground water aquifer previously treated through the ICS extraction wells, as required by the ROD, has been incorporated into the sitewide monitoring program.

Use of the ground water below the western tier for potable drinking purposes is prohibited by the FFA, the RMA National Wildlife Refuge Act of 1992, and the ROD; and will continue to be prohibited even after portions of

the western tier are sold. Additional prohibitions imposed by the FFA, Refuge Act, and ROD include the use of the western tier parcel for residential, industrial, and agricultural purposes, for hunting or fishing for consumptive purposes, and the use of any surface water as a water source.

Based on the extensive investigations and risk assessment performed for the western tier of the RMA/NPL Site, there are no further response actions planned or scheduled for this area. Currently, no hazardous substances remain at the site above health-based levels with respect to anticipated uses of and access to the site, which are limited under the Federal Facility Agreement, Rocky Mountain Arsenal National Wildlife Refuge Act and the ROD. Because the western tier parcel is subject to these restrictions on land and water use, it will be included in the RMA-wide five-year reviews. All completion requirements for the western tier of the On-Post OU have been achieved as outlined in OSWER Directive 9320.2–3A. Therefore, there is no requirement for operation and maintenance.

EPA, with concurrence from the State of Colorado, has determined that all appropriate CERCLA response actions have been completed at the western tier parcel of the RMA/NPL Site to protect public health and the environment and that no further response action by responsible parties is required. Therefore, EPA proposes to delete the western tier of the On-Post OU of the RMA/NPL Site from the NPL.

Dated: September 10, 2002.

Robert E. Roberts,

Regional Administrator, U.S. Environmental Protection Agency, Region 8.

[FR Doc. 02–23988 Filed 9–20–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2201, MB Docket No. 02–271, RM–10441]

Digital Television Broadcast Service; Belton, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Central Texas College, licensee of station KNCT–TV, NTSC channel 46, Belton, Texas, proposing the substitution of DTV channel 38 for DTV channel 47c for station KNCT–DT. DTV Channel 38 can be allotted to Belton at reference coordinates 30–59–08 N. and 97–37–51 W. with a power of 200, a height above average terrain HAAT of 392.9 meters.

DATES: Comments must be filed on or before November 1, 2002, and reply comments on or before November 18, 2002.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). *See Electronic Filing of Documents in Rule Making Proceedings,* GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ernest T. Sanchez, The Sanchez Law Firm, 2000 L Street, NW., Suite 200, Washington, DC, 20036 (Counsel for Central Texas College).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–271, adopted September 4, 2002, and released September 10, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com.*

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

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

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

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV channel 47c and adding DTV channel 38 at Belton.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–24105 Filed 9–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2219, MB Docket No. 02–273, RM–10562]

Digital Television Broadcast Service; Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by TV

Alabama Inc., licensee of station WCFT–TV, proposing the substitution of DTV channel 5 for DTV channel 34c at Tuscaloosas, Alabama. DTC Channel 5 can be allotted to Tuscaloosa at reference coordinates 33–28–48 N. and 87–25–50 W. with a power of 5.4, a height above average terrain HAAT of 641 meters.

DATES: Comments must be filed on or before November 7, 2002, and reply comments on or before November 22, 2002.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). *See Electronic Filing of Documents in Rule Making Proceedings,* GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commissions, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Thomas P. Van Wazer, Sidley, Austin, Brown & Wood LLP, 1501 K Street, NW., Washington, DC 20005 (Counsel for TV Alabama, Inc.).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–273, adopted September 9, 2002, and released September 16, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

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

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

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

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Alabama is amended by removing DTV channel 34c and adding DTV channel 5 at Tuscaloosa.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–24106 Filed 9–20–02; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register

Vol. 67, No. 184

Monday, September 23, 2002

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

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee

Notice of Open Meeting

The Materials Technical Advisory Committee (MTAC) will meet on October 9, 2002, 10:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to advanced materials and related technology.

Agenda

1. Opening remarks.
2. Presentation of papers and comments by the public.
3. Election of Chairman.
4. Briefing on Department of Commerce Critical Technology Assessment of Biotechnology in U.S. Industry.

The meeting will be open to the public and a limited number of seats will be available. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials to the following address: Ms. Lee Ann Carpenter, Advisory Committees MS: 3876, 14th St. & Pennsylvania Ave., NW., U.S. Department of Commerce, Washington, DC 20230.

For more information contact Lee Ann Carpenter on (202) 482–2583.

Dated: September 18, 2002.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 02–24101 Filed 9–20–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Visit Industry Program

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of implementation of the Visit Industry Program.

SUMMARY: The U.S. Department of Commerce will provide for private sector companies to host a US&FCS International Trade Specialist for a period of up to 30 days for the purpose of improving his/her understanding of the issues and obstacles that small and medium-sized businesses must face. The US&FCS believes that such an agreement, authorized under the Mutual Educational and Cultural Exchange Act (MECEA) and ITA's appropriations act, will enhance the ability of its trade specialists to understand the problems and issues facing exporting businesses.

FOR FURTHER INFORMATION CONTACT: James S. Cramer, International Trade Specialist, Office of the Director General, U.S. Commercial Service, (202) 482–2071.

SUPPLEMENTARY INFORMATION: The goal of the Visit Industry Program is to pursue high-quality professional development opportunities, to improve the Trade Specialists' understanding of the issues and obstacles that small and medium-sized businesses must face, educating the trade specialist and assisting the participating company in pursuing international business opportunities. The purpose of the agreement is to provide U.S. & FCS Trade Specialists with an in-depth professional development opportunity that is not available from any other public or private source.

Authority: 15 U.S.C. 4721; 22 U.S.C. 2455 (f).

Dated: August 24, 2002.

Bruce W. Blakeman,

Deputy Assistant Secretary for Domestic Operations, U.S. and Foreign Commercial Service.

[FR Doc. 02–24036 Filed 9–20–02; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091702B]

New England 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 New England Fishery Management Council (Council) is scheduling a public meeting of its Monkfish Oversight Committee, Skate Advisory Panel and Whiting Oversight Committee in October, 2002 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on October 8–10, 2002 and October 23–24, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Portland, ME, Mansfield and Danvers, MA and Warwick, RI. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council, (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, October 8, 2002 at 9:30 a.m.—Monkfish Oversight Committee Meeting.

Location: Holiday Inn by the Bay, 88 Spring Street, Portland, ME; telephone: (207–775–2311).

The Committee will review overfishing definition options and analysis prepared by the Plan Development Team (PDT) for inclusion in Framework 2, and comments by the Scientific and Statistical Committee. The analysis will also show Fishing Year 2003 target Total Allowable Catch (TACs) for each of the options. Framework 2 will implement adjustments to the overfishing definitions that were made on a temporary basis under NMFS emergency rule in 2002, with modifications as appropriate based on PDT analysis. Framework 2 will also implement trip limit and days-at-sea adjustments for 2003 as needed to achieve the target TACs. Unless modified by Framework 2, the default measures eliminating the monkfish directed fishery will take effect upon expiration of the emergency rule in May, 2003 (pending an extension for 180 days by the Secretary of Commerce in November, 2001). The Committee will also provide guidance to the PDT in the development of management alternatives to achieve the targets for the 2003 fishing year.

Wednesday, October 9, 2002 at 9:30 a.m.—Whiting Oversight Committee Meeting.

Location: Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

The committee will review development of Framework 37 to the Northeast Multispecies Fishery Management Plan (FMP), including progress on Draft Framework 37 document, background information, and available analyses. They will refine alternatives for inclusion in Framework 37. They will also provide guidance to the Whiting PDT regarding Framework 37. Also on the agenda is discussion of the timing of Framework 37 and other related issues.

Thursday, October 10, 2002 at 10 a.m.—Skate Advisory Panel Meeting.

Location: Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

The panel will review the Draft Skate FMP and Environmental Impact Statement (EIS) and public hearing document. They will review public comments received on the Draft Skate FMP/EIS and public hearing document. They will also develop advisory panel comments and recommendations for Skate Committee and Council consideration regarding the Final Skate FMP management measures.

Wednesday, October 23,2002 at 10 a.m and Thursday, October 24, 2002 at 8:30 a.m.—Monkfish Oversight Committee Meeting.

Location: Hampton Inn and Suites Airport, 2100 Post Road, Warwick, RI 02886; telephone: (401) 739–8888.

The Committee will review a draft Stock Assessment and Fishery Evaluation (SAFE) Report on the 2001 fishing year, and PDT analysis of options for overfishing definition reference points, target TACs and management measures to be considered in Framework 2. Measures under consideration include adjustments to the trip limits and days-at-sea allocations to achieve the target TACs and to account for changes to the multispecies fishery management program (affecting monkfish vessels) under the court-ordered remedy. The Committee will recommend preferred alternatives to the Councils, as appropriate, or any other measures needed to achieve the plan objectives in 2003. The Committee will discuss the status of Amendment 2 and develop a timetable for completion of required elements and analysis.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. 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 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 Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: September 17, 2002.

Theophilus R. Brainerd,

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

[FR Doc. 02–24156 Filed 9–20–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091702A]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Groundfish Fishery Management Plan Environmental Impact Statement Oversight Committee (Ad Hoc EIS Oversight Committee) will hold a working meeting, which is open to the public, on the draft Groundfish Programmatic Environmental Impact Statement (PEIS).

DATES: The meeting will be held on October 7–8, 2002. The Ad Hoc EIS Oversight Committee working meeting will begin Monday, October 7, 2002 at 1 p.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. to 5 p.m. Tuesday, October 8.

ADDRESSES: The meetings will be held in the conference room at the Pacific Fishery Management Council office, 7700 NE Ambassador Place,Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Dahl, NEPA Specialist, (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the Ad Hoc EIS Oversight Committee meeting is to review the status of the PEIS and to develop comprehensive alternatives to the current groundfish management program. The committee met in May 2002 and developed an initial set of five program alternatives which were presented to the Council in June 2002. The Council delayed adoption of those recommendations due to preliminary information that major management changes might be necessary for the remainder of 2002 and 2003. The Council has now completed its deliberations on the 2003 harvest levels and management measures. The Ad Hoc EIS Oversight Committee will consider the Council's 2003 management recommendations, the May 2002 report, public comments, and other information and may choose to revise the proposed alternatives. The Ad Hoc EIS Oversight Committee will present its proposed alternatives to the Council at the October 28–November 1 meeting. The Council expects to adopt PEIS alternatives at that time.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management

Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503)820–2280 at least 5 days prior to the meeting date.

Dated: September 17, 2002.

Theophilus R. Brainerd,

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

[FR Doc. 02–24014 Filed 9–20–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091102A]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory Subpanel (CPSAS) will hold public meetings.

DATES: The CPSMT will meet on Tuesday, October 8, 2002, from 8 a.m. to 12 p.m. The CPSAS will meet on Tuesday, October 8, 2002, from 1 p.m. until business for the day is completed.

ADDRESSES: Both meetings will be held in the large conference room at NMFS, 501 W Ocean Blvd., Long Beach, CA 90802, telephone: (562) 980–4000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck, Pacific Fishery Management Council, (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the CPSMT meeting is to review the Pacific sardine biomass estimate and harvest guideline for 2003. The purpose of the CPSAS meeting is to review documents developed by the CPSMT, notably the Pacific sardine biomass estimate and recommended harvest guideline for 2003.Although nonemergency issues not contained in the CPSMT and CPSAS meeting agendas may come before the committees for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the CPSMT's or CPSAS's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: September 12, 2002.

Richard W. Surdi,

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

[FR Doc. 02–24015 Filed 9–20–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Preparation of a Supplemental Environmental Impact Statement (SEIS) for the Airborne Laser (ABL) Program

AGENCY: Missile Defense Agency (MDA), Department of Defense.

ACTION: Notice of availability.

SUMMARY: MDA announces the availability of a draft supplement to the Final Environmental Impact Statement for the Program Definition and Risk Reduction (PDRR) Phase of the Airborne Laser Program (April 1997) (FEIS) and Record of Decision (September 1997). This draft Supplemental EIS (SEIS) analyzes proposed ABL Program test activities at Kirtland Air Force Base (KAFB), Holloman Air Force Base (HAFB), and White Sands Missile Range (WSMR), New Mexico; and Edwards Air Force Base (EAFB), Vandenberg Air Force Base (VAFB), and the adjacent Naval Air Warfare Center Weapons Division (NAWCWPNS) Sea Range, Point Mugu, California. The draft SEIS has been prepared in accordance with the National Environmental Policy Act, as amended (42 U.S.C. 4321, *et seq.*), and the Council on Environmental Quality Regulations for implementing the procedural provisions of NEPA (40 CFR Parts 1500–1508).

The ABL is a laser weapon system installed on a Boeing 747–400F aircraft capable of operating for extended periods of time. Up to two such aircraft would be developed. The ABL weapon system would include four lasers:

- Active Ranging System (ARS) Laser (a small carbon dioxide laser used to begin tracking a target),
- Track Illuminator Laser (TILL), (a solid state laser used to provide detailed tracking of a target),
- Beacon Illuminator Laser (BILL), (a solid state laser used to measure atmospheric distortion), and
- High-Energy Laser (HEL), (i.e., Chemical Oxygen-Iodine Laser (COIL), which is a chemical laser used to destroy a target.

An additional laser, a surrogate for the High-Energy Laser (SHEL), will be used during testing in place of the HEL. The SHEL is a low-power solid-state laser that would be used in both ground- and flight-testing. The ABL also would include an Infrared Search and Track sensor (IRST) (a passive infrared device used to identify heat sources). The 1997 PDRR ABL FEIS analyzed use of a COIL HEL on board an aircraft to destroy ballistic missiles on the boost phase. The Record of Decision (ROD) on the FEIS documented the Air Force's decision to proceed with PDRR phase ABL home base activities at EAFB, diagnostic test activities over WSMR, and expanded area test activities at VAFB and the NAWCWPNS Sea Range. Since completion of the FEIS, specific proposed test activities have been identified and additional information made available about the proposed testing that warrant preparation of a SEIS.

Comments

To obtain a copy of the supplement to the 1997 FEIS and Record of Decision, please write to: Mr. Charles J. Brown, Environmental Coordinator, Project Execution Division, Headquarters, Air Force Center for Environmental Excellence, 3207 Sidney Brooks Road, Building 532, Brooks AFB, TX 78235–5363 or a copy of it can also be accessed at ''*http://www.hqafcee.brooks.af.mil/ec/EIS/ABL/D-SEIS.pdf*''. Individuals or organizations may provide comment on the supplement by sending written comments to: Ms. Pamelia Bain, Director, External Affairs, Missile Defense Agency, 7100 Defense Pentagon, Washington, DC 20301–7100.

Dated: September 16, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–24187 Filed 9–20–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability—Record of Decision (ROD) for the Northern Training Complex With a Multi-Purpose Digital Training Range and Expanded Maneuver Areas, Drop Zones and Landing Zones at Fort Know, KY

AGENCY: U.S. Army Armor Center and Fort Knox, Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA), a ROD has been prepared for the construction and operation of a multi-purpose digital training range and a series of maneuver areas, drop zones and landing zones at Fort Knox. As soon as practical, the Army will begin to construct and operate the facilities described as the Preferred Alternative (Alternative 2). Although Alternative 2 has significant environmental impacts, all feasible measures will be used to mitigate the impacts. Alternative 2 is the only course of action that will provide a multi-functional war fighting capability to meet the Army's current and future training needs for soldiers in urban and restricted terrain combat scenarios and the new digital technology to support the M1A2 System Enhancement Package (SEP) Main Battle Tank. All practical mitigation measures are listed in the ROD.

ADDRESSES: Interested parties desiring to review the ROD may obtain a copy by contacting: Environmental Management Division, Directorate of Base Operations Support, U.S. Army Armor Center, ATTN: ATK–OSE (Mrs. Pollock), Building 1110, Room 216, Ironsides & 6th Avenue, Fort Knox, KY 40121–5000 or by sending electronic mail to: *Linda.Pollock@knox.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Al Freeland or Mrs. Gail Pollock, Environmental Management Division, Directorate of Base Operations Support, U.S. Army Armor Center, ATTN: ATZK–OSE, Building 1110, Room 216, Ironsides & 6th Avenue, Fort Knox, KY 40121–5000; by phone at (502) 624–3629 or by fax at (502) 624–3000.

SUPPLEMENTARY INFORMATION: The proposed project includes upgrading an existing training range to a modern digitized multi-purpose training range; construction of a series of landing zones, drop zones and maneuver areas and a grassed mock C130 landing strip; upgrade of existing roads; installation of fiber optics and other infrastructure improvements. The facilities would prepare the mounted force warriors for full spectrum combat operations. The proposed facilities would fully support new equipment training such as the M1A2 Main Battle Tank (MBT) System Enhancement Package (SEP), the M2A3 Bradley Fighting Vehicle, and the Stryker family of vehicles, as well as other enhanced vehicles requiring digital capability. These vehicles are equipped with a dynamic new computer system that uses digital technology to provide soldiers with on the move and instantaneous battlefield communications.

Public reading copies of the ROD are available at the following locations: Barr Library; 400 Quartermaster Street, Fort Knox, Kentucky 40121–5000 and Ridgeway Memorial Library, 127 North Walnut Street, P.O. Box 146, Shepherdsville, Kentucky 40165.

Dated: September 16, 2002.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA(I&E).

[FR Doc. 02–24033 Filed 9–20–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting 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 22, 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 Acting 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 17, 2002.

Joseph Schubart,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Graduate Assistance in Areas of National Need (GAANN) Performance Report.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 225.

Burden Hours: 2,250.

Abstract: GAANN grantees must submit a performance report annually. The reports are used to evaluate grantee performance. Further, the data from the reports will be aggregated to evaluate the accomplishments and impact of the GAANN Program as a whole. Results will be reported to the Secretary in order to respond to Government Performance and Results Act (GPRA) requirements.

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 2055. 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 his e-mail address *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. 02–24035 Filed 9–20–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Financial Assistance Solicitation for Research and Development for Fuel Cells for Stationary and Automotive Applications

AGENCY: Chicago Operations Office, DOE.

ACTION: Notice of availability of a financial assistance solicitation.

SUMMARY: The U.S. Department of Energy (DOE) is announcing its intention to solicit applications for financial assistance for cost shared research and development of technologies that will enhance research and development in fuel cell technology. The DOE Office of Hydrogen, Fuel Cells and Infrastructure Technologies seeks industry cost-shared projects that address research needs in building fuel cell systems; fuel cells for back up power; materials for high temperature membranes; fuel cell component durability; water and thermal management; fuel processing; and catalysts.

DATES: The solicitation will be available on DOE's ''Industry Interactive Procurement System'' (IIPS) Web page located at *http://e-center.doe.gov* under the ''HELP'' section of the web site. Applicants must register in IIPS prior to submitting an application. Only registered users will have the capability to transmit their applications in a responsive matter. Applicants are strongly encouraged to register with IIPS as soon as possible prior to the application deadline. All applications must have an IIPS transmission stamp of not later than 11:59 p.m. Eastern Time on November 27, 2002. Applicants are advised to begin transmission 24 hours in advance of the deadline in order to prevent any transmission difficulties.

ADDRESSES: The solicitation and any subsequent amendments will be published on the above mentioned Internet address. All applications shall be submitted through IIPS in accordance with the instructions provided in the solicitation.

FOR FURTHER INFORMATION CONTACT: Nadine Kijak at (630) 252–2508; by mail at U.S. Department of Energy, 9800 South Cass Avenue, Argonne, IL 60439–4899; by facsimile at (630) 252–5045; or by electronic mail at *Nadine.Kijak@ch.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background

The combined residential and commercial Buildings sector accounts for approximately 36% of the U.S. primary energy consumption and between 30% and 40% of all airborne emissions. These factors are the driving force behind DOE's efforts to develop high efficiency polymer electrolyte membrane (PEM) fuel cell power systems as an alternative power source to grid-based electricity for buildings. The Buildings sector provides a diverse set of application requirements over a wide power range that can be met by PEM fuel cell systems. DOE seeks applications from qualified developers of PEM fuel cell power systems to develop and test a stationary fuel cell power system for a market-driven building application that simultaneously addresses DOE priorities of lowering energy consumption and emissions. Also included in the solicitation are cross-cutting areas which apply to fuel cell technology for stationary and transportation applications, such as high temperature membranes, durability, and catalysts.

A workshop was held on April 10–11, 2002 regarding Fuel Cells for Buildings and Stationary Applications. The proceedings from this workshop are available on the following web site: *http://www.eren.doe.gov/hydrogen/,* under the ''What's New'' section. A summary of the research and development work regarding Fuel Cells for Transportation Applications is available on the following Web site:

- *http://www.cartech.doe.gov/research/fuelcells/index.html,* under
- 2001 Annual Progress Report: Transportation Fuel Cell Power Systems, Part 1 (*6Mb pdf*)
- 2001 Annual Progress Report: Transportation Fuel Cell Power Systems, Part 2 (*5Mb pdf*)

Research and Development Solicitation Topics: Responsive projects will cross-cut several technological and methodological roadmap areas including, but not limited to, the development of a stationary PEM fuel cell power system for buildings, development of a back-up fuel cell system; PEM stack durability; development of materials for high temperature membranes; reduction of membrane cost; fuel processing; water and thermal management; fuel cell demonstration; platinum recycling; and development of non-precious metal catalysts and a fuel cell economic analysis.

Type and Number of Anticipated Awards: Awards under this solicitation will be cooperative agreements with a term of up to five years. Subject to the availability of funds, DOE is planning to allocate approximately $7 million in fiscal year 2003 for the selected projects. It is estimated that up to 20 projects may be selected for cost-shared cooperative agreements. Subject to the availability of funds, total estimated Government funding for the solicitation is approximately $70 million for the maximum five-year period.

Application Requirements: Where the nature of the work demands multi-disciplinary expertise, teaming arrangements are preferred. For the development of a stationary fuel cell power system and the fuel cell demonstration topics, at least one partner of the multi-partner team is required to be a utility. For the back-up fuel cell system topic, at least one partner of the multi-partner team is required to be the host organization for the field test. For the improvement of high temperature membranes topic, at least one partner of the multi-partner team is required to be a university.

To be eligible for award under this solicitation, applicants will be required to contribute a non-federal cost share of 20–50% of the yearly project costs to be incurred under the proposed project, depending upon specific topic area selected, as specified in the solicitation. Prior costs incurred (*i.e.*, costs to conduct prior research or development, patents, or to develop technical reports under previous research efforts) should not be proposed and will not be considered as cost share.

In addition to the foregoing, other evaluation and selection criteria will be identified in the solicitation. DOE solicitation and selection procedures are set forth in 10 CFR 600. The full text of 10 CFR part 600 Financial Assistance Rules are located at *http://www.access.gpo.gov/nara/cfr/waisidx_00/10cfr600_00.html.*

Once released, the solicitation will be available for downloading from the IIPS Internet page. At this Internet site you will also be able to register with IIPS,

enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751 or e-mail the Help Desk personnel at IIPS *HelpDesk@e-center.doe.gov.* The solicitation will only be made available in IIPS, no hard (paper) copies of the solicitation and related documents will be made available.

Issued in Argonne, Illinois, on September 16, 2002.

John D. Greenwood,

Assistant Manager for Acquisition and Assistance.

[FR Doc. 02–24079 Filed 9–20–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, October 9, 2002, 6 p.m.–8:30 p.m.

ADDRESSES: Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Kelly Kozeliski, U.S. Department of Energy, Office of Environmental Management, PO Box 98518, Las Vegas, Nevada 89193–8513, phone: 702–295–2836, fax: 702–295–5300, e-mail *kozeliskik@nv.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Discussion on the planned FY 2003 work scope for each Environmental Management project.

2. Briefing on the status of the Resource Conservation & Recovery Act (RCRA) Part B permit application.

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kelly Kozeliski, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Kelly Kozeliski at the address listed above.

Issued at Washington, DC, on September 17, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–24078 Filed 9–20–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Worker Advocacy Advisory Committee Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Worker Advocacy Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), requires that notice of this meeting be published in the **Federal Register**.

DATES: Monday, October 21, 2002, 9 a.m.–5:30 p.m.

ADDRESSES: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Judy Keating, Executive Administrator, Worker Advocacy Advisory Committee, U.S. Department of Energy, EH–8, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone Number 202–586–7551, E-mail: *judy.keating@eh.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* To provide advice to the Director of the Office of Worker Advocacy of the Department of Energy on plans, priorities, and strategies for assisting workers who have been diagnosed with work-related illnesses.

Tentative Agenda:

Welcome and Introductions
Status of the Department of Labor Program
Status of Implementation of Subtitle D
Status of Physicians Panels and Claims Process
Organization of the Office of Worker Advocacy
Discussion of Subcommittee Topics, including Claims Processing, and Insurer and Contractor Relations
Public Comment
Next Steps/Path Forward

Public Participation: This 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 Judy Keating 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 17, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–24077 Filed 9–20–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 02–59–NG]

Office of Fossil Energy, Midland Cogeneration Venture Limited Partnership; Order Granting Long-Term Authority To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy (FE) gives notice that on September 12, 2002, it issued DOE/FE Order No. 1807 granting Midland Cogeneration Venture Limited Partnership (MCV) authority to import up to 10,000 Mcf per day of natural gas from Canada, beginning on November 1, 2001, and extending

through October 31, 2004. The natural gas will be imported from Husky Oil at Noyes, Minnesota, and will be used to generate electricity and process steam at a 1,370-megawatt, natural gas-fired, combined-cycle, cogeneration facility which MCV operates in Midland, Michigan.

This Order may be found on the FE web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0334, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 16, 2002.

Clifford Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

[FR Doc. 02–24075 Filed 9–20–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

GNA Cliffs Energy Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD to offer contract terms for integrating power from the Cliffs Energy Project of GNA Energy, LLC, into the Federal Columbia River Transmission System. This decision is based on input from public processes and information in the BPA Business Plan Environmental Impact Statement (DOE/EIS–0183, June 1995) and the Business Plan ROD (August 15, 1995). The Cliffs Energy Project is a 300-megawatt gas-fired, combined-cycle, combustion-turbine power generation project, which will help serve as a resource to meet demand in the long term.

ADDRESSES: Copies of the GNA Cliffs Energy ROD, Business Plan, and Business Plan EIS and ROD may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION CONTACT: Donald L. Rose, KEC–4, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, telephone number 503–230–3796; fax number 503–230–5699; e-mail *dlrose@bpa.gov*.

Issued in Portland, Oregon, on September 13, 2002.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 02–24073 Filed 9–20–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of the Bonneville Purchasing Instructions (BPI) and Bonneville Financial Assistance Instructions (BFIA)

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of document availability.

SUMMARY: Copies of the Bonneville Purchasing Instructions (BPI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of its purchases of goods and services, including construction, are available in printed form for $30, or without charge at the following Internet address: *http://www.bpa.gov/Corporate/kgp/bpi/bpi.htm.* Copies of the Bonneville Financial Assistance Instructions (BFAI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements), are available in printed form for $15 each, or available without charge at the following Internet address: *http://www.bpa.gov/corporate/kgp/bfai/bfai.htm.*

ADDRESSES: Unbound copies of the BPI or BFAI may be obtained by sending a check for the proper amount to the Head of the Contracting Activity, Routing CK–1, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621.

FOR FURTHER INFORMATION CONTACT: Manager, Corporate Communications, 1–800–622–4519.

SUPPLEMENTARY INFORMATION: BPA was established in 1937 as a Federal Power Marketing Agency in the Pacific Northwest. BPA operations are financed from power revenues rather than annual appropriations. BPA's purchasing operations are conducted under 16 U.S.C. 832 *et seq.* and related statutes. Pursuant to these special authorities, the BPI is promulgated as a statement of purchasing policy and as a body of interpretative regulations governing the conduct of BPA purchasing activities. It is significantly different from the Federal Acquisition Regulation, and reflects BPA's private sector approach to purchasing the goods and services that it requires. BPA's financial assistance operations are conducted under 16 U.S.C. 832 *et seq.*, and 16 U.S.C. 839 *et seq.* The BFAI express BPA's financial assistance policy. The BFAI also comprise BPA's rules governing implementation of the principles provided in the following OMB circulars:

A–21 Cost Principles for Educational Institutions.
A–87 Cost Principles for State, Local and Indian Tribal Governments.
A–102 Grants and Cooperative Agreements with State and Local Governments
A–110 Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations
A–122 Cost Principles for Non-Profit Organizations.
A–133 Audits of States, Local Governments and Non-Profit Organizations.

BPA's solicitations and contracts include notice of applicability and availability of the BPI and the BFAI, as appropriate, for the information of offerors on particular purchases or financial assistance transactions.

Issued in Portland, Oregon, on September 11, 2002.

Kenneth R. Berglund,

Manager, Contracts and Property Management.

[FR Doc. 02–24074 Filed 9–20–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–541–000]

Nicole Gas Production, Ltd. v. Columbia Gas Transmission Corporation; Notice of Complaint

September 17, 2002.

Take notice that on September 11, 2002, Nicole Production, Ltd. (Nicole), a minority-owned gas producer, filed a complaint against Columbia Gas Transmission Corporation (Columbia Gas) pursuant to 18 CFR 385.206. Nicole alleges that Columbia Gas has improperly voided its gathering agreement with Nicole. Nicole alleges that Columbia Gas has improperly

assessed gathering charges when such charges were not warranted. Nicole also alleges that Columbia Gas has improperly assessed it imbalance charges on several occasions and that Columbia Gas has improperly metered gas from Nicole's wells.

Any person desiring to be heard or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. The answer to the complaint and all comments, interventions or protests must be filed on or before October 7, 2002. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 02–24039 Filed 9–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–115–000, et al.]

Catamount Energy Corp., et al.; Electric Rate and Corporate Regulation Filings

September 16, 2002.

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

1. Catamount Energy Corp., TJH Investments LLC, Summersville Hydro Corp., Gauley River Management Corp., Gauley River Power Partners, L.P., CHI Energy, Inc.

[Docket No. EC02–115–000]

Take notice that on September 11, 2002, Catamount Energy Corp. (CEC), TJH Investments LLC (TJH), Summersville Hydro Corp. (Summersville), Gauley River Management Corp.,(Gauley Management) Gauley River Power Partners, L.P., (Gauley Power) CHI Energy, Inc. (collective, the Applicants) filed with the Commission a joint application for the expedited approval of the disposition of jurisdictional facilities pursuant to Section 203 of the Federal Power Act for authorization of the sale by CEC, TJH and Summersville to CHI Energy, Inc.,'s subsidiaries, CHI Finance, Inc., and Gauley Hydro, LLC, of one hundred percent (100%) of the equity interest in Gauley Management and Gauley Power, a power marketer with market-based rate authorization. In addition, GRPP operates the Summersville Hydroelectric Project, a qualifying facility, pursuant to a long-term contract with the City of Summersville, West Virginia.

Comment Date: October 7, 2002.

2. Colorado Energy Management LLC

[Docket No. EG02–184–000

Take notice that on September 11, 2002, Colorado Energy Management LLC, 2575 Park Lane, Suite 200, Lafayette, Colorado 80026 (Applicant), filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The Applicant is a Colorado limited liability company. Commencing September 25, 2002, the Applicant intends to operate a nominal 75-megawatt gas-fired electric cogeneration plant located near Rifle, Colorado (the Facility). The Facility will be owned by Tri-State Generation and Transmission Association, Inc. (Tri-State). Tri-State is not a jurisdictional public utility under the Federal Power Act. All of the electric output of the Facility will be sold by Tri-State at wholesale. The Applicant will operate the Facility as Tri-State's agent, subject to Tri-State's ultimate control and decision-making authority.

Comment Date: October 7, 2002.

3. New York Independent System Operator, Inc.

[Docket Nos. ER00–3591–013 and ER00–1969–015]

Take notice that on September 11, 2002, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Market Administration and Control Area Services Tariff in compliance with the Commission's August 27 Order in the above-captioned proceedings.

The NYISO has requested an effective date of September 30, 2001, for its compliance changes. The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned dockets.

Comment Date: October 2, 2002.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–2033–003]

Take notice that on September 10, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and American Transmission Company LLC (ATCLLC) filed an errata to their August 26, 2002 filing in the above-captioned proceeding.

The Midwest ISO states that it has served copies of its filing upon each person designated on the official service list compiled by the Secretary in the above-captioned proceeding.

Comment Date: October 1, 2002.

5. California Independent System Operator Corporation

[Docket No. ER02–2192–001]

Take notice that on September 11, 2002, the California Independent System Operator Corporation (ISO) submitted for filing modifications to the ISO Tariff to comply with the Commission's August 27, 2002 order in the captioned docket concerning Amendment No. 45 to the ISO Tariff, 100 FERC ¶ 61,209. The ISO has served copies of the filing on all parties in the captioned docket.

Comment Date: October 2, 2002.

6. PJM Interconnection, L.L.C.

[Docket No. ER02–2519–001]

Take notice that on September 11, 2002, PJM Interconnection, L.L.C. (PJM), submitted for filing an amendment to its August 29, 2002 filing in this docket. In its August 29, 2002 filing, PJM amended the Appendix of Attachment K of the PJM Open Access Transmission Tariff (PJM Tariff) and Schedule 1 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) to

establish a Spinning Reserve market for PJM and PJM West and new compensation rules. PJM amended its August 29, 2002 filing to include conforming amendments to both the PJM Tariff and Operating Agreement consistent with the proposed Spinning Reserve market and new compensation rules.

PJM requests an effective date of December 1, 2002 for the amendments filed on August 29, 2002 and September 11, 2002. Copies of this filing were served upon all parties listed on the official service list in Docket No. ER02–2519–000, all PJM members, and each state electric utility regulatory commission in the PJM control area and PJM West region.

Comment Date: October 2, 2002.

7. PJM Interconnection, L.L.C.

[Docket No. ER02–2547–000]

Take notice that on September 10, 2002 PJM Interconnection, L.L.C. (PJM), submitted for filing an executed interim interconnection service agreement between PJM and Dominion Equipment, Inc. and an executed interconnection service agreement between PJM and Fairless Energy, LLC.

PJM requests a waiver of the Commission's 60-day notice requirement to permit the effective dates agreed to by the parties. Copies of this filing were served upon each of the parties to the agreements and the state regulatory commissions within the PJM region. *Comment Date:* October 1, 2002.

8. New York Independent System Operator, Inc.

[Docket No. ER02–2548–000]

Take notice that on September 11, 2002, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Market Administration and Control Area Services Tariff (Services Tariff) to provide further clarity and improve the administration of the Installed Capacity market in the New York Control Area.

The NYISO has served a copy of this filing to all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: October 2, 2002.

9. Occidental Power Services, Inc.

[Docket No. ER02–2549–000]

Take notice that on September 12, 2002, Occidental Power Services, Inc. (OPSI) tendered for filing a proposed amendment to the Western Systems Power Pool (WSPP). The proposed amendment reflects the admission of OPSI to membership in the WSPP. OPSI requests that the Commission authorize the proposed amendment to become effective on September 12, 2002.

Comment Date: October 3, 2002.

10. Tenaska-Oxy Power Services, L.P. [Docket No. ER02–2550–000]

Take notice that on September 12, 2002, Tenaska-Oxy Power Services, L.P., 1701 E. Lamar Boulevard, Suite 100, Arlington, TX 76006 (TOPS) submitted for filing with the Federal Energy Regulatory Commission an application for blanket authorization and certain waivers under regulations of the Commission, and for an order accepting its Rate Schedule FERC No. 1 to be effective the earlier of November 11, 2002, or the date of a Commission order granting approval of its Rate Schedule.

TOPS intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where TOPS purchases power, including capacity and related services from electric utilities, qualifying facilities, and independent power producers, and resells such power to other purchasers, TOPS will be functioning as a marketer. In TOPS' marketing transactions, TOPS proposes to charge rates mutually agreed upon by the parties. In transactions where TOPS does not take title to electric power and/or energy, TOPS will be limited to the role of a broker and will charge a fee for its services. TOPS is not in the business of producing electric power nor does it contemplate acquiring title to any electric power transmission facilities.

Comment Date: October 3, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–24040 Filed 9–20–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0202; FRL–7273–8]

Lindane Reregistration Eligibility Decision (RED); Notice of Availability for Comment

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notices.

SUMMARY: This notice announces the availability of the Reregistration Eligibility Decision (RED) document and technical support documents for the pesticide active ingredient, lindane. These documents have been developed using a public participation process designed by the EPA and the U.S. Department of Agriculture (USDA) to involve the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA) and the reregistration of individual pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This notice starts a 60–day public comment period for lindane, during which the public is invited to submit comments on the Agency's risk management decision.

DATES: Comments, identified by docket ID number OPP–2002–0202, must be received on or before November 22, 2002

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0202 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Mark Howard, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8172; fax

number: (703) 308–8005; e-mail address: howard.markt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on lindane including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially 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 most 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/.

You can obtain copies of the RED and related documents discussed in this notice from EPA's Office of Pesticide Programs' Home Page, http://www.epa.gov/pesticides/ using the following links: ''Reregistration Eligibility (REDs)'' under the heading ''Reregistration and Special Review'' and then ''Lindane.'' You can also go directly to the ''Lindane RED'' at http://www.epa.gov/pesticides/reregistration/status.htm. Available documents include the RED, supporting technical documents, and **FEDERAL REGISTER** notices. Information on pesticide reregistration and tolerance reassessment, including the purpose and status of Agency programs to complete REDs, Interim REDs, and tolerance reassessment decisions (TREDs), is available at http://www.epa.gov/pesticides/tolerance. General information is available on the Office of Pesticide Programs' Home Page, http://www.epa.gov/pesticides/.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0202. The official record consists of the documents specifically referenced in this action, 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 on any part of the RED through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0202 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 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0202. 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. Background

A. What Action is the Agency Taking?

The Agency has issued a RED for the pesticide active ingredient lindane. Under FIFRA, as amended in 1988 and 1996, EPA is conducting an accelerated reregistration program to re-evaluate existing pesticides to make sure they

meet current scientific and regulatory standards. The data base to support the reregistration of lindane is substantially complete, and the Agency has identified risk mitigation measures that, if adopted by the registrant, will address the human health and ecological risks associated with the remaining uses of lindane.

As part of the lindane RED, the Agency will revoke all existing lindane tolerances because all lindane products for which the tolerances were originally established have been cancelled. The Agency has also determined that the currently registered lindane seed treatment products would be eligible for reregistration if the registrants make the changes to the terms and conditions specified in the lindane RED and provide the required data, and if EPA is able to establish all required tolerances for residues of lindane in food. The RED document includes guidance and time frames for complying with any label changes for products containing lindane.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing the lindane RED as a final document with a 60-day public comment period. Although the 60-day comment period does not affect the registrants's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency. If any comment significantly affects the lindane RED, EPA will amend the RED by publishing the amendment in the **Federal Register.**

B. What is the Agency's Authority for Taking this Action?

The legal authority for these RED falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient,''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration.''

List of Subjects

Environmental protection, Lindane, Pesticides and pests.

Dated: September 13, 2002.

Lois Ann Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–24096 Filed 9–20–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0252; FRL–7200–9]

Thiabendazole and Salts; Availability of Reregistration Eligibility Decision Documents for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces availability and starts a 60–day public comment period on the Reregistration Eligibility Decision (RED) documents for the pesticide active ingredients thiabendazole and salts. The RED represents EPA's formal regulatory assessment of the health and environmental data base of the subject chemical and presents the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Comments, identified by docket ID number OPP–2002–0252, must be received on or before November 22, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0252 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Lorilyn Montford, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8170; e-mail address: montford.lorilyn@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 persons who are or may be required to conduct testing of chemical substances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Federal Food, Drug, and Cosmetic Act (FFDCA); environmental, human health, and agricultural advocates; pesticides users; and members of the public interested in the use of pesticides. 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/.

To access RED documents and RED fact sheets electronically, go directly to the REDs table on the EPA Office of Pesticide Programs Home Page, at http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0252. The official record consists of the documents specifically referenced in this action, 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–2002–0252 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 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0252. 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 document.

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. Background

A. What Action is the Agency Taking?

The Agency has issued REDs for the pesticide active ingredients listed in this document. Under the FIFRA, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of each of the chemicals listed in this document is substantially complete, and each pesticide's risks have been mitigated so that it will not pose unreasonable risks to people or the environment when used according to its approved labeling. In addition, EPA is reevaluating existing pesticides and reassessing tolerances under the Food Quality Protection Act (FQPA) of 1996. The pesticides included in this notice also have been found to meet the FQPA safety standard.

All registrants of pesticide products containing one or more of the active ingredients listed in this document have been sent the appropriate REDs, and must respond to labeling requirements and product specific data requirements (if applicable) within 8 months of receipt. Products also containing other pesticide active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally-mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing these REDs as final documents with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the REDs. All comments will be carefully considered by the Agency. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

B. What is the Agency's Authority for Taking this Action?

The legal authority for these REDs falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products, and either reregistering products or taking ''other appropriate regulatory action.''

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: September 13, 2002.

Lois Ann Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–24095 Filed 9–20–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–02–014–7378–6]

Final Reissuance of NPDES General Permit for Construction Dewatering Activity Discharges in the States of Massachusetts and New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final NPDES general permits—MAG070000 and NHG070000.

SUMMARY: The Director of the Office of Ecosystem Protection, Environmental Protection Agency–New England (EPA–NE), is issuing the final National Pollutant Discharge Elimination System (NPDES) general permit for construction dewatering activity discharges to certain waters of the States of Massachusetts and New Hampshire and for Indian Country lands located in Massachusetts for the purpose of reissuing the general permit that expired on May 1, 2001. This NPDES general permit establishes Notice of Intent (NOI) requirements, effluent limitations, standards, prohibitions and management practices for construction dewatering activity discharges. Construction dewatering activity is defined as pumped or drained discharges of groundwater and/or stormwater from excavations or other

points of accumulation association with a construction activity.

Owners and/or operators of sites that discharge groundwater and/or stormwater from construction dewatering activities, including those currently authorized to discharge under the expired general permit, will be required to submit an NOI to EPA–NE to be covered by the appropriate general permit and will receive a written notification from EPA–NE of permit coverage and authorization to discharge under the general permit. *The limitations on coverage are discussed in detail under Section C.1.c. and the eligibility requirements are discussed in detail under Section C.2.b. of the permit. The reader is strongly urged to go to those sections before reading further.* This general permit does not cover new sources as defined under 40 CFR 122.2

DATES: The general permit shall be effective on September 23, 2002, and will expire five years from the effective date.

ADDRESSES: Notices of Intent to be authorized to discharge under the reissued permit should be sent to EPA–NE, Office of Ecosystem Protection (CMU), 1 Congress Street, Suite 1100, Boston, Massachusetts 02114–2023. The submittal of other information required under the permit or individual permit applications should also be sent to the above address. See also Part 1.D. of the general permit for State Agency notification requirements and mailing addresses.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the final permit may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday excluding holidays from: Austine Frawley, Office of Ecosystem Protection, Environmental Protection Agency, 1 Congress Street, Suite 1100, Boston, MA 02114–2023; telephone: 617–918–1065; e-mail: *frawley.austine@EPA.GOV.*

SUPPLEMENTARY INFORMATION: The Final NPDES General Permit may be viewed over the Internet via the EPA–NE web site *www.epa.gov/region01/topics/water/permits.html.* To obtain a hard copy of the document, please call, e-mail or write to Ms. Frawley at the addresses listed above. The final general permit includes FACT SHEET AND SUPPLEMENTARY INFORMATION sections that set forth principal facts and the significant factual, legal and policy questions considered in the development of the permit. A reasonable fee may be charged for copying requests.

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Part I—Final General Permits Under the National Pollutant Discharge Elimination System (NPDES)

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Changes From the Previous Permit

- General permits for the States of Massachusetts and New Hampshire are presented separately.
- EPA–NE has modified slightly the requirements to obtain permit coverage to enhance the protection of historic properties so that the requirements are consistent with the September 30, 1998 modifications to the National Historic Preservation Act. The revised requirements are consistent with the requirements for coverage under other Regionally-issued NPDES General Permits.
- EPA–NE has modified the requirements to obtain permit coverage to enhance the protection of listed species in response to comments received by the Agency from Fish and Wildlife Services and the National Marine Fisheries Services. The revised requirements are consistent with the requirements for coverage under other Regionally-issued NPDES General Permits.
- There is no General Permit for the State of Maine. EPA delegated NPDES permitting authority to the State of Maine on January 12, 2001, except for facilities located in Indian country. At this point NPDES permitting under the Clean Water Act is temporarily suspended in Indian country pursuant to section 402(c) of the Act; therefore, the general permit is not available to dischargers in Indian country in the State of Maine. See 66 FR 112792–93 (2/28/01).
- The State of New Hampshire does not allow discharges to Class A waters under this general permit.
- Notification by Permittees, Geographic Area and Administrative Aspects (request to be covered and eligibility to apply) transferred from Fact Sheet and Supplemental Information to Part I, Permit Section I.C.
- A provision has been added to the permit, in the event that the permit is not reissued prior to its expiration date, that will administratively continue the permit beyond its expiration date in accordance with the Administrative Procedures Act, and the permittee submits a new Notice of Intent. See Part I.C.2.c. of the final permit.
- All States—commingling of effluent from a construction dewatering facility is allowed as long as the effluent can be monitored before it mixes with other streams of wastewater.

Fact Sheet and Supplementary Information

I. Introduction

The Director of the Office of Ecosystem Protection, EPA–New England, is issuing final general permits for the discharge of groundwater and stormwater from construction dewatering activities to certain waters of the States of Massachusetts and New Hampshire. This document contains Part I, the final general NPDES permits, and Part II, Standard Conditions.

II. Coverage of General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit unless such a discharge is otherwise authorized by the Act. Although such permits are generally issued to individual discharges, EPA's regulations authorize the issuance of ''general permits'' to categories of

discharges (*see* 40 CFR 122.28). EPA may issue a single, general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures.

A. The Director of an NPDES permit program is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations:

2. Discharge the same types of wastes;

3. Require the same effluent limitations or operating conditions;

4. Require the same or similar monitoring requirements; and

5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

Authorization under the general permit shall require prior submittal of certain facility information. Upon receipt of all required information, the permit issuing authority may allow or disallow coverage under the general permit.

B. The similarity of the discharges prompted EPA to issue the May 1, 1996 general permit. When reissued, this permit will enable facilities covered under the expired general permit to maintain compliance with the Act; will extend environmental and regulatory controls to new discharges; and, will avoid a backlog of individual permit applications. The re-issuing of this general permit in New Hampshire and Massachusetts is warranted by the similarity of environmental conditions; State regulatory requirements applicable to the discharges and receiving waters; and, the technology employed.

Violations of a condition of a general permit constitute a violation of the Clean Water Act and subjects the discharger to the penalties in section 309 of the Act.

III. Exclusions

Discharges of groundwater and stormwater associated with the construction of single family homes are not covered under this permit.

This permit does not authorize the discharge of stormwater associated with construction sites which disturb greater than 5 acres of land. These sites are required to have a separate NPDES permit for stormwater discharges in accordance with 40 CFR 122.26(b)(14)(x).

Discharges of stormwater runoff from construction sites less than 5 acres, which is not pumped or drained from excavations associated with construction activity, are not covered under this NPDES permit. These sites are required to comply with 40 CFR 122.26(b)(5).

The State of New Hampshire does not allow discharges to Class A waters under this general permit.

EPA has determined that this general permit will not be available to ''New Source'' dischargers as defined in 40 CFR 122.2 due to the site specific nature of the environmental review required by the National Environmental Policy Act of 1969 (NEPA). 33 U.S.C. 4321 *et seq.* for those facilities. ''New Sources'' must comply with New Source Performance Standards (NSPS) and are subject to the NEPA process in 40 CFR 6.600. Consequently EPA has determined that it would be more appropriate to address ''New Sources'' through the individual permit process. (''New Sources'' should not be confused with ''New Dischargers'', which are eligible for general permit coverage. Definitions may be found at 40 CFR 122.2).

EPA has determined that this general permit will not be available for discharge(s) into impaired waters on the Federal Clean Water Act section 303(d) list which are not attaining state water quality standards. Applicants may call EPA–NE or their State Agency for listing of impaired waters. See Final Permit, Section D, Monitoring and Reporting, for Agency contact information.

Any owner or operator authorized by a general permit may request to be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting a NPDES permit application together with reasons supporting the request. The Director may also require any person authorized by a general permit to apply for and obtain an individual permit. Any interested person may petition the Director to take this action. However, individual permits will not be issued for sources covered by the general permit unless it can be clearly demonstrated that inclusion under the general permit is inappropriate. The Director may consider the issuance of individual permits when:

1. The discharger is not in compliance with the terms and conditions of the general permit;

2. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

3. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general NPDES permit;

4. A Water Quality Management Plan or Total Maximum Daily Load (TMDL) containing requirements applicable to such point sources is approved;

5. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

6. The discharge(s) is a significant contributor of pollution or in violation of State Water Quality Standards for the receiving water.

In accordance with 40 CFR 122.28(b)(3)(iv), the applicability of the general permit is automatically terminated on the effective date of the individual permit.

IV. Permit Basis and Other Conditions of the General NPDES Permit

A. Types of Discharge

Under this general permit, owners and operators of construction dewatering sites in Massachusetts and New Hampshire may be granted authorization to discharge groundwater and stormwater generated wastewaters into waters of the respective states. Discharges authorized under this general permit must be treated in a settling basin or other treatment system designed to remove total suspended solids unless the State agency specifically waives that requirement for the individual applicant.

B. Effluent Limitations

1. *Statutory Requirements:* Section 301(a) of the Clean Water Act (CWA or the Act), 33 U.S.C. 1311(a), makes it unlawful to discharge pollutants to waters of the United States without a permit. Section 402 of the Act, 33 U.S.C. 1342, authorizes EPA to issue NPDES permits allowing discharges that will meet certain requirements, including CWA sections 301, 304, and 401 (33 U.S.C. 1331, 1314, and 1341). Those statutory provisions state that NPDES permits must include effluent limitations requiring authorized discharges to: (1) Meet standards reflecting specified levels of technology-based treatment requirements; (2) comply with State Water Quality Standards; and (3) comply with other state requirements adopted under authority retained by states under CWA Section 510, 33 U.S.C. 1370.

EPA is required to consider technology and water quality requirements when developing permit limits. 40 CFR part 25 subpart A sets the criteria and standards that EPA must use to determine which technology-based requirements, requirements under section 301(b) of the Act and/or

requirements established on a case-by-case basis under section 402(a)(1) of the Act, should be included in the permit.

The Clean Water Act requires that all discharges, at a minimum, must meet effluent limitations based on the technology-based treatment requirements for dischargers to control pollutants in their discharge. Section 301(b)(1)(A) of the Act requires the application of Best Practicable Control Technology Currently Available (BPT) with the statutory deadline for compliance being July 1, 1977, unless otherwise authorized by the Act. Section 301(b)(2) of the Act requires the application of Best Conventional Control Technology (BCT) for conventional pollutants, and Best Available Technology Economically Achievable (BAT) for non-conventional and toxic pollutants. The compliance deadline for BCT and BAT is as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated and in no case later that March 31, 1989.

2. *Technology-based Effluent Limitations:* EPA has not promulgated National Effluent Guidelines for construction dewatering discharges. Therefore, as provided in section 402(a)(1) of the Act, EPA has determined to establish technology-based limitations in this general permit utilizing Best Professional Judgement (BPJ) to meet the above stated criteria for BAT/BCT described in section 304(b) of the Act. Accordingly monthly average and maximum daily Total Suspended Solids (TSS) limitations of 50 mg/l and 100 mg/l, respectively, are established based upon best professional judgment pursuant to section 402(a)(1) of the CWA. The limitations in the final permit are also the same as the limitations in the existing permit in accordance with the anti-backsliding requirements found in 40 CFR 122.44(1).

EPA believes that for most discharges these limits are sufficient to achieve water quality standards. Coverage under the general permit will not be granted for those discharges which EPA or the applicable state believe a more stringent water quality-based TSS limit is needed.

3. *Water Quality Based Effluent Limitations:* Under section 301(b)(1)(C) of the Act, discharges are subject to effluent limitations based on water quality standards. Receiving stream requirements are established according to numerical and narrative standards adopted under state and/or federal law for each stream use classification. Section 401 of the CWA requires that EPA obtain State certification which ensures that all water quality standards and other appropriate requirements of state law will be satisfied. Regulations governing State certification are set forth in 40 CFR 124.53 and 124.55.

The States of Massachusetts and New Hampshire have narrative criteria in their water quality regulations (*See* Massachusetts 314 CMR 4.05(5)(e) and New Hampshire Part Env–Ws 1703.21) that prohibits toxic discharge in toxic amounts. The permit does not allow for the addition of materials or chemicals which would produce a toxic effect to any aquatic life. If the States and/or EPA suspect that a discharge has a reasonable potential to cause or contribute to an excursion above the State's narrative criterion for toxicity, they may request that one Whole Effluent Toxicity (WET) test result and/or priority pollutant scan of the water to be discharged be required as part of the Notice of Intent, as authorized at 40 CFR 122.44(d)(1)(v).

Water quality standards applicable to construction dewatering activity discharges covered by this general permit include pH and oil and grease for both States. The pH limits are based upon the applicable numeric water quality criteria in each State. The pH limits in the final permit are the same as the limits in the existing permit in accordance with the anti-backsliding requirements found in 40 CFR 122.44(1). The oil and grease limits in the final permit are based on the Massachusetts narrative water quality standard of no visible sheen on the surface of the receiving water and the New Hampshire narrative water quality standard of no oil or grease in such concentrations that would impair any existing or designated uses of Class B waters. To ensure that the narrative water quality standards are protected, EPA has established a numeric guideline of 15 mg/l for this permit. EPA has historically used 15 mg/l to approximate the concentration at which a visible oil sheen is likely to occur. The Region believes that this standard is a reasonable target value and has previously imposed maximum daily oil and grease limits of 15 mg/l in permits at facilities (such as oil terminals) that have a reasonable potential for oil and grease discharge. At 40 CFR part 423, the technology-based guideline for oil and grease for Steam Electric Power Generating Point Sources are limited to 15 and 20 mg/l for average monthly and maximum daily values respectively. The oil and grease numeric limits in the final permit are moire stringent than the narrative limits in the existing permit.

The final permit contains no other water quality based limits based on the assumption that the discharges to be covered under this permit will consist of groundwater and/or stormwater which does not contain pollutants in amounts which would have reasonable potential to cause or contribute to violations of applicable State water quality standards. If, based on information submitted in the Notice of Intent or on other available information, it is determined by EPA or the applicable State that this assumption is not correct, the discharger will not be granted coverage under the general permit.

For those discharges which are not granted coverage under this permit because the discharge contains pollutants in quantities which represent reasonable potential to cause or contribute to violations of water quality standards, the discharger must apply for an individual NPDES permit. (EPA-New England is currently developing a general permit for the discharge of treated groundwater from rermediation sites. When this permit is available it may be an alternative to an individual permit). The discharger may also seek authorization for the discharge from an EPA On-Scene Coordinator pursuant to 40 CFR 122.3(d).

C. Antidegradation Provisions

The conditions of the permit reflect the goal of the CWA and EPA to achieve and maintain water quality standards. The environmental regulations pertaining to the State Antidegradation Policies which protect the State's surface waters from degradation of water quality are found in the following provisions: Massachusetts Water Quality Standards 314 CMR Section 4.04 *Antidegradation Provisions*; and New Hampshire RSA 485–A:8, VI Part Env–Ws 1708.

This general permit does not apply to any new or increased discharge to receiving waters unless the discharge is shown to be consistent with the State's anti-degradation policies. This determination shall be made in accordance with the appropriate State antidegradation implementation procedures for this general permit. EPA will not authorize discharges under the general permit until it receives a favorable antidegradation review and certification from the States. (Concurrent to the publication of this final general permit in the **Federal Register**, EPA has formally requested each State to make an antidegradation certification determination). The Commonwealth of Massachusetts will conduct antidegradation reviews for notices of intent to discharge, under this general permit, into Class A or SA waters.

D. Monitoring and Reporting Requirements

Effluent limitations and monitoring requirements which are included in the general permit describe the requirements to be imposed on the facilities to be covered.

Facilities covered by the final general permits will be required to prepare and keep on site, in a secure place, Discharge Monitoring Report (DMR) containing effluent data. The frequency of reporting is determined in accordance with each State's provisions (see the individual State permits).

The monitoring requirements have been established to yield data representative of the discharge under authority of section 308(a) of the Act and 40 CFR 122.41(j), 122.44(i) and 122.48, and as certified by the State.

E. Endangered Species Act

Background: The general permit for construction dewatering activity discharges contains conditions to ensure that activities regulated by it are protective of species that are listed under the Endangered Species Act (ESA) as endangered or threatened (known as ''listed species'') and listed species habitat that is designated under the ESA as ''critical habitat''. Construction dewatering activity discharges occur when stormwater and/or groundwater from excavations or other points of accumulation are pumped or drained. The discharges are not from industrial processes, nor do they come in contact with any raw material, intermediate product, waste product or finished product. The general permit prohibits the addition of materials or chemicals in amounts that would be toxic to aquatic life and it prohibits any discharge from violating State or Federal water quality standards. Further, the permit contains provisions that require toxicity testing if EPA or the State believes it is warranted and to require individual permits be issued if actual environmental conditions (including the preservation of endangered species) are not adequately covered by the general permit. Except for the species and waterways listed below, the effluent limitations established in the permit ensures the protection of human health and aquatic life and the maintenance of the receiving water as an aquatic habitat.

List of Species and Waterway[1]*, by County and State, Subject to Consultation*: The Fish and Wildlife Service has requested that the Service review and comment on all proposed discharges that may affect the federally-listed endangered dwarf wedgemussel (Alsmidonta heterodon), in Massachusetts in the Fort River, Amherst (Hampshire County); the Mill River in Easthampton (Hampshire County); and the Mill River in Wheately (Franklin County), which is a different Mill River than the Easthampton Mill River; and in New Hampshire in the Ashuelot River in Surry to Swanzey (Cheshire County); and in the South Branch of the Ashuelot River in Swanzey (Cheshire County).

The National Marine Fisheries Service has requested that it review and comment on all proposed discharges that may adversely affect the federally-listed endangered shortnose sturgeon (Acipenser brevirostrum) in certain sections of the Merrimack and Connecticut River in Massachusetts.

Section 7 Consultations: Section 7 of the ESA requires that Federal agencies consult with the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) (known collectively as the Services) to insure that any Agency action, including the issuance of NPDES permits, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. The ESA regulations provide for two types of consultation, formal and informal. Informal consultation is an optional process that includes discussion, correspondence, etc. between the Services and a Federal Agency or a designated non-Federal representative (NFR) to determine whether a Federal action is likely to have an adverse effect on listed species or critical habitat. Federal permit applicants frequently play a key role in informal consultation. The ESA regulations provide for permit applicants, where designated, to carry out informal consultations as an NFR, which enables them to work directly with the Services (*See* 50 CFR 402.08). EPA has designated applicants for this construction dewatering activity discharge general permit a non-Federal representatives for the purpose of carrying out informal consultation. See Section 1.C.1.c.(2), Limitations on Coverage.

Applicants with discharges that would occur along the waterways subject to consultation must conduct informal consultation as a non-Federal representative and must notify both EPA-New England and the appropriate Service office in writing of that decision.

Conditions to Protect Listed Species: The Region has had informal consultations with the Services on the adoption of this General Permit. The Services concur that this general permit for construction dewatering activity discharges is unlikely to adversely affect any threatened or endangered species or its critical habitat except for discharges to the waterways identified above (*See* List of Species and Waterways, by County and State, Subject to Consultation) where the dwarf wedgemussel and shortnose sturgeon, both listed species, are known to occur.[2] When construction dewatering activities would occur along these waterways, permit coverage is not automatic. Rather, permit coverage is available only if the permit applicant contacts the Services to determine: (1) If the construction dewatering activities would occur in designated critical habitat; (2) if listed species are present in the vicinity of the project area; and, (3) whether the applicant's discharges and discharge related activities are likely to affect listed species and/or critical habitats. Coverage under the general permit is available only if informal consultation with the Services under section 7 of the Endangered Species Act has been concluded which addresses the effects of the applicant's construction dewatering activity discharges on listed species and critical habitat and the consultation results in a written concurrence by the Service(s) on a finding that the applicant's construction dewatering activity discharges are not likely to adversely affect listed species and critical habitat. Permit applicants must submit a copy of the Service's written concurrence with their Notice of Intent submittal. Applications are required to certify eligibility for coverage under the General Permit on their Notice of Intent Submittal (*See* Section 1.C.1.d, Notification by Permittee) and to maintain any supporting documentation for that determination. Permit applicants that cannot certify compliance with the ESA requirements, where applicable, must submit individual permit applications to the permitting authorities. *See* Section C.1.c., Limitations on Coverage.

Services Contact Information: USFWS, New England Field Office, 70 Commercial Street, Suite 300, Concord, NH 03301–5087; Telephone 603/223–2541; NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930–2298; Telephone: 978/281–9112.

[1] The Services have identified the areas where listed endangered species may be present but have not designated these areas as ''critical habitat''.

[2] The Service states that construction dewatering activity discharges located on the Connecticut River in areas where the dwarf wedgemussel does occur are not likely to adversely affect the species.

F. Essential Fish Habitat

Under the 1996 Amendments (Pub. L. 104–267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.* (1998)), EPA is required to consult with National Marine Fisheries Service (NMFS) if EPA's action or proposed actions that it funds, permits or undertakes, ''may adversely impact any essential fish habitat.'' 16 U.S.C. 1855(b). The Amendments broadly define ''essential fish habitat'' (EFH) as ''waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.'' 16 U.S.C. 1802(10). Adverse impact means any impact which reduces the quality and/or quantity of EFH 50 CFR 600.910(a). Adverse effects may include direct (*e.g.,* contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity) site-specific or habitat-wide impacts, including individual, cumulative or synergistic consequences of actions. Essential Fish Habitat is only designated for fish species for which federal Fisheries Management Plans exist. 16 U.S.C. 1855(b)(1)(A). EFH designations for New England were approved by the U.S. Department of Commerce on March 3, 1999. In a letter address to EPA–NE and dated October 10, 2000, NMFS confirmed that for projects authorized through the NPDES permit process, notification for purposes of EFH consultation can be accomplished in the EFH Section of the permit fact sheet or **Federal Register** notice.

Resources: The general permit is not available to any new or increased discharge into territorial seas, however, it does not specifically exclude facilities that discharge into other tidal waters. Therefore, our EFH assessment considers all 39 federally managed species with designated EFH in the coastal and inland waters of Massachusetts and New Hampshire. Under the expired general permit, 26 facilities were authorized to discharge into marine waters (18 facilities into Boston Harbor; 4 in to Quincy Bay; one each into Salem Harbor, Edgartown Harbor and the Atlantic Ocean in MA and NH).

Analysis of Effects and EPA's Opinion of Potential Impacts: Construction dewatering activity discharges are not from an industrial process nor do the discharges come in contact with any raw material, intermediate product, waste produce or finished product. The general permit prohibits the addition of materials or chemicals in amounts that would be toxic to aquatic life. The proposed limits for this general permit are sufficiently stringent to assure that state water quality standards will be met. The effluent limitations established in this permit ensure protection of aquatic life and maintenance of the receiving water as an aquatic habitat. The Region finds that reissuance of the proposed general permit will not adversely affect any fish or shellfish currently listed with a Fisheries Management Plan or its habitat. EPA will seek written concurrence from the National Marine Fisheries Service on this assessment.

Proposed Mitigation: Mitigation for unavoidable impacts associated with reissuance of the permit is not warranted at this time because it is EPA's opinion that impacts will be negligible if permit conditions are followed. Authorization to discharge under the general permit can be revoked if any adverse impacts to Federally managed or protected species or their habitats do occur either as a result of noncompliance or from unanticipated effects from this activity. Further, the general permit contains provisions that require the applicant to perform toxicity testing if EPA or the State believes it is warranted and/or require that an individual permit be issued if actual environmental conditions are not adequately covered by the general permit. Should new information become available that changes the basis for EPA's assessment, then consultation with NMFS under the appropriate statue(s) will be reinitiated.

G. Standard Permit Condition

40 CFR 122.41 and 122.42 establish requirements which must be in all NPDES permits. Part II of the general permit includes these requirements.

H. Section (401) Certifications

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State in which the discharge originates certifies that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA. The section 401 certification process is complete in both the States of Massachusetts and New Hampshire. In addition, EPA and the Commonwealth of Massachusetts will jointly issue the final permit. For lands held by federally recognized tribes in Massachusetts, EPA has provided the necessary certification. Currently, the only federally recognized tribe is the Wampanoag Tribe of Gay Head (Aquinnah) on the Island of Martha's Vineyard.

I. The Coastal Zone Management Act

The Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.,* and its implementing regulations (15 CFR part 930) require that any federally licensed activity affecting a state's coastal zone be consistent with the enforceable policies of approved state management programs. In the case of general permits, EPA has the responsibility for making the consistency certification and submitting it to the State for concurrence. As EPA requested, the Executive Office of Environmental Affairs, Massachusetts CZM, 251 Causeway Street, Suite 900, Boston, MA 02114; and the Office of State Planning, New Hampshire Coastal Program, 2½ Beacon Street, Concord, NH 03301, have reviewed EPA's consistency certification for the proposed general permit. Each State's coastal program office has confirmed to EPA that the general permit is consistent with its coastal zone management program.

J. Environmental Impact Statement Requirements

The general permits do not authorize discharges from any new sources as defined under 40 CFR 122.2. Therefore, the National Environmental Policy Act, 33 U.S.C. 4321 *et seq.,* does not apply to the issuance of these general NPDES permits.

K. National Historical Preservation Act of 1966, 16 U.S.C. 470 et seq

Facilities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the National Historic Preservation Act of 1966. 16 U.S.C. 470 *et seq*. are not authorized to discharge under this permit. Applicants must determine whether their construction dewatering activity discharges has the potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places. Applicants must comply with applicable State, Tribal and local laws concerning the protection of historic properties and places and applicants are required to coordinate with the State Historic preservation Officer and/or Tribal Historic Preservation Officer and others regarding effects of their construction dewatering discharges on historic properties. Electronic listing of national and State Registers of Historic Places are maintained by the National Park Service (*www.nr.nps.gov/nrishome.htm*), the Massachusetts Historical Commission (*www.state.ma.us/sec/mhc.*) and the New Hampshire Historical Commission (*www.state.nh.us/nhdhr*). Addresses for State Historic Preservation Officers and

Tribal Historic Preservation Officer are: Judith McDonough, Massachusetts State Historic Preservation Officer, MA Historical Commission, 220 Morrissey Boulevard, Boston, MA 02125 TEL: 617/727–8470; Fax: 617/727–5128; email: *Judy. McDonald@sec.state./ma.us.*; Matthew Vanderhoop, Tribal Historic Preservation Officer, Wampanoag Tribe of Gay Head (Aquinnah), 20 Black Brook Road, Aquinnah, MA 02535–9701; Tel: 508/645–9265; FAX: 508/645–3790; and James

d. Under Fact Sheet, Section K, National Historic Preservation Act, Part 1.C.1.c.(1), Limitations on Coverage-Construction Dewatering Activity Discharges with Effects on Historic Properties; and part 1.C.1.d, Notification by Permittees, language is added to modify the requirements to obtain permit coverage to enhance the protection of historic properties so that the requirements are consistent with the requirements for coverage under EPA's Multi-Sector General Permit for Industrial Activities, 65 FR 64746 (October 30, 2000) and other Regionally-issued NPDES General permits.

2. EPA received comments from both the Fish and Wildlife Service (F&WS), and the National Marine Fisheries Service (NMFS), hereafter referred to as the Services, in letters dated November 21, 2001 and March 5, 2002 respectively, on the potential impacts to federally listed, proposed threatened or endangered species and/or designated critical habitat for listed species specific to EPA's Draft NPDES General Permit for Construction Dewatering Activity discharges in MA and NH. Although EPA received the comments from the NMFS after the thirty day deadline period as required in the Public Notice, EPA has addressed their comments in the final permit under Fact Sheet, Section E., Endangered Species Act; Part 1.C.1.c., Limitations on Coverage; and part 1.C.1.d, Notification by Permittees.

Comment: The Services stated their concern that discharges under the General Permit may adversely affect (1) the federally-listed endangered dwarf wedgemussel (Alsmidonta heterodon), in Massachusetts in the Fort River, Amherst (Hampshire County); the Mill River in Easthampton (Hampshire County); and the Mill River in Wheately (Franklin County), which is a different Mill River than the Easthampton Mill River; and in New Hampshire in the Ashuelot River in Surry to Swanzey (Cheshire County); and in the South Branch of the Ashuelot River in Swanzey (Cheshire County); and (2) the shortnose sturgeon (Acipenser brevirostrum) in certain sections of the Merrimack and Connecticut Rivers in Massachusetts. The Services requested that the draft permit be modified to require individual consultation on discharges where these species are known to occur. The Fish and Wildlife Service recommended that discharges that may adversely affect these species be excluded from the General Permit because larval and juvenile dwarf wedgemussels may be particularly sensitive to slight water quality perturbations including increased sedimentation, changes in pH or dissolved oxygen. The National Marine Fisheries Service recommended that permit coverage for discharges that may adversely affect these species not be automatic and that applicants with these discharges be required to consult with the Services.

Response: EPA-New England reviewed the requirements to protect endangered species in a number of recently issued National and Regional general permits, including the general permits for discharges under the Stormwater Multi-Sector General Permit for Industrial Activities (65 FR 64746, October 30, 2000) and Proposed NPDES General Permit to Discharge Storm Water Associated with Construction Activities in Indian County within the State of Wisconsin (*www.epa.gov/r5/water*). Rather than automatically excluding or including any discharge for coverage under the General Permit where listed species are known to occur, these permits require that an applicant meet the permit's endangered species eligibility criteria, implement consultation procedures, and certify compliance with these requirements prior to receiving coverage under the General Permit. If actual environmental conditions (including the preservation of endangered species) are not adequately covered by the general permit, the permits contain provisions that require an individual permit to be issued.

The Region has received the Services concurrence on the following revised procedures to ensure compliance with the Endangered Species Act. Specifically, the Fact Sheet discussion and General Permit requirements list the specific species and waterways subject to consultation, based on the information provided to EPA–NE by the Services; provides information on the ESA Section 7 consultation requirements, including a provision for permit applicants, when designated as a non-Federal representative, to carry out informal consultations with the Services. EPA has designated applicants for this construction dewatering activity discharge general permit a non-Federal representative for the purpose of carrying out informal consultation with the Services. *See also* 50 CFR 402.08. Applicants who choose NOT to conduct informal consultation with the services on ESA requirements, where applicable, must submit an individual permit application to the permitting authorities.

The general permit states that when construction dewatering activities would occur in waterways subject to consultation, permit coverage is available only if: (1) The applicant contacts the Service to determine if the discharges are likely to occur in designated critical habitat and/or if listed species are present in the vicinity of the project area; and (2) informal consultation with the Services has been concluded and results in a written concurrence by the Services that the discharge is not likely to adversely affect listed species and critical habitat. Lastly, to be eligible for permit coverage under the general permit, applicants are required to submit a copy of the Service's written concurrence with the Notice of Intent and to certify on the Notice of Intent that they are in compliance with the permit's endangered species requirements. Applicants are required to maintain any supporting documentation used to make the eligibility determination.

Regardless of the above conditions, EPA may require that a permittee apply for an individual NPDES permit on basis of possible jeopardy to species or critical habitats. Where there is concern that coverage for a particular discharger is not sufficiently protective of listed species, the Services, as well as any other interested parties, may petition EPA to require that the discharger obtain an individual NPDES permit and conduct an individual Section 7 consultation as appropriate.

The recommended process allows for the broadest and most efficient coverage for the permittee while still providing for the most efficient protection of endangered species. The process will significantly reduce the number of dischargers that must be considered individually and therefore allow the Agency, the Services and the States to focus their resources on those discharges that are indeed likely to jeopardize listed species. Straightforward mechanisms such as these allow for more immediate access to permit coverage for most applicants and allow the Agencies to provide endangered species protection in a more expeditious manner.

VI. Other Legal Requirements

A. Executive Order 12866

EPA has determined that this general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements of this permit were previously approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.* and assigned OMB control number 2040–0086 (NPDES permit application) and 2040–0004 (Discharge Monitoring Reports).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 USC 553(b) that have a significant impact on a substantial number of small entities. The permit issued today, however, is not a ''rule'' subject to the requirements of 5 U.S.C. 553(b) and is therefore not subject to the Regulatory Flexibility Act.

D. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4. generally requires Federal agencies to assess the effects of their ''regulatory actions'' (defined to be the same as ''rules'' subject to the RFA) on tribal, state and local governments and the private sector. The permit issued today, however, is not a ''rule'' subject to the RFA and is therefore not subject to the requirements of UMRA.

Dated: August 13, 2002.

James Owens,

Regional Administrator.

Part I—Final General Permits Under the National Pollutant Discharge Elimination System (NPDES)

Note: The following two general permits have been combined for purposes of this **Federal Register**. Part IA and Part IB contain general permits for the States of Massachusetts (both Commonwealth and Indian County Lands) and New Hampshire, respectively, Part IC–IE and Part II are common to both permits.

A. Massachusetts General Permit, Permit No. MAG070000

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*; the ''CWA''), and the Massachusetts Clean Waters Act, as amended, (M.G.L. chapter 21, sections 26–53), operators of facilities located in Massachusetts, which discharge groundwater and/or stormwater from construction dewatering activities to Class B and SB waters as designated in the Massachusetts Water Quality Standards, 314 CMR 4.00 et seq., are authorized to discharge to all waters, unless otherwise restricted, in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. Discharges into Class A or SA waters need review and approval by MADEP.

This permit shall become effective when issued. The permit and the authorization to discharge expire at midnight, five years from the effective date, which is the date of publication in the **Federal Register** and supersedes the permit issued on May 1, 1996.

This General Permit consists of Part IA, Massachusetts General Permit; Parts IC–IE; and Part II, General Conditions.

Signed this 13th day of August, 2002.

Linda M. Murphy,

Director, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Boston, MA.

Glenn Haas,

Director, Division of Watershed Protection, Bureau of Resource Protection, Massachusetts Department of Environmental Protection, Boston, MA.

Effluent Limitations and Monitoring Requirements

1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge groundwater and/or stormwater from construction dewatering activities. All discharges shall pass through settling basins or other treatment system designed to remove total suspended solids unless specifically waived by the State.

a. Each outfall discharging effluent from construction dewatering activities shall be limited and monitored as specified below. Monitoring for each outfall shall be reported.

Effluent characteristics	Discharge limitations or other units (specify)		Monitoring requirements measurement [2]	
	Avg. monthly	Max. daily	Frequency	Sample type
Flow (MGD)	Report	Report	1/week	Actual or Estimated.
TSS (mg/l)	50	100	1/week	Grab.
Oil and Grease (mg/l) [1]	(See Note 1.A.1.h)	15	1/week	Grab.
pH (s.u.) [1]	(See Part I.A.1.f. and g.)		1/week	Grab.
LC_{50} & C–NOEC, %	(See Part 1.A.1.j.)			24-hr. composite.

[1] Requirement for State Certification.
[2] Samples shall be taken only when discharging.

b. The discharge shall not cause a violation of the water quality standards.

c. The discharge shall not cause an objectionable discoloration of the receiving water.

d. There shall be no discharge of floating solids or visible foam in other than trace amounts.

e. Samples taken in compliance with the monitoring requirements specified above shall be taken at a location that provides a representative analysis of the effluent just prior to discharge to the receiving water or if the effluent is commingled with another discharge, prior to such commingling.

f. The pH of the effluent for discharges to Class A and Class B waters shall be in the range of 6.5–8.3 standard units and not more than 0.5 units outside of the background range. There shall be no change from background conditions that would impair any uses assigned to the receiving water Class.

g. The pH of the effluent for discharges to Class SA and Class SB waters shall be in the range of 6.5–8.3 standard units and not more than 0.2 units outside of the background range. There shall be no change from background conditions that would impair any uses assigned to the receiving water Class.

h. Sampling for oil and grease is required only if a periodic inspection of the discharge indicates the presence of a visible sheen, as defined in 40 CFR part 110. The discharge of a sheen of oil or gasoline constitutes an oil spill and must be reported immediately to the National Response Center (NRC) at 800/424–8802. Upon detection of a visible sheen, the discharge must stop immediately and the problem corrected.

The use of dispersants to treat the sheen is prohibited. This permit does not allow for the addition of any chemicals to treat the sheen.

i. A discharge structure shall be constructed if necessary to protect the bank of the water body from erosion.

j. Chronic (and modified acute) toxicity test(s) and/or priority pollutant scan shall be performed on the groundwater and/or stormwater discharge from construction dewatering activities by the permittee upon request by EPA and/or the MA DEP. See also, Section C.1.d. Testing shall be performed in accordance with EPA toxicity protocol to be provided at the time of the request. The test shall be performed on a 24-hour composite sample to be taken during normal facility operation. The result of the test(s) shall be forwarded to both the EPA and the State within 30 days after completion.

2. State Permit Conditions

1. This Discharge Permit is issued jointly by the U.S. Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MADEP) under Federal and State law, respectively. As such, all terms and conditions of this permit are hereby incorporated into and constitute a discharge permit issued by the Assistant Commissioner of the Massachusetts Bureau of Resource Protection pursuant to M.G.L. Chap. 21, Section 43.

2. Each Agency shall have the independent right to enforce the terms and conditions of this Permit. Any modification, suspension or revocation of this Permit shall be effective only with respect to the Agency taking such action, and shall not affect the validity or status of this Permit as issued by the other Agency, unless and until each Agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this Permit is declared, invalid, illegal or otherwise issued in violation of State law such permit shall remain in full force and effect under Federal law as an NPDES Permit issued by EPA. In the event this Permit is declared invalid, illegal or otherwise issued in violation of Federal law, this Permit shall remain in full force and effect under State law as a Permit issued by the Commonwealth of Massachusetts.

B. New Hampshire General Permit, Permit No. NHG070000

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 *et. seq.*; the ''CWA''), operators of facilities located in New Hampshire that discharge groundwater and/or stormwater from construction dewatering activities are authorized to discharge to Class B waters, unless otherwise restricted by State Water Quality Standards, New Hampshire RSA 485–A:8, in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. The State of New Hampshire does not allow discharges to Class A waters under this general permit.

This permit shall become effective when issued. The permit and the authorization to discharge expire at midnight, five years from the effective date, which is the date of publication in the **Federal Register** and supersedes the permit issued on May 1, 1996.

This General Permit consists of Part 1B, New Hampshire General Permit; Parts 1C–1E; and Part II. General Conditions.

Signed this 13th day of August, 2002.

Linda M. Murphy,

Director, Office of Ecosystem Protection, Environmental Protection Agency, Boston, MA 02114.

Effluent Limitations and Monitoring Requirements

1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge groundwater and/or stormwater from construction dewatering activities to the State's Class B receiving waters. All discharges shall pass through settling basins or other treatment systems designed to remove total suspended solids.

a. Each outfall discharging effluent from construction dewatering activities shall be limited and monitored as specified below. Monitoring for each outfall shall be reported.

Effluent characteristic	Discharge limitations or other units (specify)		Monitoring requirements measurement [1]	
	Avg. monthly	Max. daily	Frequency	Sample type
Flow (MGD)	Report	Report	1/week	Instantaneous or Continuous.
TSS (mg/l)	50	100	1/week	Grab.
Oil and Grease (mg/l) [2]	See Note I.B.1.g	15	1/week	Grab.
pH (s.u.) [2]	See Note I.B.1.f		1/week	Grab.
LC_{50} & C–NOEC, %	(See Part 1.B.1.i.)			24-hr composite.

[1] Samples shall be taken only when discharging.
[2] Requirement for State Certification.

b. The discharge shall not cause a violation of the water quality standards of the receiving water.

c. The discharge shall not cause any visible and objectionable discoloration of receiving waters.

d. The discharge shall be adequately treated to insure that the surface water remains free from pollutants in concentrations or combinations that settle to foam harmful deposits, float as foam, debris, scum or other visible pollutants. It shall be adequately treated to insure that the surface waters remain free from pollutants which odor, color, taste or turbidity in the receiving water which is not naturally occurring and would render it unsuitable for its designated uses.

e. Samples taken in compliance with the monitoring requirements specified above shall be taken at a location that provides a representative analysis of the effluent just prior to discharge to the receiving water or, if the effluent is commingled with another permitted discharge, prior to such commingling.

f. The pH of the effluent shall not be less than 6.5 standard units (su) nor greater than 8.0 su at any time unless these values are exceeded due to natural causes.

g. Sampling for oil and grease is required only if a periodic inspection of the discharge indicates the presence of a visible sheen, as defined in 40 CFR part 110. The discharge of a sheen of oil or gasoline constitutes an oil spill and must be reported immediately to the National Response Center (NRC) at 800/424–8802. Upon detection of a visible sheen, the discharge must stop immediately and the problem corrected. The use of dispersants to treat the sheen is prohibited. This permit does not allow for the addition of any chemicals to treat the sheen.

h. A discharge structure shall be constructed if necessary to protect the bank of the water body from erosion.

i. Chronic (and modified acute) toxicity test(s) and/or priority pollutant scans shall be performed on the groundwater and/or stormwater discharge from construction dewatering activities by the permittee upon request by EPA and/or the NHDES. See also, Part C.1.d.

Testing shall be performed in accordance with EPA toxicity protocol to be provided at the time of the request. The test shall be performed on a 24-hour composite sample to be taken prior to any discharge of groundwater. The result of the test(s) shall be forwarded to both the EPA and the State prior to any discharge of groundwater.

2. State Permit Conditions

a. This NPDES Discharge Permit is issued by the U.S. Environmental Protection Agency under Federal and State law. Upon final issuance by the EPA, the New Hampshire Department of Environmental Services, Water Division, Concord, NH, 03302–0095, may adopt this Permit including all terms and conditions, as a state permit pursuant to RSA 485–A:13.

C. Common elements for All Permits

1. Conditions of the General NPDES Permit

a. *Geographic Areas: Massachusetts, both Commonwealth and Indian Country Lands* (Permit MAG070000). All of the discharges to be authorized by the general NPDES permit for dischargers in the Commonwealth of Massachusetts and/or Indian Country lands into all waters of the Commonwealth and/or Indian Country lands as specified in Part IA of this permit unless otherwise restricted by the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 (or as revised), including 314 CMR 4.04(3) *Protection of Outstanding Resource Waters.*

New Hampshire (Permit No. NHG070000). All of the discharges to be authorized by the general NPDES permit for dischargers in the State of New Hampshire as specified in Part 1B of this permit are into Class B waters of the State of New Hampshire unless otherwise restricted by the State Water Quality Standards, New Hampshire RSA 485–A:8 (or as revised).

b. *Exclusions:* Discharges of groundwater and stormwater generated wastewater associated with the construction of single family homes are not covered under this permit.

This permit does not authorize the discharge or stormwater associated with construction sites which disturb greater than 5 acres of land. These sites are required to comply with 40 CFR 122.26.

Discharges of stormwater runoff from construction sites less than 5 acres, which is not pumped or drained from excavations associated with construction activity, are not covered under this NPDES permit.

This permit is not available for discharges into impaired waters on the Federal Clean Water Act 303(d) list which are not attaining state water quality standards for the particular pollutants limited herein.

This general permit is not available to ''New Source'' dischargers as defined in 40 CFR 122.2.

c. *Limitations on Coverage:* Facilities seeking coverage under the Construction Dewatering Activity Discharges General Permit that cannot certify compliance with the National Historical Preservation Act and the Endangered Species Act (ESA) requirements, where applicable, must submit individual permit applications to the permitting authorities. Applicants who choose not to conduct informal consultations (See Section C.1.c.(2) below) with the Services on ESA requirements must submit an individual permit application to the permitting authorities.

(1) *Construction Dewatering Activity Discharges with Effects on Historic Properties.* In order to be eligible for coverage under this permit, the applicant must be in compliance with the National Historic Preservation Act. This permit authorized construction dewatering activity discharges if the proper coordination has been conducted according to the requirements below:

(i) Applicants are required to coordinate with the State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO) and others regarding effects of their construction dewatering activity discharges on historic properties. See Section I.IV.K. of the Fact Sheet for information on the SHPO and THPO contacts).

(ii) The applicant must provide evidence of prior screening for the presence of historic properties and coordinate with the relevant official(s) to develop a mitigation plan, as needed, consistent with the procedures regarding coordination with local officials described at Sections 800.4–800.6 of the National Historic Preservation Act regulations.

In the event there is an inadvertent discovery of a historic property on the site during construction, the permittee must immediately stop the construction activity and coordinate with the appropriate official(s) consistent with the steps outlined in 36 CFR 800.13 of the National Historic Preservation Act regulations.

(2) *Endangered and Threatened Species and/or Critical Habitat:* Proposed construction dewatering activity discharges that are located in areas in which listed species may be present are not automatically covered under this Permit. Permit coverage under the construction dewatering activity general permit is only available for proposed construction dewatering activity discharges in areas that may affect the federally-listed endangered dwarf wedgemussel (Alsmidonta heterodon), in Massachusetts in the Fort River, Amherst (Hampshire County): the Mill River in Easthampton (Hampshire County); and the Mill River in Wheately (Franklin County), which is a different Mill River than the Easthampton Mill River; and in New Hampshire in the Ashuelot River in Surry to Swanzey (Cheshire County); and in the South Branch of the Ashuelot River in Swanzey (Cheshire County); and, the federally-listed endangered shortnose sturgeon (Acipenser brevirostrum) in certain sections of the Merrimack and Connecticut Rivers in Massachusetts, if the applicant complies with the following requirements:

(i) The permit applicant contacts the Services to determine: (1) If the construction dewatering activities would occur in designated critical habitat; (2) if listed species are present in the vicinity of the project area; and, (3) whether the applicant's discharges and discharge related activities are likely to affect listed species and/or critical habitats.

(ii) Coverage under the general permit is available only if informal consultation with the Services under section 7 of the Endangered Species Act has been concluded which addresses the effects of the applicant's construction dewatering activity discharges on listed species and critical habitat and the consultation results in a written concurrence by the Service(s) on a finding that the applicant's construction dewatering activity discharges are not likely to adversely affect listed species and critical habitat.

(iii) Permit applicants must submit a copy of the Service's written concurrence with their Notice of Intent submittal. Applicants are required to certify eligibility for coverage under the General Permit on their Notice of Intent Submittal (See Section 1.C.1.d, Notification by Permittee) and to maintain any supporting documentation for that determination.

(IV) Applicants who choose to conduct informal consultation to meet

the Endangered Species Act eligibility requirements of this general permit are automatically designated as no-Federal representatives under this permit. See 50 CFR 402.08. Applicants who choose to conduct informal consultation as a non-Federal representative must notify both EPA-New England and the appropriate Service office in writing of that decision.

d. *Notification by Permittees:* Operators of sites whose discharge, or discharges, are effluent from construction dewatering activities and whose sites are located in the geographic areas described in Part I.C.1.a. above, may submit to the Regional Administrator, EPA–NE, a Notice of Intent to be covered by the appropriate general permit. Each site must also submit a copy of the Notice of Intent to each State authority as appropriate (see individual State permits for appropriate authority and address). Notifications must be submitted by permittees who are seeking coverage under this permit for the first time and by those permittees who received coverage under the permit issued May 1, 1996. This written notification must include for each individual site: (a) The owner's and/or operator's legal name, address and telephone number; (b) the site's name, address, contact name and telephone number; (c) the number of sites to be covered; (d) the site location(s); (e) the estimated construction start and completion dates; (f) the name(s) of the receiving waters into which discharge will occur; (g) a statement indicating if the site is located within Indian country; (h) a statement indicating whether any listed or proposed threatened or endangered species or designated critical habitat are in proximity to the construction dewatering activity discharges to be covered by this permit; (i) a statement indicating whether any historic property listed or eligible for listing on the National Register of Historic Places is located on the facility or in proximity to the discharge; (j) the number of discharge points and the anticipated frequency, duration, volume and rate of discharge for each outfall; (k) a topographic map (or other map if a topographic map is not available) indicating the site's location(s) and discharge point(s); (l) a description of any wastewater treatment: (m) storage of petroleum and chemicals on site; (n) history of land use of the site. In addition, for sites located in New Hampshire, the written notice must include, by designation on a map, the identification of groundwater contamination within 1,000 feet of the site (Note: This information can be generated over the Internet via the NHDES web site *www.des.state.nh.us* (One Stop Data Retrieval, Remediation Sites Report.) The web site also provides e-mail access to an NHDES Site Remediation Contact to answer questions about using the Web site) Groundwater contamination within 1,000 feet of the site must be designated on a map submitted with the written notice of intent. Discharges into Massachusetts Class A or SA water need a State antidegradation review. See Section IV.C. of Fact Sheet. Each applicant must certify that each discharge for which it is seeking coverage under this general permit (1) consists solely of effluent from discharges from the construction dewatering activities; (2) must certify that the discharge is eligible under the ESA requirements and whether the FWS and NMFS was involved in making the determination of eligibility and must submit a copy of the Service's written concurrence, where applicable, with this Notice of Intent; and (3) must certify that the discharge is eligible under the National Historic Preservation Act and whether the State Historic Preservation Officer or Tribal Historic Preservation Officer was involved in the determination of eligibility. The notice must be signed in accordance with the signatory requirements of 40 CFR 122.22 and submitted to both EPA–NE and the appropriate State Agency.

In addition, one Whole Effluent Toxicity (WET) test result and/or one priority pollutant scan of the water to be discharged may be required as part of the Notice of Intent, on a case-by-case basis by the States and/or EPA as authorized at 40 CFR 122.44(d)(1)(v). If toxicity testing is required, EPA will provide the permittee with a copy of the test procedure and detailed protocol. The WET test will consist of one chronic and modified acute toxicity screening test with one hundred percent sample. The Ceriodaphnia dubia for fresh water and sea urchin for marine water shall be used as test organism. The 126 EPA Priority Pollutants are found at 40 CFR Part 423, Appendix A. All samples shall be tested using the analytical methods found in 40 CFR Part 136 or alternative methods approved by EPA in accordance with the procedures in 40 CFR Part 136. The permittee shall submit to EPA–NE and the appropriate State Agency the results of all testing conducted, as required at 40 CFR 122.41(l)(4)(ii).

An authorization to discharge under this general permit, where the construction dewatering activity discharges to a municipal or private storm drain owned by another party, does not convey any rights or authorization to connect to that drain.

The sites authorized to discharge under the final general permit will receive written notification from EPA–NE with Senate concurrence. Failure to submit to EPA–NE a Notice of Intent to be covered and/or failure to receive from EPA–NE written notification of permit coverage means that the facility is not authorized to discharge under this general permit. Sites who are denied permit coverage by EPA–NE are not authorized under this general permit to discharge from those sites to the receiving waters.

2. Administrative Aspects

a. *Request to be covered:* A facility is not covered by any of these general permits until it meets the following requirements. First, it must send a Notice of Intent (NOI) to EPA–NE and the appropriate State indicating it meets the requirements of the permit and wants to be covered. And second, it must be notified in writing by EPA–NE that it is covered by this general permit.

b. *Eligibility to Apply:* Any facility operating under an effective (unexpired) individual construction dewatering activity NPDES permit may request that the individual permit be revoked and that coverage under the general permit be granted, as outlined in 40 CFR 122.28(b)(3)(v). If EPA revokes the individual permit, the general permit would apply to the discharge.

Facilities with expired individual construction dewatering activity permits that have been administratively continued in accordance with 40 CFR 122.6 may apply for coverage under this general permit. When coverage is granted the expired individual permit automatically will cease being in effect.

Proposed new dischargers may apply for coverage under this general permit and must submit the NOI at least 30 days prior to the initiation of discharge.

Facilities that were covered under the general permit that was issued on May 1, 1996 and that expired on May 1, 2001 need to apply for coverage under this general permit within 60 days from the effective date of this permit. Failure to submit a Notice of Intent within 60 days from the effective date of this permit for continuation of the discharge will be considered discharging without a permit as of May 1, 2001 for enforcement purposes. A Notice of Intent is not required if the permittee submits a Notice of Termination (see Part I.E.1) of discharge before the 60-day time frame expires.

c. *Continuation of this General Permit After Expiration:* If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and in effect as to any particular permittee as long as the permittee submits a new Notice of Intent two (2) months prior to the expiration date in the permit. However, once this permit expires EPA cannot provide written notification of coverage under this general permit to any permittee who submits Notice of Intent to EPA are the permit's expiration date. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

(1) Reissuance of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or

(2) The permittees' submittal of a Notice of Termination; or

(3) Issuance of an individual permit for the permittee's discharges; or

(4) A formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

D. Monitoring and Reporting

Massachusetts and New Hampshire: Monitoring results obtained during the previous month shall be summarized for each month and recorded on separated Discharge Monitoring Report Form(s) that shall be kept on-site in a secured place. The reports should be readily available for review at any time during the working hours by EPA and State officials. All notifications and communications should be sent to both EPA–NE and the appropriate State office at the following addresses:

1. EPA–NE

U.S. Environmental Protection Agency, New England Region, Municipal Assistance Unit (CMU), One Congress Street, Boston, MA 02114.

2. Massachusetts Department of Environmental Protection

a. The Regional Offices wherein the discharge occurs, shall receive a copy of all notifications and communications:

Massachusetts Department of Environmental Protection, Bureau of Resource Protection, Western Regional Office, 436 Dwight Street, Springfield, MA 01103.

Massachusetts Department of Environmental Protection, Bureau of Resource Protection, Southeastern Regional Office, 20 Riverside Drive, Lakeville, MA 02347.

Massachusetts Department of Environmental Protection, Division of Water Pollution Control, Northeastern Regional Office, 205A Lowell Street, Wilmington, MA 01887.

Massachusetts Department of Environmental Protection, Bureau of Resource Protection, Central Regional Office, 627 Main Street, Worcester, Massachusetts 01608.

b. Copies of all notifications required by this permit shall also be submitted to the State at:

Massachusetts Department of Environmental Protection, Division of Watershed Management, 627 Main Street, Worcester, MA 01608.

c. Copies of the State Form BRP WM 10, Request for General Permit coverage for Surface Water Discharge from a Construction Dewatering site, and the Transmittal Form for Permit Application and Payment, may be obtained at the DEP website at (*www.state.ma.us/dep*) by clicking on ''Permit Applications'' and ''Watershed Management'' by telephoning the DEP Info Service Center (Permitting) at 617–338–2255 or 1–800–462–0444 in 508, 413, 978 and 781 area codes; or from any DEP Regional Service Center located in each Regional Office.

A copy of the transmittal form, a copy of the check, and Form BRP WM 10 should be sent to Massachusetts Department of Environmental Protection, 627 Main Street, Worcester, MA 01608. A copy of the transmittal form and the $250 fee should be sent to MADEP PO Box 4062, Boston, MA 02111. Municipalities are fee-exempt, but should send a copy of the transmittal form to that address for project tracking purposes. A copy of Form BRP WM 10 should be sent to EPA-New England, One Congress Street, Mail Code CMU, Boston, MA 02114–2023. Keep a copy of the transmittal form and a copy of the application package for your records.

3. New Hampshire Department of Environmental Services

Copies of all notifications and communications should be sent to:

New Hampshire Department of Environmental Service, Water Division, PO Box 95, 6 Hazen Drive, Concord, NH 03302–0095.

E. Additional General Permit Conditions

1. *Termination of Operations:* Operators of facilities and/or operations authorized under this permit shall notify the Director upon the termination of discharges. The notice must contain the name, mailing address, and location of the facility for which the notification is submitted, the NPDES permit number for the construction dewatering activity discharge identified by the notice, and an indication of whether the construction dewatering activity discharge has been eliminated or the operator of the discharge has changed. The notice must be signed in accordance with the signatory requirements of 40 CFR 122.22. The notice must be sent to both EPA and the appropriate State agency via certified mail.

2. *When the Director May Require Application for an Individual NPDES permit.*

a. The Director may require any person authorized by this permit to apply for and obtain an individual NPDES permit. Any interested person may petition the Director to take such action. Instances where an individual permit may be required include the following:

(1) The discharge(s) is a significant contributor of pollution;

(2) The discharger is not in compliance with the conditions of this permit;

(3) A change has occurred in the availability of the demonstrated technology of practices for the control or abatement of pollutants applicable to the point source.

(4) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(5) A Water Quality Management Plan or Total Maximum Daily Load containing requirements applciable to such point source is approved;

(6) Discharge to the territorial sea;

(7) Discharge to outstanding natural resource water; or

(8) The point source(s) covered by this permit no longer;

(a) Involves the same or substantially similar types of operations;

(b) Discharges the same types of wastes;

(c) Requires the same effluent llimitations or operating conditions; and/or;

(d) Requires the same or similar monitoring.

b. The Director may require an individual permit only if the permittee authorized by the general permit has been notified in writing that an individual permit is required, and has been given a brief explanation of the reasons for this decision.

3. *When an Individual NPDES Permit may be Requested.*

a. Any operator may request to be excluded from the coverage of this general permit by applying for an individual permit.

b. When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

Part II, Standard Conditions

Section A. General Requirements

1. *Duty to Comply:* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirements.

b. The CWA provides that any person who violates sections 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any of such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the CWA is subject to a civil penalty not to exceed $25,000 per day for each violation. Any person who *negligently* violates such requirements is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both. Any person who *knowingly* violates such requirements is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both. (Note: See 40 CFR 122.41(a)(2) for additional enforcement criteria.)

c. Any person may be assessed an administrative penalty by the Administrator for violating sections 301, 302, 306, 307, 308, 318, 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the CWA. Administrative penalties for Class I violations are not to exceed $10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $25,000. Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $125,000.

2. *Permit Actions:* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay and permit condition.

3. *Duty to Provide Information:* The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Regional Administrator, upon request, copies of records required to be kept by this permit.

4. *Reopener Clause:* The Regional Administrator reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA in order to bring all discharges into compliance with the CWA.

5. *Oil and Hazardous Substance Liability:* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA, or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

6. *Property Rights:* The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges.

7. *Confidentiality of Information:*

a. In accordance with 40 CFR part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words ''confidential business information'' on each page containing such information. If no claim is made at the time of submission, *EPA may make the information available to the public without further notice.* If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR part 2 (Public Information).

b. Claims of confidentiality for the following information *will* be denied:

(i) The name and address of any permit applicant or permittee;

(ii) Permit applications, permits, and effluent data as defined in 40 CFR 2.302(a)(2).

c. Information required by NPDES application forms provided by the Regional Administrator under § 122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

8. *Duty to Reapply:* If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must apply for and obtain a new permit. The permittee shall submit a new notice of intent at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Regional Administrator. (The Regional Administrator shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

9. *State Authorities:* Nothing in part 122, 123, or 124 precludes more stringent State regulation of any activity covered by these regulations, whether or not under an approved State program.

10. *Other Laws:* The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, and local laws and regulations.

Section B: Operation and Maintenance of Pollution Controls

1. *Proper Operation and Maintenance:* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the permit.

2. *Need to Halt or Reduce Not a Defense:* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to

maintain compliance with the conditions of this permit.

3. *Duty to Mitigate:* The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

4. *Bypass:*

a. *Definitions.*

(1) ''Bypass'' means the intentional diversion of waste streams from any portion of a treatment facility.

(2) ''Severe property damage'' means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs B.4.c and 4.d of this section.

c. *Notice.*

(1) *Anticipated bypass:* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) *Unanticipated bypass:* The permittee shall submit notice of an unanticipated bypass as required in Paragraph D.1.e (24-hour notice).

d. *Prohibition of bypass:*

(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercised of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c)(i) The permittee submitted notices as required under Paragraph 4.c of this section.

(ii) The Regional Administrator may approve an anticipated bypass after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in Paragraph 4.d of this section.

5. *Upset.*

a. *Definition.* ''Upset'' means an exceptional incident in which there is unintentional and temporary non-compliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Paragraph B.5.c of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Paragraphs D.1.a and 1.e (24-hour notice); and

(4) The permittee complied with any remedial measures required under B.3. above.

d. *Burden of proof.* If any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

Section C. Monitoring and Records

1. *Monitoring and Records.*

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application *except for the information concerning storm water discharges which must be retained for a total of 6 years.* This retention period may be extended by request of the Regional Administrator at any time.

c. Records of monitoring information shall include:

(1) The date, exact place, and time of sampling or measurements;

(2) The individual(s) who performed the sampling or measurements;

(3) The date(s) analyses were performed;

(4) The individual(s) who performed the analyses;

(5) The analytical techniques or methods used; and

(6) The results of such analyses.

d. Monitoring results must be conducted according to test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.

e. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

2. *Inspection and Entry:* The permittee shall allow the Regional Administrator, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment),

practices, or operations regulated or required under this permit; and,

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

Section D. Reporting Requirements

1. *Reporting Requirements.*

a. *Planned changes.* The permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject to the effluent limitations in the permit, not to the notification requirements under 40 CFR 122.42(a)(l).

(3) The alteration or addition results in a significant change in the permittee[s sludge use or disposal practices, and such alteration, addition or change may justify the application of permit conditions different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. *Anticipated noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c. *Transfers.* This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

d. *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Regional Administrator for reporting results of monitoring of sludge use or disposal practices.

(2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the sludge use of disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Administrator.

(3) Calculations for all limitations which require averaging of measurement shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

e. *Twenty-four hour reporting.*

(1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(2) The following shall be included as information which must be reported within 24 hours under this paragraph.

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See § 122.41(g))

(b) Any upset which exceeds any effluent limitation in the permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Administrator in the permit to be reported within 24 hours. (See § 122.44(g))

(3) The Regional Administrator may waive the written report on a case-by-case, basis for reports under Paragraph D.1.e if the oral report has been received within 24 hours.

f. *Compliance Schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

g. *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under Paragraphs D.1.d, D.1.e and D.1.f of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in Paragraph D.1.e of this section.

h. *Other information.* Where the permittee becomes aware that if failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator, it shall promptly submit such facts or information.

2. *Signatory Requirement.*

a. All applications, reports, or information submitted to the Regional Administrator shall be signed and certified. (see § 122.22)

b. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

3. *Availability of Reports:* Except for data determined to be confidential under Paragraph A.8. above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in section 309 of the CWA.

Section E. Other Conditions

1. *Definitions* for purposes of this permit are as follows:

Administrator means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

Applicable standards and limitations means all State, interstate, and Federal standards and limitations to which a ''discharge'' or a related activity is subject to, including water quality standards, standards of performance, toxic effluent standards or prohibitions, ''best management practices,'' and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of CWA.

Application means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in ''approved

States,'' including any approved modifications or revisions.

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For total and/or fecal coliform, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of ''daily discharges'' over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average weekly discharge limitation means the highest allowable average of ''daily discharges'' over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of ''waters of the United States.'' BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Best Professional Judgement (BPJ) means a case-by-case determination of Best Practicable Treatment (BPT), Best Available Treatment (BAT) or other appropriate standard based on an evaluation of the available technology to achieve a particular pollutant reduction.

Composite Sample—A sample consisting of a minimum of eight grab samples collected at equal intervals during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportional to flow, or a sample continuously collected proportionally to flow over that same time period.

Continuous Discharge means a ''discharge'' which occurs without interruption throughout the operating hours of the facility except for infrequent shutdowns for maintenance, process changes, or similar activities.

CWA or ''The Act'' means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92–500, as amended by Pub. L. 95–217, Pub. L. 95–576, Pub. L. 96–483 and Pub. L. 97–117; 33 U.S.C. 1251 *et seq.*

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the daily discharge is calculated as the average measurement of the pollutant over the day.

Director means the person authorized to sign NPDES permits by EPA and/or the State.

Discharge Monitoring Report Form (DMR) means the EPA standard national form, including any subsequent additions, revisions, or modifications, for the reporting of self- monitoring results by permittees. DMRs must be used by ''approved States'' as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Discharge of a pollutant means:

(a) Any addition of any ''pollutant'' or combination of pollutants to ''waters of the United States'' from any ''point source,'' or

(b) Any addition of any pollutant or combination of pollutants to the waters of the ''contiguous zone'' or the ocean from any point source other than a vessel or other floating craft which is being used as means of transportation. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works. This term does not include an addition of pollutants by any ''indirect discharger.''

Effluent limitation means any restriction imposed by the Director on quantities, discharge rates, and concentrations of ''pollutants'' which are ''discharged'' from ''point sources'' into ''waters of the United States,'' the waters of the ''contiguous zone,'' or the ocean.

Effluent limitations guidelines means a regulation published by the Administrator under section 304(b) of CWA to adopt or revise ''effluent limitations.''

EPA means the United States ''Environmental Protection Agency.''

Grab Sample—An individual sample collected in a period of less than 15 minutes.

Hazardous Substance means any substance designated under 40 CFR part 116 pursuant to section 311 of CWA.

Indian Country, as defined at 18 U.S.C. 1151 means: (a) All lands within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way- running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe.

Maximum daily discharge limitation means the highest allowable ''daily discharge.''

Municipality means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under section 208 of CWA.

National Pollutant Discharge Elimination System means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an ''approved program.''

New discharger means any building, structure, facility, or installation:

(a) From which there is or may be a ''discharge of pollutants'';

(b) That did not commence the ''discharge of pollutants'' at a particular ''site'' prior to August 13, 1979;

(c) Which is not a ''new source;'' and

(d) Which has never received a finally effective NPDES permit for discharges at that ''site''. This definition includes an ''indirect discharger'' which commence discharging into ''waters of the United States'' after August 13, 1979. It also includes any existing mobile point source (other than an offshore of coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a ''site'' for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas development drilling rig that

commences the discharge of pollutants after August 13, 1979, at a ''site'' under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR 125.122(a)(1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a ''new discharger'' only for the duration of its discharge in an area of biological concern.

New source means any building, structure, facility, or installation from which there is or may be a ''discharge of pollutants,'' the construction of which commenced:

(a) After promulgation of standards of performance under section 306 of CWA which are applicable to such.

(b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

NPDES means ''National Polluant Discharge Elimination System.''

Non-Contact Cooling Water is water used to reduce temperature which does not come in direct contact with any raw material, intermediate product, a waste product or finished product.

Owner of operator means the owner or operator of an ''facility or activity'' subject to regulation under the NPDES programs.

Permit means an authorization, license, or equivalent control document issued by EPA or an ''approved State.''

Person means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

Point Source means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

(a) Sewage from vessels; or

(b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

Primary industry category means any industry category listed in the NRDC settlement agreement (*Natural Resources Defense Council et al.* v. *Train,* 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in Appendix A of 40 CFR part 122.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished produced, byproduct, or waste product.

Regional Administrator means the Regional Administrator, EPA-New England, Boston, Massachusetts.

State means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands.

Secondary Industry Category means any industry category which is not a ''primary industry category.''

Toxic pollutant means any pollutant listed as toxic in appendix D of 40 CFR part 122, under section 307(a)(1) of CWA.

Waters of the United States means:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate ''wetlands'';

(c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, ''wetlands,'' sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or,

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as waters of the United States under this definition;

(e) Tributaries of waters identified in paragraphs (a)(d) of this definition;

(f) The territorial sea; and

(g) ''Wetlands'' adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)–(f) of this definition.

Whole Effluent Toxicity (WET) means the aggregate toxic effect of an effluent measured directly by a toxicity test.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

2. Abbreviations when used in this permit are defined below:

cu. M/day or M3/day—cubic meters per day
mg/l—milligrams per liter
ug/l—micrograms per liter
lbs/day—pounds per day
kg/day—kilograms per day
Temp. °C—temperature in degrees Centigrade
Temp. °F—temperature in degrees Fahrenheit
Turb.—turbidity measured by the Nephelometric Method (NTU)
pH—a measure of the hydrogen ion concentration
CFS—cubic feet per second
MGD—million gallons per day
Oil & Grease—Freon extractable material
ml/l—milliliter(s) per liter
Cl_2—total residual chlorine

[FR Doc. 02–23989 Filed 9–20–02; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

September 12, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing

effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 22, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman or Leslie Smith, Federal Communications Commission, Room 1–C804 or Room 1–A804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov or *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–XXXX.

Title: Data Network Identification Code (DNIC).

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 5.

Estimated Time Per Response: .25 hours (15 minutes).

Frequency of Response: On occasion and one-time reporting requirement.

Total Annual Burden: 1 hour.

Total Annual Cost: N/A.

Needs and Uses: The Federal Communications Commission (FCC) grants network identification codes to operators of public data networks on an international protocol. The operators of public data networks file the Data Network Identification Code (DNIC) to obtain the DNIC on a one-time only basis unless there is a change in ownership or the owner chooses to relinquish the code to the FCC. There is no fee charged to operators to file the information with the FCC.

OMB Control No.: 3060–XXXX.

Title: International Signaling Point Code (ISPC).

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 40.

Estimated Time Per Response: .166 hours (10 minutes)—2 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 80 hours.

Total Annual Cost: $100,000.

Needs and Uses: The International Signaling Point Codes (ISPC's) are synonymous with telephone area codes. ISPC's are allocated to the FCC by ITU to issue and administer. These codes are assigned to carriers on a first-come, first-serve basis. If the code is not used within 12 months, the carrier forfeits the code and it is assigned to a different carrier. AT&T was responsible for this service in the 1980's. However, AT&T later informed the FCC and the International Telecommunications Union (ITU) that it would no longer perform this function. The FCC voluntarily assumed responsibility for this function. This was preferred by the carriers because the FCC could serve as a neutral third party.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–24022 Filed 9–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Media Security and Reliability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons of a meeting of the Media Security and Reliability Council (Council). The meeting will be held at the Federal Communications Commission in Washington, DC.

DATES: Wednesday, November 6, 2002 at 10 a.m. to 11:30 p.m.

ADDRESSES: Federal Communications Commission, 445 12th St. SW., Room TW–C305, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Barbara Kreisman at 202–418–1605 or TTY 202–418–7172.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the broadcast and multichannel video programming distribution industries and experts from consumer, public safety and other organizations to explore and recommend measures that would enhance the security and reliability of media facilities and services.

The Council will discuss the progress of its working groups. The Council may also discuss such other matters as come before it at the meeting. Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. Admittance, however, will be limited to the seating available. The public may submit written comments before the meeting to Barbara Kreisman, the Commission's Designated Federal Officer for the Media Security and Reliability Council, by email (bkreisma@fcc.gov) or U.S. mail (2–A666, 445 12th St. SW., Washington, DC 20554). Real Audio and streaming video Access to the meeting will be available at *http://www.fcc.gov/.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–24107 Filed 9–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 new information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the development of the Fire and Emergency Services

Higher Education Academic Fire Programs Database using a survey instrument.

SUPPLEMENTARY INFORMATION: As chief officer promotional requirements for bachelor's degree in U.S. fire departments increases, so do interest in the academic fire programs that offer them. Moreover, the work schedules of fire fighters oftentimes direct them to distance education programs as alternative to traditional programs. Likewise, since the events of September 11, increased interest in fire fighting as a career choice may drive up enrollments in two- and four-year colleges offering degrees in fire science and fire administration.

All of these factors contribute to a national need for this database and the consequence of not doing this project is an unmet need of an important constituency. Finally, the Government Performance and Results Act require our measuring program results. The program office has established four areas of measurement, of which this survey will directly support one.

Collection of Information

Title: Fire and Emergency Services Higher Education Academic Fire Programs Database and Performance Measurement.

Type of Collection: New.

Form Numbers: To be assigned.

Abstract: Over the past fifteen years the role and scope of the fire service has changed considerably. Increasingly, fire department responses have changed from mainly structural fires to responding to a wide variety of incidents such as medical calls, hazardous materials incidents, and advanced rescues. The tragic events of September 11, 2001, further changed its role and scope as fire departments begin to prepare for future terrorist acts. The fire service is in a critical period as it attempts to provide efficient and effective service delivery at the same time as expanding services. To meet these new challenges, fire service related organizations must work together at the local, state, and national level. One such area where collaboration among and between fire services related organizations is lacking is Training an Education. The U.S. Fire Administration's National Fire Academy has taken a lead role in coordinating and supporting communication between degree programs and interaction between state training agencies and degree programs.

This study will help this process by providing the fire service community with descriptive data on fire service degree programs from which to begin cooperative planning. The information collected as part of this study will provide baseline data for future studies allowing for more accurate tracking of trends. In addition, institutions offering fire service degree programs can use this information as a benchmark and/or for comparing their program to national averages. Policymakers at the state and national level can use the information gathered to initiate and/or support program and legislative initiatives.

Affected Public: Individuals or heads of households, Not-for-profit institutions:

The three audiences for whom the survey is intended are:

(1) Potential students looking for a fire-related degree program;

(2) Fire Science Coordinators looking to start or revamp their programs; and

(3) Researchers of fire degree-related information, *e.g.*, students working on term papers, fire service textbook publishers, Executive Fire Officer Program Papers and others.

As Not-for-Profit Institutions, colleges and universities offering fire-related degree programs are the recipients of the survey instruments.

Number of Respondents: 332.

Hour Burden Per Respondent: 45 minutes to complete initial survey and 30 minutes to complete annual updates.

Estimated Total Annual Burden Hours: Range from 166–249 hours with an average of 208 hours.

Estimated Cost to the Federal Government: $75,412.50.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities and Services Management Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Edward J. Kaplan, Education Specialist, U. S. Fire Administration, 16825 S. Seton Ave., Emmitsburg, MD 21727 or at *Ed.Kaplan@fema.gov* for additional information. Contact Ms. Anderson at (202) 646–2625 (voice), (202) 646–3347 (facsimile), or e-mail address: *informationcollections@fema.gov* for copies of the proposed information collection.

Dated: September 16, 2002.

Reginald Trujillo,

Branch Chief, Program Services and Systems Branch, Facilities and Services Management Division, Administration and Resource Planning Directorate.

[FR Doc. 02–24082 Filed 9–20–02; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1427–DR]

Federated States of Micronesia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Federated States of Micronesia, (FEMA–1427–DR), dated July 11, 2002, and related determinations.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Federated States of Micronesia is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 11, 2002:

Pohnpei State for Public Assistance and the Municipality of Sapwuahfik for the Emergency Food Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis

Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–24083 Filed 9–20–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1431–DR]

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–1431–DR), dated September 10, 2002, and related determinations.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 10, 2002, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act), as follows:

I have determined that the damage in certain areas of the State of North Dakota, resulting from severe storms, flooding and tornadoes beginning on June 8, 2002, and continuing through August 11, 2002, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, and Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Individual Assistance is later requested and warranted, Federal funds provided under the Individual and Family Grant program will be limited to 75 percent of the total eligible costs.

The North Dakota Division of Emergency Management will manage the Public Assistance operation, including project eligibility reviews, process control, and resource allocation. The Federal Emergency Management Agency will retain obligation authority, the final approval of environmental and historic preservation reviews, and will assist the North Dakota Division of Emergency Management to the extent that such assistance is necessary and is specifically requested by the North Dakota Division of Emergency Management.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Steven R. Emory of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of North Dakota to have been affected adversely by this declared major disaster:

Grand Forks, Pembina, Stutsman, Traill and Walsh Counties and the Fort Berthold Indian Reservation for Public Assistance.

All counties and Indian Reservations within the State of North Dakota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–24084 Filed 9–20–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1432–DR]

Wisconsin; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Wisconsin (FEMA–1432–DR), dated September 10, 2002, and related determinations.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 10, 2002, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Wisconsin, resulting from severe storms, tornadoes and flooding on September 2, 2002, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Wisconsin.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas, and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and the Individual and Family Grant program will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Gracia Szczech of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Wisconsin to have been affected adversely by this declared major disaster:

Barron, Burnett, Chippewa, Clark, Dunn, Langlade, Lincoln, Marathon, Polk, Portage, Price, Rusk, Sawyer, Shawano, St. Croix,

Taylor, Washburn, Waupaca, and Wood Counties for Individual Assistance.
Polk, Rusk, and Taylor Counties for Public Assistance.

All counties within the State of Wisconsin are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–24085 Filed 9–20–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Radiological Preparedness Coordinating Committee Meeting

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) advises the public that the FRPCC will meet on October 3, 2002 in Washington, DC.

DATES: The meeting will be held on October 3, 2002, at 9 a.m.

ADDRESSES: The meeting will be held in FEMA's Lobby Conference Center, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Pat Tenorio, FEMA, 500 C Street, SW., Washington, DC 20472, telephone (202) 646–2870; fax (202) 646–4321; or e-mail *pat.tenorio@fema.gov.*

SUPPLEMENTARY INFORMATION: The role and functions of the FRPCC are described in 44 CFR 351.10(a) and 351.11(a). The Agenda for the upcoming FRPCC meeting is expected to include: (1) Introductions, (2) reports from FRPCC subcommittees, (3) old and new business, and (4) business from the floor.

The meeting is open to the public, subject to the availability of space. Reasonable provisions will be made, if time permits, for oral statements from the public of not more than five minutes in length. Any member of the public who wishes to make an oral statement at the October 3, 2002, FRPCC meeting should request time, in writing, from W. Craig Conklin, FRPCC Chair, FEMA, 500 C Street, SW., Washington, DC 20472. The request should be received at least five business days before the meeting. Any member of the public who wishes to file a written statement with the FRPCC should mail the statement to: Federal Radiological Preparedness Coordinating Committee, c/o Pat Tenoria, FEMA, 500 C Street, SW., Washington, DC 20472

W. Craig Conklin,

Director, Technological Services Division, Office of National Preparedness, Federal Emergency Management Agency, Chair, Federal Radiological Preparedness Coordinating Committee.

[FR Doc. 02–24081 Filed 9–20–02; 8:45 am]

BILLING CODE 6718–06–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 7, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Peter C. Cook, Grand Rapids, Michigan, first trustee of the Peter C. Cook Trust, Grand Rapids, Michigan; to acquire voting shares of Northpointe Bancshares, Inc., Grand Rapids, Michigan, and thereby indirectly acquire voting shares of Northpointe Bank, Grand Rapids, Michigan.

Board of Governors of the Federal Reserve System, September 17, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–24099 Filed 9–20–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 02-23279) published on pages 58053 and 58054 of the issue for Friday, September 13, 2002.

Under the Federal Reserve Bank of San Francisco heading, the entry for James O. Pohlad, and William M. Polad, Los Angeles, California, is revised to read as follows:

1. James O. Pohlad, Robert C. Pohlad, and William M. Pohlad, Los Angeles, California; to acquire additional voting shares of National Mercantile Bancorp, Los Angeles, California, and thereby indirectly acquire additional voting shares of Mercantile National Bank, Los Angeles, California, and South Bay Bank, National Association, Torrance, California.

Comments on this application must be received by September 27, 2002.

Board of Governors of the Federal Reserve System, September 17, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–24100 Filed 9–20–00; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act

(12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 17, 2002.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Beltline Bancshares, Inc., Garland, Texas, and Security Bank Holding Company, Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Security Bank, National Association, Garland, Texas.

2. Central Texas Financial Corporation, Cameron, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Milam Financial Corporation, Wilmington, Delaware.

In connection with this application, Milam Financial Corporation, Wilmington, Delaware, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank, Cameron, Texas.

Board of Governors of the Federal Reserve System, September 17, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–24098 Filed 9–20–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to allow the proposed information collection project: ''Pilot Study of the Hospital Adverse Event Reporting Survey''. In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506j(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by November 22, 2002.

ADDRESSES: Written comments should be submitted to: Cynthia D. McMichael, Reports Clearance Officer, AHRQ, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ Reports Clearance Officer, (301) 594–3132.

SUPPLEMENTARY INFORMATION:

Proposed Project

Pilot Study of the Hospital Adverse Event Reporting Survey

The Pilot Study of the Hospital Adverse Event Reporting Survey will pilot test a survey instrument which was developed to examine and characterize adverse event reporting in the nation's hospitals. The survey will collect information from staff for a nationally representative sample of U.S. non-Federal hospitals. The Pilot Study will test the survey and the methodology of its administration at 40 hospitals. Different staff, specifically, risk managers; directors of nursing, pharmacy, laboratory medicine, and transfusion medicine; infrection control officers; and medical directors will complete a questionnaire. Two versions of the questionnaire have been developed: one to be administered to hospital risk managers, and the other to be administered to the above-named departmental managers.

To achieve responses from 40 hospitals, we will contact 50 hospitals to enlist their cooperation (thus, we anticipate an 80% response rate). Contacting 50 hospitals should yield 40 risk managers with whom to conduct an interview. In addition, we plan to conduct interviews with six specific Department heads. Not all hospitals will have such positions, and thus, we anticipate at most, 240 interviews with Department managers (assuming an 80% response rate).

The questionnaire will ask whether hospitals collect information on adverse events, and how the information is stored. The questionnaire also asks about the hospital's case definition of a reportable event and whether information on the severity of the adverse event is collected. If inquires about who might report information and whether they can report to a system which is confidential and/or anonymous. The questionnaire also asks about the uses of the data that are collected, reporting systems, and whether information is used for purposes including analytic uses, personnel action, and intervention design. Finally, the questionnaire asks about the other sources of information that are useful for patient safety-related interventions.

The sample will be randomly drawn from the American Hospital Association Field Guide (the ''AHA Guide''). The AHA Guide is a listing of 5,890 registered hospitals, which include Department of Defense, and Veteran's Administration hospitals. The AHA believes is database is close to 100 percent complete. AHA gathers additional information directly from hospitals via an annual survey. The resulting database includes over 600 fields in areas such as organizational structure, facilities, bed numbers, finances and services specialities. Their survey results are published annually in the AHA Guide. In our sample, we will include only non-Federal hospitals and we will aim to pilot the instruments in large, medium and small hospitals.

Mandate for Data Collection; Sponsorship

In the Fiscal Year 2002 Senate Appropriations Report for the Departments of Labor, HHS, and Education (Rpt.–107–84), AHRQ was given the following specific requirements:

> The Committee further directs AHRQ to provide a report detailing the results of its efforts to reduce medical errors. The report should include how hospitals and other healthcare facilities are reducing medical errors; how these strategies are being shared among healthcare professionals; how many hospitals and other healthcare facilities record and track medical errors; how medical error information is used to improve patient safety; what types of incentives and/or disincentive have helped healthcare professionals reduce medical errors and; a list of the most common root causes of medical errors.

This project is sponsored by the Federal Quality Interagency Taskforce (QuIC) Errors Workgroup. The QuIC is responsible for the Federal Interagency coordination of patient safety efforts. AHRQ serves as provider of operational support to the chair of the QuIC.

Method of Collection

As a pilot study, this survey offers researchers the opportunity to experiment with the mode in which to collect the information. Accordingly, in this pilot study, respondents from one-

half of the hospitals will be mailed a self-administered questionnaire. Respondents from the other hospitals will be telephoned and administered the questionnaire by a trained interviewer. The following steps outline the data collection procedures.

1. All sample hospitals will be contacted and ''screened'' to obtain the Risk Manager's name, direct telephone number, Fax number and verify the hospital's mailing address.

2. Half of the sample will then be randomly assigned to either the mail or telephone mode of data collection.

3. All Risk Managers will receive an advance letter explaining the study and notifying them that they will soon receive a telephone call or survey in the mail.

4. When the Risk Manager receives the survey/telephone call, he/she will be asked to provide the names of Departmental Managers.

5. The Departmental Managers will be contacted in the same fashion (telephone or mail) as their institution's Risk Manager. Thus, they will receive an advance letter and then a telephone call or mail survey.

A thank you/reminder postcard will be sent to all mail respondents. A second questionnaire will be mailed to the nonrespondents in the mail mode. Finally, all the mail nonrespondents will be contacted by telephone to complete the questionnaire.

Estimated Annual Respondent Burden

The estimated annual hour burden is as follows:

Type of respondent	Number of respondents	Estimated time per respondent in hours	Estimated total burden hours	Estimated annual cost to the government
Risk manager	40	.58	23.2	$628.72
Departmental Manager	240	.42	100.8	4,048.13

Request for Comments

In accordance with the above-cited legislation, comments on the AHRQ information collection proposal are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: September 17, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–24183 Filed 9–20–02; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to allow the proposed information collection project: ''Pilot Data for the Development of a Hospital Patient Safety Culture Survey''. In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by November 22, 2002.

ADDRESSES: Written comments should be submitted to: Cynthia D. McMichael, Reports Clearance Officer, AHRQ, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ Reports Clearance Officer, (301) 594–3132.

SUPPLEMENTARY INFORMATION:

Proposed Project

''Pilot Data for the Development of a Hospital Patient Safety Culture Survey''

The project is being conducted in partial response to an AHRQ task order entitled ''Patient Safety Measures'' (issued under Contract 290–96–0004). With AHRQ's Director chairing the Quality Interagency Coordination Task Force (QuIC), AHRQ coordinated the Federal response to the Institute of Medicine's (IOM) 1999 report on medical errors. The response outlined specific initiatives the QuIC agencies would take. This project addresses the need, for a measurement tool to assess patient safety culture within health care institutions is one of those initiatives. The project is to develop a hospital patient safety culture survey, conduct cognitive pretesting, collect pilot data using the survey, analyze the pilot data to determine the psychometric properties of the survey (internal consistency, reliability, response variability, etc.), and then, to prepare survey administration procedures accordingly.

The overall goal of this study is to provide AHRQ with a reliable employee survey instrument to assess a hospital's patient safety culture. The survey instrument will be made publicly available to enable hospitals throughout the nation to evaluate aspects of their organizational culture that impact medical errors, error reporting, and patient safety.

The hospital patient safety culture survey to be pilot tested for this project is an employee survey that places an emphasis on medical error reporting. The survey also includes scales that measure other aspects of organizational

culture that impact patient safety, such as: organizational learning, overall perceptions of safety, compliance with procedures, attitudes and frequency of error reporting, nonpunitive response to error, reasons errors occur, and employee teamwork. Through the proposed project, a reliable hospital patient safety culture survey will be developed and then made available to the public, to reduce the burden of hospitals in developing their own instruments, to reduce the proliferation and use of untested instruments, and to foster benchmarking across hospitals.

Method of Collection

The purpose of this pilot data collection is to gather enough survey responses to evaluate the internal consistency, reliability, response variability, and other psychometric properties of a newly developed survey, not to produce national estimates. Therefore, a purposive sample (hand-chosen, non-statistical sample) of 12 hospitals will suffice to participate in the study. Hospitals will be selected based on two factors: bed size and teaching vs. non-teaching status (2 large/teaching, 2 medium/teaching, 2 small/teaching, 2 large/non-teaching, 2 medium/non-teaching, 2 small/non-teaching).

Surveys will be distributed to 100 employees at each of the 12 sites (a total of 1,200 employees). A contact person at each hospital will be asked to select 100 employees using a systematic random sample of employees. The contact person at each hospital will distribute the paper surveys to the 100 selected employees at each site. For purposes of individual confidentiality, no individual identifiers will be used, so it will not be possible to track individual responses. Respondents will be instructed to mail their completed surveys directly to the research organization conducting the study using a postage-paid return envelope that will be provided. The hospitals will at no time have access to individual responses.

The survey will be distributed to a total of 1,200 hospital employees (100 individuals at each of 12 hospitals), with a target response rate of 75%, or 900 returned surveys. Standard techniques like using a prenotification letter, a cover letter of support from the hospital, a follow-up postcard, and distribution of a second survey will be used to achieve the target response rate. Respondents should take approximately 20 minutes to complete the survey. Therefore, we estimate that the respondent burden for completing the survey will be 300 hours (900 completes multiplied by 20 minutes per completed survey).

Estimated Annual Respondent Burden:

Date collection effort	Number of respondents	Estimated time per respondent (minutes)	Estimated total burden hours
Safety Culture Survey Pilot	900	20	300

Respondents will not be asked to maintain any records. No additional equipment purchases will be made to support data collection processes or record keeping. Respondents will incur no monetary cost in completing the survey.

Estimated Annual Costs to the Federal Government

The total cost to the Government for conducting this survey development project is approximately $227,000 which includes the cost of survey development, pretesting, data collection, analysis, preparation of survey administration procedures, and preparation of a final report. The estimated cost of the data collection component is $50,000, which includes labor costs, fringe expenses, administrative expenses, and costs associated with copying, postage, and telephone expenses.

Request for Comments

In accordance with the Paperwork Reduction legislation cited in the summary section above, comments on the AHRQ information collection proposal are requested with regard to any of the following:

(a) Whether the proposed collection of information is necessary for the proper performance of functions of the Agency, including whether the information will have practical utility;

(b) The accuracy of the Agency's estimate of the burden (including hours and costs) of the proposed collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information on respondents, including the use of automated collection techniques or other forms of information technology.

(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.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: September 17, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–24184 Filed 9–20–02; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 67 FR 42268–71, dated June 21, 2002) is amended to restructure the Epidemiology and Surveillance Division, National Immunization Program.

Section C–B, Organization and Functions, if hereby amended as follows:

Delete the functional statement for the *Epidemiology and Surveillance Division (CJ3),* and insert the following:

(1) Directs all Program activities regarding epidemiology, national surveillance, research and technical consultation for pertussis, diphtheria, tetanus, polio, measles, mumps, rubella, varicella, smallpox, and the vaccines, and toxoids to prevent these diseases, has the lead responsibility for immunization safety, and takes an

active role in the development of immunization policy and vaccine recommendations in the United States; (2) collaborates with other CDC CIOs in epidemiologic studies and surveillance activities for influenza and pneumococcal disease; (3) provides medical and epidemiologic expertise and collaborates with other NIP Divisions and CDC CIOs in developing strategies to enhance immunization coverage of adults; (4) directs national surveillance of diphtheria, pertussis, tetanus, polio, *Haemophilus influenzae* type b (in collaboration with other CDC CIOs), measles, mumps, rubella, congenital rubella, varicella, complications arising from these diseases, and adverse events following vaccination; (5) monitors vaccine safety, and conducts scientific research to evaluate the safety of all currently available and new vaccines; (6) develops strategies for designated national and international vaccine-preventable disease control programs and/or disease elimination activities; (7) provides epidemic aid in collaboration with other CDC CIOs, during outbreaks of vaccine-preventable diseases and consultation to State and local health departments and to foreign countries on these diseases and their prevention; (8) provides consultation and assistance to public health professionals on vaccine-preventable diseases, vaccines, and biological products; (9) directs epidemiologic research to evaluate the efficacy, safety, and cost effectiveness of vaccines, and to study aspects of vaccine-preventable diseases relevant to immunization practice; (10) provides scientific and administrative support for the Advisory Committee on Immunization Practices in the development of vaccine policies and recommendations.

Delete the titles and functional statements for the *Vaccine Safety and Development Activity (CJ3–2)*, *Adult Vaccine-Preventable Diseases Branch (CJ33)*, and *Child Vaccine-Preventable Diseases Branch (CJ34)*, and insert the following:

Bacterial Vaccine Preventable Disease Branch (CJ35). (1) Conducts epidemiologic research and provides medical expertise on bacterial vaccines and vaccine-preventable disease, including diphtheria, pertussis, *Haemophilus influenzae* type b, tetanus, anthrax, and pneumococcal disease; (2) provides consultation on the use of vaccines and toxoids recommended to prevent these diseases; (3) provides consultation and support to State and local health departments in the investigation of epidemics and other problems associated with bacterial vaccine-preventable diseases, and recommends appropriate control measures; (4) conducts national surveillance and prepares and distributes surveillance information for diphtheria, pertussis, and tetanus; (5) in collaboration with other CDC CIOs, conducts surveillance and investigates outbreaks of *Haemophilus influenzae* type b disease and pneumococcal disease; (6) analyzes and prepares information and statements for the Advisory Committee on Immunization Practices and other advisory committees on diphtheria, pertussis, and tetanus, and in collaboration with other CDC CIOs, *Haemophilus influenzae* type b, anthrax, and pneumococcal disease; (7) evaluates the effectiveness of activities to prevent bacterial vaccine-preventable diseases; (8) conducts epidemiologic studies to determine efficacy and safety of vaccines and toxoids recommended to prevent bacterial vaccine-preventable diseases; (9) prepares and reviews articles based on study findings for publication in professional journals, and makes presentations at professional conferences; (10) provides scientific support to other CDC CIOs in the development of effective communications and techniques to prevent bacterial vaccine-preventable diseases; (11) collaborates with the WHO, the Pan American Health Organization, as well as other national and international agencies on investigating bacterial vaccine-preventable disease outbreaks, conducting surveillance and epidemiologic research, and developing strategies for the prevention and elimination of bacterial vaccine-preventable diseases.

Viral Vaccine Preventable Diseases Branch (CJ36). (1) Conducts epidemiologic research and provides medical expertise on viral vaccine-preventable diseases, including measles, mumps, rubella, polio, varicella, influenza, and smallpox; (2) provides consultation on the use of vaccines recommended to prevent these diseases; (3) provides consultation and support to State and local health departments in the investigation of epidemics and other problems associated with viral vaccine-preventable diseases, and recommends appropriate control measures; (4) conducts national surveillance and prepares and distributes surveillance information for measles, mumps, rubella, polio, and varicella; (5) in collaboration with other NIP Divisions and CDC CIOs, performs surveillance and other emergency response activities for viral vaccine-preventable diseases (*e.g.,* surveillance for suspected smallpox cases); (6) analyzes and prepares information and statements for the Advisory Committee on Immunization Practices and other advisory committees on measles, mumps, rubella, polio, and varicella, and in collaboration with other CDC CIOs, influenza, rotavirus, and smallpox disease; (7) evaluates the effectiveness of activities to prevent viral vaccine-preventable diseases; (8) conducts epidemiologic studies to determine efficacy and safety of vaccines recommended to prevent viral vaccine-preventable diseases; (9) prepares and reviews articles based on study findings for publication in professional journals, and makes presentations at professional conferences; (10) provides scientific support to other CDC CIOs in the development of effective communications and techniques to prevent viral vaccine-preventable diseases; (11) collaborates with the WHO, the Pan American Health Organization, as well as other national and international agencies on investigating viral vaccine-preventable disease outbreaks, conducting surveillance and epidemiologic research, and developing strategies for the prevention and elimination of viral vaccine-preventable diseases.

Immunization Safety Branch (CJ37). (1) Coordinates a national surveillance program for monitoring vaccine safety, in collaboration with the Food and Drug Administration (FDA); (2) collects, analyzes, and evaluates data to determine the safety of designated vaccines; (3) prepares and distributes surveillance information pertaining to the monitoring of adverse events following immunization; (4) conduct ad-hoc studies and investigations pertaining to adverse events following immunization; (5) coordinates studies using large linked data bases to evaluate the potential causal relationship of vaccination with specific health outcomes; (6) collaborates with other CDC CIOs, the FDA, the National Institute of Allergy and Infectious Diseases, the Health Resources and Services Administration, the Department of Defense, and the National Vaccine Program Office in development and execution of a coordinated national plan to improve immunization safety; (7) assists the National Vaccine Injury Compensation Program in analyzing data from cases seeking compensation; (8) provides consultation to State and local health departments pertaining to monitoring and reporting of adverse events following immunization; (9) prepares articles based on findings of studies for publication in professional

journals and presentation at professional conferences; (10) collaborates with partners to develop new and combined vaccines that can be integrated into national and international immunization programs; (11) participates in trials of new and combined vaccines; (12) participates in international as well as domestic vaccine safety research activities; and (13) conducts research and evaluates alternative approaches for administering vaccines to enhance safety.

Dated: September 12, 2002.

Julie Louise Gerberding,

Director, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–24034 Filed 9–20–02; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0388]

Guidance for Industry on Establishing Pregnancy Exposure Registries; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing the availability of a final guidance entitled ''Establishing Pregnancy Exposure Registries.'' The guidance is intended to provide sponsors with guidance on how to establish pregnancy exposure registries to monitor the outcomes of pregnancies exposed to specific medical products.

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Office Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. *See* the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Dianne L. Kennedy, Center for Drug Evaluation and Research (HFD–970), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2364, kennedyd@cder.fda.gov; or Toni M. Stifano, Center for Biologics Evaluation and Research (HFM–600), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6190, stifano@cber.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Establishing Pregnancy Exposure Registries.'' Pregnancy exposure registries are recognized as one method of obtaining information on risks associated with exposure to medical products during pregnancy. The guidance is intended to provide sponsors with recommendations on how to establish pregnancy exposure registries, to help ensure the quality and integrity of registry data, and to help ensure the adequacy of document registry research methods.

In June 1999, FDA announced the availability of a draft guidance entitled ''Establishing Pregnancy Registries'' (64 FR 30041, June 4, 1999). Comments received on the draft guidance revealed that several general areas of the guidance needed revision and/or clarification.

Based on the comments received and on discussions with FDA's Pregnancy Labeling Subcommittee of the Advisory Committee for Reproductive Health Drugs on June 3, 1999 (64 FR 23340) and March 28 to 29, 2000 (65 FR 10811), the agency revised and/or clarified several sections of the guidance, including (1) When it is recommended that a registry be conducted, (2) use of comparison groups, (3) promotion of a registry and (4) regulatory reporting requirements. In addition, the name of the guidance was changed from ''Pregnancy Registries'' to ''Pregnancy Exposure Registries'' to more accurately reflect the nature of these types of studies and to differentiate them from more classic retrospective registries (e.g., cancer registries and birth defect registries).

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on pregnancy exposure registries. 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 requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). 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 document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the guidance document at *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/cber/guidelines.htm*. To obtain the guidance document by fax call the FAX Information System at 1–888–CBER-FAX or 301–827–3844.

Dated: September 16, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–24037 Filed 9–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

National Park Service

Information Collection; Request for Extension

AGENCY: National Park Service, Interior

ACTION: Notice of request for extension of a currently approved information collection.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Park Service's intention to request an extension for a currently approved information collection in support of its Concession Management Program.

DATES: Comments in this notice must be received no later than November 22, 2002.

ADDITIONAL INFORMATION OR COMMENTS: Contact Cynthia Orlando, Concession Program Manager, National Park Service, 1849 C Street, NW., (2410), Washington, DC 20240 or 202/513–7144.

SUPPLEMENTARY INFORMATION:

Title: Proposed Sale of Concession Operations.

OMB Number: 1024–0126.

Expiration Date of Approval: August 31, 2002.

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

Abstract: The National Park Service (NPS) authorizes private businesses known concessioners to provide necessary and appropriate visitor facilities and services in areas of the National Park System. Concession authorizations may be assigned, sold, transferred or encumbered by the concessioner subject to prior written approval of the NPS. The NPS requires that certain information be submitted for a review prior to the consummation of any sale, transfer, assignment, or encumbrance.

16 U.S.C. 3 provides that no contract, lease, permit or privilege granted for the purpose of providing accommodations for visitors to the national parks shall be assigned or transferred by such grantee, permittees, or licenses without the approval of the NPS, first obtained in writing. It further provides that the NPS may authorize concessioners to execute mortgages and issue bonds, shares of stock, and other evidences or interest in or indebtedness upon their rights, properties and franchises, for the purposes of installing, enlarging or improving plant and equipment and extending facilities for the purposes of installing, enlarging or improving plant and equipment and extending facilities for the accommodation of the public within national parks and monuments. 16 U.S.C. 20(3) also provides that the possessory interest of a concessioner may be assigned, transferee, encumbered, or relinquished. Regulations at 36 CFR part 51 require that certain information be submitted for review by the NPS prior to the consummation of any sale, transfer, assignment or encumbrance.

The information requested is used to determine whether or not the proposed transaction will result in decreased services to the public, the lack of a reasonable opportunity for profit over the remaining term of the authorization, or rates in excess of existing approved rates to the public. In addition, pursuant to the regulations at 36 CFR, Part 51, the value of rights for intangible assets such as the concession contract, right of preference in renewal, user days, or low fees belong to the Government. If any portion of the purchase price is attributable either directly or indirectly to such assets, the transaction may not be approved. The amount and type of information to be submitted varies with the type and complexity of the proposed transaction. Without such information, the NPS would be unable to determine whether approval of the proposed transaction would be adequate.

Estimate of Burden: Approximately 8 hours per response.

Estimated Number of Resppondents: Approximately 20.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 1600 Hours.

A list of information required to be submitted with a request for sale, assignment, transfer or encumbrance of a concession authorization is set forth at 36 CFR 51.7.

Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection to: Cynthia L. Orlando, Concession Program Manager, National Park Service, Department of the Interior, 1849 C Street, NW., (2410), Washington, DC 20240.

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 13, 2002.

Richard G. Ring,

Associate Director for Park Operations and Education.

[FR Doc. 02–24044 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Contract Award and Negotiations

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a temporary concession contract authorizing the operation of mobile food services for the public within the Jamaica Bay Unit, Gateway National Recreation Area, New York for a term not to exceed two years.

DATES: Thirty (30) days after date of publication in the **Federal Register**.

ADDRESSES: Concession Program Manager, National Park Service, Northeast Region, Concession Management Program, 15 State Street, Boston, MA 02109–3572.

SUPPLEMENTARY INFORMATION: This temporary concession contract is being awarded to the Dover Gourmet Corporation, Plainview, New York. It is necessary to award the contract in order to avoid interruption of visitor services.

The action is issued pursuant to 36 CFR 51.24(a). This is not a request for proposals and no prospectus is being issued at this time. Gateway National Recreation Area is in the process of reviewing its visitor services plans for this location to develop a long-term strategy. This temporary contract will allow the continuation of services to the public during the planning process. You may be placed on a mailing list for receiving information regarding any future competitive solicitation by sending a written request to the above address.

Dated: July 18, 2002.

Chrysandra L. Walter,

Acting Regional Director, Northeast Region.

[FR Doc. 02–24041 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Contract Extension

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to 36 CFR 51.23, public notice is hereby given that the National Park Service proposes to extend the following expiring concession contract for a period of up to three years, or until such time as a new contract is awarded, whichever occurs sooner.

SUPPLEMENTARY INFORMATION: The listed concession authorization will expire by its terms on December 31, 2002. The National Park Service has determined that the proposed extension is necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. This extension will allow the National Park Service to complete and issue a prospectus leading to the competitive selection of a concessioner for a new long-term concession contract covering this operation.

Concessioner ID No.	Concessioner name	Park
STLI002	Evelyn Hill, Inc..	Statue of Liberty National Monument.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC 20240, Telephone 202/565–1210.

Dated: September 6, 2002.

Richard G. Ring,

Associate Director, Park Operations and Education.

[FR Doc. 02–24043 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Draft Environmental Impact Statement for the Special Resource Study for the Battle of Homestead and Carrie Furnaces Sites

AGENCY: National Park Service, Department of Interior.

ACTION: Availability of draft environmental impact statement for the Special Resource Study for the Battle of Homestead and Carrie Furnaces sites.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Draft Environmental Impact Statement (DEIS) for the Special Resource Study for the Battle of Homestead and Carrie Furnaces sites in Homestead, Pennsylvania. The Department of the Interior and Related Agencies Appropriations Bill (House of Representatives Committee Report 105–609) directed the National Park System to undertake a Special Resource Study for the Battle of Homestead and Carrie Furnace sites in Pennsylvania. The purpose of a Special Resource Study is to determine the degree and kind of federal actions that may be desirable for the management and protection of an area considered to have potential for addition to the National Park System. This is a Special Resource Study (SRS) of the U.S. Steel Homestead Works including the Battle of Homestead site and adjacent town of Homestead and the related Carrie Furnace area. The study area includes the National Historic District in the town of Homestead, the landing site and pump house, the site of Carrie Furnaces number 6 and 7, and the Hot Metal Bridge. The study addresses the significance of the site in the contexts of the history of steel making and labor history in the United States.

The study area, includes portions of four boroughs within Allegheny County: Homestead, Munhall, Rankin and Swissvale.

The land under consideration is currently part of the Rivers of Steel National Heritage Area, but it is all in private ownership and there is not expected to be any federal ownership and no NPS management role. Instead, conservation, interpretation and other activities will continue to be managed by partnerships among federal, state, and local governments and private nonprofit organizations. The national heritage area is managed by the Steel Industry Heritage Corporation (SIHC), a non-profit 501(c)(3). The National Park Service has been authorized by Congress to provide technical and financial assistance for a limited period to the SIHC (up to 10 years from the time of the designation in 1996).

DATES: The DEIS will remain on Public Review for a period of sixty days after the Federal Register Announcement by the U.S. Environmental Protection Agency. If necessary a public meeting will be scheduled and notice will be made of the meeting through a broad public mailing and publication in the local newspapers.

FOR FURTHER INFORMATION CONTACT: Peter Samuel, Project Leader, Philadelphia Support Office, National Park Service, U.S. Custom House, 200 Chestnut Street, Philadelphia, PA 19106, *peter_samuel@nps.gov*, 215–597–1848.

If you correspond using the internet, please include your name and return address in your e-mail message. Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: August 7, 2002.

David Hollenberg,

Assistant Regional Director, National Heritage Partnerships, NPS Northeast Region.

[FR Doc. 02–24047 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan/Environmental Impact Statement (GMP/EIS), Chickasaw National Recreation Area, Oklahoma

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for a General Management Plan, Chickasaw National Recreation Area, Oklahoma.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement (EIS) for a general management plan for Chickasaw National Recreation Area. The environmental impact statement will be approved by the Director, Intermountain Region.

The general management plan (GMP) will establish the overall direction for the park, setting broad management goals for managing the area over the next 15 to 20 years. The plan will prescribe desired resource conditions and visitor experiences that are to be achieved and maintained throughout the park. Based on the desired conditions, the plan will outline the kinds of resource management activities, visitor activities, and developments that would be appropriate in the park. Among the topics that will be addressed are protection of natural and cultural resources, water resources, management of the cultural landscape, appropriate range of visitor uses, facility developments, traffic patterns and circulation, staff needs, education and interpretive efforts, park partnerships, and external pressures on the park. In cooperation with local, state, tribal, and other federal agencies, attention will also be given to cooperative efforts to address issues that affect the integrity of Chickasaw National Recreation Area, such as the management of water resources.

A range of reasonable alternatives for managing the park, including a no-action and preferred alternative, will be developed through the planning process and included in the EIS. The EIS will evaluate the potential environmental impacts of the alternatives.

As the first phase of the planning and EIS process, the National Park Service is beginning to scope the issues to be addressed in the GMP/EIS. All interested persons, organizations, and agencies are encouraged to submit comments and suggestions regarding the issues or concerns the GMP/EIS should

address, including the suitable range of alternatives and appropriate mitigating measures, and the nature and extent of potential environmental impacts.

DATES: Written comments on the scope of the general management plan/environmental impact statement will be accepted for 60 days beyond the publication of this Notice of Intent. In addition, public scoping sessions will be held at Sulphur and surrounding communities in the fall of 2002. Locations, dates, and times of these meetings will be provided in local and regional newspapers, a scoping newsletter to be mailed in September, and on the Internet at *www.nps.gov/chic*.

ADDRESSES: Written comments or requests to be added to the project mailing list should be directed to: John F. (Rick) Shireman, Superintendent, Chickasaw National Recreation Area, 1008 W. 2nd, Sulphur, OK 73086, telephone (580) 622–3161, extension 1–200; e-mail: *chic_superintendent@nps.gov*.

FOR FURTHER INFORMATION: Contact Superintendent, John F. (Rick) Shireman, Chickasaw National Recreation Area, 1008 W. 2nd, Sulphur, OK 73086, telephone (580) 622–3161, extension 1–200. General information about Chickasaw National Recreation Area is available on the Internet at *http://www.nps.gov/chic*.

SUPPLEMENTARY INFORMATION: Please submit Internet comments as a text file avoiding the use of special characters and any form of encryption. Be sure to include your name and return street address in your Internet message.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that their home addresses be withheld from the public record, which will be honored to the extent allowable by law. Requests to withhold names and/or addresses must be stated prominently at the beginning of the comments. However, submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: August 21, 2002.

Michael D. Synder,

Acting Director, Intermountain Region.

[FR Doc. 02–24053 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Final Environmental Impact Statement, Fort Davis National Historic Site, Texas

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement for the General Management Plan, Fort Davis National Historic Site.

SUMMARY: Pursuant to National Environmental Policy Act of 1969, 42 U.S.C. 4332(c), the National Park Service announces the availability of the Final Environmental Impact Statement for the General Management Plan, Fort Davis National Historic Site, Fort Davis, Texas.

DATES: The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of the notice of availability of the Final Environmental Impact Statement.

ADDRESSES: Information will be available for public review in the office of the Superintendent, and at the following locations: (1) Superintendent, Fort Davis National Historic Site, P.O. Box 1379, Fort Davis, Texas 79734. (2) On the NPS Planning Web site at: *http://planning.den.nps.gov/plans.cfm.*

FOR FURTHER INFORMATION CONTACT: Superintendent, Fort Davis National Historic Site, P.O. Box 1379, Fort Davis, Texas 79734 915–426–3224, extension 21.

Dated: August 5, 2002.

Michael D. Sunder,

Director, Intermountain Region, National Park Service.

[FR Doc. 02–24059 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement for the General Management Plan

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of a Final Environmental Impact Statement for the General Management Plan for Fort Frederica National Monument, Saint Simons Island, Georgia.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a Final Environmental Impact Statement and General Management Plan (FEIS/GMP) for Fort Frederica National Monument, St. Simons Island, Georgia.

DATES: The Draft EIS/GMP was on public review from October 15, 2001 through December 15, 2001. Responses to public comment are addressed in the FEIS/GMP. A 30-day no-action period will follow the Environmental Protection Agency's Notice of Availability of the FEIS/GMP. After the 30-day period, a Record of Decision will be signed that will document NPS approval of the FEIS/GMP and identify the selected alternative for implementation.

ADDRESSES: Copies of the FEIS/GMP are available from the Superintendent, Fort Frederica National Monument, Route 9, Box 286–C, St. Simons Island, Georgia 31522. Public reading copies of the FEIS/GMP will also be available for review at the following locations:

- Division of Planning and Compliance, Southeast Regional Office, National Park Service, Attention: David Libman, 100 Alabama Street, 1924 Building, Atlanta, Georgia 30303, Telephone: 404–562–3124, ext. 685.

FOR FURTHER INFORMATION CONTACT: Superintendent, Fort Frederica National Monument, Route 9, Box 286C, St. Simons Island, Georgia 31522, Telephone: 912–638–3639

SUPPLEMENTARY INFORMATION: Consistent with the park's purpose, significance, and mission goals, the FEIS/GMP analyzes 4 alternatives for guiding management of the park over the next 15 to 20 years. The alternatives incorporate various management prescriptions to ensure resource protection and quality visitor experience conditions. The environmental consequences anticipated from implementing the various alternatives are addressed in the document. Impact topics include cultural resources, natural resources, visitor use and experience, and the socioeconomic environment. The following management alternatives were evaluated in the FEIS/GMP:

Alternative A would emphasize the use of archeological methods and the tangible discoveries of archeological investigations to tell the story to visitors. Active archeological investigations would occur regularly. There would be opportunities for visitors to interact actively with archeologists on site and in labs, and with other park staff. Under this alternative, the park would provide additional archeological infrastructure including a lab to wash, screen, dry, number, and store artifacts in a controlled (humidity, temperature,

insects) environment. There would also be office space for a curator and an archeologist as well as classrooms, additional exhibit space, and storage space for equipment.

Alternative B, which is NPS's preferred alternative, would enable the visitor to experience some of the sights, sounds, smells, and other sensory impressions of daily life in the Fort Frederica colonial military settlement on Saint Simons Island, Georgia. Although archeological field investigations could occur that would provide information on landscape elements and other features of the settlement, there would be no construction of additional labs or other facilities as in Alternative A. There would be increased emphasis on re-establishing a visual impression of the colonial Frederica scene by using suitable methods such as appropriate trees, shrubs, ground covers, and other fitting and historically accurate landscape elements. Also, when the existing visitor center and administrative complex becomes functionally obsolete, the NPS would seek authority and funding to demolish it, clear the site, and build a new visitor center in a currently developed or previously disturbed area that is not visible from the historic town site. Administrative offices would be relocated to renovated park residences. The area formerly occupied by the visitor center and parking area would be replanted with native trees and shrubs and allowed to return to a more natural forested condition. Finally, Alternative B provides for the possibility of constructing a dock on the Frederica River to permit tour boats and water taxis to bring visitors to the site in the same manner that the original Frederica settlers arrived.

Alternative C would add additional interpretive themes to the story of colonial Frederica to place the monument site in the broader context of coastal sea island history. These themes would include pre-European, post-contact, plantation, and other historical periods associated with the Frederica site. Some on-site archeology would occur to reveal information necessary to interpret these other historical periods. The primary focus would remain the Fort Frederica settlement period, but the expanded number of stories would require an expansion of the visitor center to accommodate additional exhibits and programs.

Alternative D is the no-action alternative, which would continue current management practices and policies into the future. Current interpretive programs include an aging 25-minute visitor center film, ranger-led tours, living history demonstrations, trade and craft demonstrations, military encampments, and the annual Frederica Festival held the first weekend in March. Current resource management activities include riverbank stabilization, monitoring and maintenance of historic structures and earthworks, hazardous tree management, and management of the park's museum collection.

The responsible official for this Environmental Impact Statement is Jerry Belson, Regional Director, Southeast Region, National Park Service, 100 Alabama Street SW., 1924 Building, Atlanta, Georgia 30303.

Dated: July 16, 2002.

Patricia A. Hooks,

Acting Regional Director, Southeast Region.

[FR Doc. 02–24067 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Available of a Final Environmental Impact Statement for the National Coal Heritage Area, Management Action Plan

AGENCY: National Park Service, Department of Interior.

ACTION: Availability of the final environmental impact statement for the National Coal Heritage Area Management Plan.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Final Environmental Impact Statement (DEIS) for the National Coal Heritage Area (HCHA) in West Virginia. The National Coal Heritage Area Act of 1996 requires the NCHA, with guidance from the National Park Service, to prepare a management plan for the heritage area. The purpose of the Management Action Plan is to: (1) Set forth the integrated cultural, historical, and land resource management policies and programs in order to retain, enhance, and interpret the significant values of the lands, water, and structures of the Area. (2) describe the guidelines and standards for projects that involve preservation, restoration, maintenance, operations, interpretation, and promotion of buildings, structures, facilities, and sites; and (3) set forth the responsibilities of the State of West Virginia, units of local government, nonprofit entities, in order to further historic preservation and compatible economic revitalization.

The study area, designated as the National Coal Heritage Area, includes the following eleven counties in the southern region of West Virginia: Boone, Cabell, Fayette, Logan, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne, and Wyoming.

The National Park Service (NPS) maintains three park sites within the region: New River Gorge National River, The Bluestone National Scenic River and the Gauley National Recreation Area. Otherwise the majority of land is non-federal and the NPS assumes a management role only within their park units. Instead, conservation, interpretation and other activities are managed by partnerships among federal, state, an local governments and private nonprofit organizations. The national heritage area is managed by the State of West Virginia Division of Culture and History, and Division of Tourism, but will be managed in the future by a State Authority. The National Park Service has been authorized by Congress to provide technical and financial assistance for a limited period to the state (up to 10 years from the time of the designation in 1996).

DATES: The FEIS will remain on Public Review for thirty days after announcement is made by the U.S. Environmental Protection Agency of its availability.

FOR FURTHER INFORMATION CONTACT: Peter Samuel, Project Leader, Philadelphia Support Office, National Park Service, U.S. Custom House, 200 Chestnut Street, Philadelphia, PA 19106, *peter_samuel@nps.gov,* 215–597–1848.

If you correspond using the internet, please include your name and return address in your e-mail message. Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identify, as allowable by law. If you wish to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of

organizations or businesses, available for public inspection in their entirety.

Dated: September 7, 2002.

David Hollenberg,

Assistant Regional Director, National Heritage Partnerships, NPS Northeast Region.

[FR Doc. 02–24048 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Right of Way Request, Environmental Assessment or Environmental Impact Statement, Chesapeake and Ohio Canal National Historical Park; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The National Park Service published a document in the **Federal Register** of September 13, 2002, concerning request for comments on a Right of Way Request, Environmental Assessment or Environmental Impact Statement at Chesapeake and Ohio Canal National Historical Park. The second and third sentences of the first paragraph of the Summary were incorrect.

FOR FURTHER INFORMATION CONTACT: Kevin Brandt, 301–714–2201.

Correction

In the **Federal Register** of September 13, 2002, in FR Doc. 02–23370, on page 58072, in the second column, correct the first paragraph of the SUMMARY by eliminating the second and third sentences and inserting the following sentence to read:

The area under consideration for the proposed crossing is between the U.S. 15 bridge area and the Nolands Ferry boat ramp area along the canal near the community of Point of Rocks in Frederick County, Maryland.

Dated: September 13, 2002.

Kevin Brandt,

Assistant Superintendent, Chesapeake and Ohio Canal National Historical Park.

[FR Doc. 02–24068 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Chesapeake Bay Special Resource Study

AGENCY: National Park Service.

ACTION: Notice of Intent to prepare an Environmental Impact Statement and to Hold Public Scoping Meetings for the Chesapeake Bay Special Resource Study.

SUMMARY: This notice announces the intent to prepare an environmental impact statement and hold public scoping meetings for the Chesapeake Bay Special Resource Study.

The Fiscal Year 1999 appropriations bill for the Department of the Interior and related agencies included direction to the National Park Service to conduct a Chesapeake Bay Special Resource Study. The purpose of the study is to explore the appropriateness of representing additional Chesapeake Bay resource areas within the national park system and determine whether this would help advance the partnership effort to conserve and restore the Chesapeake Bay; to determine what type of resource(s) and concept(s) might be appropriate, if any; and to make recommendations to Congress regarding these findings. Such recommendations will focus on overall concepts and criteria, rather than evaluating specific sites. Direct input from political, environmental, business and community leaders, as well as local citizens, will help develop these concepts and criteria.

Four public meetings will be held in September 2002 to discuss the Chesapeake Bay Special Resource Study being undertaken by the National Park Service and to conduct scoping for an associated Environmental Impact Statement. The study is authorized by the fiscal year 1999 appropriations bill for the Department of the Interior. For information on specific meeting dates and locations may be obtained from *http://www.chesapeakestudy.org* or by contacting Jonathan Doherty, National Park Service Chesapeake Bay Program Office, 410 Severn Avenue, Suite 109, Annapolis, MD 21403, 410 267 5725, *jdoherty@chesapeakebay.net.*

Dated: June 27, 2002.

Pat Phelan,

Acting Director, Northeast Region.

[FR Doc. 02–24080 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement on the Backcountry Management Plan and General Management Plan Amendment for Gates of the Arctic National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Backcountry Management Plan, General Management Plan Amendment, and Environmental Impact Statement, Gates of the Arctic National Park and Preserve, Alaska.

SUMMARY: The National Park Service (NPS) is amending the Gates of the Arctic National Park and Preserve General Management Plan with a Backcountry Management Plan and accompanying Environmental Impact Statement (plan/EIS). Gates of the Arctic National Park and Preserve was established by the 1980 Alaska National Interest Lands Conversation Act (ANILCA). With passage of ANILCA, Congress designated 7.2 million acres of wilderness within the park and set forth special provisions for management in recognition of the unique situations and traditional lifeways of Alaska.

The purpose of the plan/EIS is to formulate a comprehensive plan that will provide management direction during the next 15–20 years for the backcountry of Gates of the Arctic National Park and Preserve. The backcountry consists of all of the acreage within the park and preserve boundary, including 7.2 million acres of designated wilderness. Tracts in private ownership are excluded.

Gates of the Arctic National park and Preserve is one of four national park units in Alaska to initiate a backcountry management planning process and GMP amendment. This notice of intent is being published simultaneously with notices to prepare plan/EISs for Glacier Bay National Park and Preserve and Wrangell-St. Elias National Park and Preserve. A plan/EIS for Denali National Park and Preserve is underway (64 FR 49503, September 13, 1999).

The Gates of the Arctic National Park and Preserve plan/EIS is being prepared in response to the increasing level and diversity of activities in the park, resource management and protection needs, and requests for activities and facilities not anticipated or addressed in the 1986 General Management Plan. Specific topics to be addressed in the plan/EIS include, but are not limited to: backcountry hiking, sport hunting, mountaineering, aviation, boating, snowmobiling, dogsledding, commercial services, administrative and scientific/research activities, and the various facilities related to these activities.

The proposed action and other action alternatives will assess variations in the types and levels of backcountry activities and facilities. Toward this end, prescriptive management zones will be described and allocated to park land to provide a spectrum of visitor experience opportunities, resource

conditions, and management activities throughout the backcountry of Gates of the Arctic National Park and Preserve. A no-action alternative also will be evaluated.

The NPS requests written and verbal comments about the scope of the planning process (e.g., issues and concerns, alternatives, potential environmental impacts), from federal and state agencies, local government, Native tribes, private organizations, backcountry users, and the general public. Further information on this planning process will be available through public scoping meetings, press releases, web sites, and newsletters. Joint public scoping meetings on the plans/EISs for The Gates of the Arctic National Park and Preserve, Glacier Bay National Park and Preserve, and Wrangell-St. Elias National Park and Preserve will be held in Fairbanks, Anchorage, and Juneau, Alaska, as well as in Seattle, Washington. Additional scoping meeting will be held in communities near the respective parks. The public will be notified in the future of the specific dates, times, and locations of the scoping meeting.

The Gates of the Arctic draft plan/EIS is anticipated to be available for public review in the spring of 2004. Public meetings will be scheduled during the 60-day comment period after release of the draft plan/EIS.

Interested groups, organizations, individuals, and government agencies are invited to comment on the plan. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The plan/EIS is being prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4331 *et seq.*) and its implementing regulations at 40 CFR part 1500.

FOR FURTHER INFORMATION CONTACT: David D. Mills, Superintendent, Gates of the Arctic National Park and Preserve, 201 First Avenue, Fairbanks, Alaska 99701. Telephone (907) 457–5752.

Dated: August 22, 2002.

Ralph H. Tingey,

Acting Regional Director, Alaska.

[FR Doc. 02–24050 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement on the Backcountry Management Plan and General Management Plan Amendment for Glacier Bay National Park

AGENCY: National Park Service, Interior.

ACTION: Backcountry management plan, General Management Plan Amendment, and Environmental Impact Statement, Glacier Bay National Park, Alaska.

SUMMARY: The National Park Service (NPS) is amending the Glacier Bay National Park and Preserve General Management Plan with a Backcountry Management Plan and accompanying Environmental Impact Statement (plan/EIS). Glacier Bay National Park and Preserve was expanded by the 1980 Alaska National Interest Lands Conservation Act (NILCA). With passage of ANILCA, Congress designated nearly 2.7 million acres of wilderness within the park and set forth special provisions for management in recognition of the unique situations and traditional lifeways in Alaska.

The purpose of the plan/EIS is to formulate a comprehensive plan that will provide management direction during the next 15–20 years for the backcountry of Glacier Bay National Park. The backcountry consists of all designated wilderness lands and waters within the part except the Alsek River watershed, which is managed cooperatively with British Columbia Parks, Parks Canada, and the Yukon Department of Renewable Resources. The plan/EIS also will cover a non-wilderness island in Blue Mouse Cove and Cenotaph Island in Lituya Bay. Glacier Bay National Preserve, the Bartlett Cove area, and tracts in private ownership are excluded.

Glacier Bay National Park is one of four national park units in Alaska to initiate a backcountry management planning process and GMP amendment. This notice of intent is being published simultaneously with notices to prepare plans/EISs for Wrangell-St. Elias National Park and Preserve and Gates of the Arctic National Park and Preserve. A plan/EIS for Denali National Park and Preserve is underway (64 FR 49503, September 13, 1999).

The Glacier Bay National Park plan/EIS is being prepared in response to the increasing level and diversity of activities in the park, resource management and protection needs, and requests for activities and facilities not anticipated or addressed in the 1984 General Management Plan or the 1989 Wilderness Visitor Use Management Plan. Specific topics to be addressed in the plan/EIS include, but are not limited to: backcountry hiking, mountaineering, aviation, non-motorized boating (such as kayaking), commercial services, administrative and scientific/research activities, and the various facilities related to these activities. Motorized vessels in Glacier Bay proper, Dundas Bay, and Taylor Bay will be addressed under the Vessel Quota and Operating Plan/EIS currently under development (67 FR 8313, February 22, 2002).

The proposed action and other action alternatives will assess variations in the types and levels of backcountry activities and facilities. Toward this end, prescriptive management zones will be described and allocated to park land to provide a spectrum of visitor experience opportunities, resource conditions, and management activities throughout the backcountry of Glacier Bay National Park. A no-action alternative also will be evaluated.

The NPS requests written and verbal comments about the scope of the planning process (*e.g.,* issues and concerns, alternatives, potential environmental impacts), from federal and state agencies, local government, Native tribes, private organizations, backcountry users, and the general public. Further information on this planning process will be available through public scoping meetings, press releases, web sites, and newsletters. Joint public scoping meetings on the plans/EIS for Glacier Bay National Park, Wrangell-St. Elias National Park and Preserve, and Gates of the Arctic National Park and Preserve will be held in Fairbanks, Anchorage, and Juneau, Alaska, as well as in Seattle, Washington. Additional scoping meetings will be held in communities near the respective parks. The public will be notified in the future of the specific dates, times, and locations of the scoping meetings.

The Glacier Bay draft plan/EIS is anticipated to be available for public review in the fall of 2004. Public meetings will be scheduled during the 60-day comment period after release of

the draft plan/EIS. Interested groups, organizations, individuals, and government agencies are invited to comment on the plan. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will not, however, consider anonymous comments. We will make all submissions from organization or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The plan/EIS is being prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4331 *et seq.*) and its implementing regulations at 40 CFR part 1500.

FOR FURTHER INFORMATION CONTACT: Tomie Lee, Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826. Telephone (907) 697–2232.

Dated: August 22, 2002.

Ralph H. Tingey,

Acting Regional Director, Alaska.

[FR Doc. 02–24051 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Giacomini Wetlands Restoration Point Reyes National Seashore, Marin County, California; Notice of Intent To Prepare an Environmental Impact Statement

SUMMARY: The National Park Service, in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), is undertaking a conservation planning and environmental impact analysis process for a proposed wetlands restoration project at the former Giacomini Ranch in Marin County, California. The area of proposed restoration is located within the boundary of the Golden Gate National Recreation Area; this portion of the Golden Gate National Recreation Area is administered by Point Reyes National Seashore. Notice is hearby given that a public scoping process has been initiated with the purpose of eliciting public comment regarding the spectrum of issues and concerns (including suitable range of alternatives, the nature and extent of potential environmental impacts, appropriate mitigation strategies, and ecological benefits) that should be addressed in drafting the forthcoming environmental document.

Background

The Golden Gate National Recreation Area (GGNRA) is a unit of the National Park System located in the San Francisco Bay Area, in central California. Congress established GGNRA ''in order to preserve for public use and enjoyment certain areas of Marin and San Francisco Counties, California, possessing outstanding natural, historic, scenic, and recreational values, and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning * * * (Public Law 92–589).'' Point Reyes National Seashore, a nearby unit of the National Park System, is wholly located in Marin County, California. It was established by Congress ''to save and preserve, for the purpose of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped'' (Public Law 87–657). By prior management agreement, Point Reyes National Seashore administers the north district of GGNRA within Marin County.

In certain instances, the National Park Service (NPS) has expanded upon the concept of ''preservation'' to incorporate restoration, as well as conservation. In its 2001 Management Policies, the NPS emphasized that it will ''* * * strive to achieve a longer term goal of net gain of wetlands across the national park system through restoration of previously degraded or destroyed wetlands (§ 4.6.5).'' Furthermore, the new Policies encourage units of the National Park System to ''* * * protect, preserve, and restore the natural resources and functions of floodplains (§ 4.6.4).''

In keeping with these resource conservation policies, the NPS proposes to restore wetlands at a 563-acre historic coastal salt marsh site formerly known as the Giacomini Ranch in Tomales Bay. Tomales Bay is a 12-mile-long coastal bay that borders Point Reyes National Seashore to the north. This area of coastal salt marsh was diked in 1946, and these lands had been utilized by the Waldo Giacomini family as a dairy since then. In 2000, the NPS purchased the Giacomini property using a combination of federal and state funds. State funding was provided by the California Department of Transportation (Caltrans), which was under obligation to the California Coastal Commission to mitigate for impacts resulting from road repairs on Highway 1 in Marin County conducted in the early 1990s. The California Coastal Commission permitted Caltrans to mitigate for the road repair impacts through transfer of funds to the NPS to purchase, restore, and manage a wetland site at the Giacomini Ranch.

The NPS believes that the potential value of restoring the Giacomini Ranch would be important not only for these national park lands and resources, but to the Tomales Bay watershed ecosystem as a whole. By some accounts, the state of California has suffered the loss of more than 95 percent of its coastal wetlands. The percentage of loss is not quite as high in Tomales Bay, but a large percentage of the coastal wetlands once present were lost when this deltaic land at the head of the bay was reclaimed for agricultural purposes. Coastal wetlands provide essential ecosystem functions benefiting both humans and wildlife through floodwater storage, food production, and filtration of nutrients and sediments. Increasing the acreage of coastal wetlands could increase wetland functions and result in improved environmental conditions for both humans and wildlife in the Tomales Bay watershed. The San Francisco District of the Regional Water Quality Control Board has determined that Tomales Bay is impaired by sediment, nutrients, fecal coliform, and mercury (pursuant to § 303(d) of the Clean Water Act). This condition jeopardizes not only the bay's well-known oyster fisheries, but the wildlife species that use Tomales Bay for breeding or foraging habitat such as Pacific harbor seals, seal lions, gray whales, California brown pelican, and Pacific herring.

Alternatives and Environmental Issues

Point Reyes National Seashore is in the initial stages of the conservation planning process for this initiative, and the park desires public input on a suitable range of alternatives. It is anticipated that methods for restoring the Giacomini wetlands area would likely involve some type of geomorphic-topographic alterations aimed at recovering natural hydrologic and ecological processes. These potential alterations could change the current hydrologic regime within the proposed project area, leading either to muted tidal action, full tidal action, and/or natural creek action (*i.e.*, allowing

creeks to meander naturally). A ''no-action'' alternative, entailing no changes in current hydrologic regime, will also be assessed. Restoration actions undertaken as part of the initiative would be designed to ensure that flood risks to adjacent private residences and property will not be aggravated beyond current conditions. As part of the alternatives development, the NPS will also explore the potential for both land- and water-based recreational opportunities (but which do not conflict with Tomales Bay ecosystem processes).

The possible larger-scale issues or concerns associated with the proposed restoration project include potential impacts (both positive and negative) to threatened or endangered species protected under the federal Endangered Species Act; potential impacts to soils designated as Farmland of Statewide and Local Importance; change in land use; opportunities for and constraints on public access; and potential effects (both positive and negative) on flooding and saltwater intrusion into local groundwater supplies, including Point Reyes Station, stemming from implementing restoration actions.

Scoping/Comment Process

As noted, the NPS will undertake a conservation planning and environmental impact analysis process to address issues and identify alternatives for the Giacomini Wetlands Restoration Project. Federal, state, and local agencies, affected individuals, and interested organizations and groups are encouraged to participate in the scoping process. The level of California state or local involvement in the environmental impact analysis process is also yet to be determined. If an environmental document is required under the California Environmental Quality Act (CEQA), the NPS will coordinate the NEPA–CEQA public involvement and analysis process with the designated local lead agency (or agencies) responsible for fulfilling requirements under CEQA.

A key opportunity during the scoping phase will be a public meeting to be held on October 19, 2002. For those persons unable to attend the meeting, a scoping document will be available through the Seashore. At this time, primary topics expected to be addressed at the public meeting include: background information on the purpose and need for restoring the wetlands; local issues and concerns (*i.e.*, opportunities and constraints) in developing the restoration project; potential alternative courses of action with regards to restoration; potential impacts of these courses of action; and appropriate strategies for mitigation and monitoring, if needed. All interested individuals, organizations, and agencies are encouraged to provide comments or suggestions. Written comments regarding the Giacomini Wetland Restoration Project must be postmarked not later than 45 days following publication of this notice in the **Federal Register**. As soon as this date has been determined, it will be announced on the park website (noted below). To provide comments or information pertinent to the proposal, inquire about the public meeting, or to request a copy of the scoping document, please contact the Superintendent, Point Reyes National Seashore, Attn: Giacomini Wetlands Restoration Project, Point Reyes Station, CA 94956 (Telephone (415) 464–5102; FAX (415) 663–8132; E-mail: *ann_nelson@nps.gov).* Duplicate informational updates are to be regularly posted on the Point Reyes National Seashore Web site *http://www.nps.gov/pore/home_mngmntdocs.htm,* as well as the GGNRA Web site *http://www.nps.gov/goga/admin/planning/index.htm.*

If individuals submitting comments request that their name or\and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. As always: the NPS will make available for public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

Decision

At this time, the draft EIS is expected to be available for public review in winter 2003/2004; and the final environmental document will be completed in winter 2004/2005. As a delegated EIS, the official responsible for the final decision is the Regional Director, Pacific West Region. Subsequently the Superintendent, Point Reyes National Seashore, would be responsible for implementing the approved restoration and management actions.

Dated: August 20, 2002.

Arthur E. Eck,

Acting Regional Director, Pacific West Region.

[FR Doc. 02–24065 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice To Extend Public Scoping Period for the Colorado River Management Plan, Environmental Impact Statement, Grand Canyon National Park, Arizona

AGENCY: National Park Service, Interior.

ACTION: Notice to extend the public comment period on scoping issues for preparation of an environmental impact statement (EIS) for the Colorado River Management Plan, Grand Canyon National Park.

SUMMARY: On June 13, 2002, pursuant to the National Environmental Policy Act (NEPA), the public was advised that the National Park Service intends to prepare an EIS for the Colorado River Management Plan (CRMP) for Grand Canyon National Park. Due to public interest, following five successful public scoping meetings in August, the agency will extend the written public comment period and conduct two additional public scoping meetings in the San Francisco/Oakland and the Washington, DC/Baltimore areas.

DATES: The public scoping period is being extended to November 1, 2002. Submissions should be in writing or by e-mail (*see* **ADDRESSES** below). Meeting dates and location information will be available on the CRMP Web site at *www.nps.gov/grca/crmp.*

ADDRESSES: Written comments on issues to be addressed in the EIS.CRMP should be sent to CRMP Project, Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 86023.

SUPPLEMENTARY INFORMATION: Comments may be submitted by any one of several methods. You may mail comments to CRMP Project, Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 86023. You may also comment via electronic mail (e-mail) to *grca_crmp@nps.gov.* Please submit e-mail comments as a text file avoiding the use of special characters and any form of encryption. Please also include your name, e-mail address, and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your Internet message, contact Linda Jalbert at 928–638–7909. Finally, you may hand-deliver comments to Grand Canyon National Park, or provide at one of the public scoping meetings. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individuals respondents may request

that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Joseph Alston, Superintendent, Grand Canyon National Park, (928) 638–7945.

Dated: August 29, 2002.

Michael D. Synoes,

Director, Intermountain Region, National Service.

[FR Doc. 02–24055 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Integrated Multimodal Transportation Plan/Environmental Impact Statement, Grand Teton National Park, WY

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Intent to prepare an environmental impact statement for an Integrated Multimodal Transportation Plan, Grand Teton National Park.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for an Integrated Multimodal Transportation Plan for Grand Teton National Park. The environmental impact statement will be approved by the Director, Intermountain Region.

The Integrated Multimodal Transportation Plan will serve as a management and decision making tool for developing short and long-term solutions to problems associated with transportation in and around Grand Teton National Park. The primary objectives of the plan include (1) regional partnerships between the park and its gateway communities to reduce traffic impacts in both the park and surrounding communities, minimize duplication of services and facilities, and provide links to regional pathways to improve recreational opportunities in the park; (2) increasing the range of travel mode choices within the park, other than via private automobile, available to visitors, residents and employees of all ages and physical abilities; (3) provisions for safe travel throughout the park by all modes; and (4) protection of the park's natural and cultural resources from impacts attributable to vehicles and visitor use, including inappropriate parking along roadways or parking lot edges, noise, air quality, and wildlife mortality.

The National Park Service conducted public scoping (public meetings and solicitation of comments from state, county and town agencies and organizations; park neighbors; state historic preservation officer; and associated American Indian tribes) for the Integrated Multimodal Transportation Plan from December, 2001 to January, 2002 and began preparing an environmental assessment for a range of draft alternatives. Due to the degree to which potential impacts are uncertain, the National Park Service is proceeding with preparation of an environmental impact statement.

DATES: The National Park Service will conduct further public scoping for the draft alternatives and environmental impact statement for a period of 30-days beyond publication of this Notice of Intent.

ADDRESSES: You may mail comments to: Integrated Multimodal Transportation Plan, Superintendent's Office, Grand Teton National Park, PO Drawer 170, Moose, WY 83012. You may also hand-deliver comments to the Superintendent's Office, Grand Teton National Park, Moose, Wyoming (Attn: Integrated Multimodal Transportation Plan).

FOR FURTHER INFORMATION CONTACT: Superintendent Steve Martin, Grand Teton National Park, PO Drawer 170, Moose, WY 83012; Tel: (307) 739–3410; FAX: (307) 739–3440; e-mail: *grte_superintendent@nps.gov.*

SUPPLEMENTARY INFORMATION: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: June 21, 2002.

R. Everhart,

Acting Director, Intermountain Region.

[FR Doc. 02–24062 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Wildland Fire Management Plan, Environmental Impact Statement, Mesa Verde National Park, CO

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the Wildland Fire Management Plan, Mesa Verde National Park.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service is preparing an environmental impact statement for a wildland fire management plan for Mesa Verde National Park. This effort will result in a new wildland fire management plan that meets current policies, provides a framework for making fire-related decisions, and serves as an operational manual. Much has changed in the park and within the agency since the park's current fire management plan was adopted in 1996. Since that time, Mesa Verde was subjected to three large catastrophic fires that have physically altered over 60% of the landscape. In addition, recent policy changes resulting from the 2000 National Fire Plan indicate that a new plan is necessary. The plan will be developed in consultation with local communities, other federal and state agencies, the 24 tribes legally associated with the park, including the neighboring Ute Mountain Ute Tribe, and all other interested and affected organizations and individuals. A range of alternatives will be developed through this planning process and will include a no-action alternative and all other reasonable alternatives. The alternatives will consider fuel condition, weather, air quality, natural and cultural resources, safety, and structure protection, and include a range of appropriate strategies including full fire suppression, fire use such as through prescribed fire, and mechanical fuels treatment such as removal of hazardous fuels. The plan will identify the agencies preferred alternative and the environmentally preferred alternative.

Issues to be addressed include the safety of the public, employees and firefighters; protection of natural and

cultural resources; and the protection of rare, threatened and endangered species. Other issues include: allowing for natural processes in ecosystems and varied habitats; maintaining park values including protection of air quality, water quality, existing wilderness and visitor enjoyment; protecting structures and facilities within the park and on neighboring lands; addressing concerns of the 24 tribes associated with the park; addressing economic and other concerns of the park concessionaire, neighboring communities including local business and the Ute Mountain Ute tribe; and developing partnerships with other agencies, organizations, and local interests. The plan will also address the effects of emergency actions taken in response to recent fires and extreme lightning and weather conditions.

The scoping process will include public meetings to explain the planning process, solicit alternative ideas, and identify issues to be addressed in the plan. Specific dates, times and locations of the meetings will be announced in the local media and will also be available by contacting the Superintendent of Mesa Verde National Park. Information about the planning process as well as copies of the draft and final plans will be posted on the park's Web site at *www.nps.gov/meve.*

DATES: The public scoping process will be initiated from the date this notice is published in the **Federal Register** and will extend a minimum of 60 days.

ADDRESSES: Information will be available for public review and comment in the Mesa Verde Park Headquarters (970) 529–4465.

FOR FURTHER INFORMATION CONTACT: Larry Wiese, Superintendent, Mesa Verde National Park, P.O. Box 8, Mesa Verde, CO 81330, (970) 529–4465.

SUPPLEMENTARY INFORMATION: If you wish to provide input, you may submit your comments or questions by any one of several methods. Comments will be collected during the public meetings, or can be sent or hand delivered to: Larry Wiese, Superintendent, Mesa Verde National Park, P.O. Box 8, Mesa Verde, CO 81321. You may also comment via the Internet to *MEVE_PLANNING@nps.gov.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: Fire Management Plan'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (970) 529–4465. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: May 15, 2002.

R. Everhart,

Deputy Director, Intermountain Region, National Park Service.

[FR Doc. 02–24069 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Transportation Plan, Environmental Impact Statement, Mesa Verde National Park, Colorado

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the Transportation Plan, Mesa Verde National Park.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service is preparing an environmental impact statement for the transportation plan for Mesa Verde National Park. This effort will result in a comprehensive transportation plan that considers various means to get visitors and employees into the park, and effectively manage use within the park in order to enhance visitor experience, protect resources and otherwise carry out the mission of the park. The plan will be developed in consultation with local communities, other federal and state agencies, the 24 tribes affiliated with the park, including the neighboring Ute Mountain Ute Tribe, and all other interested and affected organizations and individuals. Alternatives to be considered include no-action, the environmentally preferred alternative, the agency-preferred alternative, and transportation options such as improving roadway, parking and trail facilities, using various ground and aerial guideway systems, applying various visitor management strategies, and other ideas that come out of the public process.

Major issues include protecting natural resources, systems and processes; protecting cultural resources such as archeological, ethnographic, historic and landscape resources; changes to the visitor experience; requirements of the Americans with Disabilities Act; local economic impacts that may result from any changes to visitor use; cultural concerns of the 24 affiliated tribes; and impacts to park operations and existing and future capacity constraints of any proposed transportation system.

A scoping newsletter will be distributed via mail and will be posted on the Internet. Also, meetings will be held to solicit input from the public, federal and state agencies, and affiliated tribes. Copies of scoping information may be obtained from Larry T. Wiese, P.O. Box 8, Mesa Verde, CO 81330, (970) 529–4465.

DATES: The scoping period will be a minimum of 60 days and will begin the date this notice is published in the **Federal Register**.

ADDRESSES: Information will be available for public review and comment in the Mesa Verde National Park Headquarters (970) 529–4465.

FOR FURTHER INFORMATION CONTACT: Larry T. Wiese, Superintendent, Mesa Verde National Park, (970) 529–4465.

SUPPLEMENTARY INFORMATION: If you wish to comment on the scoping brochure, or any other issues associated with the plan, you may submit your comments or questions by any one of several methods. You may mail comments to Patricia Trap, Planner, Mesa Verde National Park, P.O. Box 8, Mesa Verde, CO 81330. You may also comment via the Internet to *MEVE_PLANNING@nps.gov.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: Mesa Verde Transportation Plan'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (970) 529–4465. Finally, you may hand-deliver comments to Mesa Verde National Park Headquarters. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home

address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: May 15, 2002.

R. Everhart,

Director, Intermountain Region, National Park Service.

[FR Doc. 02–24070 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Environmental Statements; Notice of Intent

AGENCY: National Park Service.

ACTION: Notice of intent for a General Management Plan/Environmental Impact Statement for Monocacy National Battlefield (NB), Maryland.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service (NPS) is preparing an environmental impact statement for the general management plan (GMP) for Monocacy National Battlefield. The planning effort will result in a comprehensive general management plan that encompass preservation of cultural and natural resources, visitor use and interpretation, and necessary and appropriate facilities. In cooperation with local interests, attention will also be given to resources outside the boundaries that affect the integrity of the battlefield. Alternatives to be considered include no-action, the preferred alternative, and other alternatives addressing the following major issues:

- How can the important natural and cultural resources be best protected and preserved, while providing for visitor use for present and future generations?
- What level and type of use is appropriate to be consistent with the park's purpose and to relate to the park's significance?
- What facilities are needed to meet the mission goals of the park regarding natural and cultural resource management, visitor use and interpretation, partnerships, and operations?

The NPS is planning to hold public scoping meetings regarding the project during the week of July 29, 2002. Specific dates, times, and locations will be announced in the local media, and can be obtained by contacting the park superintendent. The purpose of these meetings is to explain the planning process and to obtain comments concerning appropriate resource management desired visitor use, interpretation, facilities, and issues that need to be resolved. In addition to attending scoping meetings, people wishing to provide input to this initial phase of developing GMP may address comments to the superintendent. Scoping comments should be received no later than 60 days from the publication of this Notice of Intent.

Comments: If you wish to submit issues or provide input to this initial phase of developing GMP, you may do so by any one of several methods. In addition to attending scoping meetings, you may mail comments to Park Manager, Monocacy National Battlefield, 4801 Urbana Pike, Frederick, Maryland 21704–7307. You may comment via the Internet to *susan_trail@nps.gov.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attention: GMP Team'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact Park Manager Susan Trail, directly, at (301) 662–6980. Finally, you may hand-deliver your comments to park headquarters, Monocacy National Battlefield, 4801 Urbana Pike, Frederick, Maryland. Scoping comments should be received no later than 60 days from the publication of this Notice of Intent. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold, from the record, a respondent's identify, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Park Manager Susan Trail, 4801 Urbana Pike, Frederick, Maryland 21704–7307; telephone: (301) 662–6980; fax: (301) 662–3420; e-mail: *susan_trail@nps.gov.*

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 02–24049 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Fire Management Plan, Environmental Impact Statement, Saguaro National Park, Arizona

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the Fire Management Plan for Saguaro National Park.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service is preparing an environmental impact statement for the Fire Management Plan for Saguaro National Park. This effort will result in a new wildland fire management plan that meets current policies, provides a framework for making fire-related decisions, and serves as an operational manual. Development of a new fire plan is compatible with the broader goals and objectives derived from the park purposes that governs resources management. Alternatives to be considered include no-action, the Fire Management Unit Based Plan Natural Ignition, and Landscape Plan. The no-action alternative maintains the current 1991 fire management plan strategy of suppression, prescribed natural fire, and prescribed burning. The Fire Management Unit Based Plan Natural Ignition alternative would allow fires to burn in certain areas of the park under conditions which meet resource objectives. Prescribed fires would be carried out by park personnel to reduce hazardous fuel accumulations around developments and near park boundaries. The Landscape Plan calls for the National Park Service and adjacent U.S. Forest Service to jointly formulate a fire management plan that covers the entire landscape of the Rincon Mountains or a more naturally bounded portion of the range.

Major issues include environmental effects of the FMP that are potential problems and include depression of plant and wildlife populations,

disturbance of unique sites, increased erosion or debris flow, increased air pollution, hazards to life and property, visitor inconvenience, and damage to cultural resources.

A scoping brochure has been prepared describing the issues identified to date. Copies of the brochures may be obtained from Sarah Craighead, Superintendent, Saguaro National Park, 3693 S. Old Spanish Trail, Tucson, AZ 95730, (520) 733–5153.

DATES: The Park Service will accept comments from the public for 30 days from the date this notice is published in the **Federal Register**.

ADDRESSES: Information will be available for public review and comment in the Fire Management Office, Saguaro National Park, 3693 S. Old Spanish Trail, Tucson, AZ 85730, (520) 733–5130.

FOR FURTHER INFORMATION CONTACT: Chuck Scott, Fire Management Officer, Saguaro National Park, (520) 733–5130.

SUPPLEMENTARY INFORMATION: If you wish to comment on the scoping brochure, or any other issues associated with the plan, you may submit your comments by any one of the several methods. You may mail comments to Chuck Scott, Fire Management Officer, Saguaro National Park, 3693 S. Old Spanish Trail, Tucson, AZ 85730. You may also comment via the Internet to *Chuck_Scott@nps.gov.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: Fire Management Plan'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at the Fire Management Office (520) 733–5130. Finally, you may hand-deliver comments to the above address. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withheld their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this preeminently at the beginning of your comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Karen P. Wade,

Director, Intermountain Region, National Park Service.

[FR Doc. 02–24060 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) for a right-of-way request to cross the Saint Croix National Scenic Riverway (Riverway) with the Arrowhead—Weston Electric Transmission Line Project, Wisconsin.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the National Park Service (NPS) will prepare an environmental impact statement (EIS) to consider a right-of-way request from Minnesota Power and Wisconsin Public Service Corporation (the Utilities). The Utilities are requesting the right-of-way in order to cross the Namekagon River with the Arrowhead-Weston Electric Transmission Line Project.

The Arrowhead-Weston Electric Transmission Line Project is a proposed 345-kilovolt (kV) bulk electric transmission line that would reach 220 miles from the Arrowhead Substation near Duluth, Minnesota to the Weston Substation near Wausau, Wisconsin. According to the applicants, the purpose of the project is to strengthen the bulk transmission system by providing a second high-capacity connection across the Wisconsin-Minnesota transmission interface. The Public Service Commission of Wisconsin, the State Agency with regulatory authority for the overall project, approved the routing for the line in late 2001. The Utilities are now seeking other necessary permits from Federal, State and local agencies.

The State-approved route for the Arrowhead-Weston Project crosses the Namekagon River in Stinnett Township, approximately 10 river miles west of Hayward, Wisconsin. The Namekagon River is part of the Riverway, which is administered by the NPS. The Utilities need a right-of-way permit from the NPS to cross the Riverway. The Utilities propose to cross at an existing 161-kV transmission line easement granted to Xcel Energy by private landowners prior to NPS land acquisition in the area. The span of the transmission line that would be within the Riverway boundary is 4500 feet.

The EIS will consider a range of alternatives for the crossing including a double-circuit single overhead transmission line combined with the existing 161-kV line, undergrounding the existing 161kV with the proposed 345-kV line built overhead, undergrounding the 345-kV line with the 161-kV line built overhead, and undergrounding both lines. Depending on the alternative, an additional 10–55 feet of right-of-way would be required on the eastside of the existing transmission line easement. A no action alternative will be included to provide a baseline of existing conditions against which to compare the impacts of the action alternatives. An additional alternative will be considered that would go around the Namekagon River to the east in order to disclose the potential impacts should the right-of-way request be denied. Since the NPS has no authority to require such a route, this alternative will be explored in a general, rather than site specific, sense.

The Riverway was designated under the Wild and Scenic Rivers Act in 1968 (Public Law 90–542, as amended; 16 U.S.C. 1271–1287) to protect its free-flowing quality and its outstanding natural, scenic, aesthetic, cultural, and recreational values. The EIS will analyze the impacts of each alternative on natural and cultural resources, scenic values, recreation use, and social and economic resources. Major issues to be addressed in the EIS will include the impact of the proposed crossing on scenic values and the visitor experience. The responsible NPS manager must determine whether or not the proposed action could lead to impairment of park resources and values. The information presented in the EIS will be used to reach a decision about the right-of-way request.

Additional issues to be addressed in the EIS may be identified during the scoping process. Federal, State, local agencies, and individuals or organizations are invited to participate in the scoping process. The scoping process will include the identification of potential issues, the identification of potential impact topics and topics to be analyzed in depth, and the determination of potential cooperating agencies and assignment of responsibilities.

DATES: A public scoping meeting in an open house format will be held in the Hayward area in early fall. Public notice

of the open house will be made in the local press. The public is encouraged to attend the scoping meeting and send written comments and suggestions concerning preparation of the EIS to Mr. Thomas Bradley, Superintendent, Saint Croix National Scenic Riverway, PO Box 708, 401 Hamilton Street, Saint Croix Falls, Wisconsin 54024. The NPS will accept comments at this address at any time during the EIS process. However, to facilitate timely identification of issues and impact topics to be addressed in the EIS, the NPS recommends that initial comments be submitted by November 1, 2002.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request we withhold their home address from the record, which we will honor to the extent allowable by law. There may also be circumstances where we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives, officials, organizations, or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Ms. Jill Medland, Compliance Specialist, Saint Croix National Scenic Riverway, PO Box 708, 401 Hamilton Street, Saint Croix Falls, Wisconsin 54024, telephone 715–483–3284, Extension 609.

Dated: September 4, 2002.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 02–24066 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent (NOI) to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: Notice is hereby given that in accordance with the National Environmental Policy Act of 1969, the U.S. Department of the Interior, National Park Service (NPS) will prepare a Draft Environmental Impact Statement (DEIS) on the Feasibility Study (Special Resource Study) on the Preservation of Civil War Battlefields and Related Historic Sites along the Vicksburg Campaign Trail in Arkansas, Louisiana, Mississippi, and Tennessee. These sites will each be examined with a view to how they might best be preserved and linked together into the Vicksburg Campaign Trail. The study process entails evaluating the national significance, suitability, feasibility, and management options for each identified site according to NPS standards and criteria established by the Civil War Sites Advisory Commission Report on the Nation's Civil War Battlefields (1993).

For each site, experts and professional historians will determine whether it qualifies as Tier I (nationally significant), Tier II (regionally or state significant), or Tier III (locally significant). Based on this evaluation, some sites may be recommended for addition to the National Park System. Protection and interpretation of sites not recommended for addition to the National Park System will be sought via other arrangements, that may include management by other Federal agencies, State or local governments, non-profit organizations or private owners. These different management options form the basis for various alternatives, the environmental impacts of which will be analyzed in the DEIS. Through the scoping process, the NPS welcomes suggestions from the public both of potential sites and possible management options.

DATES: Public meetings will be conducted during the course of the project. Additional scoping opportunities such as public meetings, newsletters, etc. will be announced in the local media. Representatives of the NPS will be available to discuss issues, resource concerns, and the planning process at each of the public meetings. This Notice will also serve as an additional scoping method. Persons who may be interested in or affected by the Feasibility Study/DEIS are invited to participate in the scoping process by responding to this Notice with written comments. The scoping process will help define issues or problems facing the feasibility study.

ADDRESSES: Comments on the Vicksburg Campaign Trail Feasibility Study, potential sites, management options, and environmental issues that should be addressed should be directed to Bill Koning, National Park Service Planner, Denver Service Center, PO Box 25287, 12795 W. Alameda Parkway, Denver, CO 80225–0287.

FOR FURTHER INFORMATION CONTACT: Requests for information concerning dates and background on the feasibility study, including a brochure describing the process should be directed to William O. Nichols, Superintendent, Vicksburg National Military Park, 3201 Clay Street, Vicksburg, MS 39183, (601) 636–0583, or Bill Koning, National Park Service Planner, Denver Service Center, PO Box 25287, 12795 W. Alameda Parkway, Denver, CO 80225–0287, (303) 969–2390.

SUPPLEMENTARY INFORMATION: On July 4, 1863, after an eight-month campaign and siege, heavily-fortified Vicksburg, Mississippi capitulated to Federal forces commanded by General Ulysses S. Grant. This surrender gave the Union control of the Lower Mississippi River and effectively cut the Confederate States of America in half. It was regarded by many at the time, including President Abraham Lincoln, as one of the pivotal events of that great conflict; contemporary Civil War historians continue to regard it in that light. Grant's monumental campaign to capture the ''Gibraltar of the Confederacy'' is seen by military historians as a brilliant logistical exhibition, encompassing long and difficult flanking maneuvers, cavalry raids, pitched battles, naval engagements, and siege warfare. Grant's triumph at Vicksburg paved the way for his subsequent battles at Chattanooga in November 1863, and then—as commander of all Union armies—at the Wilderness and Petersburg; ultimately, it made possible his starring role at Appomattox as well as his eventual election as President of the United States.

In November 2000, Public Law 106–487 authorized a feasibility study on the preservation of Civil War battlefields along the Vicksburg Campaign Trail. The task is to examine and evaluate a variety of sites in four states associated with the Civil War events of the Vicksburg Campaign. The feasibility study is to be completed within three years and is to examine a large number (over 400) and wide variety of sites in Arkansas, Louisiana, Mississippi, and Tennessee. Each site will be evaluated for national significance, as well as the suitability and feasibility of adding it to the National Park System. This DEIS will examine the potential environmental effects of different management options for the sites found to be eligible for inclusion in the National Park System.

The legislation directs a review of current NPS programs, policies, and criteria to determine the most appropriate means of preservation; to make evaluations for the establishment

of a site and management entity consisting of a unit of government or private non-profit organization; and to make recommendations to the states regarding the management, preservation, and interpretation of natural, cultural and historical resources associated with the various sites. Furthermore, the legislation directs that partnerships among Federal, State, and local governments, regional entities, and the private sector be identified where they would provide an effective means of preserving specific battlefield sites. Finally, the legislation requires that methods of ensuring continued local involvement in the management of battlefield sites be explored.

The responsible official for this DEIS is Jerry Belson, Regional Director, National Park Service, Southeast Region, 100 Alabama Street SW., Atlanta, Georgia 30303.

Dated: June 19, 2002.

W. Thomas Brown,

Acting Regional Director, Southeast Region.

[FR Doc. 02–24064 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement on the Backcountry Management Plan and General Management Plan Amendment for Wrangell-St. Elias National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Backcountry Management Plan, General Management Plan Amendment, and Environmental Impact Statement, Wrangell-St. Elias National Park and Preserve, Alaska.

SUMMARY: The National Park Service (NPS) is amending the Wrangell-St. Elias National Park and Preserve General Management Plan with a Backcountry Management Plan and accompanying Environmental Impact Statement (plan/EIS). Wrangell-St. Elias National Park and Preserve was established by the 1980 Alaska National Interest Lands Conservation Act (ANILCA). With passage of ANILCA, Congress designated 8.9 million acres of wilderness within the park and preserve and set forth special provisions for management in recognition of the unique situations and traditional lifeways of Alaska.

The purpose of the plan/EIS is to formulate a comprehensive plan that will provide management direction during the next 15–20 years for the backcountry of Wrangell-St. Elias National Park and Preserve. The backcountry currently is defined to include the park's designated wilderness and other non-developed areas of the park. The Nabesna and McCarthy roads would not be included in this process. Tracts in private ownership are excluded, including the settled areas of McCarthy/Kennecott, Slana, Nabesna, Chisana, and May Creek. The airstrips associated with these settlements would be excluded as well.

Wrangell-St. Elias National Park and Preserve is one of four national park units in Alaska to initiate a backcountry management planning process and GMP amendment. This notice of intent is being published simultaneously with notices to prepare plans/EISs for Glacier Bay National Park and Preserve and Gates of the Arctic National Park and Preserve. A plan/EIS for Denali National Park and Preserve is underway (64 FR 49503, September 13, 1999).

The Wrangell-St. Elias National Park and Preserve plan/EIS is being prepared in response to the increasing level and diversity of activities in the park, resource management and protection needs, and requests for activities and facilities not anticipated or addressed in the 1986 General Management Plan. Specific topics to be addressed in the plan/EIS include, but are not limited to: backcountry hiking, sport hunting, mountaineering, aviation, boating, snowmobiling, dogsledding, commercial services, administrative and scientific/research activities, and the various facilities related to these activities.

The proposed action and other action alternatives will assess variations in the type and levels of backcountry activities and facilities. Toward this end, prescriptive management zones will be described and allocated to park land to provide a spectrum of visitor experience opportunities, resource conditions, and management activities throughout the backcountry of Wrangell-St. Elias National Park and Preserve. A no-action alternative also will be evaluated.

The NPS requests written and verbal comments about the scope of the planning process (e.g., issues and concerns, alternatives, potential environmental impacts), from federal and state agencies, local government, Native tribes, private organizations, backcountry users, and the general public. Further information on this planning process will be available through pubic scoping meetings, press releases, web sites, and newsletters. Joint public scoping meetings on the plans/EISs for Wrangell-St. Elias National Park and Preserve, Glacier Bay National Park and Preserve, and Gates of the Arctic National Park and Preserve will be held in Fairbanks, Anchorage, and Juneau, Alaska, as well as in Seattle, Washington. Additional scoping meetings will be held in communities near the respective parks. The public will be notified in the future of the specific dates, times, and locations of the scoping meetings.

The Wrangell-St. Elias draft plan/EIS is anticipated to be available for public review in the spring of 2005. Public meetings will be scheduled during the 60-day comment period after release of the draft plan/EIS.

Interested groups, organizations, individuals, and government agencies are invited to comment on the plan. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The plan/EIS is being prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4331 *et seq.*) and its implementing regulations at 40 CFR Part 1500.

FOR FURTHER INFORMATION CONTACT: Gary Candelaria, Superintendent, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573. Telephone (907) 822–5234.

Dated: August 22, 2002.

Ralph H. Tingey,

Acting Regional Director, Alaska.

[FR Doc. 02–24052 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Education Campus Development Program at Crane Flat, Yosemite National Park, Mariposa and Tuolumne Counties, CA; Notice of Intent To Prepare an Environmental Impact Statement

SUMMARY: The National Park Service (NPS) intends to prepare an Environmental Impact Statement (EIS) for the Environmental Education Campus Development Program at Crane Flat pursuant to the National Environmental Policy Act of 1969. This conservation planning and environmental impact analysis effort could potentially result in a program that would redevelop and expand outdoor environmental education facilities at Crane Flat in Yosemite National Park. Pursuant to a 1971 cooperative agreement, Yosemite Institute currently operates the campus at Crane Flat, along the Tioga Road in Yosemite National Park, California.

Background

The proposed expansion is intended to create a Environmental Education campus within Yosemite National Park that is in close proximity to Yosemite Valley and which enables Yosemite Institute to provide sustainable high-quality educational facilities and programs, overnight accommodations for students, and food service for students at a cost that is affordable for diverse and underserved audiences, ranging from school aged groups to adults. The current campus at Crane Flat is not able to sustain an environmental education program and the existing structures need rehabilitation or replacement.

Public Involvement

The NPS will conduct a conservation planning and environmental impact analysis effort for the proposed *Environmental Education Campus Development Program* at Crane Flat. At this time, the NPS invites the public, other Federal agencies, American Indian tribes, state and local governments, and all other interested parties to participate in the initial scoping and in the alternative development process. For initial scoping and alternative development, the most useful comments are those that identify concerns and issues, provide essential environmental information, and suggest reasonable design alternatives the park should consider in initiating the EIS process. All respondents will later have an opportunity to review the Draft EIS and submit additional comments.

During the period when the *Environmental Education Campus Development Program* is open for public scoping comments, two scoping meetings will be held on June 26 and June 29, 2002. Both meetings will be conducted at the East Auditorium in Yosemite Valley, Yosemite National Park, from 2 pm to 9 pm. In addition, on June 29, 2002 there will be afternoon site tours of the existing campus at Crane Flat, from 1 pm to 5 pm. Individuals, organizations, and agencies wishing to provide written comments on issues or concerns may respond by e-mail, mail or fax. All comments must be postmarked or transmitted not later than 45 days following the publication of the Notice of Intent in the **Federal Register.** Comments should be addressed to the Superintendent, Yosemite National Park, Ann: *Environmental Education Campus Development Program at Crane Flat,* P.O. Box 577, Yosemite National Park, CA 95389 (Fax to 209/379–1294, e-mail to *yose_planning@nps.gov*.).

If individuals submitting comments request that their name or /and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law.As always: NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

Future Information

Updated information about this conservation planning and environmental impact analysis process will be distributed via mailings, regional and local news media, and the Yosemite National Park Web page (*http://www.nps.gov/yose/planning*). Responses to this Notice will be used to update the mailing list of people interested in receiving future information as the environmental documents are developed. Please contact the NPS by mail, e-mail, or fax at the appropriate number request placement on the mailing list. For all types of requests please be sure to include your mailing address.

Decision Process

Availability of the Draft EIS for review and written comment will be officially announced by Notice of Availability in the **Federal Register,** through local and regional news media, the above listed web site, and direct mailing. At this time the Draft EIS is anticipated to be available for public review and comment in spring 2003. Comments on the Draft EIS will be fully considered and incorporated into the Final EIS as appropriate. At this time it is anticipated that the Final EIS will be completed in Winter 2003. As a delegated EIS, the official responsible for the decision is the Regional Director, Pacific West Region, National Park Service; subsequently the official responsible for implementation would be the Superintendent, Yosemite National Park.

Dated: June 6, 2002.

James R. Shevock,

Acting Regional Director, Pacific West Region.

[FR Doc. 02–24056 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Meeting of Concessions Management Advisory Board

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting of Concessions Management Advisory Board.

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. App 1, Section 10), notice is hereby given that the Concessions Management Advisory Board will hold its next meeting October 22 and 23, 2002 in Yosemite National Park in California. The meeting will be held at the Ahwahnee Hotel in the Tudor Lounge. The Board meeting will convene at 8:30 a.m. and will adjourn at 4:30 p.m. daily.

SUPPLEMENTARY INFORMATION: The Concessions Management Advisory Board was established by Title IV, Section 409 of the National Parks Omnibus Management Act of 1998, November 13, 1998, (Pub. L. 105–391). The purpose of the Board is to advise the Secretary and the National Park Service on matters relating to management of concessions in the National Park System.

The proposed agenda for the meeting consists of the following:

Tuesday, October 22, 2002

8:30 a.m. Convene Business Meeting

(Call to Order/Introductions/Agenda Review/Approval of Minutes from February 27 Meeting)

9 a.m. Report from WASO on Board recommendations
9:30 a.m. Discussion of Proposed WASO Reorganization
10:15 a.m. Break
10:30 a.m. WASO updates
—Commercial Use Authorizations
—Handcraft Regulations
—Workshop (How to Do Business with the NPS)
—Contract Training
—Update from Concession Program Center, Denver
Noon Lunch
1:15 p.m. Report from Regions on New or Extraordinary Initiatives/Efficiencies
2:15 p.m. Comments from National Park Hospitality Association
3 p.m. Break
3:15 p.m. Update on GAO's Report on ''Tax Exempt Organizations'' Improvements Possible in Public, IRS, and State Oversight of Charities
4:30 p.m. Adjourn Business Meeting

Wednesday, October 23, 2002

8:30 a.m. Reconvene Meeting
8:35 a.m. Report on Core Menu Concept for Retail Pricing and Update on Pricing Program
9:15 a.m. Report on Updating of Evaluation Program Standards
10:15 a.m. Break
10:30 a.m. Non-Appropriated Fund Instrumentality
Noon Lunch
1:15 p.m. Reconvene Meeting
1:30 p.m. Discussion of Draft Handcraft Policy
2:30 p.m. Presentation on Concessions Program Center, Denver
3:15 p.m. Break
3:30 p.m. Public Comment
4 p.m. Other Business—Advisory Board
(1) Re-appointments of Board Members
(2) When and where next meeting will be held
(3) Topics to be discussed at next meeting
5 p.m. Meeting Concluded

The meeting will be open to the public, however, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The Ahwahnee Hotel is designated as a National Historic Landmark and some of its meeting rooms are only accessible by stairs. Members of the public planning to attend and needing an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), should notify the contact person listed in this notice at lease 2 weeks before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however, we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for it.

Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Interested persons may make oral/written presentations to the Board during the business meeting or file written statements. Such requests should be made to the Director, National Park Service, attention: Manager, Concession Program, at lease 7 days prior to the meeting. Further information concerning the meeting may be obtained from National Park Service, Concession Program Division, 1849 C Street, NW, Room 7313, Washington, DC 20240, Telephone 202/565–1210.

Draft minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting, in room 7313, Main Interior Building, 1849 C Street, NW., Washington, DC.

Dated: August 20, 2002.

A. Durand Jones,

Acting Director, National Park Service.

[FR Doc. 02–24045 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Preservation Technology and Training Board: Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that the National Preservation Technology and Training Board will meet on November 13 and 14, 2002, in Nachitoches, LA.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Center for Preservation Technology and Training (NCPTT), as required under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

The Board will meet in the Nachitoches Room of Russell Hall, on the campus of Northwestern State University of Louisiana, Nachitoches, LA. Wednesday, November 13, the meeting will start at 9:00 a.m. and end no later than 5:00 p.m. On Thursday, November 14, the meeting will start at 9:00 a.m. and end no later than 12:00 p.m. Matters to be discussed will include National Park Service updates on fiscal year 2003 budget and administration issues, NCPTT work plan, reports from partners, the strategic and business plans of NCPTT, and new business.

The meeting is open to the public. Facilities and space for accommodating members of the public are limited, however, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may contact Mr. de Teel Patterson Tiller, Deputy Associate Director, Historic Preservation, Recreation, and Partnerships, 1849 C Street NW-3128 MIB, Washington, DC 20240, telephone (202) 208-7625. Increased security in the Washington, DC, area may cause delays in the delivery of U.S. Mail to Government offices. In addition to mail or commercial delivery, please fax a copy of the written submission to Mr. Tiller at (202) 208-7625.

Minutes of the meeting will be available for public inspection about 8 weeks after the meeting at the office of the Associate Director, Historic Preservation, Recreation, and Partnerships, 1849 C Street NW, Room 3128, Washington, DC.

Dated: August 20, 2002.

de Teel Patterson Tiller,

Deputy Associate Director, Historic Preservation, Recreation, and Partnerships.

[FR Doc. 02–24071 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Presidential Commission for the National Museum of African American History and Culture; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, that the Presidential Commission for the National Museum of African American History and Culture will meet September on 24th and 25th, 2002, at the Radisson Hotel in Georgetown, at 2121 P Street, NW. Washington, D.C. The Commission will convene at 8 a.m. on the 24th and at 8 a.m. on the 25th. The Commission will adjourn at 5 p.m.

on September 24th and at 2:45 PM on September 25th.

During the morning session on September 24th, 2002, the Executive Committee and the following subcommittees will present reports from their respective committees: Mission Role and Vision Committee; Site and Building Committee; Legislation, Public Liaison Committee; Fundraising, Finance and Budget Committee and the Governance and Organization Committee. During the afternoon session, the Commission will discuss the status of legislative initiatives surrounding Public Law 107–106, which established the Commission. The project's program and planning contractors'', Montage Inc.; E. Verner Johnson; and the Freelon Group, and The Taft Organization, the fundraising contractor, will also address the Commission. These contractors will discuss the status of research and studies being conducted to assist in the preparation of reports that the Commission will submit to the President and Congress.

On the morning of September 25th, the Commission will be briefed regarding alternate project locations for the Museum on or adjacent to the National Mall. Commissioners will tour the sites following the briefing. In the afternoon, the commissioners will reconvene to further discuss site and building alternatives and to determine which sites require additional evaluation.

Due to the unexpected cancellation of the original meeting space and the additional time required to locate an alternate site, this notice could not be published at least 15 days prior to the meeting date. The National Park Service regrets this delay, but is compelled to hold the meeting as scheduled because of the significant sacrifice rescheduling would require of Commissioners who have adjusted their schedules to accommodate the proposed meeting date.

The Commission meeting is open to the public. Space and facilities to accommodate the public are limited and attendees will be accommodated on a first-come basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in an alternative format), notify the contact person listed in this notice at least two weeks (2 weeks) before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for it.

Anyone may file a written statement concerning the establishment of a National Museum for African American History and Culture with the Commission. The Commission may also permit attendees to address the assembled Commission, but may restrict the length of the presentations, as necessary to allow the Commission to complete its agenda within the allotted time.

Anyone who wishes further information concerning the meeting, or who wishes to submit a written statement, may contact Charlene Dwin Vaughn, Staff to the Commission, National Museum of African American History & Culture, National Park Service, 1849 C Street, NW., Washington, DC 20240—(telephone (202) 208–4227).

Draft minutes of the meeting will be available for public inspection approximately 12 weeks after the meeting, in room 3327, Main Interior Building, 1849 C Street, NW., Washington, DC.

Stephanie Maynor,

Acting Project Director, National Museum of African American History and Culture, Presidential Commission.

[FR Doc. 02–24063 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Trail of Tears National Historic Trail Advisory Council; Notice of Meeting

Notice of hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Trail of Tears National Historic Trail Advisory Council will be held October 15, 2002, 8 a.m., at the Holiday Inn City Center, 700 Rogers Avenue, Fort Smith, Arkansas, 72901.

The Trail of Tears National Historic Trail Advisory Council was established administratively under authority of Section 3 of public Law 91–383 (16 U.S.C. 1s–2(c)), to consult with the Secretary of the Interior on the implementation of a comprehensive plan and other matters relating to the Trail, including certification of sites and segments, standards for erection and maintenance of markers, preservation of trail resources, American Indian relations, visitor education, historical research, visitor use, cooperative management, and trail administration.

The matters to be discussed include:

- NPS work plan for Fiscal Year 2003.
- Trail budget.
- Comprehensive Management and Use Plan implementation strategies.
- Interpretive planning needs for the Trail of Tears National Historic Trail.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with Jere Krakow, Acting Superintendent.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact the Superintendent, Long Distance Trails Group Office—Santa Fe, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87504–0728, telephone (505) 988–6888. Minutes of the meeting will be available for public inspection at the Office of the Superintendent located in Room 1081, Paisano Building, 2968 Rodeo Park Drive West, Santa Fe, New Mexico.

Dated: August 17, 2002.

John T. Conoboy,

Acting Superintendent.

[FR Doc. 02–24042 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 7, 2002.

Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–343–1836. Written

or faxed comments should be submitted by October 8, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ARIZONA

Maricopa County

Initial Point of the Gila and Salt River Base Line and Meridian, Summit of Monument Hill at 115th Ave. and Baseline Rd., Avondale, 02001137

COLORADO

Boulder County

North St. Vrain Creek Bridge, (Highway Bridges in Colorado MPS) CO 7 at milepost 32.98, Lyons, 02001159

Costilla County

Rito Seco Creek Culvert, (Highway Bridges in Colorado MPS) CO 142 at milepost 33.81, San Luis, 02001146

Denver County

South Platte River Bridges, (Highway Bridges in Colorado MPS) I–25 at milepost 210.53, Denver, 02001128

Douglas County

Cherry Creek Bridge, (Highway Bridges in Colorado MPS) CO 83 at milepost 46.30, Franktown, 02001147

Eagle County

Dotsero Bridge, (Highway Bridges in Colorado MPS) I–70 Service Rd. at milepost 133.51, Dotsero, 02001155 Eagle River Bridge, (Highway Bridges in Colorado MPS) US 6 at milepost 150.24, Eagle, 02001156

Wolcott Bridge,

(Highway Bridges in Colorado MPS) CO 131 at milepost 0.07, Wolcott, 02001157

El Paso County

Black Squirrel Creek Bridge, (Highway Bridges in Colorado MPS) US 24 at milepost 327.33, Falcom, 02001158

Little Fountain Creek Bridge,

(Highway Bridges in Colorado MPS) CO 115 at milepost 36.84, Widefield, 02001153

Fremont County

Main Street Bridge, (Highway Bridges in Colorado MPS) CO 115 at milepost 8.90, Florence, 02001145

Rio Grande Railroad Viaduct

(Highway Bridges in Colorado MPS) CO 120 at milepost 0.17, Florence, 02001148

Gunnison County

Gunnison River Bridge I, (Highway Bridges in Colorado MPS) US 50 Service Rd. at milepost 155.41, Gunnison, 02001152

Gunnison River Bridge II,

(Highway Bridges in Colorado MPS) US–50 Service Rd. at milepost 155.59, Gunnison, 02001151

Huerfano County

Maitland Arroyo Bridge, (Highway Bridges in Colorado MPS) CO 69 at Milepost 3.0, Walsenburg, 02001134

Kit Carson County

Spring Creek Bridge, (Highway Bridges in Colorado MPS) US 24 at milepost 430.32, Vona, 02001143

Larimer County

Big Thompson River Bridge I, (Highway Bridges in Colorado MPS), US 34 at milepost 65.53, Estes Park, 02001144
Big Thompson River Bridge II, (Highway Bridges in Colorado MPS), US 34 at milepost 66.22, Estes Park, 02001141
Big Thompson River Bridge III, (Highway Bridges in Colorado MPS), US 34 at milepost 85.15, Loveland, 02001139
Big Thompson River Bridge IV, (Highway Bridges in Colorado MPS), US 34 at milepost 86.04, Loveland, 02001140
Fort Collins Armory, 314 E. Mountain Ave., Fort Collins, 02001133
Wind Ridge, 1397 Clara Dr., Estes Park, 02001130

Mesa County

Colorado River Bridge, (Highway Bridges in Colorado MPS), I–70 Frontage Rd. at milepost 62.90, De Beque, 02001154

Montrose County

Dolores River Bridge, (Highway Bridges in Colorado MPS), CO 90 at milepost 15.22, Bedrock, 02001150

Park County

EM Ranch, (Ranching Resources of South Park, Colorado MPS), Cty Rd. 439, Hartsel, 02001142

Prowers County

Granada Bridge, (Highway Bridges in Colorado MPS), US 385 at milepost 97.32, Granada, 02001138

Pueblo County

Santa Fe Avenue Bridge, (Highway Bridges in Colorado MPS), US–50 at milepost 1.33, Pueblo, 02001149
St. Charles River Bridge, (Highway Bridges in Colorado MPS), I–50 at milepost 7.77, Devine, 02001131

Rio Grande County

Denver & Rio Grande Railroad South Fork Water Tank, (Railroads in Colorado, 1858–1948 MPS), US–160, South Fork, 02001132

Washington County

Plum Bush Creek Bridge, (Highway Bridges in Colorado MPS), US 36 at milepost 138.16, Last Chance, 02001135
West Plum Bush Creek Bridge, (Highway Bridges in Colorado MPS), US 36 at milepost 134.59, Last Chance, 02001136

Weld County

Little Thompson River Bridge, (Highway Bridges in Colorado MPS), I–25 Service Rd. at mipepost 249.90, Berthoud, 02001129

INDIANA

Cass County

Tousley, Henry, House, 1912 High St., Logansport, 02001167

Dubois County

Woebkenberg, Johann Bernard, Farm, 1512 E. Mariah Hill Rd., Ferninand, 02001165

Lake County

Wynant, Wilbur, House, 600 Fillmore St., Gary, 02001168

Madison County

Elwood Downtown Historic District, Roughly bounded by Duck Creek, N. A St., 16th St., and S. C St., Elwood, 02001175

Montgomery County

Seybold, George, House, 111 E. Main St., Waveland, 02001172

Orange County

Lynd School, (Indiana's Public Common and High Schools MPS), 723 N. Lynd R., 0.6 mi. N of jct. of IN 56 and Lynd Rd., Orleans, 02001169

Steuben County

Collins School, (Indiana's Public Common and High Schools MPS), IN 120, 0.7 mi. E of Cty. Rte 450W, Fremont, 02001173

Switzerland County

Schenck, Benjamin, Mansion, 206 W. Turnpike St., Vevay, 02001174

Vigo County

Washington, Booker T., School, (Indiana's Public Common and High Schools MPS), 1201 S. 13th St., Terre Haute, 02001170

Wayne County

Reeveston Place Historic District, Bounded by South B, South E, South 16th and South 23rd Sts., Richmond, 02001171

LOUISIANA

Orleans Parish

Eagle Saloon Building, 401–403 South Rampart,
New Orleans, 02001160
Iroquois Theater, 413–415 S. Rampart St., New Orleans, 02001161
Karnofsky Tailor Shop—House, 427–431 S. Rampart St., New Orleans, 02001162

MISSOURI

Dade County

Washington Hotel, 2 S. Main St., Greenfield, 02001178

Livingston County

Chillicothe Commercial Historic District, (Chillicothe, Missouri MPS) Roughly bounded Clay, Ann, Washington, and Locust Sts., Chillicothe, 02001176
Courthouse Square Historic District, (Chillicothe, Missouri MPS) Roughly bounded by Calhoun, Jackson, Washington, and Elm Sts., Chillicothe, 02001177
St. Louis Independent city Syndicate Trust Building, 915 Olive St., St. Louis (Independent City), 02001166

NEW MEXICO

Bernalillo County

Aldo Leopold Neighborhood Historic District, (Twentieth Century Suburban Growth of Albuquerque MPS) 105–135 Fourteenth St., SW., Albuquerque, 02001164

Santa Fe County

Don Gaspar Bridge, Don Gaspar Ave. crossing over the Santa Fe R. bet. Alameda and E. De Vargas Sts., Santa Fe, 02001163

NORTH CAROLINA

Stanly County

Five Points Historic District, Jct. of E. Main St., Pee Dee Ave., and 4th St., Albermarle, 02001179

OREGON

Multnomah County

Peterson, J.H., Machine Shop, 1626 NW Thruman St., Portland, 02001181

PENNSYLVANIA

Elk County

Ridgway Historic District, Roughly bounded by the Borough line, Clarion R, Erie Alley, and Gallagher Run, Ridgway, 02001180

UTAH

Salt Lake County

Livingston, William and Annie, House, 2491 E. Valley View Ave., Holladay, 02001182

VIRGINIA

Amelia County

Winterham, 11440 Grub Hill Church Rd., Amelia Court House, 02001183

WISCONSIN

Crawford County

Prairie du Chien City Hall, 207 W. Blackhawk Ave., Prairie du Chien, 02001186

Dane County

University Presbyterian Church and Student Center, 731 State St., Madison, 02001185

A request for REMOVAL has been made for the following resources:

ARKANSAS

Hot Spring County

Burks Service Station (Arkansas Highway History and Architecture MPS) Jct. Of Page Ave. And Sullenberger Malvern, 00000630

Logan County

Rock Island Railroad Depot-Booneville (Historic Railroad Depots of Arkansas MPS) S of first St. And W of Broadway, at the N end of Rhyne Ave. Booneville, 92000603

Scott County

Forrester, John T., House 115 Danville St., Waldron, 80000786

Sebastian County

Bracht, Karl Edward, House 315 N. 13th St., Fort Smith, 79000459

White County

Doss House (White County MPS) 408 N. Main St., at Louisiana St. Beebe, 91001264

IOWA

Madison County

Cedar Covered Bridge 1.5 mi. E of Winterset, Winterset vicinity, 76000786

[FR Doc. 02–24054 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 31, 2002. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–343–1836. Written or faxed comments should be submitted by October 8, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

MISSOURI

Bates County

Hudson City School, Approx. 1 mi. NW of MO 52 and Hwy. W, Appleton City, 02001110

Ripley County

Sylvan School, Cty Rd H4, approx. 2 mi. SW of jct. MO 142 and W, Naylor, 02001109

NEW JERSEY

Monmouth County

Grover House, 940 W. Front St., Middletown, 02001121

NEW MEXICO

Eddy County

Tansill, Robert Weems and Mary E., House, 1612 N. Guadalupe St., Carlsbad, 02001111

NEW YORK

Cayuga County

Sterling District No. 5 Schoolhouse, NY104A, Sterling, 02001119

Erie County

Garrison Cemetery, Aero Dr., Cheetowaga, 02001113

Jefferson County

Taylor, Emma Flower, Mansion, 241 Clinton St., Watertown, 02001114

Kings County

Senator Street Historic District, 318–370 and 317–347 Senator St., Brooklyn, 02001115

New York County

Stanton Street Shul, 180 Stanton St., New York, 02001116

Ontario County

First Baptist Church, 134 N. Main St., Geneva, 02001118

Genesee Park Historic District, Genesee Park, Genesee Park Place, and Genesee and Lewis Sts., Geneva, 02001117

Ulster County

Vosburg Turning Mill Complex, 52 Hutchin Hill Rd., Woodstock, 02001120

NORTH CAROLINA

Washington County

Creswell Historic District, Roughly bounded by 208 E. Main St. and 310 W. Main St., 302–304 S. Sixth Sts., and 219 N. Sixth St., Creswell, 02001112

OHIO

Summit County

Humberger House, (Canal, Railroad, and Industrial Resources of the Village of Clinton/Warwick, Ohio MPS) 7616 N 2nd Ave., Clinton, 02001122

Sorrick—Oster Store, (Canal, Railroad, and Industrial Resources of the Village of Clinton/Warwick, Ohio MPS) 7846 Main St., Clinton, 02001123

OREGON

Multnomah County

Keck, H.C., House—Mt. Olivet Parsonage, (Eliot Neighborhood MPS) 53 NE Thompson St., Portland, 02001124

WISCONSIN

Dane County

Dowling Apartment Building, 445–447 W. Wilson St., Madison, 02001127

Hotel Loraine, 119–123 W. Washington Ave., Madison, 02001125

Madison Gas and Electric Company Powerhouse, 100 S. Blount St., Madison, 02001126

[FR Doc. 02–24057 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 24, 2002. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance

of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–343–1836. Written or faxed comments should be submitted by October 8, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ALABAMA

Cullman County

Shady Grove Methodist Church and Cemetery, Ruby Community 3.7 mi. W of Logan, Logan, 02001067

Jefferson County

Cahaba Homestead Village Historic District, Roughly along Lake St., Rockbridge Ave., Meadow Ln., Magnolia St., and Magnolia Court., Trussville, 02001070

Lauderdale County

Locust Street Historic District, Roughly bounded by Pine St., College St., Locust St., and Irvine Ave., Florence, 02001065

Montgomery County

Mt. Zion AME Zion Church, 467 Holt St., Montgomery, 02001066

Tuscaloosa County

Johnson, Samuel, House, Shelley Hughes Rd., Buhl, 02001069
University of Alabama Historic District, 152 Rose Administration Building, Tuscaloosa, 02001068

ARKANSAS

Benton County

Rogers Commercial Historic District (Boundary Increase), (Benton County MRA) 116 S, Second St., Rogers, 02001079

Boone County

Cottonwood School #45, Cottonwood and Dubuque Rd., Self, 02001078

Clay County

Eastern Star Lodge 207 F&AM, Approx. 1.5 mi. W on Cty Rte. 336, then 0.5 S ib Cty Rte. 347, St. Francis, 02001074

Cleveland County

Phoenix Hotel, 108 Main St., Rison, 02001071

Independence County

Akron Cemetery, Approx. 2 mi. S of Newark on AR 122, Newark, 02001072

Jefferson County

Wabbaseka Methodist Episcopal Church, South, US 79, Wabbeseka, 02001073

Logan County

Troy Lasater Service Station, (New Blaine, Arkansas MPS) AR 197 Loop, New Blaine, 02001075

ARKANSAS

Sharp County

Bates, Sherman and Merlene, House, (Hardy, Arkansas MPS) Jct. of Dawson and Echo, Hardy, 02001077
King, David L., House, (Hardy, Arkansas MPS) 2nd and Kelly St., Hardy, 02001076

Washington County

Smyth, Peter, House, 1629 Crossover St., Fayetteville, 02001080

FLORIDA

Alachua County

Dudley Farm, 18730 W. Newberry Rd., Newberry, 02001081

Bay County

Schmidt-Godert Farm, 100 FL 2297, Panama City, 02001083

MASSACHUSETTS

Middlesex County

Lowell Post Office, 89 Appleton St., Lowell, 02001084

Plymouth County

Kingston Center Historic District, Main, Green Sts, Kingston, 02001085

MISSOURI

Marion County

Marion County Jail and Jailor's House, 210 W. Lafayette St., Palmyra, 02001100

St. Louis County

Bayley, Romanzo N., House, (Kirkwood MPS) 419 E. Argonne, Kirkwood, 02001086
Blake, John P. and Dora, House, (Kirkwood MPS) 549 N. Taylor, Kirkwood, 02001087
Clarke, Judge Enos, House, (Kirkwood MPS) 503 E. Monroe, Kirkwood, 02001088
Comfort, James H. and Marietta, House, (Kirkwood MPS) 235 E. Jefferson, Kirkwood, 02001089
Fishback, George W. and Virginia, House, (Kirkwood MPS) 440 E. Argonne, Kirkwood, 02001090
Halsey, Egbert W., Cottage, (Kirkwood MPS) 126 E. Washington, Kirkwood, 02001091
Keith, David, House, (Kirkwood MPS) 116 N. Woodlawn, Kirkwood, 02001094
McLagan, Lizzie, House, (Kirkwood MPS) 549 E. Argonne, Kirkwood, 02001092
McMullen, Patrick and Moire, House, (Kirkwood MPS) 212 W. Monroe, Kirkwood, 02001093
Nipher, Prof. Frances E., House, (Kirkwood MPS) 435 N. Harrison, Kirkwood, 02001095
Richter, Theodore and Lena, House, (Kirkwood MPS) 229 S. Van Buren, Kirkwood, 02001096
Tolhurst, G.W., House, (Kirkwood MPS) 345 E. Argonne, Kirkwood, 02001097
Unsell, Elijah J., House, (Kirkwood MPS) 615 E. Monroe, Kirkwood, 02001098
Way, James W. and Mary, House, (Kirkwood MPS) 305 N. Harrison, Kirkwood, 02001099

MONTANA

Lewis and Clark County

Lewis and Clark County Hospital Historic District, 3404 Cooney Dr., Helena, 02001101

OHIO

Summit County

Price, Jonathan, House, (Canal, Railroad, and Industrial Resources of the Village of Clinton/Warwick, Ohio MPS) 7903 Main St., Clinton, 02001103
Smith, David, House, (Canal, Railroad, and Industrial Resources of the Village of Clinton/Warwick, Ohio MPS) 7966 Cleveland-Massillon Rd., Clinton, 02001104

TEXAS

Harris County

Kress Building, 705 Main St., Houston, 02001102

WISCONSIN

Brown County

De Pere Public Library, (Public Library Facilities of Wisconsin MPS) 380 Main Ave., De Pere, 02001106

Waupaca County

Delong, Henry and Elizabeth, House, 509 W. Fulton St., Waupaca, 02001105
Jensen, Matt and Lena, House, 501 W. Fulton St., Waupaca, 02001108
Mumbrue-Penney House, 404 S. Main St., Waupaca, 02001107
Olfson, Peter and Jessie, House, 415 Granite St., Waupaca, 02001082

[FR Doc. 02–24058 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Potomac Heritage National Scenic Trail; Guidelines for Developing an Application Requesting Designation of a Trail as a Segment of the Potomac Heritage National Scenic Trail

AGENCY: Department of the Interior, National Park Service, Potomac Heritage National Scenic Trail.

ACTION: Availability of guidelines.

SUMMARY: In 1983 Congress amended the National Trails System Act, designating a corridor for the Potomac Heritage National Scenic Trail between the mouth of the Potomac River and the Laurel Highlands in western Pennsylvania (16 U.S.C. 1244(a)(11)(2000)). The legislation authorizes the Secretary of the Interior to ''designate'' trails, outside of federally administered areas, as segments of the Potomac Heritage National Scenic Trail (the PHNST) based upon applications by local and state agencies. The

authority for designation is delegated to the National Park Service in the Departmental Manual Part 245. Based on consultations with citizens organizations, local governments, regional authorities and state agencies, the guidelines reflect plans by local and state agencies for the development of segments of the PHNST. The guidelines provide such agencies with criteria for developing applications for designation of trails as segments of the PHNST.

DATES: *Effective Date:* October 23, 2002.

ADDRESSES: Comments and requests for copies of a document on which this notice is based should be addressed to: Superintendent, Potomac Heritage National Scenic Trail Office, Post Office Box B, Harpers Ferry, WV 25425. Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Donald E. Briggs, Superintendent (Coordinator), Potomac Heritage National Scenic Trail, 304–535–4016 or *don_briggs@nps.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Potomac River and upper Ohio River basins have nurtured communities, trade and migration for nearly 10,000 years—from ancient villages and trade routes established by American Indians to the pathways used by our Nation's founders, from the darkest days during the Civil War and to the beginnings of the modern conservation movement. Today, citizens groups, regional organizations, local and state government agencies and federal agencies in the Potomac River corridor and in southwestern Pennsylvania are seeking ways to make connections among the special places that reflect this history, to tell stories associated with the national significance of the region and to establish a network of recreational trails and related educational opportunities. Many have been drawn to the idea behind and legislation for the PHNST.

Acting upon information in a study completed by the Bureau of Outdoor Recreation in 1974, Congress in 1983 amended the National Trails System Act, establishing a federal interest in development of the PHNST (16 U.S.C. 1244(a)(11)(2000)).

The amendment:

- Designated a corridor for the PHNST along both sides of the Potomac River between the Chesapeake Bay and the vicinity of Cumberland, Md., and between Cumberland and the Laurel Highlands Trail in western Pennsylvania;
- Precluded designations in the State of West Virginia; and
- Authorized the Secretary of the Interior to ''designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this chapter and are administered by such agencies without expense to the United States.''

Authority for the ''designation'' of non-Federal segments of the PHNST is similar in intent and process to trail site and segment ''certification'' authority provided in 16 U.S.C. 1242(a)(3)(2000) for the administration of national historic trails.

Subsequent legislation, passed in 1986, directed the Secretary to recognize the 70-mile Laurel Highlands Hiking Trail (the LHHT), managed by the Pennsylvania Department of Conservation and Natural Resources, as a segment of the PHNST. In addition to the LHHT, the 184.5-mile C&O Canal Towpath, managed by C&O Canal National Historical Park, and the 17-mile Mount Vernon Trail, managed by George Washington Memorial Parkway, are recognized as segments of the PHNST.

Other trails, projects and programs in the corridor also contribute to the concept of the PHNST. Based on the 1974 study and 1983 amendment, local and state governments, regional authorities and federal agencies are creating a braided network of trails for hiking, bicycling, horseback riding and boating in the PHNST corridor. Some local governments and authorities have purchased and/or accepted lands and/or easements on lands for the purpose of building the PHNST segments. As more and more communities weave connections among local history, outdoor spaces and culture, they build upon the PHNST designation by linking local initiatives with elements of our national history. The developing physical and programmatic network increasingly provides residents and visitors with an experience in the PHNST corridor comprised of three related elements:

1. A regional system of trails for non-motorized travel, recreation and exploration;
2. A set of physical and conceptual ''gateways'' to local trail corridors and related resources and activities at various locations in the PHNST corridor; and
3. A range of active and passive educational opportunities associated with the national significance of the corridor.

Based on plans for the PHNST by local and state agencies, as well as consultations with regional authorities, citizen organizations and other federal agencies, these guidelines provide criteria for developing applications for designation of non-Federal trails as segments of the PHNST.

Designation of trails provides local and state agencies and others with opportunities to realize the following benefits:

- Coordination among citizens groups, local jurisdictions, state agencies and federal land managers seeking to conserve landscapes, to develop non-motorized transportation options and to develop outdoor educational opportunities and heritage tourism programs in the PHNST corridor;
- Use of the official the PHNST marker (trail logo) in marketing, information and educational programs;
- Priority consideration for funds to support the PHNST-related projects and partners through the NPS Challenge Cost-Share Program; and
- Technical assistance with:
- Corridor planning
- Project development and implementation
- Fund-raising
- Interpretive planning and educational program and project development
- Marketing and promotion
- Communications and public involvement
- Heritage tourism projects.

Guidelines

In consultation with the Superintendent, Potomac Heritage National Scenic Trail, National Park Service, applications by local and state agencies requesting the designation of a trail as a segment of the PHNST must meet the following criteria:

(1) The proposed trail corridor contains significant natural, historical

and cultural resources and related educational opportunities associated with the primary themes for which the PHNST corridor is nationally significant:

(a) The Potomac River and upper Ohio River tributaries as an East-West transportation corridor, especially George Washington's vision of a connection between the Atlantic Ocean and the Forks of the Ohio River;

(b) Migration, establishment and conflict of cultures; and evolution, stress on and restoration of river ecosystems.

2. The trail provides opportunities for at least one form of non-motorized travel (*e.g.*, hiking, jogging or running, bicycling, horseback riding, canoeing, kayaking and/or sailing).

3. The trail contributes to the quality of life for residents of communities in the trail corridor and to the experience of visitors to the trail corridor.

4. The trail acts as a primary route in and contributes to a developing network of trails for non-motorized travel between the Chesapeake Bay and the Laurel Highlands, providing a logical connection, on land or water, between public resources (*e.g.*, other trails, parks, river access points, etc.) within one or more of the following jurisdictions:

—The District of Columbia.
—The following counties in the State of Maryland: St. Mary's; Charles; Prince George's; Montgomery; Frederick; Washington; and Allegheny.
—The following counties in the Commonwealth of Pennsylvania: Somerset; Fayette; and Westmoreland.
—The following counties in the Commonwealth of Virginia: Northumberland; Westmoreland; Lancaster; Richmond; King George; Stafford; Prince William; Fairfax; Arlington; and Loudoun.

5. The applicant agrees to maintain some combination of regional informational exhibits (describing, among other points, the trail and its contribution to the PHNST), educational exhibits, and/or staffed visitor centers to serve as ''gateways'' to the trail corridor, to communities associated with the trail corridor and to the history and ecology of the region.

6. The trail will be administered at no additional cost to the federal government.

(7) The applicant, in partnership with the National Park Service, has completed a management plan which describes:

(a) The trail corridor, trail (including location) and the contribution, as a component of the region's infrastructure, that the trail makes to the quality of life for residents of and visitors to communities associated with the trail corridor;

(b) Permitted public uses and types of experiences provided by the trail;

(c) Policies, objectives, practices and agreements employed to maintain the trail and to conserve the trail corridor (*i.e.*, to maintain the scenic, natural, cultural and/or recreational values for which the trail qualifies as a segment of the PHNST), including planned seasonal closures to maintain the integrity of the resource or to reduce conflicts between and among various user groups (*e.g.*, to protect wildlife breeding or migrating areas or to permit hunting);

(d) Compliance with applicable Federal regulations;

(e) Related conservation and/or development plans (including plans to provide recreational, educational and interpretive opportunities); and

(f) A marking system used to identify the trail route.

Applications for designation of trails as segments of the PHNST should be sent to the Regional Director, National Capital Region, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242, attn: Superintendent, Potomac Heritage National Scenic Trail.

Dated: June 28, 2002.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 02–24061 Filed 9–20–02; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–447]

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences (GSP)

AGENCY: International Trade Commission.

ACTION: Correction of notice of investigation.

SUMMARY: Due to a typographical error, the Commission's notice published in the **Federal Register** on September 10, 2002 (67 FR 57450) incorrectly identified one of the HTS subheadings upon which the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties for all beneficiary countries under the GSP for HTS subheading 2009.61.00; it will not provide advice on HTS subheading 2009.60.00.

Issued: September 19, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–24240 Filed 9–20–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(NIJ)–1361]

Meeting Notice for the Attorney General's Initiative on DNA Laboratory Backlog Working Group

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of meeting.

SUMMARY: Announcement of a meeting of the Attorney General's Initiative on DNA Laboratory Backlog Working Group.

SUPPLEMENTARY INFORMATION: The working group meeting of the Attorney General's Initiative on DNA Laboratory Backlogs will take place beginning on October 21, 2002 at 1 p.m. Eastern Daylight Time and will continue on October 22, 2002 at 9 a.m. Eastern Daylight Time. The meeting will take place at the Courtyard by Marriott located at 2899 Jefferson Davis Highway, Arlington, Virginia. Phone: 703–549–3434.

This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Dr. Lisa Forman, Director, Investigative and Forensic Sciences Division, Office of Science and Technology, National Institute of Justice (202) 307–6608.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Sarah V. Hart,

Director, National Institute of Justice.

[FR Doc. 02–24157 Filed 9–20–02; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August and September, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,601C & D; Dimon, Inc., Manufacturing Plant, Greenville, NC and Manufacturing Plant, Kinston, NC

TA–W–41,681; Farley's and Sather's Candy Co., Pittston, PA

TA–W–41,692; SMS Sutton, Div. Of SMS Eumuco, Bellefonte, PA

TA–W–41,797; Lewiston Shoe Machinery, Lewiston, ME

TA–W–41,798; GNB Industrial Power, A Subsidiary of Exide Technologies, Kankakee, IL

TA–W–41,808; Newcore, Inc., Technologies Plant, Troy, MI: All workers engaged in the production of bearing caps are denied eligibility to apply for trade adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–41,802; U.S. Conec, Ltd, Hickory, NC: All workers engaged in the production of fiber optic automated polishing machines are denied eligibility to apply for trade adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–41,152 & A, B; Haworth, Inc., Holland, MI, Douglas, MI and Allegan, MI: All workers engaged in the production of steel Files are denied eligibility to apply for trade adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–41,776; The Worthington Steel Co., Malvern, PA

TA–W–41,563; Clariant Corp., Oak Creek, WI

TA–W–41,799; General Electric Industrial Systems, Salem, VA

TA–W–41,793; General Cable Corp., Sanger, CA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,673; Nichiren Coupler TEC USA, El Paso, TX

TA–W–41,803; Copeland Corp., Ava, MO

TA–W–41,749; The Hahn Equipment Co., A Subsidiary of The Toro Co., Evansville, IN

TA–W–41,861; U.S. Precision Glass, Lewisburg, OH

TA–W–41,849; Neoplan USA Corp., Brownsville, TX

TA–W–41,811; Clark Alabama, Inc., Pell City, AL

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–41,790; Fleetwood Homes of Lumberton, Lumberton, NC

TA–W–41,738; Customer Satisfaction First, Wilkes-Barre, PA

TA–W–41,843; Workers of Guardsmark, Owensboro KY Employed at Sumitomo Electric Wiring, Morgantown, KY

TA–W–41,813 & A; Startek, Laramie, WY and Grand Junction, CO

TA–W–41,711; A.O. Smith Corp., A.O. Smith Electrical Products, Inc., McMinnville, TN

TA–W–41,687; Next Day Apparel, A Div. Of Oxford Industries, Inc., Walhalla, SC

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–41,865; Twinpack Packaging, Inc., Also Known as Amcor Specialty Packaging, A Subdivision of Amcor, Ltd, Newport News, VA

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–41,721; Collins & Aikman Corp., Marshall Plant/Carpets and Acoustics Div., Marshall, MI

TA–W–41,801; Bard Endoscopic Technologies, A Subsidiary of C.R. Bard, Inc., Mentor, OH

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,705; Cooper Crouse-Hinds, Commercial Products Div., A Div. Of Cooper Industries, Roanoke, VA: June 3, 2001.

TA–W–41,702; Farmland Industries, Inc., Pollock Louisiana Nitrogen Plant, Pollock, LA: May 14, 2001.

TA–W–41,691; Montgomery Production, Inc., A Subsidiary of Unilever PLC/ Unilever NV, Including Leased Workers of Staffing Network LLC, Montgomery, IL: June 11, 2001.

TA–W–41,671; West Penn Hat and Cap Corp., Creighton, PA: May 14, 2001.

TA–W–41,668; Visiontek, LLC, Gurnee, IL: May 8, 2001.

TA–W–41,601; Dimon, Inc., Manufacturing Plant, Danville, VA, A; Corporate Offices, Danville, VA, B; Manufacturing Plant, Farmville, NC May 23, 2001.

TA–W–41,065; Wabash National Corp., Wabash National, LP, Huntsville, TN: February 14, 2001.

TA–W–41,742; Komatsu America Corp., Peoria, IL: June 12, 2001.

TA–W–41,729; The Sirena Apparel Group, Inc., Los Angeles, CA: May 29, 2001.

TA–W–41,719; State of The Art, Inc., State College, PA: June 14, 2001.

TA–W–41,707; Jarvis East, A Subdivision of Standex International Corp., Palmer, MA: May 31, 2001.

TA–W–41,812; A.O. Smith Electrical Products Co., Monticello, IN: June 24, 2001.

TA–W–41,784; Doutt Tool, Inc., Venango, PA: June 19, 2001.

TA–W–41,782; Brach's Confections, Inc., Chicago, IL: June 4, 2001.

TA–W–41,780; Motorola, Inc., Plantation, FL: April 18, 2001.

TA–W–41,773; Degussa Corp./BASF Performance Copolymers, LLC, Theodore, AL: June 14, 2001.
TA–W–41,764; Corning Frequency Control, A Subdivision of Corning, Inc., Mercersburg, PA: June 10, 2001.
TA–W–41,761; Glen Oaks Industries, Marietta Sportswear Manufacturing Co., Inc., Dallas, TX: June 13, 2001.
TA–W–41,755; Dale Hollow Apparel, Byrdstown, TN: June 7, 2001.
TA–W–41,860; Oki Data Americas, Inc., A Subsidiary of Oki Data Corp., A Subsidiary of Oki Electric Industry Co., Ltd, Mount Laurel, NJ: July 15, 2001.
TA–W–41,835; Premier Turbines, A Subsidiary of Sabreliner Corp., Neosho, MO: June 25, 2001.
TA–W–41,834; Munsey Products, Inc., Little Rock, AR: June 19, 2001.
TA–W–41,833; Metso Automation USA, Inc., Formerly Known as Neles Automation, Field Systems Div., Shrewsbury, MA: February 1, 2002.
TA–W–41,828; Eagle–Picher Technologies, LLC, Electro–Optical Materials Department (EP–EOM), Quapaw, OK: June 21, 2001.
TA–W–41,825; Voith Paper, Inc., A Subsidiary of J.M. Voith AG, Appleton, WI: June 19, 2001.
TA–W–41,824; Spectel/Multilink, Inc., A Wholly Owned Subsidiary of Spectel Ltd, Andover, MA: June 17, 2001.
TA–W–41,821; Midwest Metallurgical Lab, Div. Of Detroit Stoker Co., Marshall, MI: April 2, 2001.
TA–W–41,815 & A; Saunders Mfg, Co., Inc., Readfield, ME and Meridian, MS: July 1, 2001.
TA–W–41,808; Newcore, Inc., Technologies Plant, Troy, MI: All workers engaged in employment related to the production of oil pump transmission shafts who became separated from employment on or after June 24, 2001.
TA–W–41,806; Bethel Furniture Stock, Inc., Bethel, ME: June 20, 2001.
TA–W–41,805; Schneider Automation, Inc., North Andover, MA: July 1, 2001.
TA–W–41,804; Premier Turbines, A Subsidiary of Sabreliner Corp., Independence, KS: June 24, 2001.
TA–W–41,800 & A; Lightening Metal Specialties, d/b/a/ Flextronics, Enclousure Systems Div., 1431 FM 101, New Braunfels, TX and 710 FM 306, New Braunfels, TX: June 18, 2001.
TA–W–41,775; Hussey Copper, Ltd, Leetsdale, PA: March 21, 2001.
TA–W–41,766; Crucible Specialty Metals, Syracuse, NY: June 14, 2001.
TA–W–41,750; D and L Tool, Inc., Meadville, PA: June 11, 2001.
TA–W–41,743; Alfa Laval (Tri–Clover), Kenosha, WI: June 1, 2001.
TA–W–41,616; Kennametal, Inc., Greenfield Industrial Products Group, Lyndonville, VT: May 14, 2001.
TA–W–41,509; Agilent Technologies, Inc., Microelectronics Div., Rohnert Park, CA: April 19, 2001.
TA–W–41,277; Cooper Crouse-Hinds, A Div. Of Cooper Industries, Inc., Syracuse, NY: March 1, 2001.
TA–W–40,570; ATD Corp., Vienna, OH: November 10, 2000.
TA–W–41,802; U.S. Conec, Ltd, Hickory, NC: All workers engaged in the production of optical circuits, buses, subassemblies and optical ferrules who became separated from employment on or after June 17, 2001.
TA–W–41,152; Haworth, Inc., Holland, MI: All workers engaged in the production of wood office furniture who became separated from employment on or after January 15, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchaper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of August and September, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, (3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–06159; EAG Electronics Corp., Fairview, PA
NAFTA–TAA–06214; Farley's and Sather's Candy Co., Pittston, PA
NAFTA–TAA–06252; Nichirin Coupler TEC USA, Inc., El Paso, TX
NAFTA–TAA–06401; Volant Ski Co., LLC, Also Known as Volant Sports, LLC, Wheat Ridge, CO
NAFTA–TAA–06417; Gate City Printing Co., Inc., Greensboro, NC
NAFTA–TAA–06352; Aerus, LLC, Formerly Electrolux, LLC, Piney Flats, TN
NAFTA–TAA–06191; Deere and Co., Construction and Forestry Div., John Deere Commercial Worksite Products, Loudon, TN: All workers engaged in the production of upper-links for skid steer loaders are denied eligibility to apply of NAFTA–TAA under Section 250 of the Trade Act of 1974.
NAFTA–TAA–06308; Santiam Forest Products, Sweet Home, OR
NAFTA–TAA–06360; Neoplan USA Corp., Brownsville, TX
NAFTA–TAA–06182; Agilent Technologies, Inc., Microelectronics Div., Rohnert Park, CA
NAFTA–TAA–06346; National Textiles, LLC Gaffney, SC
NAFTA–TAA–06384; Southern Transformer Co., East Point, GA
NAFTA–TAA–06347; Midwest Metallurgical Lab, Div. Of Detroit Stoker Co., Marshall MI
NAFTA–TAA–06394; General Cable Corp., Sanger, CA

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06443; Tellabs Operations, Inc., Burlington, MA
NAFTA–TAA–06245; Next Day Apparel, A Div. Of Oxford Industries, Inc., Walhalla, SC

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

NAFTA–TAA–06221; Collins and Aikman Corp., Marshall Plant/ Carpets and Acoustics Div., Marshall, MI

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) did not become totally or partially separated from employment as required for certification.

NAFTA–TAA–06407; Twinpack Packaging, Inc., Also Known As Amcor Specialty Packaging, A Subdivision of Amcore, Ltd, Newport News, VA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06191; Deere and Company, Construction and Forestry Div., John Deere Commercial Worksite Products, Loudon, TN: All workers engaged in the production of skid steer bucket attachments who became separated from employment on or after May 3, 2001.

NAFTA–TAA–06386; Nova Bus, Div. Of Provost Car (US), Schenectady, NY: July 11, 2001.

NAFTA–TAA–06363; Corning Frequency Control, A Subdivision of Corning, Inc, Mercersburg, PA: June 10, 2001.

NAFTA–TAA–06349; John Deere Vehicle Group, Inc., Worldwide Commercial and Consumer Equipment Div., Williamsburg, VA: July 3, 2001.

NAFTA–TAA–06343; Doutt Tool, Inc., Vanango, PA: June 19, 2001.

NAFTA–TAA–06327; A.O. Smith Electrical Products Co., Monticello, IN: June 24, 2001.

NAFTA–TAA–06305; Montgomery Production, Inc., A Subsidiary of Unilever PLC/Unilever NVm Including Leased Workers of Staffing Network LLC, Montgomery, IL: June 8, 2001.

NAFTA–TAA–06257; Associated Garments LLP, Miami, FL: May 5, 2001.

NAFTA–TAA–05932; ADC Telecommunications, Le Sueur, MN: March 7, 2001.

NAFTA–TAA–06416; Norscan, Inc., Conover, NC: Juy 22, 2001.

NAFT–TAA–06409; Skyworks Solutions, Inc., Test and Assembly Div., Haverhill, MA: July 12, 2001.

NAFTA–TAA–06079; Sterling Fluid Systems (USA), Inc., Process Metals Foundry, White Pigeon, MI: April 8, 2001.

NAFTA–TAA–06323; Metso Automation USA, Inc., Formerly Known as Neles Automation, Field Systems Div., Shrewsbury, MA: June 17, 2001.

NAFTA–TAA–06362; D and L Tool, Inc., Meadville, PA: June 11, 2001.

NAFTA–TAA–06412; U.S. Precision Glass, Lewisburg, OH: June 28, 2001.

NAFTA–TAA–06456; Bard Endoscopic Technologies, A Subsidiary of C.R. Bard, Inc., Mentor, OH: July 17, 2001.

NAFTA–TAA–06091; Cooper Crouse-Hinds, A Div. Of Cooper Industries, Inc., Syracuse, NY: August 24, 2000.

NAFTA–TAA–06302 & A; Lightening Metals Specialties, d/b/a Flextronics, Enclosure Systems Div., 1431 FM 101, New Braunfels, TX and 710 FM 306, New Braunfels, TX: June 19, 2001.

NAFTA–TAA–06331; Premier Turbines, A Subsidiary of Sabreliner Corp., Independence, KS: June 24, 2001.

NAFTA–TAA–06311; Premier Turbines, A Subsidiary of Sabreliner Corp., Neosho, MO: June 26, 2001

NAFTA–TAA–06301; BR Holdings, Ltd, Racine Steel Castings Div., Racine, WI: June 14, 2001.

I hereby certify that the aforementioned determinations were issued during the months of August and September, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 6, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–24116 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,188 & NAFTA–05386]

GFC Foam, LLC, West Hazelton, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of February 7, 20021, the United Steel Workers of America, District 10 requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance (TA–W–40,188) and NAFTA–Transitional Adjustment Assistance (NAFTA–05386). The denial notice were signed on December 31, 2001 and published in the **Federal Register** on January 11, 2002 (67 FR 1510 & 1511, respectively).

The petitioner believes that major customers are importing polyurethane foam and therefore requests that the Department of Labor survey all customers of the subject plant.

On review of the request for reconsideration, it has been determined that the Department will conduct a survey of the major declining customers of the subject plant.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 17th day of June 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–24109 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,574]

Agere Systems, Infrastructre Division, Breinigsville, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 20, 2002, in response to a petition filed on behalf of workers at Agere Systems, Infrastructure Division, Breinigsville, Pennsylvania.

The petition has been deemed invalid. The petitioning group of three workers did not have the necessary three signatures sufficient to constitute a valid petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 20th day of August, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–24114 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,733 and TA–W–40,733A]

Blauer Manufacturing Company, Inc., CAM Division, Chatom, AL and Oxford, MS; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 23, 2002, applicable to workers of Blauer Manufacturing Company, Inc., Cam Division, located in Chatom, Alabama. The notice was published in the **Federal Register** on May 2, 2002 (67 FR 22113).

At the request of a petitioner, the Department reviewed the certification for workers of the subject firm. The company reports that a worker, Joe W. Perritt, worked at the Oxford, Mississippi plant of the subject firm, spending the vast majority of his time in support of the production of police outerwear and rainwear at the Chatom, Alabama plant. Mr. Perritt, is a resident of Tennessee, but was paid out of the Boston, Massachusetts, headquarters of Blauer Manufacturing.

The intent of the Department's certification is to include all workers of Blauer Manufacturing Company, Inc., who were affected by increased imports. Accordingly, the Department is amending the worker certification to include Joe Perritt, who was separated from the Oxford, Mississippi plant but in direct support of production at the Chatom, Alabama plant.

The amended notice applicable to TA–W–40,733 is hereby issued as follows:

All workers of CAM Division, Chatom, Alabama (TA–W–40,733), and Mr. Joe Perritt, Blauer Manufacturing Company, Inc., Oxford, Mississippi (TA–W–40,733A), who became totally or partially separated from employment on or after December 18, 2000, through April 23, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 19th day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–24110 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,785]

The Boeing Company, McDonald/Douglas Corporation, Commercial Airplane Division, Long Beach, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 6, 2002, applicable to workers of The Boeing Company, Commercial Airplane Division, Long Beach, California. The notice was published in the **Federal Register** on May 17, 2002 (67 FR 35141).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of large commercial aircraft.

New information shows that some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for McDonald/Douglas Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of The Boeing Company, Commercial Airplane Division, Long Beach, California who were adversely affected by increased imports.

The amended notice applicable to TA–W–40,785 is hereby issued as follows:

All workers of The Boeing Company, McDonald/Douglas Corporation, Commercial Airplane Division, Long Beach, California, who became totally or partially separated from employment on or after February 25, 2002, through May 6, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 20th day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–24111 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 4, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment, at the address shown below, not later than November 4, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 19th day of August, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 08/19/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
41,962	Competitive Engineering (Comp)	Tucson, AZ	08/07/2002	Machine plastic and metal parts.
41,963	Peterson Springs (UAW)	Three Rivers, MI	08/07/2002	Compression rings and snap rings.
41,964	Donaldson Co., Inc. (Comp)	Baldwin, WI	07/18/2002	Steam turbines.
41,965	JDS Uniphase (Comp)	Res. Triangle, NC	08/08/2002	Optical attenuators and switches.
41,966	Crane Resistoflex (Comp)	Bay City, MI	08/02/2002	Plastic-lined pipes, fittings, and valve.
41,967	Trego Industries, Inc. (Wrks)	Red Oak, TX	08/02/2002	Push and pull door bars.
41,968	Crown Cork and Seal (IAMAW)	Portland, OR	08/01/2002	Metal can ends.
41,969	New River Energetics (OCAW)	Radford, VA	03/18/2002	MACS Propellants.
41,970	Dimension Tech, Inc. (Wrks)	Ironwood, MI	08/02/2002	Picture frame mouldings.
41,971	Marland Mold (Wrks)	Pittsfield, MA	07/12/2002	Injection and compression molds.
41,972	American Greetings Corp (Wrks)	Corbin, KY	07/12/2002	Greeting cards, candles, paper plates.
41,973	Lapcor Plastics (PACE)	Manitowoc, WI	07/25/2002	Phenolic handles and knobs.
41,974	Amerock Corp. (Comp)	Rockford, IL	07/23/2002	Cabinet knobs and pulls.
41,975	Versa Tool (WRKS)	Meadville, PA	08/01/2002	Plastic injection molds and tooling.
41,976	Black and Decker (Wrks)	Easton, MD	08/01/2002	Power tools.
41,977	Helsapenn/Penn Pad (UNITE)	Philadelphia, PA	07/26/2002	Shoulder pads.
41,978	Nidec America Corp (Comp)	Canton, MA	07/29/2002	AC/DC power supplies.
41,979	Corning Cable Systems (Wrks)	Strafford, MO	04/22/2002	Metal telephone pedestals.
41,980	Young American Clothing (UNITE)	Newark, NJ	07/29/2002	Women's coats.
41,981	Carolina Mills, Inc. (Comp)	Gastonia, NC	07/19/2002	Textile yarns.
41,982	Kato Engineering, Inc. (Wrks)	North Mankato, MN	08/12/2002	Electrical generators and motor sets.
41,983	ADC Telecommunications (Wrks)	Minnetonka, MN	07/25/2002	Subscriber line repeaters.
41,984	Emerson Appliance Control (Wrks)	Sparta, TN	07/29/2002	Water valves and dryer timers.
41,985	DeRoyal Patient Care (Wrks)	Maynardville, TN	07/31/2002	Vest and wrist restraints.
41,986	Stan's Wood Products (Wrks)	Redmond, OR	07/17/2002	Partical board stickers.
41,987	Alcoa Wenatchee Works (WLTC)	Malaga, WA	08/01/2002	Aluminum and alloys.
41,988	Sun Belt Interplex (Wrks)	Tamarac, FL	08/06/2002	Precision metal stampings.
41,989	Pinnacle, Magee (Wrks)	Piggott, AR	07/31/2002	Wood frames.
41,990	General Motors Corp (UAW)	Linden, NJ	08/09/2002	Pickup trucks and sports utility vehicle.
41,991	Donna Karan Co (UNITE)	New York, NY	08/03/2002	Women's clothing.
41,992	General Electric Co (UE)	Erie, PA	08/13/2002	Diesel electric locomotives and component.
41,993	Philips Semiconductors (Comp)	Albuquerque, NM	08/05/2002	Semiconductor wafers.
41,994	Lucedale Industries (Comp)	Lucedale, MS	08/05/2002	Knit shirts.
41,995	Reliant Manufacturing (UAW)	Chesterfield, MI	08/12/2002	Automotive exhaust manifolds.
41,996	Eagle Bridge Machine (Wrks)	Eagle Bridge, NY	08/02/2002	Cast aluminum alternators.
41,997	Mettler Toledo Spart. Prod (Comp)	Inman, SC	08/02/2002	Load cells and light capacity scales.
41,998	Clore Automotive (Comp)	Bloomington, MN	08/05/2002	Battery jump starters and chargers.
41,999	New Holland Industries (Comp)	New Holland, PA	08/06/2002	Spread and cut sleepwear material.
42,000	Daicolor-Pope, Inc. (PACE)	Paterson, NJ	07/30/2002	Organic pigments.
42,001	Wain Mfg/Calif Optical (Wrks)	Lynn, MA	08/09/2002	Eyeglass cases.
42,002	Metso Mineral (USA) (PACE)	Clintonville, WI	08/06/2002	Bulk material conveyers

[FR Doc. 02–24103 Filed 9–02–02; 8:45am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,566]

Johanna York, Inc., New York, NY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 20, 2002 in response to a worker petition, which was filed on behalf of workers at Johanna York, Inc., New York, New York.

The Department has been unable to locate or communicate with principals of the firm or otherwise obtain information to reach a determination on worker eligibility. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 19th day of August 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–24112 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,694]

Joy Mining Machinery, Mount Vernon, IL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 24, 2002 in response to a petition filed by the Union on behalf of workers at Joy Mining Machinery, Mount Vernon, Illinois.

All workers were separated from the subject firm one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 19th day of August 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–24115 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–06403]

Copper Wiring Devices, Division of Cooper Industries a/k/a Eagle Electronic Manufacturing Co., Long Island City, NY; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on July 23, 2002, in response to a petition filed on behalf of workers at Cooper Wiring Devices, Division of Cooper Industries, previously known as Eagle Electronic Manufacturing Company, Long Island City, New York.

The petitioning worker group is covered under an existing certification, NAFTA–4807. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 6th day of September, 2002.

Elliott S. Kusner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–24118 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—5663]

Exide Technologies, Transportation Global Business Unit, Shreveport, LA; Notice of Revised Determination on Reconsideration

On August 12, 2002, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration for NAFTA–TAA applicable to workers and former workers of the subject firm. The notice was published in the Federal Register on August 20, 2002 (67 FR 53975).

The initial NAFTA–TAA petition investigation for workers at Exide Technologies, Transportation Business Unit, Shreveport, Louisiana was denied based on the finding that the subject firm did not shift to Canada or Mexico its production of lead-acid batteries for cars and trucks nor did it import like or directly competitive products from Canada or Mexico during the relevant period. The investigation further revealed that customers of the subject firm did not increase their imports of lead-acid batteries from Canada and/or Mexico during the relevant period.

The petitioner supplied a list of additional customers they believed should be surveyed. On further review, the Department conducted a survey of these customers to determine if imports contributed importantly to the declines in employment at the subject plant.

On reconsideration, the Department conducted a survey of the additional major customers of the subject plant regarding their purchases of lead-acid batteries during the relevant period. The survey revealed that a major customer increased their imports of lead-acid batteries from Mexico, while decreasing their purchases from the subject plant during the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports from Mexico of articles like or directly competitive with lead-acid batteries contributed importantly to the decline in sales or production and to the total or partial separation of workers of Exide Technologies, Transportation Business Unit, Shreveport, Louisiana. In accordance with the provisions of the Act, I make the following revised determination:

All workers of Exide Technologies, Transportation Business Unit, Shreveport, Louisiana who became totally or partially separated from employment on or after December 18, 2000, through two years from the date of this issuance, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

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

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–24117 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6365]

Oki Data America, Inc., a Subsidiary of Oki Data Corp., a Subsidiary of Oki Electric Industry Co., Ltd., Mount Laurel, NJ; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on July 15, 2002 in response to a petition filed by the company on behalf of workers at Oki Data Americas, Inc., a subsidiary of Oki Data Corp., a subsidiary of Oki Electric Industry Co., Ltd., Mount Laurel, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation is terminated.

Signed in Washington, DC, this 4th day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–24113 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a FAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to

paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of P.L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request if filed in writing with the Director of DTAA not later than November 4, 2002.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than November 4, 2002.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW. Washington, DC 20210.

Signed at Washington, DC this 12th day of September, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at governor's office	Petition number	Articles produced
Savane International (Wkrs)	El Paso, TX	08/26/2002	NAFTA–6,481	Cut fabrics.
Farley's and Sather Candy (Co.)	Oklahoma, OK	08/21/2002	NAFTA–6,482	Candy.
Federal Mogul—North America Friction (Co.).	Brighton, MA	08/23/2002	NAFTA–6,483	Friction products—brakes.
CommScope, Inc. of North (Co.)	Hickory, NC	08/26/2002	NAFTA–6,484	Coxial and fiber optic.
Oshkosh B'Gosh—Miami Trim Warehouse (Co.).	Medley, FL	08/19/2002	NAFTA–6,485	Trim items (zippers, buttons, thread).
Midwest Electric Products (Co.)	Mankato, MN	08/19/2002	NAFTA–6,486	Service entrance models.
Disa Industries (IRW)	Holly, MI	08/22/2002	NAFTA–6,487	Foundry machines.
Kimberly Clark (PACE)	Neenah, WI	08/22/2002	NAFTA–6,488	Feminine care products.
Minnesota Brewing Molding (Wkrs)	St. Paul, MN	08/22/2002	NAFTA–6,489	Malt beverage/beer.
IBM Corporation (Wkrs)	Essex Junction, VT	08/22/2002	NAFTA–6,490	Semiconductor modules.
Hoffco—Comet Industries (Co.)	Rushville, IN	08/21/2002	NAFTA–6,491	Transmission for washing machines.
Maurer Enterprises (Wkrs)	Grans Pass, OR	08/09/2002	NAFTA–6,492	Wooden stakes and poles.
United Sweater Mills (Co.)	Jersey City, NJ	08/23/2002	NAFTA–6,493	Sweaters.
Doncasters—Turbo Products (Wkrs)	Ivoryton, CT	08/12/2002	NAFTA–6,494	Gas turbine blades.
Hasler, Inc. (Co.)	Shelton, CT	08/12/2002	NAFTA–6,495	Meters.
Wyman Gordon Forgings (IAMAW)	Houston, TX	08/21/2002	NAFTA–6,496	Aircraft engine components.
International Ceramic Welding (Co.)	DeMotte, IN	08/21/2002	NAFTA–6,497	Refactory.
Leatherworks (UAW)	Detroit, MI	08/20/2002	NAFTA–6,498	Leather sealing skins.
TreeSources Industries—Spanaway Lumber (Wkrs).	Tacoma, WA	08/21/2002	NAFTA–6,499	Lumber.
Marconi (Co.)	Toccoa, GA	08/20/2002	NAFTA–6,500	Telecommunication equipment.
Spectralink (Wkrs)	Boulder, CO	08/19/2002	NAFTA–6,501	Cell phones.
Mo Tech (Wkrs)	Oakdale, MN	08/20/2002	NAFTA–6,502	Injection molds.
Fashion Star (Wkrs)	Carrollton, GA	08/22/2002	NAFTA–6,503	Ladies apparel.
Owens Brigam Medical (Co.)	Corona, CA	07/23/2002	NAFTA–6,504	Injection molds.
Hudson RCI (Co.)	Temecula, CA	08/15/2002	NAFTA–6,505	Plastic medical products.
Motorola (Wkrs)	Mesa, AZ	08/26/2002	NAFTA–6,506	Pressure sensors.
Autoline Industries (Co.)	Argyle, WI	08/30/2002	NAFTA–6,507	Calipers and distributors.
Pliant Solutions (PACE)	Fort Edward, NY	08/23/2002	NAFTA–6,508	Printed pattern vinyl.
Dana Corporation (Co.)	Hastings, NE	08/27/2002	NAFTA–6,509	Cylinder liners.
Northern Engraving (Wkrs)	Lansis, IA	08/26/2002	NAFTA–6,510	Stamping.
NetManage (Wkrs)	Bellingham, WA	08/28/2002	NAFTA–6,511	Software products.
Fishking Processors (Wkrs)	Los Angeles, CA	08/05/2002	NAFTA–6,512	Fish and seafood products.
Power Technologies (Wkrs)	Erie, PA	08/29/2002	NAFTA–6,513	AC and DC power distribution units.
Emgle Products (USWA)	Johnstown, PA	08/29/2002	NAFTA–6,514	Hand carried and twin stack units.
Laurel Mould (Wkrs)	Greensburg, PA	08/29/2002	NAFTA–6,515	Moulds for glass.
Hershey Foods (Co.)	Pennsburg, PA	08/29/2002	NAFTA–6,516	Confectionery products.
Metropolitan Steel—Steelco (Wkrs)	Sinking Springs, PA	08/29/2002	NAFTA–6,517	Building materials.
Johnstown Knitting Mill (Co.)	Johnstown, NY	08/29/2002	NAFTA–6,518	Knitware.
Surgical Corp. of America (Co.)	Irvington, NY	08/29/2002	NAFTA–6,519	Disposable medical gauze products.
Fashion Enterprise (Wkrs)	El Paso, TX	08/29/2002	NAFTA–6,520	Ladies suits, pants, jackets etc.
Alcoa Badin Works (Co.)	Badin, NC	08/29/2002	NAFTA–6,521	Aluminum engots, coils.
Weyerhaeuser Company (Co.)	Albany, OR	08/28/2002	NAFTA–6,522	Logging.
Northern Engraving (Co.)	Holmen, WI	09/03/2002	NAFTA–6,523	Decorative trim for auto, boats, etc.
Milwaukee Electric Tool (Wkrs)	Brookfield, WI	09/03/2002	NAFTA–6,524	Electric power tools.
Perfection Schwank (Co.)	Wanesboro, GA	09/05/2002	NAFTA–6,525	Heaters.

[FR Doc. 02–24104 Filed 9–20–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10986, et al.]

Proposed Exemptions; Bank of America (BofA)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration (PWBA), Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. ___, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to PWBA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: *moffittb@pwba.dol.gov,* or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Bank of America (BofA); Located in Bethesda, Maryland

[Application No. D–10986]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32,836, 32,847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the granting to BofA by the Westbrook Real Estate Fund III, L.P. (LP), a Delaware Limited Partnership, of a first, exclusive, and prior security interest in the capital commitments (Capital Commitments), reserve amounts (Reserve Amounts), and capital contributions (Capital Contributions), whether now owned or after-acquired, of certain employee benefit plans (Plans) investing in the LP; (2) the collateral assignment and pledge by the LP to BofA of its security interest in each Plan's limited partnership interest, whether now owned or after-acquired; (3) the granting by the LP of a first, exclusive, and prior security interest in a borrower collateral account to which all Capital Contributions will be deposited when paid (Borrower Collateral Account); (4) the granting to BofA by Westbrook Real Estate Partners Management III, L.L.C., a Delaware limited liability company and the general partner of the LP (the General Partner), of its right to make calls for cash contributions (Drawdowns) under the Amended and Restated Agreement of Limited Partnership of Westbrook Real Estate Fund III, L.P., dated as of June 10, 1998 (Agreement), where BofA is the representative of certain lenders (the Lenders) that will fund a so-called ''credit facility'' (Credit Facility) providing credit to the LP, and the Lenders are parties in interest with respect to the Plans; and (5) the execution of a partner agreement and estoppel (Estoppel) under which the Plans agree to honor the Drawdowns; provided that (i) the proposed grants, assignments, and Estoppels are on terms no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties; (ii) the decisions on behalf of each Plan to invest in the LP and to execute such Estoppels in favor of BofA, for the benefit of each Lender, are made by a fiduciary which is not included among, and is independent of and unaffiliated with, the Lenders and BofA; (iii) with respect to Plans that may invest in the LP in the future, such Plans will have assets of not less than $100 million [1] and not more than 5% of the assets of such Plan will be invested in the LP; and (iv) the General Partner is unrelated to any Plan and any Lender.

Effective Date: If this proposed exemption is granted, it will be effective July 30, 1998.

Summary of Facts and Representations

1. The LP is a Delaware limited partnership, the sole general partner of which is the General Partner. The General Partner is a separate affiliate of Westbrook Real Estate Partners, L.L.C.

[1] In the case of multiple plans maintained by a single employer or a single group of employers treated as a single employer under Sections 414(b), 414(c), 414(m), and 414(o) of the Code, the assets of which are invested on a commingled basis (*e.g.*, through a master trust), this $100 million threshold will be applied to the aggregate assets of all such plans.

(Westbrook), a Delaware limited liability company, which is the sponsor of the LP. The LP shall exist for eight years from the end of its initial investment period, but may be extended. The LP was formed by the General Partner (as sponsor and sole general partner) with the intent of seeking Capital Commitments from a limited number of prospective investors who would become partners (the Limited Partners) of the LP. There are fifty-three current and prospective Limited Partners having, in the aggregate, irrevocable, unconditional Capital Commitments of approximately $1.2 billion.

2. The LP has been organized to establish an integrated, self-administered and self-managed real estate operating company (see rep. 11, below) to acquire a broad range of real estate-related assets, portfolios and companies. The LP believes that significant opportunities exist to achieve superior risk-adjusted returns in real estate and generally seeks compounded annual returns on its investments in excess of 18%.

3. Proceeds from the sale or refinancing of properties generally will not be reinvested. The proceeds will be distributed to the Limited Partners on at least a quarterly basis so that the LP will be self-liquidated.

4. The Agreement requires each Limited Partner to make initial contributions of capital up to a specified maximum. The Agreement requires Limited Partners to make Capital Contributions to fulfill this obligation upon receipt of notice from the General Partner. Under the Agreement, the General Partner may make Drawdowns up to the total amount of a Limited Partner's Capital Commitment upon 15 business days' notice, subject to certain limitations. The Limited Partners' Capital Commitments are structured as unconditional, binding commitments to contribute equity when Drawdowns are made by the General Partner. In the event of a default by a Limited Partner, the LP may exercise any of a number of specific remedies.

Among the Limited Partners and their investments in the LP are:

Name of partner	Capital commitment
BellSouth Master Pension Trust	$100,000,000
NC/TREIT	100,000,000
New York State Common Retirement Fund	100,000,000
Commonwealth of Pennsylvania State Employees Retirement System	75,000,000
JPMorgan Chase Bank, as Trustee for the IBM Personal Pension Plan Trust	75,000,000
Westbrook Real Estate Fund III Ohio Group Trust	75,000,000

5. The applicant states that the LP will incur short-term indebtedness for the acquisition of particular investments and for working capital purposes (with the expectation that such acquisition indebtedness will be repaid from the Limited Partners' Capital Commitments and/or from mortgage debt). This indebtedness takes the form of the Credit Facility, a revolving credit agreement secured by, among other things, a pledge and assignment of each Limited Partner's Capital Commitment and by a pledge and assignment by the LP and the General Partner of the right to make Drawdowns of the Capital Commitments, and their security interests in the Limited Partners' limited partnership interests in the LP. This type of facility allows the LP to consummate investments quickly without having to finalize the debt/equity structure for an investment or having to arrange for interim or permanent financing prior to making an investment, and will have additional advantages to the Limited Partners and the LP. Under the Agreement, the General Partner may encumber Limited Partners' Capital Commitments, Reserve Amounts, and Capital Contributions, including the right to make Drawdowns, to one or more financial institutions as security for the Credit Facility. Each of the Limited Partners has appointed the General Partner as its attorney-in-fact to execute all documents and instruments of transfer necessary to implement the provisions of the Agreement. In connection with this Credit Facility, each of the Limited Partners is required to execute documents customarily required in secured financings, including an agreement to honor Drawdowns unconditionally.

6. BofA is the agent for a group of Lenders providing a $400 million revolving Credit Facility to the LP. BofA is also a participating Lender. Some of the Lenders may be parties in interest with respect to some of the Plans that invest in the LP by virtue of such Lenders' (or their affiliates') provision of services to such Plans for assets other than the Plans' interests in the LP. BofA is requesting an exemption to permit the Plans to enter into security agreements with BofA, as the representative of the Lenders, whereby such Plans' Capital Commitments, Reserve Amounts, and Capital Contributions to the LP, as well as the Plans' limited partnership interests, are used as collateral for loans made by the Credit Facility to the LP, when such loans are funded by Lenders who are parties in interest to one or more of the Plans.

The Credit Facility is used to provide immediate funds for real estate acquisitions made by the LP, as well as for the payment of LP expenses. Repayments are secured generally by the Limited Partners' Capital Contributions, Reserve Amounts, Drawdowns on the Limited Partners' Capital Commitments, and the Limited Partners' limited partnership interests. The Credit Facility was originally intended to be available until 2001 and has been extended to May 9, 2003. The applicant has requested that the proposed exemption, if granted, be retroactive to July 30, 1998, which is the date the Credit Facility originally became effective. The LP can use its credit under the Credit Facility by direct or indirect borrowings or by requesting that letters of credit be issued. All Lenders participate on a pro rata basis with respect to all cash loans and letters of credit up to the maximum of the Lenders' respective commitments. All such loans and letters of credit are issued to or for the benefit of the LP or an entity in which the LP owns a direct or indirect interest (a Qualified Borrower), and not to any individual Limited Partner. All payments of principal and interest made by the LP or a Qualified Borrower are allocated pro rata among all Lenders.

7. The Credit Facility is a recourse obligation of the Partnership. To secure the Credit Facility, the LP has granted to BofA, for the benefit of each Lender, a first, exclusive, and prior: (1) Security interest and lien in and to the Capital Commitments, Reserve Amounts, and Capital Contributions of the Limited Partners; (2) collateral assignment and pledge of the LP's security interest in each Limited Partner's limited partnership interest; and (3) security interest and lien in the Borrower

Collateral Account. Additionally, to secure the Credit Facility, the General Partner has: (1) pledged, through a partner agreement and estoppel, its partnership interest to BofA for the benefit of each Lender; and (2) granted to BofA, for the benefit of each Lender, its right to make Drawdowns of the Capital Commitments and Reserve Amounts, and all other rights, titles, powers and privileges related to, appurtenant to or arising out of the General Partner's right under the Agreement to require or demand that Limited Partners make Capital Contributions and fund Drawdowns.

8. Each Limited Partner has executed or will execute an agreement pursuant to which it acknowledges that the LP and the General Partner have pledged and assigned to BofA, for the benefit of each Lender which may be a party in interest (as defined in ERISA Section 3(14)) of such Limited Partner, all of their rights under the Agreement relating to Capital Commitments, Reserve Amounts, Drawdown notices, and Capital Contributions. Such agreement will include an acknowledgment and covenant by the Limited Partner that, if an event of default exists, such Limited Partner will, consistent with its obligations under the Agreement, honor any Drawdown made by BofA in accordance with the Agreement. Such an agreement and covenant by a Limited Partner effectively limits the assertion of any defense which the Limited Partner might have against the LP or the General Partner with respect to the funding of any Drawdown made by BofA.

9. The applicant represents that at the present time the following Plans are Partners in the LP:

(1) *The SBC Master Pension Trust (formerly Ameritech Pension Trust).* The SBC Master Pension Trust (Boston Safe Deposit and Trust Company, as Trustee) holds the assets of the following Plans, all of which have EIN 43–1301883.

Plan	Type	Plan No.	Approx. number participants	12/31/98 Approx. net fair market value (in thousands)
Ameritech Management Pension Plan	Def. Benefit	001	41,685	$7,599,667
Ameritech Pension Plan	Def. Benefit	002	76,227	7,197,371
Employees' Pension Plan of Ameritech Publishing Ventures, Inc	Def. Benefit	011	160	2,189,091

The fiduciary of these Plans generally responsible for investment decisions in the real estate area for internally managed assets was the Ameritech Corporation Asset Management Committee, the Chief Investment Officer of Ameritech Corporation, and/or the Ameritech Corporation Investment Management Department's Real Estate Committee (comprised of the staff real estate professionals and another Investment Management Department Director), depending on the size and type of investment. The fiduciary responsible for reviewing and authorizing the Ameritech Pension Trust's investment in the partnership to which this proposed exemption relates, an internally managed asset of the Ameritech Pension Trust, was collectively the Chief Investment Officer of Ameritech Corporation, and the members of the Ameritech Corporation Investment Management Department's Real Estate Committee.

(2) *BellSouth Master Pension Trust.* The BellSouth Master Pension Trust (State Street Bank Company, as Trustee) holds the assets of two employee benefit Plans. First is the BellSouth Personal Retirement Account Pension Plan; type of plan—defined benefit; EIN: 58–1533433; Plan No. 012; number of plan participants—51,029. The approximate fair market value of the total assets of the BellSouth Personal Retirement Account Pension Plan was approximately $7.232 billion as of December 31, 1998. Second is the BellSouth Pension Plan; type of plan—defined benefit; EIN: 58–1533433; Plan No. 005; number of plan participants—90,302. The approximate fair market value of the total assets of the BellSouth Pension Plan was approximately $10.7 billion as of December 31, 1998. The fiduciary generally responsible for investment decisions in real estate matters on behalf of both the BellSouth Personal Retirement Account Pension Plan and the BellSouth Pension Plan is the BellSouth Corporation Treasurer. The fiduciary responsible for reviewing and authorizing the investment in the LP is the BellSouth Corporation Treasurer.

(3) *BP Master Trust for Employee Pension Plans.* The BP Master Trust for Employee Pension Plans (JPMorgan Chase Bank, as Trustee) (the ''BP Trust'') is the successor to the BP America Inc. Retirement Trust (the ''Prior Trust'') pursuant to a merger of the Prior Trust into the BP Trust. The Prior Trust made the decision to invest in the LP and the BP Trust assumed that investment pursuant to the merger. At the time of the investment, the Prior Trust held the assets of two Plans. First was the BP America Retirement Accumulation Plan; type of plan—defined benefit; EIN: 94–2257553; Plan No. 001; approximate number of plan participants—22,279. The approximate fair market value of the total assets of the BP America Retirement Accumulation Plan was approximately $1.415 billion as of December 31, 1998. Second was the BP America Master Hourly Plan for Represented Employees; type of plan—defined benefit; EIN: 94–2257553; Plan No. 018; approximate number of plan participants—13,872. The approximate fair market value of the total assets of the BP America Master Hourly Plan for Represented Employees was approximately $703.8 million as of December 31, 1998.

The fiduciary of these Plans generally responsible for investment decisions at the time of the investment was the Chief Executive Officer, BP America Inc. (the ''Chief Executive Officer''). The fiduciary responsible for reviewing and authorizing the investment in the LP was also the Chief Executive Officer. The Investment Committee of BP Corporation North America Inc. is the successor fiduciary to the Chief Executive Officer.

(4) *IBM Personal Pension Plan Trust.* The IBM Personal Pension Plan Trust (JPMorgan Chase Bank, as Directed Trustee) holds the assets of the IBM Personal Pension Plan; type of plan—defined benefit; EIN: 13–0871985; Plan No. 001; approximate number of plan participants—324,808. The approximate fair market value of the total assets of the IBM Personal Pension Plan was approximately $41.7 billion as of December 31, 1998.

The fiduciary of this Plan generally responsible for investment decisions is the Retirement Plans Committee, IBM Corporation. The fiduciary responsible for reviewing and authorizing the

investment in the LP is the Retirement Plan Committee, IBM Corporation.

(5) *United States Steel Group Trust.* The United States Steel Retirement Trust (United States Steel and Carnegie Pension Fund, as Trustee) holds the assets of two employee benefit pension Plans investing in the LP. First is the United States Steel Corporation Plan for Employee Pension Benefits (the U.S. Steel Plan); type of plan—defined benefit; EIN: 25–0996816; Plan No. 001; number of plan participants—98,916. The approximate fair market value of the total assets of the U.S. Steel Plan was $5.922 billion as of December 31, 1998.

Second is the United States Steel Corporation Plan for Non-Union Employee Pension Benefits As Amended (the U.S. Steel Non-Union EE Plan); type of plan—defined benefit; EIN: 25–0996816; Plan No. 100; number of plan participants—31,262. The approximate fair market value of the total assets of the U.S. Steel Non-Union EE Plan was $4.293 billion as of December 31, 1998.

The fiduciary of these Plans generally responsible for investment decisions is the United States Steel and Carnegie Pension Fund. The fiduciary responsible for reviewing and authorizing the investment in the LP is the United States Steel and Carnegie Pension Fund.

(6) *Marathon Oil Group Trust.* The Marathon Oil Group Trust (United States Steel and Carnegie Pension Fund, as Master Trustee) holds the assets of three employee benefit pension Plans investing the LP. First is the Retirement Plan of Marathon Oil Company (the Marathon Plan); type of plan—defined benefit; EIN: 25–1410539; Plan No. 001; approximate number of plan participants—6,841. The approximate fair market value of the total assets of the Marathon Plan was $798 million as of December 31, 1998.

Second is the Petroleum Marketing Retirement Plan; type of plan—defined benefit; EIN: 31–1551430; Plan No. 001; approximate number of plan participants—11,548. The approximate fair market value of the total assets of the Petroleum Marketing Retirement Plan was $26.5 million as of January 1, 1998.

Third is the Marathon Ashland Petroleum LLC Retirement Plan (the Marathon Ashland Plan); type of plan—defined benefit; EIN: 31–1537655; Plan No. 001; number of plan participants—5,960. The approximate fair market value of the total assets of the Marathon Ashland Plan was $528 million as of December 31, 1998.

The fiduciary of these Plans generally responsible for investment decisions is the United States Steel and Carnegie Pension Fund. The fiduciary responsible for reviewing and authorizing the investment in the LP is the United States Steel and Carnegie Pension Fund.

(7) *UPS Retirement Plan Trust.* The UPS Retirement Plan Trust (Bankers Trust Company, as Trustee) holds the assets of the UPS Retirement Plan; type of plan—defined benefit; EIN: 95–1732075; Plan No. 001; approximate number of plan participants—86,254. The approximate fair market value of the total assets of the UPS Retirement Plan was approximately $5.027 billion as of December 31, 1998. The fiduciary of this Plan generally responsible for investment decisions is the Administrative Committee of the UPS Retirement Plan. The fiduciary responsible for reviewing and authorizing the investment in the LP is the Administrative Committee of the UPS Retirement Plan.

10. The applicant represents that the Plans in the trusts (the Trusts) listed in Representation 9 are currently the only employee benefit Plans subject to the Act that are Limited Partners of the LP and will be included in this exemption. However, the applicant states that it is possible that one or more other Plans will become Limited Partners of the LP in the future. Thus, the applicant requests relief for any such Plan under this proposed exemption, provided the Plan meets the standards and conditions set forth herein. In this regard, such Plan must be represented by an independent fiduciary and the General Partner must receive from the Plan one of the following:

(1) a representation letter from the applicable fiduciary with respect to such Plan substantially identical to the representation letter submitted by the fiduciaries of the other Plans, in which case this proposed exemption, if granted, will apply to the investments made by such Plan if the conditions required herein are met; or

(2) evidence that such Plan is eligible for a class exemption or has obtained an individual exemption from the Department covering the potential prohibited transactions which are the subject of this proposed exemption.

11. BofA represents that the LP has obtained an opinion of counsel that the LP constitutes an ''operating company'' under the Department's plan asset regulations [*see* 29 CFR 2510.3–101(c)] if the LP is operated in accordance with the Agreement and the private placement memorandum distributed in connection with the private placement of the LP interests.[2]

BofA represents that the security and Estoppel constitute a form of credit security which is customary among financing arrangements for real estate limited partnerships or limited liability companies, wherein the financing institutions do not obtain security interests in the real property assets of the partnership or limited liability companies. BofA also represents that the obligatory execution of the Estoppel by the Limited Partners for the benefit of the Lenders was fully disclosed in the Private Placement Memorandum as a requisite condition of investment in the LP during the private placement of the partnership interests. BofA represents that the only direct relationship between any of the Limited Partners and any of the Lenders is the execution of the Estoppel. All other aspects of the transaction, including the negotiation of all terms of the Credit Facility, are exclusively between the Lenders and the LP. BofA represents that the proposed execution of the Estoppel do not affect the abilities of the Trusts to withdraw from investment and participation in the LP. The only Plan assets to be affected by the proposed transactions are any funds which must be contributed to the LP in accordance with requirements under the Agreement to make Drawdowns to honor a Partner's Capital Commitments and the Plan's Limited Partnership interest in the LP.

12. BofA represents that neither it nor any Lender acts or has acted in any fiduciary capacity with respect to the Plans' investment in the LP. BofA is independent of and unrelated to the fiduciaries (the Trust Fiduciaries) responsible for authorizing and overseeing the Trusts' investments in the LP. The Trust Fiduciaries represent independently that their authorization of the Trusts' investments in the LP was free of any influence, authority or control by the Lenders. The Trust Fiduciaries represent that the Trusts'

[2] The Department notes that the term ''operating company'' as used in the Department's plan asset regulation cited above includes an entity that is considered a ''real estate operating company'' as described therein (*see* 29 CFR 2510.3–101(e)). However, the Department expresses no opinion in this proposed exemption regarding whether the LP would be considered either an operating company or a real estate operating company under such regulations. In this regard, the Department notes that it is providing no relief for either internal transactions involving the operation of the LP or for transactions involving third parties other than the specific relief proposed herein. In addition, the Department encourages potential Plan investors and their independent fiduciaries to carefully examine all aspects of the LP's proposed real estate investment program in order to determine whether the requirements of the Department's regulations will be met.

investments in and Capital Commitments to the LP were made with the knowledge that each Limited Partner would be required subsequently to grant a security interest in Drawdowns and Capital Commitments to the Lenders and to honor unconditionally Drawdowns made on behalf of the Lenders without recourse to any defenses against the General Partner. The Trust Fiduciaries individually represent that they are independent of and unrelated to BofA and the Lenders and that the investment by the Trusts for which the Trust Fiduciaries are responsible continues to constitute a favorable investment for the Plans participating in that Trust and that the execution of the Estoppel is in the best interests and protective of the participants and beneficiaries of such Plans. In the event another Plan proposes to become a Limited Partner, the applicant represents that it will require similar representations to be made by such Plan's independent fiduciary. Any Plan proposing to become a Limited Partner in the future and needing to avail itself of the exemption proposed herein will have assets of not less than $100 million, and not more than 5% of the assets of such Plan will be invested in the LP.

13. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The Plans' investments in the LP were authorized and are overseen by the Fiduciaries, which are independent of the Lenders, and other Plan investments in the LP from other employee benefit Plans subject to the Act will be authorized and monitored by independent Plan fiduciaries; (2) none of the Lenders has any influence, authority or control with respect to any of the Trusts' investment in the LP or the Trusts' execution of the Estoppel; (3) each Fiduciary invested in the LP on behalf of a Plan with the knowledge that the Estoppel is required of all Limited Partners investing in the LP, and all other Plan fiduciaries that invest their Plan's assets in the LP will be treated the same as any other Limited Partners are currently treated with regard to the Estoppel; (4) any Plan which may invest in the LP in the future, which needs to avail itself of the exemption proposed herein, will have assets of not less than $100 million, and not more than 5% of the assets of any such Plan will be invested in the LP, and (5) the General Partner is unrelated to any Plan and any Lender.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

A. Raimondo Inc. Pension Plan, (the Plan); Located in Greensburg, PA;

[Application No. D–11085]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).[3] If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective May 1, 2002, to (1) the past and continued leasing (the Lease) of certain improved real property (the Property) by the Plan to A. Raimondo Inc. (the Employer), a party in interest with respect to the Plan; and (2) the exercise, by the Employer, of options to renew the Lease, for two additional terms, provided that the following conditions have been and continue to be met:

(a) The terms and conditions of the Lease have been, and continue to be, no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties.

(b) The Plan has been, and continues to be, represented for all purposes under the Lease, and during each renewal term, by a qualified, independent fiduciary.

(c) The Plan's independent fiduciary has negotiated, reviewed, and approved the terms and conditions of the Lease and the options to renew the Lease on behalf of the Plan and has determined that the transactions are appropriate investments for the Plan and are in the best interests of the Plan and its participants and beneficiaries.

(d) The rent paid to the Plan under the Lease, and during each renewal term, is no less than the fair market rental value of the Property, as established by a qualified, independent appraiser.

(e) The rent is adjusted annually to reflect changes in the Consumer Price Index (the CPI) and the Property is re-appraised at least every three years by a qualified, independent appraiser who is selected by the independent fiduciary to determine the appropriate fair market rental value (but in no event is the rental rate less than that established for the preceding rental term).

(f) The Lease is triple net, requiring all expenses for maintenance, taxes, utilities and insurance to be paid by the Employer, as lessee.

(g) The Plan's independent fiduciary has monitored, and continues to monitor, compliance with the terms of the Lease throughout the duration of the Lease and each renewal term, and is responsible for legally enforcing the payment of the rent and the proper performance of all other obligations of the Employer under the terms of the Lease.

(h) The Plan's independent fiduciary expressly approves any renewal of the Lease beyond the initial term.

(i) At all times throughout the duration of the Lease and each renewal term, the fair market value of the Property has not exceeded, and does not exceed, 25 percent of the value of the total assets of the Plan.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of May 1, 2002.

Summary of Facts and Representations

1. The Employer is a family owned and operated Pennsylvania corporation specializing in the field of exterior masonry restoration and preservation. The Employer performs work in the tri-state area of Pennsylvania, West Virginia and Ohio, while maintaining its principal place of business in Greensburg, Pennsylvania.

2. The Plan, which is sponsored and administered by the Employer, is a money purchase pension plan. The Plan covers three participants and had total assets of $1,170,999 as of December 31, 2001. The accounts in the Plan are participant-directed and the Employer serves as the Plan's named fiduciary.

3. Among the assets of the Plan is the Property, which consists of 6.679 acres of land improved by a warehouse, containing 6,150 square feet of space, and an office addition, containing 1,800 square feet of space. These structures were built by the Employer in 1986, with 726 feet of road frontage, located on Echo Valley Road (T/R 513) in Hempfield Township, Westmoreland County, Pennsylvania. The fair market value of the Property currently represents approximately 21.35 percent of the Plan's total assets. Further, the Property is not located in close proximity to other real estate that is owned by the Employer and/or its principals.

[3] For purposes of this proposed exemption, references to provisions of Title I of the Act, unless otherwise specified, refer also to corresponding provisions of the Code.

4. The Plan originally leased the Property to the Employer for an initial term of ten years, followed by an additional five-year renewal period, for a combined 15 years which expired on April 30, 2002, pursuant to the same terms and conditions used for the current Lease. In response to an exemption application filed by the Employer, the Department granted an exemption covering the original lease (the Original Lease): Prohibited Transaction Exemption 87–63 (PTE 87–63), 52 FR 24078 (June 26, 1987).

5. The parties request an administrative exemption from the Department in order to continue the Original Lease under the provisions of a new lease. The Lease has an initial term of five years, which commenced on May 1, 2002 and ends on April 30, 2007, with options to renew for two additional five year terms, only with the express approval of the Plan's independent fiduciary. The Lease is triple net and requires the Employer to pay all real estate taxes on the Property, as well as all expenses that are associated with insurance, maintenance and utilities. The applicant represents that the Plan's independent fiduciary will select a qualified, independent appraiser to reappraise the Property at least every three years to determine the appropriate fair market rental value. However, in no event will the rent be adjusted below the rental amount for the preceding Lease term. In addition, during each year of the initial term of the Lease and each renewal term, the rental rate will be increased by an amount equal to the most recent percentage increase in the CPI. Currently, the Employer is paying the Plan $4,550 per month in rent.

6. In an independent appraisal report dated July 16, 2001 (the 2001 Appraisal), H. Kenneth Gehr, a qualified, independent real estate broker/appraiser with Shrader & Gehr Real Estate Agency, of Jeannette, Pennsylvania, updated an August 26, 2000 independent appraisal that was prepared by his firm, in which the Property's fair market value, monthly fair market rental value, and annual fair market rental value were placed at $248,000, $3,500, and $42,000, respectively as of August 17, 2000. Mr. Gehr states that he is familiar with real estate sales of all types, including those for commercial and industrial properties in the Westmoreland County area, since he explains that he has sold and appraised real estate since 1947, and has given court testimony as an expert real estate witness. In addition, Mr. Gehr certifies that he has no interest in the Property, except as a fee appraiser, and that the fee he received for the 2001 Appraisal and the values reported therein were in no way related to, nor influenced by, any interested parties to the subject transactions.

In the 2001 Appraisal, Mr. Gehr determined that the Property had a fair market value of $250,000 as of July 31, 2001, utilizing the Replacement Cost Approach to valuation. As of the same date, Mr. Gehr also placed the monthly fair market rental value of the Property at $3,800 and its annual fair market rental value at $45,600.[4]

7. An independent party, Mr. Lawrence W. Walter, has served as the Plan's independent fiduciary since he replaced the former independent fiduciary, Halliwell & Associates, on March 25, 1997. Mr. Walter represents that he is qualified to act as an independent fiduciary for the Plan because he is a Licensed Public Accountant, subject to the requirements of the CPA profession, as well as a Certified Financial Planner. Mr. Walter further states that he holds a Nasdaq Series Six License for securities, and has been licensed in the past to sell property/casualty and life insurance. Mr. Walter also asserts that many of his clients are involved in the real estate industry, and that, because he regularly serves as executor, estate administrator, or trustee for trusts and estates, he is experienced in acting in a fiduciary capacity. Mr. Walter confirms that he is not affiliated with the Employer, and derives less than one percent of his gross annual income from the Employer.

In addition, Mr. Walter states that, to the best of his knowledge, there was no period of time in which the interests of the Plan were not represented by an independent fiduciary, and that, since the inception of the Original Lease, the Employer has complied with all of the terms and conditions of the Original Lease and PTE 87–63.

8. Mr. Walter, acting as the Plan's independent fiduciary, represents that the transactions are feasible, in the interest of, and protective of, the Plan and its participants and beneficiaries. Mr. Walter certifies that the terms and conditions of the Lease, including CPI adjustments to the rent, are no less favorable to the Plan than those obtainable by the Plan in an arm's length transaction with unrelated third parties. In reaching this conclusion, Mr. Walter states that he has considered the terms of similar leases between unrelated parties, the Plan's overall investment portfolio, and the Plan's liquidity and diversification requirements.

Moreover, Mr. Walter believes that the transactions pose little risk to the Plan since the business of the Employer primarily involves restoration work on existing structures, which continues to be in high demand in the greater Pittsburgh area due to the relatively old age of the neighborhoods and structures.

Finally, Mr. Walter represents that he will monitor compliance with the Lease terms throughout the duration of such Lease, and each renewal term, and, if necessary, will take the appropriate actions to enforce the payment of the rent and the proper performance of all other obligations of the Employer under the terms of the Lease.

9. In summary, it is represented that the transactions have satisfied or will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The terms and conditions of the Lease have been, and will continue to be, no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties.

(b) The Plan has been, and continues to be represented for all purposes under the Lease, by a qualified, independent fiduciary.

(c) The Plan's independent fiduciary has negotiated, reviewed, and approved the terms and conditions of the Lease and the options to renew the Lease on behalf of the Plan and has determined that the transactions are appropriate investments for the Plan and are in the best interests of the Plan and its participants and beneficiaries.

(d) The rent paid to the Plan under the Lease and during each renewal term will be no less than the fair market rental value of the Property, as established by a qualified, independent appraiser.

(e) The rent will be adjusted annually to reflect changes in the CPI and the Property and will be re-appraised at least every three years by a qualified, independent appraiser who has been selected by the independent fiduciary to determine the appropriate fair market rental value (but in no event will the rental rate be less than that established for the preceding rental term).

(f) The Lease is triple net, requiring all expenses for maintenance, taxes, utilities and insurance to be paid by the Employer.

[4] Although the $4,550 per month paid by the Employer to the Plan under the Lease exceeds the $3,800 per month fair market rental value that was established by Mr. Gehr in the 2001 Appraisal, the applicant represents that to the extent that the rent paid by the Employer to the Plan exceeds fair market rental value, such excess rent will not, when added to the balance of the annual additions to such Plan, exceed the limitations prescribed by section 415 of the Code.

(g) The Plan's independent fiduciary has monitored, and will continue to monitor, compliance with the terms of the Lease throughout the duration of the Lease and each renewal term, and is responsible for legally enforcing the payment of the rent and the proper performance of all other obligations of the Employer under the terms of the Lease.

(h) The Plan's independent fiduciary will expressly approve any renewal of the Lease beyond the initial term.

(i) The fair market value of the Property has not exceeded, and will not exceed, 25 percent of the value of the total assets of the Plan.

Tax Consequences of the Transactions

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and, therefore, must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

The Employer will provide notice of the proposed exemption to all interested persons by first class mail within three days of the date of publication of the notice of proposed exemption in the **Federal Register**. The notice will include a copy of the proposed exemption, as published in the **Federal Register**, and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2), which will inform interested persons of their right to comment on and/or to request a hearing with respect to the proposed exemption. Comments regarding the proposed exemption and requests for a public hearing are due within 33 days of the date of publication of the notice of pendency in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Anna M.N. Mpras of the Department, telephone (202) 693–8565. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 18th day of September, 2002.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 02–24135 Filed 9–20–02; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2002–45; Exemption Application No. D–10924 et al.]

Grant of Individual Exemptions; Deutsche Bank AG (DB)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

Deutsche Bank AG (DB) Located in Germany, With Affiliates in New York, New York and Other Locations

[Prohibited Transaction Exemption 2002–45; Exemption Application No. D–10924]

Exemption

Section I—Transactions

The restrictions of section 406(a)(1)(A) through (D) and 406(b)(1) and (2) of the Act, section 8477(c)(2)(A) and (B) of FERSA, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to:

(a) The lending of securities to:

(1) Deutsche Bank Securities, Inc. (formerly DB Alex. Brown, Inc.), its successors or affiliates;

(2) Any current or future affiliate of DB,[1] that is a bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940, that is supervised by the U.S. or a state, any broker-dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act''), or any foreign affiliate that is a bank or broker-dealer that is supervised by (i) the Securities and Futures Authority (''SFA'') in the United Kingdom; (ii) the Bundesanstalt fur Finanzdienstleistungsaufsicht (the ''BAFin'') in Germany; (iii) the Ministry of Finance (''MOF'') and/or the Tokyo Stock Exchange in Japan; (iv) the Ontario Securities Commission, the Investment Dealers Association and/or the Office of Superintendent of Financial Institutions in Canada; (v) the Swiss Federal Banking Commission in Switzerland; and (vi) the Reserve Bank of Australia or the Australian Securities and Investments Commission and/or Australian Stock Exchange Limited in Australia (the branches and/or affiliates in the six enumerated foreign countries hereinafter referred to as the ''Foreign Affiliates'') and together with the U.S. branches or affiliates (individually, ''Affiliated Borrower'' and collectively, ''Affiliated Borrowers''), by employee benefit plans, including commingled investment funds holding plan assets (the Client Plans or Plans)[2], for which DB or an affiliate acts as securities lending agent or subagent (the ''DB Lending Agent''),[3] and also may serve as trustee, custodian or investment manager of securities being lent, or for which a subagent is appointed by a DB Lending Agent, which subagent is either (I) a bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 or a broker-dealer registered under the Securities Exchange Act of 1934, (i) which has, as of the last day of its most recent fiscal year, equity capital in excess of $100 million and (ii) which annually exercises discretionary authority to lend securities on behalf of clients equal to at least $1 billion; or (II) an investment adviser registered under the Investment Advisers Act of 1940, (i) which has, as of the last day of its most recent fiscal year, equity capital in excess of $1 million and (ii) which annually exercises the authority to lend securities equal to at least $1 billion (each, a ''Lending Subagent); and

(b) The receipt of compensation by the DB Lending Agent and the Lending Subagent in connection with these transactions.

Section II—Conditions

Section I of this exemption applies only if the conditions of Section II are satisfied. For purposes of this exemption, any requirement that the approving fiduciary be independent of the DB Lending Agent or the Affiliated Borrower shall not apply in the case of an employee benefit plan sponsored and maintained by the DB Lending Agent and/or an affiliate for its own employees (a DB Plan) invested in a Commingled Fund, provided that at all times the holdings of all DB Plans in the aggregate comprise less than 10% of the assets of the Commingled Fund.

(a) For each Client Plan, neither the DB Lending Agent nor any affiliate (except as expressly permitted herein) has or exercises discretionary authority or control with respect to the investment of the assets of Client Plans involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to such assets, including decisions concerning a Client Plan's acquisition or disposition of securities available for loan.

This paragraph (a) will be deemed satisfied notwithstanding that the DB Lending Agent exercises discretionary authority or control or renders investment advice in connection with an Index Fund or Model-Driven Fund managed by the DB Lending Agent in which Client Plans invest.

(b) Any arrangement for the DB Lending Agent to lend securities is approved in advance by a Plan fiduciary who is independent of the DB Lending Agent (the Independent Fiduciary).

(c) The specific terms of the securities loan agreement (the Loan Agreement) are negotiated by the DB Lending Agent which acts as a liaison between the Lender and the Affiliated Borrower to facilitate the securities lending transaction. In the case of a Separate Account, the Independent Fiduciary of a Client Plan approves the general terms of the Loan Agreement between the Client Plan and the Affiliated Borrower as well as any material change in such Loan Agreement. In the case of a Commingled Fund, approval is pursuant to the procedure described in paragraph (i), below.

(d) The terms of each loan of securities by a Lender to an Affiliated Borrower are at least as favorable to such Separate Account or Commingled Fund as those of a comparable arm's length transaction between unrelated parties.

(e) A Client Plan, in the case of a Separate Account, may terminate the lending agency or sub-agency arrangement at any time, without penalty, on five business days notice. A Client Plan in the case of a Commingled Fund may terminate its participation in the lending arrangement by terminating its investment in the Commingled Fund no later than 35 days after the notice of termination of participation is received, without penalty to the Plan, in accordance with the terms of the Commingled Fund. Upon termination, the Affiliated Borrowers will transfer securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the Separate Account or, if the Plan's withdrawal necessitates a return of securities, to the Commingled Fund, within:

(1) The customary delivery period for such securities;

(2) Five business days; or

(3) The time negotiated for such delivery by the Client Plan, in a Separate Account, or by the DB Lending

[1] Any reference to DB shall be deemed to include any successors thereto.

[2] The common and collective trust funds trusteed, custodied, and/or managed by DB or an affiliate, and in which Client Plans invest, are referred to herein as ''Commingled Funds.'' The Client Plan separate accounts trusteed, custodied, and/or managed by DB or an affiliate are referred to herein as ''Separate Accounts.'' Commingled Funds and Separate Accounts are collectively referred to herein as ''Lender'' or ''Lenders.''

[3] DB or an affiliate may be retained by primary securities lending agents to provide securities lending services in a sub-agent capacity with respect to portfolio securities of clients of such primary securities lending agents. As a securities lending sub-agent, DB's role parallels that under the lending transactions for which DB or an affiliate acts as a primary securities lending agent on behalf of its clients. References to DB's performance of services as securities lending agent should be deemed to include its parallel performance as a securities lending sub-agent and references to the Client Plans should be deemed to include those plans for which the DB Lending Agent is acting as a sub-agent with respect to securities lending, unless otherwise specifically indicated or by the context of the reference.

Agent, as lending agent to a Commingled Fund, and the Affiliated Borrowers, whichever is least.

(f) The Separate Account, Commingled Fund or another custodian designated to act on behalf of the Client Plan, receives from each Affiliated Borrower (either by physical delivery, book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to the Affiliated Borrower, collateral consisting of U.S. currency, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, irrevocable bank letters of credit issued by a U.S. bank, other than DB (or any subsequent parent corporation of the DB Lending Agent) or an affiliate thereof, or any combination thereof, or other collateral permitted under Prohibited Transaction Exemption 81–6 (46 FR 7527, January 23, 1981) (PTE 81–6) (as it may be amended or superseded) (collectively, the Collateral). The Collateral will be held on behalf of a Client Plan in a depository account separate from the Affiliated Borrower.

(g) The market value (or in the case of a letter of credit, a stated amount) of the Collateral on the close of business on the day preceding the day of the loan is initially at least 102 percent of the market value of the loaned securities. The applicable Loan Agreement gives the Separate Account or the Commingled Fund in which the Client Plan has invested a continuing security interest in, and a lien on or title to, the Collateral. The level of the Collateral is monitored daily by the DB Lending Agent. If the market value of the Collateral, on the close of trading on a business day, is less than 100 percent of the market value of the loaned securities at the close of business on that day, the Affiliated Borrower is required to deliver, by the close of business on the next day, sufficient additional Collateral such that the market value of the Collateral will again equal 102 percent.

(h)(1) For a Lender that is a Separate Account, prior to entering into a Loan Agreement, the applicable Affiliated Borrower furnishes its most recently available audited and unaudited statements to the DB Lending Agent which will, in turn, provide such statements to the Client Plan before the Client Plan approves the terms of the Loan Agreement. The Loan Agreement contains a requirement that the applicable Affiliated Borrower must give prompt notice at the time of a loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements. If any such changes have taken place, the DB Lending Agent will not make any further loans to the Affiliated Borrower unless an Independent Fiduciary of the Client Plan in a Separate Account is provided notice of any material change and approves the continuation of the lending arrangement in view of the changed financial condition.

(2) For a Lender that is a Commingled Fund, the DB Lending Agent will furnish upon reasonable request to an Independent Fiduciary of each Client Plan invested in the Commingled Fund the most recently available audited and unaudited financial statements of the applicable Affiliated Borrower prior to authorization of lending, and annually thereafter.

(i) In the case of Commingled Funds, the information described in paragraph (c) (including any information with respect to any material change in the arrangement) shall be furnished by the DB Lending Agent as lending fiduciary to the Independent Fiduciary of each Client Plan whose assets are invested in the Commingled Fund, not less than 30 days prior to implementation of the arrangement or material change to the lending arrangement as previously described to the Client Plan, and thereafter, upon the reasonable request of the Client Plan's Independent Fiduciary. In the event of a material adverse change in the financial condition of an Affiliated Borrower, the DB Lending Agent will make a decision, using the same standards of credit analysis the DB Lending Agent would use in evaluating unrelated borrowers, whether to terminate existing loans and whether to continue making additional loans to the Affiliated Borrower.

In the event any such Independent Fiduciary submits a notice in writing within the 30 day period provided in the preceding paragraph to the DB Lending Agent, as lending fiduciary, objecting to the implementation of, material change in, or continuation of the arrangement, the Plan on whose behalf the objection was tendered is given the opportunity to terminate its investment in the Commingled Fund, without penalty to the Plan, no later than 35 days after the notice of withdrawal is received. In the case of a Plan that elects to withdraw pursuant to the foregoing, such withdrawal shall be effected prior to the implementation of, or material change in, the arrangement; but an existing arrangement need not be discontinued by reason of a Plan electing to withdraw. In the case of a Plan whose assets are proposed to be invested in the Commingled Fund subsequent to the implementation of the arrangement, the Plan's investment in the Commingled Fund shall be authorized in the manner described in paragraph (c).

(j) In return for lending securities, the Lender either—

(1) Receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan; or

(2) Has the opportunity to derive compensation through the investment of cash Collateral. (Under such circumstances, the Lender may pay a loan rebate or similar fee to the Affiliated Borrowers, if such fee is not greater than the fee the Lender would pay in a comparable arm's length transaction with an unrelated party.)

(k) Except as otherwise expressly provided herein, all procedures regarding the securities lending activities will, at a minimum, conform to the applicable provisions of PTE 81–6 and Prohibited Transaction Exemption 82–63 (46 FR 14804, April 6, 1982) (PTE 82–63), both as amended or superseded, as well as to applicable securities laws of the United States, the United Kingdom, Canada, Australia, Switzerland, Japan and Germany.

(l) If any event of default occurs, to the extent that (i) liquidation of the pledged Collateral or (ii) additional cash received from the Affiliated Borrower does not provide sufficient funds on a timely basis, the Client Plan will have the right to purchase securities identical to the borrowed securities (or their equivalent as discussed above) and apply the Collateral to the payment of the purchase price. If the Collateral is insufficient to accomplish such purchase, the Borrower will indemnify the Client Plan invested in a Separate Account or Commingled Fund in the United States with respect to the difference between the replacement cost of securities and the market value of the Collateral on the date the loan is declared in default, together with expenses incurred by the Client Plan plus applicable interest at a reasonable rate, including reasonable attorney's fees incurred by the Client Plan for legal action arising out of default on the loans, or failure by the Borrower to properly indemnify the Client Plan. The Borrower's indemnification will enable the Client Plan to collect on any indemnification from a U.S.-domiciled affiliate of DB.

(m) The Lender receives the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including but not limited to all interest and dividends on the loaned securities,

shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions.

(n) Prior to any Client Plan's approval of the lending of its securities to any Affiliated Borrower, a copy of this exemption and the notice of proposed exemption (67 FR 9070, February 27, 2002) (the Notice) is provided to the Client Plan.

(o) The Independent Fiduciary of each Client Plan that is invested in a Separate Account is provided with (including by electronic means) quarterly reports with respect to the securities lending transactions, including, but not limited to, the information described in Representation 24 of the Summary of Facts and Representations of the Notice, so that the Independent Fiduciary may monitor such transactions with the Affiliated Borrower. The Independent Fiduciary invested in a Commingled Fund is provided with (including by electronic means) quarterly reports with respect to the securities lending transactions, including, but not limited to, the information described in Representation 24 of the Summary of Facts and Representations of the Notice, so that the Independent Fiduciary may monitor such transactions with the Affiliated Borrower. The DB Lending Agent may, in lieu of providing the quarterly reports described in this paragraph (o) to each Independent Fiduciary of a Client Plan invested in a Commingled Fund, provide such Independent Fiduciary with the certification of an auditor selected by the DB Lending Agent who is independent of the DB Lending Agent (but who may or may not be independent of the Client Plan) that the loans appear no less favorable to the Lender than the pricing established in the schedule described in Representation 16 of the Notice. Where the Independent Fiduciary of a Client Plan invested in a Commingled Fund is provided the certification of an auditor, such Independent Fiduciary shall be entitled to receive the quarterly reports upon request.

(p) Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to the Affiliated Borrowers; provided, however, that—

(1) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization, whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangement with the DB Lending Agent, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization, whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the DB Lending Agent, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Client Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(A) Has full investment responsibility with respect to plan assets invested therein; and

(B) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

In addition, none of the entities described above are formed for the sole purpose of making loans of securities.

(q) With respect to any calendar quarter, at least 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of Lenders will be to borrowers unrelated to the DB Lending Agent.

(r) In addition to the above, all loans involving foreign Affiliated Borrowers have the following requirements:

(1) The foreign Affiliated Borrower is a bank, supervised either by a state or the United States, a broker-dealer registered under the Securities Exchange Act of 1934 or a bank or broker-dealer that is supervised by (1) the SFA in the United Kingdom; (2) the BAFin in Germany; (3) the MOF and/or the Tokyo Stock Exchange in Japan; (4) the Ontario Securities Commission, the Investment Dealers Association and/or the Office of Superintendent of Financial Institutions in Canada; (5) the Swiss Federal Banking Commission in Switzerland; and (6) the Reserve Bank of Australia or the Australian Securities and Investments Commission and/or Australian Stock Exchange Limited in Australia;

(2) The foreign Affiliated Borrower is in compliance with all applicable provisions of Rule 15a–6 under the Securities Exchange Act of 1934 (17 CFR 240.15a–6) (Rule 15a–6) which provides foreign broker-dealers a limited exemption from United States registration requirements;

(3) All Collateral is maintained in United States dollars or U.S. dollar-denominated securities or letters of credit (unless an applicable exemption provides otherwise);

(4) All Collateral is held in the United States and the situs of the securities lending agreements is maintained in the United States under an arrangement that complies with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1 related to the lending of securities; and

(5) Prior to a transaction involving a foreign Affiliated Borrower, the foreign Affiliated Borrower—

(A) Agrees to submit to the jurisdiction of the United States;

(B) Agrees to appoint an agent for service of process in the United States, which may be an affiliate (the Process Agent);

(C) Consents to service of process on the Process Agent; and

(D) Agrees that enforcement by a Client Plan of the indemnity provided by the Borrower may occur in the United States courts.

(s) The DB Lending Agent maintains, or causes to be maintained, within the United States for a period of six years from the date of such transaction, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (t)(1) to determine whether the conditions of the exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the DB Lending Agent and/or its affiliates, the records are lost or

destroyed prior to the end of the six-year period; and

(2) No party in interest other than the DB Lending Agent or its affiliates shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (t)(1).

(t)(1) Except as provided in subparagraph (t)(2) of this paragraph and notwithstanding any provisions of sections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (s) are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission;

(B) Any fiduciary of a participating Client Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Client Plan or any duly authorized employee or representative of such employer; and

(D) Any participant or beneficiary of any participating Client Plan, or any duly authorized representative of such participant or beneficiary.

(t)(2) None of the persons described above in paragraphs (t)(1)(B)–(t)(1)(D) are authorized to examine the trade secrets of the DB Lending Agent or its affiliates or commercial or financial information which is privileged or confidential.

Section III—Definitions

(a) *DB Plan:* An ERISA covered employee benefit plan sponsored and maintained by the DB Lending Agent and/or an affiliate for its own employees.

(b) *Index Fund:* Any investment fund, account or portfolio sponsored, maintained, trusteed or managed by the DB Lending Agent or an affiliate, in which one or more investors invest, and—

(1) which is designed to track the rate of return, risk profile and other characteristics of an Index by either (i) replicating the same combination of securities which compose such Index or (ii) sampling the securities which compose such Index based on objective criteria and data;

(2) for which the DB Lending Agent or its affiliate does not use its discretion, or data within its control, to affect the identity or amount of securities to be purchased or sold;

(3) that contains ''plan assets'' subject to the Act, pursuant to the Department's Plan Asset Regulation; and,

(4) that involves no agreement, arrangement, or understanding regarding the design or operation of the Fund which is intended to benefit the DB Lending Agent or its affiliate or any party in which the DB Lending Agent or its affiliate may have an interest.

(c) *Model-Driven Fund:* Any investment fund, account or portfolio sponsored, maintained, trusteed or managed by the DB Lending Agent or an affiliate, in which one or more investors invest, and—

(1) which is composed of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third-party data, not within the control of the DB Lending Agent or an affiliate, to transform an Index;

(2) which contains ''plan assets'' subject to the Act, pursuant to the Department's Plan Asset Regulation; and

(3) that involves no agreement, arrangement or understanding regarding the design or operation of the Fund or the utilization of any specific objective criteria which is intended to benefit the DB Lending Agent, any affiliate of the DB Lending Agent, or any party in which the DB Lending Agent or any affiliate may have an interest.

(d) *Index:* a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States and/or foreign countries, but only if—

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients,

(B) A publisher of financial news or information, or

(C) A public stock exchange or association of securities dealers;

(2) The index is created and maintained by an organization independent of DB; and

(3) The index is a generally accepted standardized index of securities which is not specifically tailored for the use of the DB Lending Agent or an affiliate.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice.

Written Comments

The Department received one comment letter, which was submitted by DB, with respect to the Notice. In the comment letter, DB requested several clarifications and changes to the proposed exemption.

DB requested that the Department amend section II(l) concerning the requirement for an indemnification of a Client Plan in the event of a default by the Borrower, to make it conform to other recent exemptions issued by the Department.[4] The Department has amended section II(l) and (r) accordingly. DB also requested that the Department make clear that there will be no indemnification from the DB Lending Agent where to do so would violate banking laws.[5] The Department notes that, since section II(l) of the final exemption has been changed so that only the Borrower will be required to indemnify the Client Plans, the comment is no longer relevant. However, the language of the exemption has been modified to clarify that the Borrower's indemnification must enable the Client Plan to collect on any indemnification from a U.S.-domiciled affiliate of DB.

DB also requested in its comment letter that the Department clarify that the exemption applies when DB or an affiliate is the Lending Agent or subagent, as well as when DB is the Lending Agent and a third party is the subagent. In this regard, the third party subagent would have to follow all of the requirements of the exemption and be either a broker-dealer registered under the 1934 Act, an investment adviser registered under the Investment Advisers Act of 1940, or a bank as defined in section 202(a)(2) of the Investment Advisers Act of 1940. Any such third party subagent would also be subject to certain dollar minimums of equity capital and of value of securities loaned for which the subagent exercises authority. The Department has adopted this comment and has amended section I(a)(2) of the exemption accordingly.

DB also requested a change to the independent audit requirement in section II(o). DB believes that the requirement that the Independent Fiduciary of each Client Plan be provided with the certification of an

[4] For example, see Prohibited Transaction Exemption (PTE) 99–50, 65 FR 534 (January 5, 2000), regarding Bankers Trust Company; and PTE 2001–41, 66 FR 53449 (October 22, 2001) regarding Barclays Bank PLC and Barclays Capital, Inc. (see section II(m), 66 FR at 53451).

[5] See PTE 99–50, section II(j) and Footnote 2, 65 FR at 535, column 1, wherein the applicant stated that the DB Lending Agent would provide an indemnification to the extent permitted by law and that where the law prohibits such an indemnification by the DB Lending Agent, the Affiliated Borrower would provide the identical indemnification.

independent auditor, in addition to quarterly reports for the securities lending transactions, would be duplicative and administratively burdensome for DB with respect to Client Plans invested in Separate Accounts. Accordingly, the Department has modified section II(o) to permit the DB Lending Agent to provide an Independent Fiduciary of a Client Plan invested in a Separate Account only with quarterly reports. In addition, the Independent Fiduciary of each Client Plan invested in a Commingled Fund can be provided with the certification of an independent auditor in lieu of the provision of quarterly reports. However, as indicated in the Notice, such Independent Fiduciaries would be entitled to receive the quarterly reports upon request.

Finally, DB informed the Department that certain entities within DB have recently changed their names. Bankers Trust Company is now Deutsche Bank Trust Company Americas. DB Alex. Brown Securities, Inc. is now Deutsche Bank Securities, Inc., and Deutsche Banc Alex. Brown, Inc. is now also named Deutsche Bank Securities, Inc.

The Department has also been informed that there has been a change in the identity of the governmental regulatory authority in Germany. According to the applicant, following the adoption of the Law on Integrated Financial Services Supervision (Gesetz uber die integrierte Finanzaufsicht—FinDAG), the Federal Authority for Financial Services Supervision (Bundesanstalt fur Finanzdienstleistungsaufsicht—''BAFin'') was established in Germany on May 1, 2002. The functions of the former offices for banking supervision (Bundesaufsichtsamt fur das Kreditwesen—''the BAK''), along with other governmental authorities for insurance and securities supervision, have been combined into a single state regulator that supervises banks, financial services institutions and insurance undertakings across the entire financial market and comprises all the key functions of consumer protection and solvency supervision. The new Federal Authority for Financial Services Supervision has been created to ensure a consistent regulation and supervision of the financial services and markets in Germany through one single governmental authority.

Accordingly, based upon the information contained in the entire record, the Department has determined to grant the proposed exemption as modified herein.

For Further Information Contact: Gary Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number).

Barclays Global Investors, N.A. (BGI) Located in San Francisco, California

[Prohibited Transaction Exemption 2002–46; Exemption Application No. D–10925]

Exemption

Section I—Transactions

The restrictions of section 406(a)(1)(A) through (D) and 406(b)(1) and (2) of the Act, section 8477(c)(2)(A) and (B) of FERSA, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to:

(a) The lending of securities to:

(1) Barclays Capital Inc., its successors or affiliates (BC NY);

(2) Barclays Capital Securities Limited, its successors or affiliates (BC UK);

(3) Barclays Global Investors Services, its successors or affiliates (BGIS);

(4) Barclays Global Investors Services Canada Limited, its successors or affiliates (BGIS Canada); and

(5) Any future affiliate of BGI,[6] subject to the regulatory requirements applicable to BC NY, BC UK, BGIS and/or BGIS Canada (individually, ''Borrower'' and collectively, ''Borrowers''), which are domestic or foreign broker-dealers, by employee benefit plans, including commingled investment funds holding plan assets (the Client Plans or Plans),[7] for which BGI, an affiliate of the proposed Borrowers, acts as securities lending agent or subagent [8] and also may serve as trustee, custodian or investment manager of securities being lent; and

(b) The receipt of compensation by BGI in connection with these transactions.

Section II—Conditions

Section I of this exemption applies only if the conditions of Section II are satisfied. For purposes of this exemption, any requirement that the approving fiduciary be independent of BGI or the Borrower shall not apply in the case of a Barclays Plan invested in a Commingled Fund, provided that at all times, the holdings of all Barclays Plans in the aggregate comprise less than 10% of the assets of the Commingled Fund.

(a) For each Client Plan, neither BGI nor any affiliate (except as expressly permitted herein) has or exercises discretionary authority or control with respect to the investment of the assets of Client Plans involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to such assets, including decisions concerning a Client Plan's acquisition or disposition of securities available for loan.

This paragraph (a) will be deemed satisfied notwithstanding that BGI exercises discretionary authority or control or renders investment advice in connection with an Index Fund or Model-Driven Fund managed by BGI in which Client Plans invest.

(b) Any arrangement for BGI to lend securities is approved in advance by a Plan fiduciary who is independent of BGI (the Independent Fiduciary).

(c) The specific terms of the securities loan agreement (the Loan Agreement) are negotiated by BGI which acts as a liaison between the Lender and the Borrower to facilitate the securities lending transaction. In the case of a Separate Account, the Independent Fiduciary of a Client Plan approves the general terms of the Loan Agreement between the Client Plan and the Borrower as well as any material change in such Loan Agreement. In the case of a Commingled Fund, approval is pursuant to the procedure described in paragraph (i), below.

(d) The terms of each loan of securities by a Lender to a Borrower are at least as favorable to such Separate Account or Commingled Fund as those of a comparable arm's length transaction between unrelated parties.

(e) A Client Plan, in the case of a Separate Account, may terminate the lending agency or sub-agency arrangement at any time, without penalty, on five business days notice. A Client Plan in the case of a Commingled Fund may terminate its participation in the lending arrangement by terminating

[6] Any reference to BGI shall be deemed to include any successors thereto.

[7] The common and collective trust funds trusteed, custodied, and/or managed by BGI, and in which Client Plans invest, are referred to herein as ''Commingled Funds.'' The Client Plan separate accounts trusteed, custodied, and/or managed by BGI are referred to herein as ''Separate Accounts.'' Commingled Funds and Separate Accounts are collectively referred to herein as ''Lender'' or ''Lenders.''

[8] BGI may be retained by primary securities lending agents to provide securities lending services in a sub-agent capacity with respect to portfolio securities of clients of such primary securities lending agents. As a securities lending sub-agent, BGI's role parallels that under the lending transactions for which BGI acts as a primary securities lending agent on behalf of its clients. References to BGI's performance of services as securities lending agent should be deemed to include its parallel performance as a securities lending sub-agent and references to the Client Plans should be deemed to include those plans for which BGI is acting as a sub-agent with respect to securities lending, unless otherwise specifically indicated or by the context of the reference.

its investment in the Commingled Fund no later than 35 days after the notice of termination of participation is received, without penalty to the Plan, in accordance with the terms of the Commingled Fund. Upon termination, the Borrowers will transfer securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the Separate Account or, if the Plan's withdrawal necessitates a return of securities, to the Commingled Fund, within:

(1) The customary delivery period for such securities;

(2) Five business days; or

(3) The time negotiated for such delivery by the Client Plan, in a Separate Account, or by BGI, as lending agent to a Commingled Fund, and the Borrowers, whichever is least.

(f) The Separate Account, Commingled Fund or another custodian designated to act on behalf of the Client Plan, receives from each Borrower (either by physical delivery, book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to the Borrower, collateral consisting of U.S. currency, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, irrevocable bank letters of credit issued by a U.S. bank, other than Barclays Bank PLC (Barclays) (or any subsequent parent corporation of BGI, BC NY, BC UK, BGIS and BGIS Canada) or an affiliate thereof, or any combination thereof, or other collateral permitted under Prohibited Transaction Exemption 81–6 (46 FR 7527, January 23, 1981) (PTE 81–6) (as it may be amended or superseded) (collectively, the Collateral). The Collateral will be held on behalf of a Client Plan in a depository account separate from the Borrower.

(g) The market value (or in the case of a letter of credit, a stated amount) of the Collateral on the close of business on the day preceding the day of the loan is initially at least 102 percent of the market value of the loaned securities. The applicable Loan Agreement gives the Separate Account or the Commingled Fund in which the Client Plan has invested a continuing security interest in and a lien on or title to the Collateral. The level of the Collateral is monitored daily by BGI. If the market value of the Collateral, on the close of trading on a business day, is less than 100 percent of the market value of the loaned securities at the close of business on that day, the Borrower is required to deliver, by the close of business on the next day, sufficient additional Collateral such that the market value of the Collateral will again equal 102 percent.

(h)(1) For a Lender that is a Separate Account, prior to entering into a Loan Agreement, the applicable Borrower furnishes its most recently available audited and unaudited statements to BGI which will, in turn, provide such statements to the Client Plan before the Client Plan approves the terms of the Loan Agreement. The Loan Agreement contains a requirement that the applicable Borrower must give prompt notice at the time of a loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements. If any such changes have taken place, BGI will not make any further loans to the Borrower unless an Independent Fiduciary of the Client Plan in a Separate Account is provided notice of any material change and approves the continuation of the lending arrangement in view of the changed financial condition.

(2) For a Lender that is a Commingled Fund, BGI will furnish upon reasonable request to an Independent Fiduciary of each Client Plan invested in the Commingled Fund the most recently available audited and unaudited financial statements of the applicable Borrower prior to authorization of lending, and annually thereafter.

(i) In the case of Commingled Funds, the information described in paragraph (c) (including any information with respect to any material change in the arrangement) shall be furnished by BGI as lending fiduciary to the Independent Fiduciary of each Client Plan whose assets are invested in the Commingled Fund, not less than 30 days prior to implementation of the arrangement or material change to the lending arrangement as previously described to the Client Plan, and thereafter, upon the reasonable request of the Client Plan's Independent Fiduciary. In the event of a material adverse change in the financial condition of a Borrower, BGI will make a decision, using the same standards of credit analysis BGI would use in evaluating unrelated borrowers, whether to terminate existing loans and whether to continue making additional loans to the Borrower.

In the event any such Independent Fiduciary submits a notice in writing within the 30 day period provided in the preceding paragraph to BGI, as lending fiduciary, objecting to the implementation of, material change in, or continuation of the arrangement, the Plan on whose behalf the objection was tendered is given the opportunity to terminate its investment in the Commingled Fund, without penalty to the Plan, no later than 35 days after the notice of withdrawal is received. In the case of a Plan that elects to withdraw pursuant to the foregoing, such withdrawal shall be effected prior to the implementation of, or material change in, the arrangement; but an existing arrangement need not be discontinued by reason of a Plan electing to withdraw. In the case of a Plan whose assets are proposed to be invested in the Commingled Fund subsequent to the implementation of the arrangement, the Plan's investment in the Commingled Fund shall be authorized in the manner described in paragraph (c).

(j) In return for lending securities, the Lender either—

(1) Receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan; or

(2) Has the opportunity to derive compensation through the investment of cash Collateral. (Under such circumstances, the Lender may pay a loan rebate or similar fee to the Borrowers, if such fee is not greater than the fee the Lender would pay in a comparable arm's length transaction with an unrelated party.)

(k) Except as otherwise expressly provided herein, all procedures regarding the securities lending activities will, at a minimum, conform to the applicable provisions of PTE 81–6 and Prohibited Transaction Exemption 82–63 (46 FR 14804, April 6, 1982) (PTE 82–63), both as amended or superseded, as well as to applicable securities laws of the United States, the United Kingdom and Canada.

(l) If any event of default occurs, to the extent that (i) liquidation of the pledged Collateral or (ii) additional cash received from the Borrower does not provide sufficient funds on a timely basis, the Client Plan will have the right to purchase securities identical to the borrowed securities (or their equivalent) and apply the Collateral to payment of the purchase price. If the Collateral is insufficient to accomplish such purchase, the Borrower will indemnify the Client Plan invested in a Separate Account or Commingled Fund in the United States with respect to the difference between the replacement cost of securities and the market value of the Collateral on the date the loan is declared in default, together with expenses incurred by the Client Plan plus applicable interest at a reasonable rate, including reasonable attorneys' fees incurred by the Client Plan for legal action arising out of default on the loans, or failure by the Borrower to

properly indemnify the Client Plan. The Borrower's indemnification will enable the Client Plan to collect on any indemnification from a U.S.-domiciled BGI affiliate.

(m) The Lender receives the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including but not limited to all interest and dividends on the loaned securities, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions.

(n) Prior to any Client Plan's approval of the lending of its securities to any Borrower, a copy of this exemption and the notice of proposed exemption (67 FR 9082, February 27, 2002) (the Notice) is provided to the Client Plan.

(o) The Independent Fiduciary of each Client Plan that is invested in a Separate Account is provided with (including by electronic means) quarterly reports with respect to the securities lending transactions, including, but not limited to, the information described in Representation 24 of the Summary of Facts and Representations of the Notice, so that the Independent Fiduciary may monitor such transactions with the Borrower. The Independent Fiduciary of a Client Plan invested in a Commingled Fund is provided with (including by electronic means) quarterly reports with respect to the securities lending transactions, including but not limited to, the information described in Representation 24 of the Summary of Facts and Representations of the Notice, so that the Independent Fiduciary may monitor such transactions with the Borrower. BGI may, in lieu of providing the quarterly reports described in this paragraph (o) to each Independent Fiduciary of a Client Plan invested in a Commingled Fund, provide such Independent Fiduciary with the certification of an auditor selected by BGI who is independent of BGI (but who may or may not be independent of the Client Plan) that the loans appear no less favorable to the Lender than the pricing established in the schedule described in Representation 16 of the Notice. Where the Independent Fiduciary of a Client Plan invested in a Commingled Fund is provided the certification of an auditor, such Independent Fiduciary shall be entitled to receive the quarterly reports upon request.

(p) Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to the Borrowers; provided, however, that—

(1) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization, whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangement with BGI, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization, whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with BGI, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Client Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity:

(A) Has full investment responsibility with respect to plan assets invested therein; and

(B) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

In addition, none of the entities described above are formed for the sole purpose of making loans of securities.

(q) With respect to any calendar quarter, at least 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of Lenders will be to borrowers unrelated to BGI.

(r) In addition to the above, all loans involving foreign Borrowers have the following requirements:

(1) The foreign Borrower is registered as a broker-dealer subject to regulation by the Securities and Futures Authority of the United Kingdom (the SFA) or the Ontario Securities Commission of Ontario, Canada (the OSC);

(2) The foreign Borrower is in compliance with all applicable provisions of Rule 15a-6 under the Securities Exchange Act of 1934 (17 CFR 240.15a–6)(Rule 15a–6) which provides foreign broker-dealers a limited exemption from United States registration requirements;

(3) All Collateral is maintained in United States dollars or U.S. dollar-denominated securities or letters of credit (unless an applicable exemption provides otherwise);

(4) All Collateral is held in the United States and the situs of the securities lending agreements is maintained in the United States under an arrangement that complies with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1 related to the lending of securities; and

(5) Prior to a transaction involving a foreign Borrower, the foreign Borrower—

(A) Agrees to submit to the jurisdiction of the United States;

(B) Agrees to appoint an agent for service of process in the United States, which may be an affiliate (the Process Agent);

(C) Consents to service of process on the Process Agent; and

(D) Agrees that enforcement by a Client Plan of the indemnity provided by the foreign Borrower may occur in the United States courts.

(s) BGI maintains, or causes to be maintained, within the United States for a period of six years from the date of such transaction, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (t)(1) to determine whether the conditions of the exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of BGI and/or its affiliates, the records are lost or destroyed prior to the end of the six-year period; and

(2) No party in interest other than BGI or its affiliates shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for

examination as required below by paragraph (t)(1).

(t)(1) Except as provided in subparagraph (t)(2) of this paragraph and notwithstanding any provisions of sections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (s) are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission;

(B) Any fiduciary of a participating Client Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Client Plan or any duly authorized employee or representative of such employer; and

(D) Any participant or beneficiary of any participating Client Plan, or any duly authorized representative of such participant or beneficiary.

(t)(2) None of the persons described above in paragraphs (t)(1)(B)–(t)(1)(D) are authorized to examine the trade secrets of BGI or its affiliates or commercial or financial information which is privileged or confidential.

Section III—Definitions

(a) *Barclays Plan:* An ERISA covered employee benefit plan sponsored and maintained by BGI and/or an affiliate for its own employees.

(b) *Index Fund:* Any investment fund, account or portfolio sponsored, maintained, trusteed or managed by BGI or an affiliate, in which one or more investors invest, and—

(1) Which is designed to track the rate of return, risk profile and other characteristics of an Index by either (i) replicating the same combination of securities which compose such Index or (ii) sampling the securities which compose such Index based on objective criteria and data;

(2) For which BGI or its affiliate does not use its discretion, or data within its control, to affect the identity or amount of securities to be purchased or sold;

(3) That contains ''plan assets'' subject to the Act, pursuant to the Department's Plan Asset Regulation; and,

(4) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund which is intended to benefit BGI or its affiliate or any party in which BGI or its affiliate may have an interest.

(c) *Model-Driven Fund:* Any investment fund, account or portfolio sponsored, maintained, trusteed or managed by BGI or an affiliate, in which one or more investors invest, and—

(1) Which is composed of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third-party data, not within the control of BGI or an affiliate, to transform an Index;

(2) Which contains ''plan assets'' subject to the Act, pursuant to the Department's Plan Asset Regulation; and

(3) That involves no agreement, arrangement or understanding regarding the design or operation of the Fund or the utilization of any specific objective criteria which is intended to benefit BGI, any affiliate of BGI, or any party in which BGI or any affiliate may have an interest.

(d) Index: a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States and/or foreign countries, but only if—

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients,

(B) A publisher of financial news or information, or

(C) A public stock exchange or association of securities dealers;

(2) The index is created and maintained by an organization independent of Barclays; and

(3) The index is a generally accepted standardized index of securities which is not specifically tailored for the use of BGI.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on February 27, 2002 at 67 FR 9082.

Written Comments

The Department received two comment letters, both submitted by the applicants, with respect to the Notice. In the comment letters, the applicants requested several changes to the proposed exemption.

The applicants requested that the Department amend section II(l) concerning the requirement for indemnification of a Client Plan in the event of a default by the Borrower, to make it conform to other recent exemptions issued by the Department.[9] The Department has amended section II(l) accordingly.

The applicants also requested that the Department amend section II(l) to state that indemnification would be provided only by the Borrower of securities and not by BGI, as lending agent. The applicants' position is that the proper indemnitor is the Borrower of the securities. The applicants noted that, in the case of a foreign Borrower, the exemption would require the Borrower to agree to submit to the jurisdiction of the United States and that any enforcement of the indemnity would occur in the United States courts. The Department concurs with the applicants' request provided that the Client Plans would not have to sue overseas to enforce any judgment obtained. The language of section II(l) has been revised to clarify that the indemnification provided by the Borrower must permit the Client Plan to collect on any indemnification from a U.S.-domiciled BGI affiliate. The language of section II(r)(5)(D) likewise has been revised to reflect that indemnification would be provided by the Borrower.

The applicants additionally requested a change to the independent audit requirement in section II(o). The applicants requested relief similar to that sought by Deutsche Bank AG (Deutsche Bank) in its comment with respect to Exemption Application No. D–10924. Deutsche Bank stated that the requirement that the Independent Fiduciary of each Client Plan be provided with the certification of an independent auditor, in addition to quarterly reports for securities lending transactions, would be duplicative and administratively burdensome for Deutsche Bank with respect to Client Plans invested in Separate Accounts. The Department concurred with Deutsche Bank's comment and modified section II(o) of the final exemption granted to Deutsche Bank. Accordingly, the Department has determined to modify section II(o) of this exemption as well.

As modified, section II(o) permits BGI to provide an Independent Fiduciary of a Client Plan invested in a Separate Account only with quarterly reports. In addition, the Independent Fiduciary of each Client Plan invested in a Commingled Fund can be provided with the certification of an independent auditor in lieu of the provision of quarterly reports. However, as indicated in the Notice, such Independent

[9] For example, see Prohibited Transaction Exemption (PTE) 99–50, 65 FR 534 (January 5, 2000), regarding Bankers Trust Company; and PTE 2001–41, 66 FR 53449 (October 22, 2001), regarding Barclays Bank PLC and Barclays Capital, Inc. (see section II(m), 66 FR at 53451).

Fiduciaries would be entitled to receive the quarterly reports upon request.

Finally, BGI requested that the proposed exemption be amended and expanded to include a new affiliate, Barclays Global Investors Services Canada Limited (BGIS Canada), as an additional Borrower.

In this regard, BGI requested that the following be added to Item 1 of the Summary of Facts and Representations of the Notice with regard to BGIS Canada:

BGIS Canada is a broker-dealer located in Toronto, Ontario, Canada. BGIS Canada is subject to regulation in Canada by the Ontario Securities Commission (OSC) and the oversight of the Investment Dealers Association (IDA). BGIS Canada anticipates that in the future it will borrow securities in the ordinary course of its business.

BGI also requested the following representation be added to Item 27 of the Summary of Facts and Representations of the Notice:

BGIS Canada is subject to regulation in Canada by the OSC and the oversight of the IDA, a self-regulatory organization, and is, therefore, authorized to conduct an investment banking business in and from Canada as a broker-dealer. The applicants note that the Department has previously concluded, in connection with PTE 99–04 issued to Salomon Smith Barney, Inc. that the regulatory scheme applicable to broker-dealers in Canada is sufficiently similar to the regulatory scheme applicable to broker-dealers in the United States. The applicants make the following representation, substantially similar to the representation set forth in paragraph (2) of the Summary of Facts and Representations of the published application number D–10288 (63 FR 53703, October 6, 1998) submitted to the Department by Salomon Brothers, Inc. and granted to Salomon Smith Barney, Inc. as PTE 99–04.

The applicants represent that BGIS Canada is subject to regulation by the OSC, a Canadian governmental agency and the oversight of the IDA, which oversees BGIS Canada's operation on a day to day basis and monitors compliance with capital adequacy and record keeping requirements on a regular basis. The applicants further represent that registration of BGIS Canada with the OSC addresses regulatory concerns similar to those concerns addressed by registration of a broker-dealer with the SEC under the 1934 Act. The rules and regulations set forth by the OSC and the SEC share a common objective: the protection of the investor by the regulation of securities markets. Canada has comprehensive financial resource and reporting/disclosure rules concerning broker-dealers. Broker-dealers are required to demonstrate their capital adequacy. The reporting/disclosure rules impose requirements on broker-dealers with respect to risk management, internal controls, and records relating to counterparties. All such records must be produced at the request of the OSC or IDA at any time. The OSC's registration requirements for broker-dealers are enforced by fines and penalties and thus constitute a comprehensive disciplinary system for the violation of such rules.

BGI further requests that the Department amend the first two sentences of Item 28 of the Summary of Facts and Representations of the Notice to read as follows:

In addition to the protections afforded by registration with the SFA or the OSC, as applicable, the applicants represent that BC UK and BGIS Canada will comply with the applicable provisions of Rule 15a-6 (described below). The applicants represent that compliance by BC UK and BGIS Canada with the requirements of Rule 15a-6 will offer additional protections in lieu of registration with the SEC.

Finally, BGI requests that the Department reference BGIS Canada in the following sections of the proposed exemption: section I(a), section II(f), (k) and (r) and Items 1, 3, 12, 20, 21 and 29(e) and (g) of the Summary of Facts and Representations of the Notice. BGI states that in most cases this involves only the addition of ''BGIS Canada'' to the text. However, BGI requests that section II(r)(1) be amended to read as follows:

The foreign Borrower is registered as a broker-dealer subject to regulation by the Securities and Futures Authority of the United Kingdom (the SFA) or the Ontario Securities Commission of Ontario, Canada (the OSC);

BGI also requests that the reference to the SFA in Item 29(h) of the Summary of Facts and Representations of the Notice be modified to read ''the SFA or the OSC, as applicable.''

The Department concurs with BGI's comments with regard to BGIS Canada and has made the requested revisions to the language of the final exemption.

Accordingly, after giving full consideration to the entire record, including the comments, the Department has determined to grant the exemption as modified above. For further information regarding the comments and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10925) the Department is maintaining in this case. The complete application file, as well as the comments and all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

For Further Information Contact: Karen Lloyd of the Department, telephone (202) 693–8540. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 18th day of September, 2002.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 02–24136 Filed 9–20–02; 8:45 am]

BILLING CODE 4510–29–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 2002–1B]

Notice and Recordkeeping for Use of Sound Recordings Under Statutory Licenses

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice requesting written proposals and announcing status conference.

SUMMARY: The Copyright Office of the Library of Congress is requesting interested parties to submit written proposals governing data format and delivery for recordkeeping requirements to be established by the Copyright Office, under the authority of the Librarian of Congress, for the section 112 and section 114 statutory licenses. The Office will also conduct a status conference to discuss the formatting requirements.

DATES: Written proposals must be received in the Copyright Office by September 30, 2002. A status conference will be held on October 8, 2002 at 10 a.m.

ADDRESSES: An original and ten copies of written proposals should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE., Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977. The October 8, 2002, status conference will be held in the CARP Hearing Room, Room LM–414, located on the fourth floor of the James Madison Memorial Building of the Library of Congress, First Street and Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William J. Roberts, Jr., Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024–0977. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

The Copyright Act grants copyright owners of sound recordings the exclusive right to perform their works publicly by means of digital audio transmissions subject to certain limitations and exceptions. Among the limitations placed on the performance of sound recordings is a statutory license that permits certain eligible subscription, nonsubscription and satellite digital audio services to perform those sound recordings publicly by means of digital audio transmissions. 17 U.S.C. 114.

Similarity, copyright owners of sound recordings are granted the exclusive right to make copies of their works subject to certain limitations and exceptions. Among the limitations placed on the reproduction of sound recordings is a statutory license that permits certain eligible subscription, nonsubscription and satellite digital audio services to make ephemeral copies of those sound recordings to facilitate their digital transmission under the section 114 license. 17 U.S.C. 112(e).

Both the section 114 and 112 licenses require services to, among other things, report to copyright owners of sound recordings on the use of their works. Both licenses direct the Librarian of Congress to establish regulations to give copyright owners reasonable notice of the use of their works and create and maintain records of the use for delivery to copyright owners. 17 U.S.C. 114(f)(4)(A) and 17 U.S.C. 112(e)(4). The purpose of the exchange of data is to enable copyright owners of sound recordings to distribute royalties collected under the statutory licenses to the correct recipients.

In 1998, the Copyright Office issued interim notice and recordkeeping regulations for subscription digital audio transmission services that, at the time, were the only services eligible for the statutory licenses. The Digital Millennium Copyright Act, Pub. L. No. 105–304, 112 Stat. 2860 (1998), expanded the pool of digital audio services eligible for the licenses making additional notice and recordkeeping regulations necessary. On February 7, 2002, the Office published a Notice of Proposed Rulemaking (''NPRM'') using the 1998 interim regulations as the guidepost. The Office received public comments and, on May 10, 2002, the Office held a public meeting with representatives of copyright owners and users of the statutory licenses to assist in the formulation of regulations for notice and recordkeeping. Subsequently, the Office announced on the Copyright Office website that it would be announcing interim notice and recordkeeping regulations to establish transitional reporting requirements for services using the section 114 statutory license to perform sound recordings publicly by means of digital audio transmissions and the section 112 statutory license to make ephemeral recordings of sound recordings.

As the announcement on the Copyright Office website stated, these transitional requirements will require services using the statutory licenses to report the following information for a certain period of time during each calendar quarter:

1. The name of the service submitting the report;

2. The transmission category of the service [upon further analysis, the Office believes that the following categories need be designated: eligible nonsubscription services; preexisting satellite digital audio radio services; new subscription services; non-Corporation for Public Broadcasting, noncommercial broadcasters making transmissions covered by 37 CFR 261.3(a)(2)(i) and (ii); [1] non-Corporation for Public Broadcasting, noncommercial broadcasters making transmissions covered by 37 CFR 261.3(a)(2)(iii); [2] and business establishment services making ephemeral phonorecords]; [3] and

3. For each sound recording transmitted by the service during the relevant period:

a. The featured recording artist;

b. The sound recording title;

c. The name of the record album containing the sound recording, if in the possession of the service, or supplied to the service, at or before the time of the performance;

d. The marketing label of the sound recording, if in the possession of the service, or supplied to the service, at or before the time of the performance; and

e. The total number of performances of the sound recording (*i.e.*, the number of times the sound recording is performed multiplied by the number of recipients of each performance) during the relevant reporting period.

The transitional requirements will apply prospectively to reporting by qualified nonsubscription services (*e.g.*, webcasters), preexisting satellite digital audio radio services, new subscription services, and business establishment services making ephemeral phonorecords. Preexisting subscription services will continue to be governed by the existing reporting requirements found at 37 CFR 201.36.

It is anticipated that these interim requirements will be replaced after several months by final requirements, which are likely to require more comprehensive reporting. Moreover,

[1] Transmissions covered by these provisions include simultaneous Internet retransmission by non-Corporation for Public Broadcasting, noncommercial broadcasters of over-the-air AM or FM broadcasts by the same radio station and other Internet transmission of non-Corporation for Public Broadcasting, noncommercial broadcasters, including up to two side channels of programming consistent with the mission of the station, and are subject to a section 114 royalty of 0.02¢ per performance.

[2] Transmission covered by this provision include Internet transmissions on other side channels of programming by non-CPB, noncommercial broadcasters, and are subject to a section 114 royalty of 0.07¢ per performance.

[3] The transmission categories noted here are not identical to the categories set forth in the announcement on the Copyright Office website. The current list of categories has been revised to take into account the various rates for different kinds of services established by the Order of the Librarian of Congress establishing rates and terms for the statutory license for eligible nonsubscription services. See 67 FR 45239 (July 8, 2002).

reporting requirements for the period commencing October 28, 1998 until the effective date of these interim regulations will be announced in the future. Until that announcement, services are cautioned that they should retain all records pertaining to performances of sound recordings during that period.

One of the issues that must be addressed in the interim regulations—and is the subject of today's request for written proposals—is the format in which recordkeeping data must be maintained by services using the statutory licenses, and the method or methods for delivery of the data to SoundExchange, which is the officially designated Receiving Agent for receiving section 114 and 112 royalty fees. See 37 CFR 261.4(b). As a preliminary matter, the Office has determined that data must be maintained in electronic format for delivery to SoundExchange; data in hard copy format is not acceptable. The issue, then, is the technical specifications of the electronic reports that will make the data stored therein usable.

By way of illustration, in the NPRM, the Office proposed the following format requirements, which included some data fields that are no longer being considered:

Format. Reports of Use should be provided on a standard machine-readable medium, such as a diskette, optical disc, or magneto-optical disc, and should conform as closely as possible to the following specifications:

(1) * * *[4]

(2) * * *

(i) ASCII delimited format, using pipe characters as delimiter, with no headers or footers;

(ii) Field names should not be included as the first row of the file;

(iii) Carats (^) should surround strings;

(iv) No carats (^) should surround dates and numbers;

(v) Dates and times should be indicated by: DDMMYYYYhhmmss, where DD is the two-digit day of the log period; MM is the two-digit month of the log period; YYYY is the four-digit year of the log period; hh is the two-digit hour of the log period; mm is the two-digit minute of the log period; ss is the two-digit second of the period; single digit days, months, hours, minutes and seconds should be prepended with a zero; and times are local using a 24-hour clock;

(vi) A carriage return should be at the end of each line;

(vii) All data for one record should be on a single line;

(viii) All data for each month and each log type should be contained in a single file;

(ix) Files may be compressed in ZIP or GZ format; and

(x) Files should be named Service Name_Log Type_MMYYYY, where Log Type should be Play List, Listener or Ephemeral.

67 FR at 5766–5767. The Office received virtually no public comment on the proposed format requirements in either the written comments or the reply comments.

Formatting of recordkeeping data was addressed periodically at the May 10, 2002, public meeting, although mostly in the context of whether records have been maintained in electronic or hard copy format. The specifics of the proposed format regulation in the NPRM were not discussed.

Subsequent to the May 10 public meeting, the Office met with representatives of RIAA and SoundExchange and with representatives of broadcasters and webcasters to discuss format requirements in an effort to speed the process for issuing interim regulations that will begin reporting of data required by the section 114 and 112 licenses. It was apparent from both these meetings that the requirements proposed in the NPRM are not sufficiently detailed and will likely cause confusion and error in the reporting of recordkeeping data. Unfortunately, there was no consensus as to the specifics for formatting data.

Request for Written Proposals

In the interest of crafting data format regulations that are efficient, cost effective and reduce the incidences of reporting error, the Copyright Office is requesting both copyright owners and users of the section 114 and 112 licenses for digital audio transmissions to submit their written proposals for specifications to be included in regulations adopting the electronic format for recordkeeping data. Such proposals should include specific regulatory language along with a brief explanation of the reasons for adopting such language. Interested parties should also include in their written proposals acceptable means of data delivery (such as via e-mail attachment, delivery to an ftp site, physical delivery of a diskette, *etc.*) as well as any other technical requirements necessary to facilitate the effective exchange of data. The proposals should assume that the substantive reporting requirements will be the requirements outlined above (name of service, transmission category of service, and the five categories of information identifying each sound recording performed).

Proposals should include requirements that are or can be compatible with software used by webcasters in connection with programming or reporting of performances of sound recordings. The interim regulations will also provide that webcasters be able to report on the use of sound recordings by recording the required information in spreadsheets in formats compatible with commonly used spreadsheet software. The Office intends to require that SoundExchange make templates for such spreadsheets available for downloading on its website and on the Copyright Office website. Proposals for formatting requirements should be compatible with this requirement and ideally should include samples of compatible spreadsheets.

Comments are also solicited on whether the reporting on the transmission category of the service should include only the categories set forth above,[5] and whether there is any reason why the reports by services should identify whether the services are using only the section 114 statutory licence or are also using the section 112 statutory license. Proponents of a requirement to identify whether a service is using the section 112 statutory license should take account of such a requirement in their proposals regarding formatting.

The Office encourages copyright owners, broadcasters and webcasters to work together to agree on formatting requirements that will serve all of their needs, and to submit joint proposals or comments if possible.

Written proposals are due by September 30, 2002.

Status Conference

The Office will hold a status conference on October 8, 2002, at 10:00 a.m. in the CARP Hearing Room, Room LM–414, located on the fourth floor of the James Madison Memorial Building of the Library of Congress, First Street and Independence Avenue, SE, Washington, DC. The purpose of the status conference will be to discuss the formatting requirements for the notice and recordkeeping regulations.

[4] The provisions of this subsection apply to pre-existing subscription services and remain in effect. See 63 Fr 34289 (June 24, 1998).

[5] See the text accompanying footnote 3.

Dated: September 17, 2002.

David O. Carson,

General Counsel.

[FR Doc. 02–24017 Filed 9–20–02; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–109]

NASA Advisory Council, Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness (IOR).

DATES: Wednesday, October 16, 2002, 1 p.m.–2 p.m. Eastern Standard Time.

ADDRESSES: This meeting will be conducted via teleconference; hence participation will require contacting Mr. Lee Pagel (202/358–4621) before 12 Noon Eastern, October 15, 2002, and leaving your name, affiliation, and phone number.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Pagel, Code IH, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4621.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capability of the teleconferencing system. The agenda for the meeting is as follows:

—To assess the operational readiness of the International Space Station to support the new crew and the American and Russian flight team's preparedness to accomplish the Expedition Six mission.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–24032 Filed 9–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 7, 2002. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–837–3698 or by e-mail to *records.mgt@nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Larry Baume, Acting Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1505. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Forest Service (N1–95–02–1, 4 items, 2

temporary items). Extra copies of fire reports and related documentation as well as electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of these files are proposed for permanent retention.

2. Department of Defense, National Imagery and Mapping Agency (N1–537–02–2, 2 items, 2 temporary items). Individual procurement appointment files relating to participants in purchase card programs. Also included are electronic copies of records created using word processing and electronic mail.

3. Department of Justice, Federal Bureau of Investigation (N1–65–02–5, 1 item, 1 temporary item). Hard copy fingerprint cards generated in connection with background investigations of military enlistees.

4. Department of Justice, National Drug Intelligence Center (N1–523–02–1, 8 items, 6 temporary items). Staff meeting files, firearms training records, and training materials that do not pertain to law enforcement. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of executive level meeting files and training materials for law enforcement training.

5. Department of Justice, National Drug Intelligence Center (N1–523–02–2, 6 items, 3 temporary items). Policy files that do not pertain to the agency's mission, including electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of mission-related policy files and records that pertain to agreements.

6. Department of the Navy, Agency-wide (N1-NU–02–03, 5 items, 4 temporary items). Records relating to international agreements accumulated by the International Programs Office. The records include Navy annexes to data exchange agreements, newsletters, and charts. Also included are electronic copies of records created using electronic mail and word processing. Recordkeeping copies of case files pertaining to agreements are proposed for permanent retention.

7. Department of the Navy, Agency-wide (N1–NU–02–04, 13 items, 13 temporary items). Records relating to security assistance policy accumulated by the International Programs Office. Included are budgetary documents, case files relating to such matters as foreign military sales and other assistance programs, and inter-service agreements for administrative services. Also included are electronic copies of records created using electronic mail and word processing.

8. Department of State, Bureau of Human Resources (N1–59–00–8, 23 items, 21 temporary items). Records accumulated by the Office of the Executive Director relating to administrative oversight and support. Included are such records as subject files, the personnel action handbook master, performance files, and several databases containing personnel data for employees, including Foreign Service Nationals. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention is the master file of the main personnel system and microfilm copies of employee service record cards from 1940 to 1975.

9. Department of State, Assistant Secretary for Intelligence and Research (N1–59–02–7, 2 items, 1 temporary item). Electronic copies of documents created using electronic mail and word processing that are associated with the office's subject files. Proposed for permanent retention are the recordkeeping copies of these files.

10. Department of State, Office of the Secretary of State (N1–59–02–8, 2 items, 1 temporary item). Electronic copies of documents created using electronic mail and word processing that pertain to memorandums of conversations. Recordkeeping copies of these files are proposed for permanent retention.

11. Department of State, Office of Information Technology Operations and Management for the Bureau of Educational and Cultural Affairs and the Coordinator of International Information Programs (N1–59–02–9, 26 items, 26 temporary items). Records relating to information technology operations and management, including such matters as the management of computer equipment and software, tape libraries, system backups, data security, and user support. Also included are electronic copies of records created using electronic mail and word processing.

12. Department of the Treasury, Financial Management Service (N1–425–02–2, 4 items, 4 temporary items). Electronic copies of documents created using electronic mail and word processing relating to foreign claim files and to closed court cases concerning forgery and alteration of government checks. This schedule also increases retention period for recordkeeping copies of these files, which were previously approved for disposal.

13. Court Service and Offender Supervision Agency, Community Supervision Services Division (N1–562–02–1, 3 items, 3 temporary items). Case files for offenders in the District of Columbia Superior Court system who are under parole, supervised release, and/or probation supervision. Included are electronic copies of documents created using electronic mail and word processing.

14. Peace Corps, Management Division (N1–490–02–1, 1 item, 1 temporary item). Electronic records accumulated by the Office of Information Resources Management that are used for tracking staff access to and use of agency automated systems.

Dated: September 12, 2002.

Michael J. Kurtz,

Assistant Archivist for Record Services, Washington, DC.

[FR Doc. 02–24038 Filed 9–20–02; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Notice of Intent to Prepare a Supplemental Programmatic Environmental Impact Statement on Stockpile Stewardship and Management for a Modern Pit Facility

AGENCY: Department of Energy, National Nuclear Security Administration.

ACTION: Notice of intent.

SUMMARY: The Department of Energy's (DOE) National Nuclear Security Administration (NNSA) is responsible for the safety and reliability of the U.S. nuclear weapons stockpile, including protection of production readiness to maintain that stockpile. Since 1989, the DOE has been without the capability to produce plutonium pits (the portion of a nuclear weapon which generates the fission energy to drive modern thermonuclear weapons). The NNSA, the Department of Defense (DOD), and Congress have highlighted the lack of long-term pit production capability as a national security issue requiring timely resolution. While an interim capability is currently being established at the Los Alamos National Laboratory (LANL), classified analyses indicate that this capability will not suffice to maintain, long-term, the nuclear deterrent that is a cornerstone of U.S. national security policy. Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the DOE Regulations Implementing NEPA (10 CFR Part 1021), the NNSA is announcing its intent to prepare a Supplement to the Programmatic Environmental Impact Statement (EIS) on Stockpile Stewardship and Management (SSM) for

a Modern Pit Facility (MPF) in order to decide: (1) whether to proceed with the MPF; and (2) if so, where to locate the MPF. This NOI also sets forth the dates, times, and locations for public scoping meetings on the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility.

DATES: NNSA is inviting comments related to its intention to prepare a Supplement to the Programmatic EIS on SSM for a Modern Pit Facility. Comments should be submitted within November 22, 2002. Comments submitted during the 60-day comment period following publication of this NOI will assist the NNSA in developing the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility. Public scoping meetings to discuss issues and receive comments on the scope of the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility will be held in the vicinity of sites that may be affected by the proposed action, as well as in Washington, DC. The public scoping meetings will provide the public with an opportunity to present comments, ask questions, and discuss concerns with NNSA officials regarding the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility. The locations, dates, and times for these public scoping meetings are as follows:

Pantex—October 8, 2002 , 7 p.m.–10 p.m., College Union Building, Oak Room, Amarillo College, Washington Street Campus, 24th and Jackson Streets, Amarillo, TX 79178, (806) 371–5100

Carlsbad, NM—October 10, 2002, 7 p.m.–10 p.m., U.S. Department of Energy, Carlsbad Area Office, 4021 National Parks Highway, Carlsbad, NM 88220, (505) 234–7227

Washington, DC—October 15, 2002, 2 p.m.–5 p.m., U.S. Department of Energy, 1000 Independence Avenue, SW., Room 1E–245, Washington, DC 20585, (202) 586–0821

Nevada Test Site—October 17, 2002, 7 p.m.–10 p.m., U.S. Department of Energy, Nevada Operations Office, Auditorium, 232 Energy Way, Las Vegas, NV 89030, (702) 295–3521

Los Alamos National Laboratory—October 24, 2002, 7 p.m.–10 p.m., Duane W. Smith Auditorium, 1400 Diamond Drive, Los Alamos, NM 87544, (505) 663–2510

Savannah River Site—October 29, 2002, 7 p.m.–10 p.m., North Augusta Community Center, 495 Brookside Avenue, North Augusta, SC 29841, (803) 441–4290

The NNSA will publish additional notices on the dates, times, and locations of the scoping meetings in local newspapers in advance of the scheduled meetings. Any necessary changes will be announced in the local media. Any agency, state, pueblo, tribe, or unit of local government that desires to be designated a cooperating agency should contact Mr. Jay Rose at the address listed below by October 15, 2002.

ADDRESSES: General questions concerning this Notice of Intent for the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility can be asked by calling 1–800–832–0885, ext. 65484, or by writing to: Mr. Jay Rose, Supplement to the Programmatic EIS on SSM for a Modern Pit Facility Document Manager, NA–53, Forrestal Building, U.S. Department of Energy/NNSA, 1000 Independence Avenue, SW., Washington, D.C. 20585. Comments can be submitted to Mr. Rose at the address above; or faxed to: 1–202–586–5324; or e-mailed to *James.Rose@nnsa.doe.gov*. Please mark envelopes, faxes, and E-mail: ''Supplement to the Programmatic EIS on SSM for a Modern Pit Facility Comments.''

FOR FURTHER INFORMATION CONTACT: For general information on the NNSA NEPA process, please contact: Mr. James J. Mangeno, NNSA NEPA Compliance Officer, NA–3.6, Forrestal Building, U.S. Department of Energy/NNSA, 1000 Independence Avenue, SW., Washington, D.C. 20585; or telephone 1–800–832–0885, ext. 6–8395. For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: Plutonium pits are essential components of nuclear weapons. Prior to the shutdown of its production activities in 1989, plutonium pits for the nuclear weapons stockpile were manufactured at the DOE Rocky Flats Plant in Colorado. No stockpile-certified pits have been produced by this country since that shutdown. During the mid-1990s, the DOE conducted a comprehensive analysis of the capability and capacity needs for the entire Nuclear Weapons Complex and evaluated alternatives for maintaining the Nation's nuclear stockpile in the Programmatic Environmental Impact Statement for Stockpile Stewardship and Management (SSM PEIS, DOE/EIS–0236). Issued in September 1996, the SSM PEIS looked extensively at pit manufacturing capability and capacity needs, and evaluated reasonable alternatives for re-establishing interim pit production capability on a small scale. A large pit production capacity—in line with the capacity planned for other manufacturing functions—was not evaluated in the PEIS ''because of the small current demand for the fabrication of replacement pits, and the significant, but currently undefined, time period before additional capacity may be needed.'' In the SSM PEIS Record of Decision (ROD) (61 FR 68014, December 26, 1996), the Secretary of Energy decided to re-establish an interim pit fabrication capability, with a small capacity, at LANL. That decision limited pit fabrication to a facility ''sized to meet programmatic requirements over the next ten or more years.'' In the ROD, DOE committed to ''performing development and demonstration work at its operating plutonium facilities over the next several years to study alternative facility concepts for larger capacity.''

Subsequent to the SSM PEIS ROD, a number of citizen groups filed suit challenging the adequacy of the SSM PEIS. In August 1998, the SSM PEIS litigation was resolved. As a result of that litigation, DOE agreed to entry of a court order that required, ''[p]rior to taking any action that would commit DOE resources to detailed engineering design, testing, procurement, or installment of pit production capability for a capacity in excess of the level that has been analyzed in the SSM PEIS [50 pits per year under routine conditions, 80 pits per year under multiple-shift operations], DOE shall prepare and circulate a Supplemental PEIS, in accordance with DOE NEPA Regulation 10 CFR 1021.314, analyzing the reasonably foreseeable environmental impacts of and alternatives to operating such an enhanced capacity, and shall issue a Record of Decision based thereon.'' This Supplement to the SSM PEIS is being prepared in part to satisfy that obligation.

Following the SSM PEIS, in January 1999, the Department prepared the LANL Site-Wide EIS (SWEIS) (DOE/EIS–0238), which evaluated site-specific alternatives for implementing pit production at LANL. Consistent with the SSM PEIS ROD, the LANL SWEIS evaluated alternatives that would implement pit production with a capacity up to 50 pits per year under single-shift operations and 80 pits per year using multiple shifts. In the ROD for the LANL SWEIS (64 FR 50797, September 20, 1999), DOE decided to produce up to 20 pits per year at LANL,

and deferred any decision to expand pit manufacturing beyond that level.

Consistent with the 1996 SSM PEIS ROD and the 1999 LANL SWEIS ROD, NNSA has been re-establishing a small pit manufacturing capability at LANL. The establishment of the interim pit production capacity is expected to be completed in 2007. However, classified analyses indicate that the capability being established at LANL will not support either the projected capacity requirements (number of pits to be produced over a period of time), or the agility (ability to rapidly change from production of one pit type to another, ability to simultaneously produce multiple pit types, or the flexibility to produce pits of a new design in a timely manner) necessary for long-term support of the stockpile. In particular, any systemic problems that might be identified in an existing pit type or class of pits (particularly any aging phenomenon) could not be adequately addressed today, nor could it be with the capability being established at LANL. Although no such problems have been identified, the potential for such problems increases as pits age. NNSA's inability to respond to such issues is a matter of national security concern. NNSA is responsible for ensuring that appropriate pit production capacity and agility are available when needed, and this Supplement to the SSM PEIS is being undertaken to assist NNSA in discharging this responsibility.

NEPA Strategy and EIS Alternatives

Currently, the NNSA envisions the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility as a ''programmatic document'' that will support two decisions: (1) Whether to proceed with the MPF; and (2) if so, where to locate the MPF. A tiered, project-specific EIS is expected to be prepared after the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility if the Secretary decides to proceed with such a facility. That tiered EIS, which would utilize detailed design information to evaluate site-specific alternatives at any site selected as a potential location for a MPF, would ultimately support a decision for construction and operation of the MPF. As described below, the NNSA has developed preliminary alternatives for the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility.

Alternatives: The NNSA has prepared, and will continue to prepare mission, requirements, and planning documents required to support an NNSA decision on whether to proceed with the MPF, and has conducted a site screening analysis to assure that potential sites meet program requirements. Initially, all existing, major DOE sites were considered to serve as potential host location for the MPF. The site screening analysis considered the following criteria: population encroachment, mission compatibility, margin for safety/security, synergy with existing/future plutonium operations, minimizing transportation of plutonium, NNSA presence at the site, and infrastructure. The first two criteria were deemed to be ''exclusionary'' criteria; that is, a site either passed or failed on each of these two criteria. The sites that passed the exclusionary criteria were then scored against all criteria. Based upon results from the site screening analysis, the following sites were determined to be reasonable alternatives for the MPF: (1) Los Alamos National Laboratory at Los Alamos, New Mexico; (2) Nevada Test Site near Las Vegas, Nevada ; (3) Pantex Plant at Amarillo, Texas; (4) Savannah River Site at Aiken, South Carolina; and (5) the Waste Isolation Pilot Plant at Carlsbad, NM. The Supplement to the Programmatic EIS on SSM for a Modern Pit Facility will also evaluate the no-action alternative of maintaining the current plutonium pit capabilities at LANL, and the reasonableness of upgrading the existing facilities at LANL to increase pit production capacity. Additionally, the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility will evaluate a range of pit production capacities consistent with national security requirements.

Identification of Environmental and Other Issues

The environmental impacts of constructing and operating the MPF, including the impacts that might occur at each potential site, will be addressed in the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility. These impacts will be presented along with environmental baseline information to enable the reader to discern the differences between alternatives. The NNSA has identified the following issues for analysis in the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility. Additional issues may be identified as a result of the scoping process.

1. Public and Worker Safety, Health Risk Assessment: Radiological and non-radiological impacts, including projected effects on workers and the public from construction, normal operations and accident conditions, and decommissioning and decontamination activities associated with constructing and operating the MPF.

2. Impacts from releases to air, water, and soil associated with constructing and operating the MPF.

3. Impacts to plants, animals, and habitats, including threatened or endangered species and their habitats, associated with constructing and operating the MPF.

4. The consumption of natural resources and energy associated with constructing and operating the MPF.

5. Socioeconomic impacts to affected communities from construction and operation of the MPF.

6. Environmental justice: Disproportionately high and adverse human health or environmental effects on minority and low-income populations associated with constructing and operating the MPF.

7. Impacts to cultural resources such as historic, archaeological, scientific, or culturally important sites associated with constructing and operating the MPF.

8. Impacts associated with transportation and storage of nuclear materials.

9. Status of compliance with all applicable Federal, state, and local statutes and regulations; required Federal, state, and tribe environmental consultations and notifications; and DOE Orders on waste management, waste minimization, and environmental protection.

10. Cumulative impacts from the proposed action and other past, present, and reasonably foreseeable actions at the alternative sites.

11. Potential irreversible and irretrievable commitments of resources associated with constructing and operating the MPF.

12. Pollution prevention and waste management practices, including characterization, storage, treatment and disposal of wastes associated with constructing and operating the MPF. NNSA anticipates that certain classified information will be utilized in preparing the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility and considered by the NNSA in deciding whether to construct and operate MPF, and if so, where the facility would be located. Accordingly, the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility will likely contain a classified appendix. To the extent allowable, the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility will summarize this information in an unclassified manner.

Supplement to the Programmatic EIS on SSM for a Modern Pit Facility Schedule

The proposed Supplement to the Programmatic EIS on SSM for a Modern Pit Facility schedule is as follows:

Notice of Intent: September 2002.

Public Scoping Meetings: October 2002.

Publish Draft EIS: May 2003.

Draft EIS Public Hearings: June–July 2003.

Publish Final EIS: March 2004.

Record of Decision: April 2004.

Public Scoping Process

To assist in defining the appropriate scope of the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility and to identify significant environmental issues to be addressed, NNSA representatives will conduct public scoping meetings at the dates, times, and locations described above under **DATES.** At these meetings, the NNSA will present a short summary of the project, indicate the alternatives to be considered, and present the proposed scope of the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility. Following the initial presentation at each site, NNSA representatives will answer questions and accept comments, and the public will have a chance to offer their comments on the proposal, alternatives to be studied and the scope of the Supplement to the Programmatic EIS on SSM for a Modern Pit Facility. Copies of handouts from the meetings will be available to those unable to attend, by contacting the NNSA as described above under **ADDRESSES.**

Issued in Washington, DC, this 16th day of September 2002.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 02–24076 Filed 9–20–02; 8:45 am]

BILLING CODE 6450–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237, 50–249, 50–254, and 50–265]

Exelon Generation Company, LLC; Dresden Nuclear Power Station, Units 2 and 3, Quad Cities Nuclear Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of 10 CFR 50.71(e)(4) for Facility Operating License Nos. DPR–19 and DPR–25, issued to Exelon Generation Company, LLC (the licensee), for operation of the Dresden Nuclear Power Station, Units 2 and 3, located in Grundy County, Illinois, and for Facility Operating License Nos. DPR–29 and DPR–30, issued to the licensee, for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois. Therefore, 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 would grant a schedular extension for Dresden Nuclear Power Station (Dresden), Units 2 and 3, and for Quad Cities Nuclear Power Station (Quad Cities), Units 1 and 2, for submittal of revised Updated Final Safety Analysis Reports (UFSARs) from the regularly scheduled dates. 10 CFR 50.71(e)(4) requires that subsequent revisions to the UFSAR be submitted periodically to the NRC provided that the interval between successive updates does not exceed 24 months. The Dresden and Quad Cities UFSAR revisions are currently submitted on a 24-month cycle. The next scheduled date for submittal of the revised UFSAR for Dresden is June 30, 2003, and for Quad Cities is October 20, 2003. However, the licensee plans to submit revised UFSARs along with Operating License Renewal Applications (LRAs) for Dresden and Quad Cities in January 2003. The licensee plans to resume the established schedule for submittal of the UFSAR revisions in 2005 for both stations. The licensee requests a one-time exemption to postpone submittal of the revised Dresden and Quad Cities UFSARs until 2005.

The proposed action is in accordance with the licensee's application dated August 9, 2002.

The Need for the Proposed Action

The licensee proposes to submit revised UFSARs with LRAs in January 2003, and to resume the established schedule for submittal of UFSAR revisions for Dresden on June 30, 2005, and for Quad Cities on October 20, 2005. An exemption is required because 10 CFR 50.71(e)(4) requires that subsequent revisions to the UFSAR be submitted periodically to the NRC provided that the interval between successive updates does not exceed 24 months.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no significant adverse environmental impacts associated with the proposed action.

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 resource than those previously considered in the Final Environmental Statement for the Dresden Nuclear Power Station, Units 2 and 3, dated November 1973, and for the Quad Cities Nuclear Power Station, Units 1 and 2, dated September 1972.

Agencies and Persons Consulted

On August 22, 2002, the staff consulted with the Illinois State official, Mr. F. Niziolek of the Department of Nuclear Safety, 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 August 9, 2002. 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 17th day of September, 2002.

For the Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–24151 Filed 9–20–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority, Sequoyah Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Facility Operating Licenses DPR–77 and DPR–79 issued to the Tennessee Valley Authority (TVA or the licensee) for operation of the Sequoyah Nuclear Plant (SQN), Units 1 and 2, located in Hamilton County, Tennessee. Therefore, as required by Title 10, Code of Federal Regulations (10 CFR), Section 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 would change SQN's Technical Specifications to allow TVA to irradiate up to 2256 tritium-producing burnable absorber rods (TPBARs) in each of SQN's two reactor cores. Irradiating the TPBARs in the reactor cores supports the U.S. Department of Energy (DOE) in maintaining the nation's tritium inventory. TVA will insert the TPBARs into positions in the reactor cores where conventional burnable poison rods would normally be located (conventional poison rods contain boron which reacts with neutrons making them unavailable for interacting with uranium atoms, thereby slowing fission and heat generation). TPBARs are not reactor fuel and do not generate thermal energy for generating electrical energy.

TPBARs use lithium rather than boron. Neutron irradiation in the reactor core converts the lithium in the TPBARs into tritium. After one operating cycle, TVA would remove the fuel assemblies containing TPBARs from the SQN cores and put them into the spent fuel pool. TVA would then, after several weeks (based on plant schedules rather than decay considerations), remove the irradiated TPBARs from the fuel assemblies and consolidate them into shipping casks for DOE to transport them to its tritium extraction facility at its Savannah River Site.

The proposed action is in accordance with the licensee's application dated September 21, 2001, as supplemented by letters of June 11, July 19, August 9, August 30, September 5, and September 12, 2002.

The Need for the Proposed Action

The proposed action would allow SQN to provide irradiation services for DOE to maintain the nation's tritium supply as prescribed by Public Law (PL) 106–65. Section 3134 of PL 106–65 directs the Secretary of Energy to produce new tritium at TVA's Watts Bar Nuclear Plant (WBN) or the SQN plant.

Environmental Impacts of the Proposed Action

DOE's Environmental Impact Statement, DOE/EIS–0288, Final Environmental Impact Statement (EIS) for the Production of Tritium in a Commercial Light Water Reactor, dated March 1999, assessed the environmental impacts of producing tritium at WBN and SQN. TVA was a cooperating Federal agency in preparing this EIS and adopted the EIS in accordance with 40 CFR 1506.3(c) of the Council on Environmental Quality regulations. DOE also prepared a Tritium Production Core (TPC) Topical Report, NDP–98–181, Rev. 1, to address the safety and licensing issues associated with incorporating TPBARs in a reference pressurized-water reactor. The NRC used its Standard Review Plan (NUREG–0800) as the basis for evaluating the impact of the TPBARs on a reference plant. The NRC reviewed the TPC Topical Report and issued a Safety Evaluation Report, NUREG–1672, in May 1999. NUREG–1672 identified 17 plant-specific interface issues that a licensee would be required to address in support of a plant specific amendment to operate a tritium production core. TVA's application of September 21, 2001, and supplements, addressed these interface issues. The NRC staff is reviewing TVA's amendment request and will issue a safety evaluation documenting its review.

1. Radiological Impact From Tritium Release to the Reactor Coolant System (RCS) Under Normal Plant Operations With 2256 TPBARs in each Core

Tritium levels in the RCSs of large pressurized-water reactors have ranged as high as 4000 curies per year (Ci/yr) without exceeding regulatory limits. TVA estimated, as discussed in its June 11, 2002, letter, that the tritium level in the RCS of each SQN unit would be about 3126 Ci/yr with 2256 TPBARs in each unit's reactor. This increased tritium level could increase overall occupational exposure, but NRC data summarized in NUREG–0713, ''Occupational Radiation Exposure at Commercial Nuclear Power Reactors and Other Facilities,'' dated 1995, indicate tritium exposure is not an important contributor to overall occupational exposure.

TVA, in its letter dated June 11, 2002, stated that it does not expect the increased RCS activity at SQN to greatly affect normal RCS feed-and-bleed operation throughout the cycle. The NRC staff finds no reason to disagree with TVA's conclusion. Thus, primary coolant discharge volumes should be similar to current volumes.

The staff concludes that the additional dose rate from operating SQN with 2256 TPBARs in each reactor will not have a significant impact on TVA's ability to control worker radiation doses and keep them well within regulatory limits using the controls and practices in SQN's existing Radiation Protection Program.

If increased RCS feed and bleed is required, it may be necessary to temporarily store the increased volume of tritiated liquid onsite, or to dilute the tritiated liquid to ensure that 10 CFR Part 20 discharge limits are met. SQN has sufficient storage tanks to accommodate this additional liquid waste.

2. Radiological Impact From Liquid Effluents Under Normal Plant Operations With 2256 TPBARs in Each Core

The SQN facility has waste-treatment systems designed to collect and process liquid waste that may contain radioactive material. The tritium in liquid effluents from SQN is diluted to a relatively low concentration before it reaches even the most highly exposed members of the public. TVA's submittal of June 11, 2002, shows that the total additional dose to the maximally-exposed member of the public is estimated to be less than 0.01 millirem per year (mrem/yr). This total dose, considering the minimal increase from tritium production, is less than 1.0 percent of the NRC 3-mrem/yr guideline for effluent exposure to the public. The staff concludes that the potential radiological impact from liquid effluents on plant workers, members of the public, and the environment from operation with the TPC complies with all regulatory dose limits.

3. Radiological Impact From Radioactive Gaseous Emissions Under Normal Plant Operations With 2256 TPBARs in Each Core

A portion of the tritium might be released to the atmosphere. The amount would depend on plant conditions and the manner in which TVA operates SQN. Individuals could be exposed to tritium in a variety of pathways if it was released to the atmosphere. These pathways include inhalation and skin absorption, as well as consumption of meat, vegetables and milk. According to TVA, in its submittal of June 11, 2002, the calculated incremental increase in the gaseous emission dose to the most highly-exposed member of the public through all pathways because of the TPBARs would be about 1.7 percent of the NRC annual 15 mrem exposure guideline for airborne effluents.

4. Radiological Impact From Solid Radioactive Waste Under Normal Plant Operations With 2256 TPBARs in Each Core

Irradiation of TPBARs is expected to increase the number of curies and volume of solid radioactive waste, primarily because of disposal (offsite) of the associated base plates and thimble plugs, which become irradiated. The estimated increase in activity inventory from solid waste (assuming 2256 TPBARS) is approximately 2700 Ci/year and the estimated increase in volume is from 32,820 cubic feet/year to 32,853 cubic feet/year. As the result of this increase in solid waste, the estimated increase in total worker dose from handling the additional solid waste is approximately 1.7 person-rem (about 1.1 percent of the dose assessment estimate of record). Offsite shipment and disposal would be in accordance with established agreements between TVA and DOE.

5. Radiological Impact to Workers in the Fuel Storage Area Under Normal Plant Operations With 2256 TPBARs in Each Core

The proposed amendments are not expected to significantly affect the doses to the workers in the fuel storage area. The TPBARs are designed to have minimal effect on plant operations, including refueling operations. Unirradiated TPBARs will produce no increase in exposure, occupational or public, because they are essentially non-radioactive. Possible increases in tritium airborne activity may increase dose to workers handling and consolidating radioactive TPBARs. However, TVA stated, in its submittal of June 11, 2002, that SQN's station dose assessment of record bounds the expected increase.

6. Non-Radiological Impact With 2256 TPBARs in Each Core

The proposal does not affect non-radiological plant effluents. The proposal does not result in any significant changes to land use or water use. It also does not result in any significant changes to the quantity or quality of effluents, and no effects on endangered or threatened species or on their habitats are expected. Therefore, no changes in, or different types of, non-radiological environmental impacts are expected as a result of the amendments.

7. Radiological Impact From Postulated Accidents With 2256 TPBARs in the Core

TVA's submittal of June 11, 2002, discussed the effects of TPBARs on the possible consequences of the following postulated accidents discussed in SQN's Updated Final Safety Analysis Report (UFSAR):

- Fuel-handling accident
- Design basis loss-of-coolant accident (LOCA)
- Main steamline failure outside of containment
- Steam generator tube rupture
- Loss of normal alternating current power to plant auxiliaries
- Waste gas decay tank failure
- Rod ejection accident
- Failure of small lines carrying primary coolant outside containment

Discussions of the postulated accidents with the greatest radiological consequences appear below.

a. *Fuel-Handling Accident.* This accident is defined as dropping a spent fuel assembly containing irradiated TPBARs resulting in rupture of the cladding on all the fuel rods. TVA's calculations conservatively assumed that 24 TPBARs (the maximum possible number) are in the dropped spent fuel assembly and that they all rupture and transfer their tritium to the spent fuel pool. Releasing this activity to the (1) control room boundary, (2) Exclusion Area Boundary over 2 hours, and (3) Low Population Zone over 30 days results in the doses to the thyroid, skin (beta), whole body (gamma), and Total Effective Dose Equivalent (TEDE), as defined in 10 CFR Part 20, that are small percentages of regulatory limits.

b. *LOCA.* This accident is defined as losing reactor coolant at a rate in excess of the capability of the reactor coolant makeup system. LOCAs could occur from breaks in pipes in the reactor coolant pressure boundary up to and including a break equivalent in size to the double-ended rupture of the largest pipe in the RCS. TVA conservatively assumed that the entire tritium content of the 2256 TPBARs is released into containment during a postulated LOCA. Releasing this activity to the (1) control room boundary, (2) Exclusion Area Boundary over 2 hours, and (3) Low Population Zone over 30 days results in doses to the thyroid, skin (beta), whole body (gamma), and TEDE that are small percentages of regulatory limits.

8. Post-LOCA Hydrogen Generation Inside Containment

TVA's submittal of September 21, 2001, stated that TPBARs could release additional hydrogen to the containment following a large-break LOCA (LBLOCA). SQN has emergency operating procedures in place to start a hydrogen recombiner train when the containment volumetric percentage of hydrogen reaches 3 percent. A previous analysis for a conventional (non-TPBAR) core in the SQN UFSAR indicated that for an LBLOCA, with no recombiners started, the containment hydrogen concentration reached 3.75 percent 4 days following event initiation. With additional hydrogen from the TPBARs, TVA's analysis indicated that the containment hydrogen concentration would only slightly increase 2 days following event initiation. If one recombiner train is started 24 hours after event initiation for the TPBAR core, the peak containment hydrogen concentration is limited to less than 4 percent for up to 6 days. Having up to 24 hours to place a recombiner train in service to maintain the containment hydrogen

concentration below 4 percent is adequate in satisfying NRC Regulatory Guide 1.7. Accordingly, reactor operation with the TPBARs will not be a significant contributor to the post-LOCA hydrogen inventory, and will not have a significant impact on the total hydrogen concentration within the containment when compared to the values associated with the non-TPBAR core. The maximum containment hydrogen concentration can be maintained at less than the lower flammability limit of 4.0-volume-percent, with one recombiner train started at a 3-percent hydrogen concentration approximately 24 hours after an LBLOCA.

Summary

The Commission has completed its evaluation of the proposed action. 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 offsite, 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 non-radiological impacts, the proposed action does not have a potential to affect historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological 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 significant change in current environmental impacts. However, because there are no significant environmental impacts associated with this action, and because PL 106–65 directs that DOE produce tritium at WBN or SQN, this is not considered a viable option.

Alternative Use of Resources

DOE evaluated alternatives to the proposed action, including completing construction of one or both of the Bellefonte Nuclear Plant Units and construction of an accelerator facility at the Savannah River site and concluded that the proposed action has the least environmental impact of the options considered. The NRC has no reason to disagree with DOE's decision.

Agencies and Persons Consulted

On September 16, 2002, the staff consulted with the Tennessee State official, Elizabeth Flannagan of the Tennessee Bureau of Radiological 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 September 21, 2001, as supplemented by letters dated June 11, July 19, August 9, August 30, September 5, and September 12, 2002. 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 17th day of September 2002.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–24152 Filed 9–20–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on October 9, 2002, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, October 9, 2002—1:30 p.m. until the conclusion of business.

The Subcommittee will discuss proposed ACRS activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301/415–7364) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the proposed agenda.

Dated: September 17, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–24148 Filed 9–20–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of the Subcommittee on Reactor Fuels; Notice of Meeting

The ACRS Subcommittee on Reactor Fuels will hold a meeting on October 9,

2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, October 9, 2002–8:30 a.m. until the conclusion of business.*

The Subcommittee will review the high burnup fuel research activities as well as the application of regulatory criteria for reactivity insertion accidents. The Subcommittee will also discuss the staff's review of the Electric Power Research Institute topical report on reactivity insertion accidents. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written standards will be accepted and made available to the Committee. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and its consultants, Electric Power Research Institute, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting the Designated Federal Official, Dr. Medhat M. El-Zeftawy (Telephone 301/415–6889) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the proposed agenda.

Dated: September 17, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–24149 Filed 9–20–02; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on October 9, 2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Tuesday, October 8, 2002–8:30 a.m. until the conclusion of business.*

The Subcommittee will review the Duke Energy Corporation's license renewal application for McGuire Nuclear Station Units 1 and 2, and Catawba Nuclear Station Units 1 and 2, and the associated Safety Evaluation Report with open items. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, Duke Energy Corporation, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting the Designated Federal Official, Mr. Timothy Kobetz (telephone 301/415–8716) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact one of the above named individuals at least two working days prior to the meeting to be advised of any potential changes in the proposed agenda.

Dated: September 17, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–24150 Filed 9–20–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Canadian 88 Energy Corporation, Common Stock, No Par Value) From the American Stock Exchange LLC File No. 1–14752

September 17, 2002.

Canadian 88 Energy Corporation, a Canada corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities and Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, no par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Issuer stated in its application that it has met the requirements of Amex Rule l8 by complying with all applicable laws in effect in Canada, in which it is incorporated, and with the Amex's rule governing an issuer's voluntary withdrawal of a security from listing and registration.

The Board of Directors (''Board'') of the Issuer unanimously approved a resolution on September 5, 2002 to withdraw the Issuer's Security from listing on the Amex. In making the decision to withdraw its Security from the Amex, the Board states that Issuer sought to reduce its general and administrative costs. The Issuer states that it will continue listing on the Toronto Stock Exchange. The Issuer's application relates solely to the withdrawal of the Security from listing on the Amex and registration under

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

section 12(b) of the Act [3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before October 8, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–24087 Filed 9–20–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of Host America Corporation To Withdraw From Listing and Registration Its Common Stock, $.001 Par Value, From the Boston Stock Exchange, Inc. File No. 0–16196

September 17, 2002.

Host America Corporation, a Colorado corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder, [2] to withdraw its Common Stock, $.001 par value (''Security''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The Issuer stated in its application that it has complied with the Rules of the BSE that govern the removal of securities from listing and registration on the Exchange. In making the decision to withdraw the Security from listing and registration on the BSE, the Issuer considered the relative liquidity provided by the BSE versus other securities exchanges and the cost associated with maintaining multiple listings. The Issuer stated in its application that the Security has been listed on the Nasdaq SmallCap Market since July 27, 1998. The Issuer represented that it will maintain its listing on the Nasdaq SmallCap Market.

The Issuer's application relates solely to the Security's withdrawal from listing on the BSE and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before October 8, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–24088 Filed 7–20–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46501; File No. SR–CBOE–2002–52]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Chicago Board Options Exchange, Inc., Revising the Maintenance Listing Criteria for Underlying Securities in CBOE Rule 5.4

September 16, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 12, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The CBOE submitted Amendment No. 1 to the proposed rule change on September 13, 2002.[3] The CBOE submitted Amendment No. 2 to the proposed rule change on September 16, 2002.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rule 5.4 to permit the addition of a new series of individual equity option contracts that otherwise meet the maintenance listing standards except for the requirement that the market price per share of the underlying security be at least $3.00. The text of the proposed rule change is provided below. Proposed new language is italicized; deletions are in brackets.

* * * * *

Rule 5.4. Withdrawal of Approval of Underlying Securities

Whenever the Exchange determines that an underlying security previously approved for Exchange option transactions does not meet the then current requirements for continuance of such approval or for any other reason should no longer be approved, the Exchange will not open for trading any additional series of options of the class covering that underlying security and therefore may prohibit any opening purchase transactions in series of options of that class previously opened, to the extent it deems such action necessary or appropriate; provided, however, that where exceptional circumstances have caused an underlying security not to comply with the Exchange's current approval maintenance requirements, regarding number of publicly held shares or publicly held principal amount, number of shareholders, trading volume or market price the Exchange, in the interest of maintaining a fair and orderly market or for the protection of investors, may determine to continue to open additional series of option contracts of

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1)

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(l).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange clarified that the proposed rule change would apply when opening an additional series of options contracts traded on a national securities exchange other than the CBOE. *See* letter from Edward Joyce, President and Chief Operating Office, CBOE, to Steven Johnston, Special Counsel, Division of Market Regulation (''Division''), dated September 12, 2002 (''Amendment No. 1'').

[4] In Amendment No. 2, the Exchange made a technical change to proposed rule text. *See* letter from James Flynn, Attorney II, CBOE, to Steven Johnston, Special Counsel, Division, Commission, dated September 16, 2002 (''Amendment No. 2'').

the class covering that underlying security. When all option contracts in respect of any underlying security that is no longer approved have expired, the Exchange may make application to the Securities and Exchange Commission to strike from trading and listing all such option contracts. * * * *Interpretations and Policies:*

.01 The Board of Directors has established guidelines to be considered by the Exchange in determining whether an underlying security previously approved for Exchange option transactions no longer meets its requirements for the continuance of such approval. Absent exceptional circumstances, with respect to Paragraphs (a), (b), or (c) listed below, an underlying security will not be deemed to meet the Exchange's requirements for continued approval whenever any of the following occur:

(a) No Change.

(b) No Change.

(c) No Change.

(d) *Subject to Interpretation .02 below,* [T]*t*he market price per share of the underlying security closed below $3 on the previous trading day as measured by the closing price reported in the primary market in which the underlying security is traded.

(e) No Change.

(f) No Change.

(g) No Change.

.02 In connection with Paragraph (d) of Interpretation and Policy .01 above, the Exchange shall not open for trading any additional series of option contracts of the class covering an underlying security at any time when the market price per share of such underlying security is less than $3 in the primary market in which it is *traded unless the additional series is traded on at least one other registered national securities exchange and at the time the additional series was listed by such other registered national securities exchange it met the $3 market price requirement.* Subject to Paragraph (d) of Interpretation and Policy .01 above, the Exchange may open for trading additional series of option contracts of a class covering an underlying security when the market price per share of such underlying security[ies] is at or above $3 at the time such additional series are authorized for trading. For purposes of this Interpretation .02, the market price of such underlying security is measured by (i) for intra-day series additions, the last reported trade in the primary market in which the underlying security is traded at the time the Exchange determines to add these additional series intra-day, and (ii) for next-day and expiration series additions, the closing price reported in the primary market in which the underlying security is traded on the last trading day before the series are added.

.03 No Change.

.04 No Change.

.05 No Change.

.06 No Change.

.07 No Change.

.08 No Change.

.09 No Change.

.10 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Interpretation .01 to Rule 5.4 provides the guidelines to be used in determining whether an underlying individual equity security, previously approved for options trading, meets the requirements for continued approval. Specifically, Interpretation .01(d) to Rule 5.4, provides that the Exchange may not list additional series for an option class if the market price per share of the underlying security closed below $3 on the previous trading day as measured by the closing price reported in the primary market in which the underlying security is traded.

In recent months, due to a general decline in market price per share of numerous underlying securities, the ability to trade an additional series of an approved options class may vary between exchanges depending on the timing in which a particular Exchange attempts to bring up a series in that class. As such, under the current application of Rule 5.4, the Exchange could be precluded from adding a series that is actively traded on one or more other securities exchanges.

The Exchange therefore proposes to amend Interpretations .01(d) and .02 to Rule 5.4 in order to permit the addition of any additional series of options contract of the class covering such underlying security regardless of the market price of the underlying security if such options series is traded on at least one other registered national securities exchange.[5] The proposed changes to Interpretations .01(d) and .02 to Rule 5.4 would provide that, for underlying securities that satisfy all of the maintenance listing requirements other than the $3.00 per share price requirement, the Exchange would be permitted to list additional options series on securities regardless of the market price so long as such series are traded on at least one other registered national securities exchange. The CBOE does not believe that the $3 guideline is necessary to accomplish the intended purpose of the maintenance requirement when the options series is trading at another options exchange. In particular, the Exchange believes that the listing of a series already trading at another options exchange is not susceptible to manipulation and will not lead to a proliferation of options classes on underlying securities that lack liquidity needed to maintain fair and orderly markets.

The Exchange believes that the satisfaction of all Exchange maintenance listing standards, other than price, assures that options will be listed and traded on the securities of companies that are financially sound. Accordingly, the Exchange will continue to apply the other maintenance listing guidelines which assure that: (1) The underlying security consists of a large number of outstanding shares held by non-affiliates of the issuer; (2) the underlying security is actively-traded; (3) there is a large number of holders of the underlying security; and (4) the underlying security continues to be listed on another national securities exchange or traded through the facilities of a national securities association.

The CBOE believes that the demands of options customers and the marketplace should determine the securities on which options continue to be traded. The Exchange represents that the use of the revised guidelines will continue to ensure that options will be traded on securities of companies that are financially sound and are still subject to adequate minimum standards.

The CBOE believes that this proposal is narrowly drafted to address the

[5] The Exchange represents that its proposed rule change is consistent with recent amendments to other Exchanges' rules which permit the addition of a new series of an individual equity option class that otherwise meets the maintenance listing standards, regardless of whether the market price per share of the underlying security meets the pricing criteria. *See, e.g.,* Securities Exchange Act Release No. 46375 (August 16, 2002), 67 FR 54828 (August 26, 2002).

circumstances in which a series of an approved options class is ineligible for addition on the CBOE while at the same time, such series is trading on another options exchange. When an underlying security otherwise meets the maintenance listing standards and at least one other exchange trades the options series, the options already are available to the investing public. The Exchange believes that increased competition for order flow in these additional series of approved options classes will benefit investors and the marketplace for options and the respective underlying securities. It should be noted that this proposed rule change would not serve to introduce additional options series.

Because the addition of an options series under the proposed alternative maintenance listing standard requires trading of such series on another options exchange, the CBOE believes that there would be no investor protection concerns with listing such additional options series on the CBOE. In addition, the Exchange believes that listing these options series on the CBOE would enhance competition and benefit investors.

2. Statutory Basis

The proposed rule change is consistent with and furthers the objectives of section 6(b)(5) of the Act [6] in that it is designed to remove impediments to a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2002–52 and should be submitted by October 15, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6(b)(5) of the Act.[7] The Commission believes investors benefit from the competition among options exchanges that results when options are listed on more than one options exchange; and that investors are sufficiently protected, even though the CBOE will be permitted to list a series of option contracts when the market price of the underlying security is below $3, because the Exchange must still comply with all of its other maintenance listing requirements, and because the market price of the underlying security was at or above $3 when the security was listed on the first options exchange.[8] Therefore, the Commission finds that the proposed rule change, as amended, will promote just and equitable principles of trade, and, in general, protect investors and the public interest consistent with section 6(b)(5) of the Act.[9]

The CBOE has requested that the proposed rule change, as amended, be given accelerated approval pursuant to section 19(b)(2) of the Act.[10] The Commission believes accelerated approval of the proposal would enhance competition among the options exchanges. Accordingly, the Commission finds good cause, consistent with section 19(b)(2) of the Act,[11] to approve the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–2002–52), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–24089 Filed 9–20–02; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] The Commission notes that such series must have been properly listed by the original options exchange.

[9] 15 U.S.C. 78f(b)(5). In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78s(b)(2).

[11] *Id.*

[12] *Id.*

[13] 17 CFR 240.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46502; File No. SR–NFA–2002–04]

Self-Regulatory Organizations; Notice of Filing and Effectiveness of Proposed Rule Change by the National Futures Association Concerning Proficiency Requirements

September 16, 2002.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on August 28, 2002, the National Futures Association (''NFA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been prepared by the NFA. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. NFA also has filed the proposed rule change with the Commodity Futures Trading Commission (''CFTC'').

On August 15, 2002, NFA requested that the CFTC make a determination that review of the proposed rule change is not necessary. The CFTC made such a determination on August 26, 2002.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

Section 15A(k) of the Act [3] makes NFA a national securities association for

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 15 U.S.C. 78o–3(k).

the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products under section 15(b)(11) of the Act.[4] NFA proposes an interpretive notice regarding proficiency requirements for security futures products will apply to these Members. The proposed interpretive notice regarding proficiency requirements for security futures products describes the conditions under which registrants can substitute training for testing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NFA has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(k)(2)(D) of the Act requires NFA to ''have rules that ensure that members and natural persons associated with members meet such standards of training, experience, and competence necessary to effect transactions in security futures products and are tested for their knowledge of securities and security futures products.'' [5] NFA is in the process of updating the Series 3 examination to include questions relating to security futures products. NFA is also in the process of updating the Series 30 examination to include questions regarding security futures for persons who are designated security futures principals under NFA Compliance Rule 2–7(b). Until the examinations are finalized, individuals will be allowed to meet the proficiency requirements by taking an appropriate training course before engaging in activities involving security futures products. The proposed interpretive notice describes the conditions under which these individuals can substitute training for testing.

NFA, in partnership with the National Association of Securities Dealers and the Institute for Financial Markets, has developed a Web-based training program that will satisfy the training requirement. The program can be accessed through NFA's Web site, and there is no charge for completing the training program.

The proposed interpretive notice explains that current NFA Members and Associates will be able to satisfy their proficiency requirements for security futures by taking any training program that covers the subject matter included in a content outline that can be found on NFA's web site. New registrants can also qualify through training if they are registered no later than six months after the first retail, exchange-traded contract begins trading.

The proposed interpretive notice explains that in order to qualify as a designated security futures principal, current supervisors may take a portion of the training program devoted to supervisory issues as well as the portions intended for all Associates within six months after the first retail, exchange-traded contract begins trading. After the six-month period, individuals may qualify as a security futures principal by taking the training program in lieu of taking a supervisory proficiency examination, provided those individuals are qualified to act as a branch office manager no later than six months after the first retail, exchange-traded contract begins trading.

As indicated above, the proposed interpretive notice grandfathers in current registrants and those who take the Series 3 and/or Series 30 examination within six months after security futures begin trading, provided they take an appropriate training program before they begin soliciting for security futures transactions or supervising security futures activities. The grandfather provision would expire on December 31, 2006. Registrants who subsequently decide to engage in security futures activities will be required to first take the relevant examination.

The proposed interpretive notice states that NFA Members and Associates are not required to notify NFA that they have completed a training program, but Members must be able to demonstrate to NFA during an audit that those registered individuals who are engaging in security futures activities have completed the necessary training.

2. Statutory Basis

The rule change is authorized by, and consistent with, section 15A(k) of the Act.[6]

B. Self-Regulatory Organization's Statement on Burden on Competition

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act and the Commodity Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NFA did not publish the rule changes to the membership for comment. NFA did not receive comment letters concerning the rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to section 19(b)(7)(B) of the Act,[7] the proposed rule change became effective on August 26, 2002.

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Act.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of these filings also will be available for inspection and copying at the principal office of NFA. Electronically submitted comments will be posted on the Commission's Web site (*http://www.sec.gov*). All submissions

[4] 15 U.S.C. 78o(b)(11).

[5] 15 U.S.C. 78o–3(k)(2)(D).

[6] 15 U.S.C. 78o–3(k).

[7] 15 U.S.C. 78s(b)(7)(B)

[8] 15 U.S.C. 78s(b)(1).

should refer to File No. SR–NFA–2002–04 and should be submitted by October 15, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–24090 Filed 9–20–02; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3441]

State of Nebraska

Keith County and the contiguous counties of Arthur, Deuel, Garden, Lincoln, McPherson and Perkins in the State of Nebraska; and Sedgwick County in the State of Colorado constitute a disaster area as a result of severe storms and flooding that occurred on July 6, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 12, 2002 and for economic injury until the close of business on June 13, 2003 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.750
Homeowners Without Credit Available Elsewhere	3.375
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 344111 for Nebraska and 344211 for Colorado. The number assigned to this disaster for economic injury is 9R5500 for Nebraska and 9R5600 for Colorado.

(Catalog of Federal Domestic Assistance Program Nos. 179002 and 179008)

[9] 17 CFR 200.30–3(a)(75).

Dated: September 13, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–24139 Filed 9–20–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9R53]

State of South Dakota

Lawrence County and the contiguous Counties of Butte, Meade and Pennington in the State of South Dakota; and Crook and Weston Counties in the State of Wyoming constitute an economic injury disaster loan area as a result of a forest fire that caused the evacuation of two communities in Lawrence County June 29 through July 4, 2002. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on June 17, 2003 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, FT. Worth, TX 76155.

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 9R5300 for the State of South Dakota and 9R5400 for the State of Wyoming.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: September 17, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–24140 Filed 9–20–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3428; Amdt. 10]

State of Texas

In accordance with a notice received from the Federal Emergency Management Agency, dated September 11, 2002, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to September 30, 2002.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is April 4, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 16, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–24141 Filed 9–20–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4134]

Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as Amended

Pursuant to section 2(b)(2) of the Migration and Refugee Assistance Act of 1961, as amended, 22 U.S.C. 2601(b)(2), and the functions and authorities delegated to the Secretary of State, or his or her delegate, by Presidential Determination 99–6 of November 30, 1998, and subsequently re-delegated to me by Delegation of Authority of January 5, 1999, I hereby designate refugees from Iraq as qualifying for assistance under section 2(b)(2) of that Act, and determine that such assistance will contribute to the foreign policy interests of the United States.

This determination shall be transmitted to the President and published in the **Federal Register**.

Dated: August 13, 2002.

Arthur E. Dewey,

Assistant Secretary of State, Bureau of Population, Refugees, and Migration, Department of State.

[FR Doc. 02–24119 Filed 9–20–02; 8:45 am]

BILLING CODE 4710–33–P

DEPARTMENT OF STATE

[Public Notice 4086]

Advisory Panel to the United States Section of the North Pacific Anadromous Fish Commission; Notice of a Closed Meeting

The Advisory Panel to the United States Section of the North Pacific Anadromous Fish Commission will meet on October 7, 2002, at the Hotel Hyundai, 29 Semenovskaya Street, Vladivostok, 690090, Russia. This session will involve discussion of the Tenth Annual Meeting of the North Pacific Anadromous Fish Commission, to be held on October 6–11, 2002. The discussion will begin at 8 a.m. and is closed to the public.

The members of the Advisory Panel will examine various options for the U.S. position at the Tenth Annual Meeting. These considerations must

necessarily involve review of sensitive matters, the disclosure of which would frustrate U.S. participation at the Annual Meeting. Accordingly, the determination has been made to close the 8:00 a.m. meeting pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. Section 552b(c)(9).

Requests for further information on the meeting should be directed to Ms. Sally Cochran, International Relations Officer, Office of Marine Conservation (OES/OMC), Room 5806, U.S. Department of State, Washington, DC 20520–7818. Ms. Cochran can be reached by telephone on (202) 647–1073 or by FAX (202) 736–7350.

Dated: September 19, 2002.

Mary Beth West,

Deputy Assistant Secretary for Oceans and Fisheries, Department of State.

[FR Doc. 02–24233 Filed 9–20–02; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–55]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 14, 2002.

ADDRESSES: Send comment on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–12894 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Susan Boylon (425–227–1152), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave SW., Renton, WA 98055–4056; or Vanessa Wilkins (202–267–8029), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 17, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2002–12894.
Petitioner: Lockheed Martin.
Section of 14 CFR Affected: SFAR 88.
Description of Relief Sought: To permit five Lockheed Model DC–9–30 (C9–B) military airplanes to operate until June 2003 without meeting the requirements of SFAR–88.

[FR Doc. 02–24129 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from October 7–10, 2002, from 1 p.m. to 4:30 p.m. on Monday, October 7, and from 9 a.m. to 4:30 p.m., Tuesday, October 8 to Thursday, October 10.

ADDRESSES: The meeting will be held at NATCA Headquarters, 1325 Massachusetts Avenue, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Mr. David W. Madison, Acting Executive Director, ATPAC, Air Traffic Planning and Procedures, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3725

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.2), notice is hereby given of a meeting of the ATPAC to be held October 7 through October 10, 2002, at NATCA Headquarters, 1325 Massachusetts Avenue, NW., Washington, DC 20005.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.

2. Submission and Discussion of Areas of Concern.

3. Discussion of Potential Safety Items.

4. Report from Executive Director.

5. Items of Interest.

6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than October 4, 2002. The next quarterly meeting of the FAA ATPAC is planned to be held from January 13–17, 2003, in Orlando, Florida.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on September 12, 2002.

David W. Madison,

Acting Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 02–24132 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held October 10, 2002 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 850, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

- October 10:
- Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting)
- Publication Consideration/ Approval:
- Final Draft, Minimum Operational Performance Standards for Required Navigation Performance for Area Navigation, RTCA Paper No. 228–02/ PMC–236, prepared by SC–181.
- Discussion:
- Special Committee Chairman's Reprots
- Action Item Review:
- Review/Status—All Open Action Items.
- Other Business:
- Discussion—Portable Electronic Devices.
- EUROCAE Activity—VDL Mode 4 Standardization
- Closing Session (Other Business, Document Production, Data and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 16, 2002.

Norman Fujisaki,

Deputy Director, System Architecture and Investment Analysis.

[FR Doc. 02–24131 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application 02–02–C–00–BZN to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Gallatin Field Airport, Submitted by the Gallatin Airport Authority, Gallatin Field Airport, Belgrade, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Gallatin Field Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 23, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: David S. Stelling, Manager; Helena Airports District Office, HLN–ADO; Federal Aviation Administration; FAA Building, Suite 2; 2725 Skyway Drive, Helena, Montana 59602–1213.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ted Mathis, Airport Director: 850 Gallatin Field Road, Suite #6, Belgrade, Montana 59714.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Gallatin Field Airport, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: David S. Stelling, Manager; Helena Airports District Office, HLN–ADO; Federal Aviation Administration; FAA Building, Suite 2; 2725 Skyway Drive, Helena, Montana 59602–1213. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 02–02–C–00–BZN to impose and use PFC revenue at Gallatin Field Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 12, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by Gallatin Airport Authority, Gallatin Field Airport, Belgrade, Montana, was substantially complete with the requirements of § 158.25 of part 18. The FAA will approve or disapprove the application, in whole or in part, no later than December 12, 2002. The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 2002.

Proposed charge expiration date: April 1, 2006.

Total requested for use approval: $1,790,000.

Brief description of proposed project: Construct equipment storage building; expand terminal apron; acquire broom sweeper truck; rehabilitate taxiways A, B, C, D, E, and the portion of Runway 3/21 between taxiways A and Runway 12–30; and rehabilitate Runway 12/30.

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: Air Taxi/ Commercial Operators (ATCO) filing FAA form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Gallatin Field Airport.

Issued in Renton, Washington, on September 12, 2002.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 02–24133 Filed 7–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2002–13373]

Integrated Modular Avionics (IMA) Hardware Elements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Advisory Circular (AC) about integrated modular avionics hardware elements (IMA). The proposed AC establishes an acceptable means to obtain Federal Aviation Administration's (FAA) airworthiness approval to install an Integrated Modular Avionics (IMA) System that uses hardware elements authorized under Technical Standard Order (TSO)–C153, Integrated Modular Avionics Hardware Elements.

DATES: Comments must be received on or before October 12, 2002.

ADDRESSES: Send all comments on the proposed AC to: Technical Programs & Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service,, Federal Aviation Administration, 800 Independence Avenue, SW., Room 835, Washington, DC 20591. Or deliver comments to: Federal Aviation Administration (FAA), Room 835, 800 Independence Avenue, SW., Washington, DC 20591. Comments must identify the AC file number.

FOR FURTHER INFORMATION CONTACT: Mr. John Lewis, Technical Programs & Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Room 835, Washington, DC 20591; Telephone (202) 493–4841; Fax (202) 267–5340; e-mail address: *John.Lewis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed AC by submitting written data, views, or arguments to the above-specified address. Comments received on the proposed AC may be examined, before and after the comment closing date, in Room 835, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service will consider all communications received on or before the closing date before issuing the final AC.

Background

Traditionally, avionics systems consisted of dedicated Line Replaceable Units (LRUs) which performed specific functions such as autoflight, flight management, and flight deck display. TSOs were written for these LRUs and their functions. Advancements in digital technology have created a trend toward higher levels of integration and modularity. In many modern integrated systems, software determines functionality, while hardware serves as a platform for input, output, data storage, and software execution. Since these basic attributes tend to be similar for various applications, efficiencies can be gained by using various types of generic airborne hardware elements to execute these functions.

This AC provides guidance on obtaining Federal Aviation Administration's (FAA) airworthiness approval to install Integrated Modular Avionics (IMA) systems that implement TSO–C153 authorized hardware elements. TSO–C153 refers to these hardware elements as ''IMA hardware elements,'' which includes modules, cabinets, or racks. A module may contain software to enable electronic part marking and/or future loading of functional software. These modules will not function without being installed in specific cabinets or racks. Module types may include data processing modules, power supply modules, communication and data bus modules, or others. Cabinets or racks are used to host IMA modules. These cabinets or racks may be simple mechanical enclosures, or they may incorporate active cooling elements, power supplies, communication interfaces, backplanes for data and power, or any combination of these features.

How To Obtain Copies

You may see and obtain a copy of the proposed AC through the FAA Web site at *www.airweb.faa.gov* by selecting ''Draft Advisory Circulars,'' or by inquiring at the office listed under ''For Further Information Contact.'' Copies of Document Nos. RTCA/DO–160D (Change 2), RTCA/DO–178B, and RTCA/DO–254 may be purchased form the RTCA Inc., 1828 L Street, NW., Suite 807, Washington, DC 20036 (Web site: *http://www.rtca.org*). You can obtain Aviation Recommended Practice number ARP–4754 from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096–0001 (Web site: *http://www.sae.org*).

You may inspect the RTCA documents at the FAA office location listed under **ADDRESSES.** However, RTCA documents are copyrighted and may not be reproduced without the written consent of RTCA, Inc.

Issued in Washington, DC, on September 16, 2002.

David W. Hempe,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 02–24130 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement No. ANM–01–115–11]

Certification of Strengthened Flight Deck Doors on Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of final policy statement; request for comments.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of final policy concerning certification of strengthened flightdeck doors.

DATES: Send your comments on or before October 23, 2002.

ADDRESSES: Address your comments to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Airframe/Cabin Safety Branch, ANM–115, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–2136; fax (425) 227–1320; e-mail: *jeff.gardlin@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The final policy is available on the Internet at the following address:*http://www.faa.gov/certification/aircraft/anminfo/finalpaper.cfm*. If you do not have access to the Internet, you can obtain a copy of the policy statement by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The FAA invites your comments on this final policy. We will accept your comments, data, views, or arguments by letter, fax, or e-mail. Send your comments to the person indicated in **FOR FURTHER INFORMATION CONTACT**. Mark your comments, ''Comments to Policy Statement No. ANM–01–115–11.''

Use the following format when preparing your comments.

- Organize your comments issue-by-issue.
- For each issue, state what specific change you are requesting to the final policy.

• Include justification, reasons, or data for each change you are requesting.

We also welcome comments in support of the final policy.

We will consider all communications received on or before the closing date for comments. We may change the final policy because of the comments received.

Background

The final policy provides all transport airplane programs an acceptable method of compliance with 14 CFR part 25 for intrusion resistance and ballistic protection of flightdeck doors. The Frequently Asked Questions (FAQ) section has also been updated.

Issued in Renton, Washington, on September 12, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24134 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Planning Study: Lyon, Caldwell, Hopkins, Webster, and Henderson Counties in Kentucky

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public of its intent to initiate a planning study for a proposed highway project in the southwestern portion of Kentucky, located between Eddyville and Henderson, Kentucky.

FOR FURTHER INFORMATION CONTACT: Evan J. Wisniewski, Project Development Team Leader, Federal Highway Administration, 330 West Broadway, Frankfort, KY 40601, Telephone: (502) 223–6740, e-mail: *evan.wisniewski@fhwa.dot.gov*; or Ms. Annette Coffey, Director, Division of Planning, Kentucky Transportation Cabinet, 125 Holmes Street, Frankfort, KY 40622, Telephone: (502) 564–7183, e-mail: *Annette.coffey@mail.stat.ku.us.*

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.nara.gov/fedreg* and the Government Printing Office's Web page at *http://www.access.gpo.gov.nara.*

Background

The I–69 project is part of a proposed ''High Priority Corridor'' of national significance (Corridor 18) that extends from the Canadian border at Port Huron, Michigan, to the Mexican border in the Lower Rio Grande Valley of Texas, in accordance with the legislative intent of the Intermodel Surface Transportation Efficiency Act (ISTEA) of 1991 and subsequent federal transportation legislation. Segments of the corridor across Kentucky are in various stages of project development. This study will address alternatives and issues related to the development of an interstate highway between Eddyville and Henderson that will improve travel within the study area and become a segment of the national I–69 corridor.

During this study, comments will be gathered from appropriate federal, state, and local agencies, as well as other interested persons and the general public, in accordance with requirements set forth in the National Environmental Policy Act (NEPA) of 1969 and subsequent federal regulations and guidelines developed by the Executive Office of the President's Council on Environmental Quality and the United States Department of Transportation for the implementation of the NEPA process.

This study will include a scoping process for the early identification of potential alternatives and environmental issues related to the proposed project. At this time, the level of environmental documentation that will ultimately be prepared is not known. However, if an Environmental Impact Statement (EIS) is prepared for the proposed project in the future, the information gained through the scoping process in this planning study may be used as input to the scoping process for the development of that EIS. If an EIS is prepared in the future, written comments on the scope of alternatives and impacts will still be considered at that time, after the filing of the Notice of Intent (NOI).

(Catalog of Federal Domestic Assistance Program Number 20.205, ''Highway Planning and Construction.'' The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.) (23 U.S.C. 315; 49 CFR 1.48)

Issued on: September 16, 2002.

Evan J. Wisniewski,

Project Delivery Team Leader, Kentucky Division, Frankfort, KY 40601.

[FR Doc. 02–24020 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–13333]

Notice of Receipt of Petition for Decision that Nonconforming 1997 BMW 850 Series Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1997 BMW 850 Series passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1997 BMW 850 Series passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 23, 2002.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.].

FOR FURTHER INFORMATION CONTACT: Luke Loy, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States,

certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, L.L.C. of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 1997 BMW 850 Series passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1997 BMW 850 Series passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Bayerische Motoren Werke, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1997 BMW 850 Series passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1997 BMW 850 Series passenger cars, as originally manufactured for sale in Europe, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1997 BMW 850 Series passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 135 *Passenger Car Brake Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

The petitioner states that because the vehicles are equipped with a factory installed anti-theft system, the are exempt from the parts marking requirements of the Theft Prevention Standard at 49 CFR part 541.

With regard to compliance with the Bumper Standard found in 49 CFR part 581, the petitioner claims that the vehicles are equipped with bumpers and support structures identical to those used on U.S. certified models.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Inscription of the word ''brake'' on the dash in place of the international ECE warning symbol; (b) replacement of the speedometer with a unit reading in miles per hour. The petitioner states that the entire instrument cluster will be changed to the U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarker lights, (b) installation of U.S.-model taillamp assemblies and associated rear side marker lamps, (c) installation of a U.S.-model high mounted stop lamp, if the vehicle is not already so equipped.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component, or inscription of the required warning statement on that mirror.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer and a warning buzzer micro switch in the steering lock assembly.

Standard No. 208 *Occupant Crash Protection:* (a) Inspection of all vehicles and installation of a seat belt warning buzzer on vehicles that are not already so equipped or reprogramming of the buzzer to meet the standard; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags and seat belts with U.S.-model components on vehicles that are not already so equipped. Petitioner states that the front and rear outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 18, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–24125 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–13332]

Notice of Receipt of Petition for Decision That Nonconforming 1993 Mercedes Benz S Series Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1993 Mercedes Benz S Series passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1993 Mercedes Benz S Series passenger cars

that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 23, 2002.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.].

FOR FURTHER INFORMATION CONTACT: Luke Loy, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Sunshine Car Import L.C. of Cape Coral, Florida (''SCI'') (Registered Importer 01–289) has petitioned NHTSA to decide whether 1993 Mercedes Benz S Series passenger cars are eligible for importation into the United States. The vehicles which SCI believes are substantially similar are 1993 Mercedes Benz S Series passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1993 Mercedes Benz S Series passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

SCI submitted information with its petition intended to demonstrate that non-U.S. certified 1993 Mercedes Benz S Series passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1993 Mercedes Benz S Series passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Inscription of the word ''brake'' on the dash in place of the international ECE warning symbol; (b) replacement of the speedometer with one that reads in miles per hours.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front side marker lights; (b) installation of U.S.-model tail lamp assemblies which incorporate rear side marker lights; (c) installation of a U.S.-model center high mounted stop light assembly.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer and a warning buzzer micro switch in the steering lock assembly.

Standard No. 118 *Power Window Systems:* Installation of a relay in the power window system so that the windows will not operate with the ignition off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a seat belt warning buzzer, wired to the seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. Petitioner states that the front and rear outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton and that there is a lap belt at the rear center designated seating position. Petitioner further states that the vehicles are equipped with a seat belt warning lamp that is identical to the lamp installed on U.S.-certified models.

Standard No. 214 *Side Impact Protection:* Inspection of all vehicles to ensure that they are equipped with door bars identical to those in the U.S. certified model and installation of those components on vehicles that are not already so equipped.

The petitioner states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 a.m. to 5 p.m.). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal**

Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 18, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–24126 Filed 9–20–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–448 (Sub–No. 2X)]

SF&L Railway, Inc.—Abandonment Exemption—in Hancock, McDonough, Fulton and Peoria Counties, IL

On September 3, 2002, SF&L Railway, Inc. (SF&L) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon its entire line of railroad extending between milepost 194.5 at La Harpe and milepost 123.0 at Peoria, a distance of approximately 71.5 miles, in Hancock, McDonough, Fulton and Peoria Counties, IL. The line traverses United States Postal Zip Codes 61420, 61475, 61438, 61422, 61459, 61477, 61427, 61520, 61533, and 61547, serving the intermediate points of Blandinsville, Sciota, Good Hope, Bushnell, New Philadelphia, Smithfield, Cuba, Canton, Glasford, and Mapleton.

The line does not contain federally granted rights-of-way. Any documentation in SF&L's possession will be made available promptly to those requesting it.

In this proceeding, SF&L is proposing to abandon a line that constitutes its entire rail system. When issuing abandonment authority for a railroad line that constitutes the carrier's entire system, the Board does not impose labor protection, except in specifically enumerated circumstances. *See Northampton and Bath R. Co.—Abandonment,* 354 I.C.C. 784, 785–86 (1978) (*Northampton*). Therefore, if the Board grants the petition for exemption, in the absence of a showing that one or more of the exceptions articulated in *Northampton* are present, no labor protective conditions will be imposed.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 20, 2002.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,100 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 15, 2002. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–448 (Sub-No.2X) and must be sent to: (1) Surface Transportation Board, 1925 K Street NW., Washington, DC 20423–0001, and (2) Fritz R. Kahn, 1920 N Street NW., 8th Floor, Washington, DC 20036–1601. Replies to the SF&L petition are due on or before October 15, 2002.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov*.''

Decided: September 16, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–24097 Filed 9–20–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With and International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Bahrain
Iraq
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: September 16, 2002.

Barbara Angus,

International Tax Counsel (Tax Policy).

[FR Doc. 02–24024 Filed 9–20–02; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Financial Management Service; Privacy Act of 1974; Computer Matching Programs

AGENCY: Financial Management Service, Treasury.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 552a, the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the conduct by Financial Management Service (FMS) of matching programs.

EFFECTIVE DATE: October 23, 2002.

ADDRESSES: Comments or inquiries may be submitted to the Debt Management Services, Financial Management Service, 401 14th Street, SW., Room 448B, Washington, DC 20227.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Financial Program

Specialist, Debt Management Services, (202) 874–6660.

SUPPLEMENTARY INFORMATION: FMS is the lead agency in the Federal Government for administrative debt collection, and collects delinquent non-tax debts owed to the Federal Government and delinquent debts owed to States, including past-due child support obligations being enforced by States. One of the key debt collection tools used by FMS is administrative offset. As amended by the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. No. 104–134 (Apr. 26, 1996), 31 U.S.C. 3716 requires Federal disbursing officials to offset payments to collect delinquent debts submitted to FMS by Federal agencies for collection by offset. This process is known as ''centralized administrative offset'' or ''centralized offset.'' In addition, 31 U.S.C. 3716 authorizes the use of centralized offset to collect delinquent debts owed to States. Federal and state agencies submit delinquent debtor information to FMS, and FMS maintains information about individuals in a ''system of records'' for debt collection entitled ''Debt Collection Operations System,'' identified as Treasury/FMS .014.

To implement the centralized offset provisions of the DCIA, FMS matches records concerning federal payments with its debt collection records. To date, FMS has concentrated its efforts on offsetting Treasury-disbursed payments made by FMS. For this purpose, a comprehensive notice of computer matches was published in the **Federal Register** on August 28, 1997, Volume 62 at page 45699 concerning records contained in FMS' payment systems of records (Payment Issue Records for Regular Recurring Benefit Payments (Treasury/FMS .002) and Payment Records for Other than Regular Recurring Benefit Payments (Treasury/FMS .016)) with records contained in the FMS' Debt Collection Operations System.

FMS is working with other Federal agencies authorized to disburse Federal payments, known as Non-Treasury Disbursing Officials (NTDOs), to implement centralized offset of payments disbursed by Federal agencies other than FMS. This notice concerns the computer matching programs used to facilitate administrative offset involving records from FMS' ''Debt Collection Operations System'' and records from the following systems maintained by NTDOs:

United States Postal Service: Finance Records-Payroll System, (USPS 050.020)
United States Postal Service: Finance Records-Accounts Payable Files, (USPS 050.060)

The DCIA provides authority for Treasury to waive subsections (o) and (p) of 5 U.S.C. 552a (relating to computer matching agreements and post-offset notification and verification) upon written certification by the head of a State or an executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of 31 U.S.C. 3716 have been met. Treasury has exercised its authority to waive the aforementioned requirements, and the waiver will be in effect prior to the commencement of the computer matching program(s) identified in this notice. Interested parties may obtain documentation concerning the waiver from the contact listed above.

NAME OF SOURCE AGENCY:

United States Postal Service.

NAME OF RECIPIENT AGENCY:

Financial Management Service.

BEGINNING AND COMPLETION DATES:

These programs of computer matches will commence not earlier than the thirtieth day after this notice appears in the **Federal Register**. The matching will continue indefinitely, or until the waiver from the requirements of 5 U.S.C. 552a(o) and (p) is revoked.

PURPOSE:

The purpose of these programs of computer matches is to identify payments made to individuals who owe delinquent debts to the Federal Government or to State Governments, as well as individuals who owe past-due support being collected by State Governments, which will be collected by offset pursuant to 31 U.S.C. 3716, and to offset such payments where appropriate to satisfy those debts.

AUTHORITY:

Authority for these programs of computer matches is granted under 31 U.S.C. 3716.

CATEGORIES OF INDIVIDUALS COVERED:

Individuals receiving payments from the Federal Government which are disbursed by the United States Postal Service; and individuals who owe debts to the United States and/or a State Government, or who owe past-due support being enforced by a State Government, and whose debts may be collected by offset in accordance with 31 U.S.C. 3716.

CATEGORIES OF RECORDS COVERED:

Included in these programs of computer matches is information concerning the debtor contained in the Debt Collection Operations System (Treasury/FMS .014) including name, taxpayer identification number, the amount of the indebtedness, the name and address of the State or Federal agency who is principally responsible for collecting the debt, and the name, phone number and address of a State or agency contact. Information contained in the following systems: United States Postal Service: Finance Records-Payroll System (USPS 050.020), United States Postal Service: Finance Records-Accounts Payable Files (USPS 050.060), which shall be included in these programs of computer matches, shall include name, taxpayer identification number, mailing address, and the amount and type of payment.

Dated: September 16, 2002.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

[FR Doc. 02–24023 Filed 9–20–02; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5305–SEP

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 Form 5305–SEP, Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

DATES: Written comments should be received on or before November 22, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions

should be directed to Larnice Mack, (202) 622–3179, or through the internal (*Larnice.Mack@irs.gov.),* Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

OMB Number: 1545–0499.

Form Number: 5305–SEP.

Abstract: Form 5305–SEP is used by an employer to make an agreement provide benefits to all employees under a Simplified Employee Pension (SEP) described in Internal Revenue Code section 408(k). This form is not to be filed with the IRS but is to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions to the SEP.

Current Actions: There are no changes being made to form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 4 hr. 57 min.

Estimated Total Annual Burden Hours: 495,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 16, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–24153 Filed 9–20–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209040–88]

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–209040–88, Qualified Electing Fund Elections (§ 1.1295).

DATES: Written comments should be received on or before November 22, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, or through the internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualified Electing Fund Elections.

OMB Number: 1545–1514.

Regulation Project Number: REG–209040–88.

Abstract: This regulation permits certain shareholders to make a special election under Internal Revenue Code section 1295 with respect to certain preferred shares of a passive foreign investment company. This special election operates in lieu of the regular section 1295 election and requires less annual reporting. Electing preferred shareholders must account for dividend income under the special rules of the regulation, rather than under the general income inclusion rules of section 1293.

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, not-for-profit organizations, and individuals.

Estimated Number of Respondents: 1,030.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 600.

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 17, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–24154 Filed 9–20–02; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Monday,

September 23, 2002

Part II

Federal Communications Commission

47 CFR Part 2

Non-Substantive Revisions to the Table of Frequency Allocation; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[DA 02–1872]

Non-Substantive Revisions to the Table of Frequency Allocation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's Table of Frequency Allocations (''Allocation Table''). Specifically, it updates the International Table of Frequency Allocations (''International Table''). In order to assist the Federal Register staff in codifying international footnotes and in order to prevent confusion to the public, we are updating the Commission's Allocation Table in its entirety in order to remove the ''S'' prefix from the international footnotes. We also take this opportunity to update the International Table within our rules to reflect the Table of Frequency Allocations as it is found in the ITU Radio Regulations. The Commission believes that this action will assist users of the Allocation Table with their spectrum planning.

DATES: Effective September 23, 2002.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, (202) 418–2450, or Shameeka Parrott, (202) 418–2062, Policy and Rules Division, Office of Engineering and Technology.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* DA 02–1872, adopted August 1, 2002, and released August 5, 2002. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Summary of the Order

1. This *Order* amends the Commission's Table of Frequency Allocations (''Allocation Table'') to update the International Table of Frequency Allocations (''International Table''). The International Table is provided in § 2.106 of our Rules for informational purposes only and is being updated to reflect the 2001 International Telecommunication Union (''ITU'') *Radio Regulations.* As a consequence of updating the international footnotes within the International Table, we are also revising footnote US342 (which concerns the protection of the radio astronomy service (''RAS'') in various frequency bands allocated to other services) and are re-numbering the existing versions of nine revised international footnotes as United States footnotes, thereby maintaining the status quo for the United States Table of Frequency Allocations (''United States Table'') until the Commission can consider the substantive changes in future proceedings. This ministerial action does not make any substantive changes to our Allocation Table and thus, does not change any licensee's legal rights or responsibilities.

2. The Commission's Allocation Table, which is codified at § 2.106 of our rules, consists of three tables: the International Table, the United States Table, and cross references to other parts of our rules.

International Table

3. For the allocation of frequencies, the ITU has divided the world into three Regions and codifies the allocations for these Regions in its Table of Frequency Allocations. In § 2.106 of our rules, the ITU's Table of Frequency Allocations has been re-named as the International Table. The International Table is subdivided into the Region 1 Table (column 1), the Region 2 Table (column 2), and the Region 3 Table (column 3). The International Table is included in our rules for informational purposes only.

4. The ITU *Radio Regulations,* Edition of 2001, became effective internationally on January 1, 2002, except as provided in the references in Article 59. We are updating § 2.100 of our rules to reflect this fact. In its 2001 *Radio Regulations,* the ITU modified the international footnotes to its Table of Frequency Allocations by deleting the ''S'' prefix. For example, international footnote S5.53 was revised as international footnote 5.53. In addition, the ITU modified certain international footnotes to remove the ''S'' prefix from references to the *Radio Regulations.* For example, Article S31 was revised as Article 31 in footnote 5.110.

5. In order to assist the Federal Register in codifying international footnotes and in order to prevent confusion to the public, we are updating the Commission's Allocation Table in its entirety in order to remove the ''S'' prefix from the international footnotes. In addition, we take this opportunity to update the International Table within our rules to reflect the Table of Frequency Allocations as it is found in the ITU *Radio Regulations,* Edition of 2001, Article 5, Section IV. We believe that this action will assist users of the Allocation Table with their spectrum planning.

Ministerial Changes to the United States Table

6. In the United States, radio spectrum may be allocated to either Federal Government or non-Federal Government use exclusively, or for shared use. As such, the United States Table is subdivided into the Federal Government Table of Frequency Allocations (''Federal Government Table'') and the Non-Federal Government Table of Frequency Allocations (''Non-Federal Government Table''). The Federal Government Table (column 4) is administered by the National Telecommunications and Information Administration (''NTIA''), whereas the Non-Federal Government Table (column 5) is administered by the Commission.

7. Over the course of time, the Commission has adopted numerous international footnotes domestically and added them to the United States Table. We have reviewed each of these international footnotes. In order to update the International Table without making substantive changes to the United States Table, we have revised footnote US342 (which concerns the protection of the RAS in various frequency bands allocated to other services) and are re-numbering the existing versions of nine revised international footnotes as United States footnotes until such time as the Commission can consider these allocation changes to the United States Table.

Administrative Procedures Act Requirements and Ordering Clause

8. The International Table and FCC rule part(s) are included in the Commission's rules for informational purposes only. The United States Table is amended herein by incorporating non-substantive, editorial revisions only. Therefore, there is good cause for not using notice and comment procedure in this case, and for shortening the effective date of the amendments from a date not less than 30 days after publication in the **Federal Register** to the date of such publication. We find that the normal procedures for notice and comment and for publication as required under Section 553 of the

Administrative Procedures Act would be impracticable, unnecessary, or contrary to the public interest. *See* 5 U.S.C. 553(b)(3)(B), (d)(3); *Kessler* v. *FCC,* 326 F.2d 673 (D.C. Cir. 1963).

9. Part 2 of the Commission's rules, 47 CFR part 2, IS AMENDED as set forth, effective September 23, 2002. This action is taken pursuant to authority found in §§ 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303, and in §§ 0.31, 0.231(b) and 0.241 of the Commission's rules, 47 CFR 0.31, 0.231(b) and 0.241.

List of Subjects in 47 CFR Part 2

Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 2 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL

Rules and Regulations

1. The authority citation for Part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.100 is revised to read as follows:

§ 2.100 International regulations in force.

The International Radiocommunication Union *Radio Regulations,* Edition of 2001, became effective internationally on January 1, 2002, except as provided in the references in Article 59.

3. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. The Table proceeding the international footnotes is revised and shall begin on the left-hand page.

b. The international footnote section is amended by revising the note immediately following the heading and by revising the list of international footnotes under heading I.

c. In the list of international footnotes under heading II, remove footnote 909.

d. In the list of United States footnotes, revise footnotes US342 and US356; and add footnotes US369, US370, US371, US372, US373, US374, US375, US376, and US377.

e. In the list of non-Federal Government footnotes, revise footnote NG143.

§ 2.106 Table of Frequency Allocations.

The revisions and additions read as follows:

* * * * *

BILLING CODE 6712–01–P

0-130 kHz (VLF/LF) Page 1

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
Below 9 (Not allocated) 5.53 5.54			Below 9 (Not allocated) 5.53 5.54		
9-14 RADIONAVIGATION			9-14 RADIONAVIGATION US18 US294		
14-19.95 FIXED MARITIME MOBILE 5.57 5.55 5.56			14-19.95 FIXED MARITIME MOBILE 5.57 US294	14-19.95 Fixed US294	International Fixed (23)
19.95-20.05 STANDARD FREQUENCY AND TIME SIGNAL (20 kHz)			19.95-20.05 STANDARD FREQUENCY AND TIME SIGNAL (20 kHz) US294		
20.05-70 FIXED MARITIME MOBILE 5.57			20.05-59 FIXED MARITIME MOBILE 5.57 US294	20.05-59 FIXED US294	International Fixed (23)
			59-61 STANDARD FREQUENCY AND TIME SIGNAL (60 kHz) US294		
			61-70 FIXED MARITIME MOBILE 5.57 US294	61-70 FIXED US294	International Fixed (23)
5.56 5.58					
70-72 RADIONAVIGATION 5.60	70-90 FIXED MARITIME MOBILE 5.57 MARITIME RADIO-NAVIGATION 5.60 Radiolocation	70-72 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.57 5.59	70-90 FIXED MARITIME MOBILE 5.57 Radiolocation	70-90 FIXED Radiolocation	International Fixed (23) Private Land Mobile (90)
72-84 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.60 5.56		72-84 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.60			

84-86 RADIONAVIGATION 5.60		84-86 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.57 5.59			
86-90 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.56	5.61	86-90 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.60	5.60 US294	5.60 US294	
90-110 RADIONAVIGATION 5.62 Fixed 5.64			90-110 RADIONAVIGATION 5.62 US18 US104 US294		Private Land Mobile (90)
110-112 FIXED MARITIME MOBILE RADIONAVIGATION 5.64	110-130 FIXED MARITIME MOBILE MARITIME RADIONAVIGATION 5.60 Radiolocation	110-112 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64	110-130 FIXED MARITIME MOBILE Radiolocation		International Fixed (23) Maritime (80) Private Land Mobile (90)
112-115 RADIONAVIGATION 5.60		112-117.6 RADIONAVIGATION 5.60 Fixed Maritime mobile			
115-117.6 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.64 5.66		 5.64 5.65			
117.6-126 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64		117.6-126 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64			
126-129 RADIONAVIGATION 5.60		126-129 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.64 5.65			
See next page for 129-130	5.61 5.64	See next page for 129-130	5.60 5.64 US294		

<table>
<tr><th colspan="3">International Table</th><th colspan="2">United States Table</th><th>FCC Rule Part(s)</th></tr>
<tr><th>Region 1</th><th>Region 2</th><th>Region 3</th><th>Federal Government</th><th>Non-Federal Government</th><th></th></tr>
<tr><td>129-130
FIXED
MARITIME MOBILE
RADIONAVIGATION 5.60

5.64</td><td>See previous page for 110-130 kHz</td><td>129-130
FIXED
MARITIME MOBILE
RADIONAVIGATION 5.60

5.64</td><td colspan="2">See previous page for 110-130 kHz</td><td>See previous page for 110-130 kHz</td></tr>
<tr><td>130-148.5
FIXED
MARITIME MOBILE

5.64 5.67</td><td>130-160
FIXED
MARITIME MOBILE

5.64</td><td>130-160
FIXED
MARITIME MOBILE
RADIONAVIGATION

5.64</td><td colspan="2">130-160
FIXED
MARITIME MOBILE

5.64 US294</td><td>International Fixed (23)
Maritime (80)</td></tr>
<tr><td rowspan="5">148.5-255
BROADCASTING</td><td>160-190
FIXED</td><td>160-190
FIXED
Aeronautical radionavigation</td><td>160-190
FIXED
MARITIME MOBILE

459 US294</td><td>160-190
FIXED

459 US294</td><td>International Fixed (23)</td></tr>
<tr><td colspan="2">190-200
AERONAUTICAL RADIONAVIGATION</td><td colspan="2">190-200
AERONAUTICAL RADIONAVIGATION

US18 US226 US294</td><td rowspan="5">Aviation (87)</td></tr>
<tr><td>200-275
AERONAUTICAL RADIONAVIGATION
Aeronautical mobile</td><td rowspan="2">200-285
AERONAUTICAL RADIONAVIGATION
Aeronautical mobile</td><td colspan="2">200-275
AERONAUTICAL RADIONAVIGATION
Aeronautical mobile

US18 US294</td></tr>
<tr><td>275-285
AERONAUTICAL RADIONAVIGATION
Aeronautical mobile
Maritime radionavigation (radiobeacons)</td><td colspan="2">275-285
AERONAUTICAL RADIONAVIGATION
Aeronautical mobile
Maritime radionavigation (radiobeacons)

US18 US294</td></tr>
<tr><td colspan="2">285-315
AERONAUTICAL RADIONAVIGATION
MARITIME RADIONAVIGATION (radiobeacons) 5.73</td><td colspan="2">285-325
MARITIME RADIONAVIGATION (radiobeacons) 5.73
Aeronautical radionavigation (radiobeacons)</td></tr>
<tr><td>5.68 5.69 5.70
255-283.5
BROADCASTING
AERONAUTICAL RADIONAVIGATION

5.70 5.71
283.5-315
AERONAUTICAL RADIONAVIGATION
MARITIME RADIONAVIGATION (radiobeacons) 5.73

5.72 5.74</td><td colspan="5"></td></tr>
</table>

315-325 AERONAUTICAL RADIONAVIGATION Maritime radionavigation (radiobeacons) 5.73 5.72 5.75	315-325 MARITIME RADIONAVIGATION (radiobeacons) 5.73 Aeronautical radionavigation	315-325 AERONAUTICAL RADIONAVIGATION MARITIME RADIONAVIGATION (radiobeacons) 5.73	US18 US294		
325-405 AERONAUTICAL RADIONAVIGATION	325-335 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Maritime radionavigation (radiobeacons)	325-405 AERONAUTICAL RADIONAVIGATION Aeronautical mobile	325-335 AERONAUTICAL RADIONAVIGATION (radiobeacons) Aeronautical mobile Maritime radionavigation (radiobeacons) US18 US294		
	335-405 AERONAUTICAL RADIONAVIGATION Aeronautical mobile		335-405 AERONAUTICAL RADIONAVIGATION (radiobeacons) Aeronautical mobile US18 US294		
5.72					
405-415 RADIONAVIGATION 5.76 5.72	405-415 RADIONAVIGATION 5.76 Aeronautical mobile		405-415 RADIONAVIGATION 5.76 Aeronautical mobile US18 US294		Maritime (80) Aviation (87)
415-435 MARITIME MOBILE 5.79 AERONAUTICAL RADIONAVIGATION 5.72	415-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.80		415-435 MARITIME MOBILE 5.79 AERONAUTICAL RADIONAVIGATION 5.80 US294		
435-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.72 5.82	5.77 5.78 5.82		435-495 MARITIME MOBILE 5.79 Aeronautical radionavigation 471 472A US231 US294	435-495 MARITIME MOBILE 5.79 471 472A US231 US294	Maritime (80)
495-505 MOBILE (distress and calling) 5.83			495-505 MOBILE (distress and calling) 472		

505-2107 kHz (MF) Page 5

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
505-526.5 MARITIME MOBILE 5.79 5.79A 5.84 AERONAUTICAL RADIONAVIGATION	505-510 MARITIME MOBILE 5.79	505-526.5 MARITIME MOBILE 5.79 5.79A 5.84 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Land mobile	505-510 MARITIME MOBILE 5.79 471		Maritime (80)
	510-525 MOBILE 5.79A 5.84 AERONAUTICAL RADIONAVIGATION		510-525 MARITIME MOBILE (ships only) 474 AERONAUTICAL RADIONAVIGATION (radiobeacons) US14 US18 US225		Maritime (80) Aviation (87)
5.72 526.5-1606.5 BROADCASTING	525-535 BROADCASTING 5.86 AERONAUTICAL RADIONAVIGATION	526.5-535 BROADCASTING Mobile 5.88	525-535 AERONAUTICAL RADIONAVIGATION (radiobeacons) MOBILE US221 US18 US239		Aviation (87) Private Land Mobile (90)
	535-1605 BROADCASTING	535-1606.5 BROADCASTING	535-1605	535-1605 BROADCASTING US321	Radio Broadcasting (AM) (73) Auxiliary Broadcasting (74) Alaska Fixed (80) Private Land Mobile (90)
5.87 5.87A 1606.5-1625 FIXED MARITIME MOBILE 5.90 LAND MOBILE 5.92	1605-1625 BROADCASTING 5.89 5.90	1606.5-1800 FIXED MOBILE RADIOLOCATION RADIONAVIGATION	1605-1615 MOBILE US221 US238 1615-1625 US238 US299	1605-1705 BROADCASTING 480	
1625-1635 RADIOLOCATION 5.93	1625-1705 FIXED MOBILE BROADCASTING 5.89 Radiolocation		1625-1705 Radiolocation		
1635-1800 FIXED MARITIME MOBILE 5.90 LAND MOBILE	5.90		US238 US299	US238 US299 US321 NG128	

5.92 5.96	1705-1800 FIXED MOBILE RADIOLOCATION AERONAUTICAL RADIONAVIGATION	5.91	1705-1800 FIXED MOBILE RADIOLOCATION US240		International Fixed (23) Maritime (80) Private Land Mobile (90)
1800-1810 RADIOLOCATION 5.93	1800-1850 AMATEUR	1800-2000 AMATEUR FIXED MOBILE except aeronautical mobile RADIONAVIGATION Radiolocation	1800-1900	1800-1900 AMATEUR	Amateur (97)
1810-1850 AMATEUR 5.98 5.99 5.100 5.101					
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2000-2025 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103	2000-2065 FIXED MOBILE		2000-2065 FIXED MOBILE	2000-2065 MARITIME MOBILE NG19	Maritime (80)
2025-2045 FIXED MOBILE except aeronautical mobile (R) Meteorological aids 5.104 5.92 5.103					
2045-2160 FIXED MARITIME MOBILE LAND MOBILE 5.92	2065-2107 MARITIME MOBILE 5.105 5.106		US340 2065-2107 MARITIME MOBILE 5.105 US296 US340	US340	
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See previous page for 2045-2160 kHz	2107-2170 FIXED MOBILE		2107-2170 FIXED MOBILE	2107-2170 FIXED LAND MOBILE MARITIME MOBILE NG19	International Fixed (23) Maritime (80) Aviation (87) Private Land Mobile (90)
2160-2170 RADIOLOCATION 5.93 5.107			US340	US340	
2170-2173.5 MARITIME MOBILE			2170-2173.5 MARITIME MOBILE (telephony) US340	2170-2173.5 MARITIME MOBILE US340	Maritime (80)
2173.5-2190.5 MOBILE (distress and calling) 5.108 5.109 5.110 5.111			2173.5-2190.5 MOBILE (distress and calling) 5.108 5.109 5.110 5.111 US279 US340		Maritime (80) Aviation (87)
2190.5-2194 MARITIME MOBILE			2190.5-2194 MARITIME MOBILE (telephony) US340	2190.5-2194 MARITIME MOBILE US340	Maritime (80)
2194-2300 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103 5.112	2194-2300 FIXED MOBILE 5.112		2194-2495 FIXED MOBILE US340	2194-2495 FIXED LAND MOBILE MARITIME MOBILE NG19 US340	International Fixed (23) Maritime (80) Aviation (87) Private Land Mobile (90)
2300-2498 FIXED MOBILE except aeronautical mobile (R) BROADCASTING 5.113 5.103	2300-2495 FIXED MOBILE BROADCASTING 5.113				
2498-2501 STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz)	2495-2501 STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz)		2495-2501 STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz) US340		

2501-2502 STANDARD FREQUENCY AND TIME SIGNAL Space research		2501-2502 STANDARD FREQUENCY AND TIME SIGNAL US340 G106	2501-2502 STANDARD FREQUENCY AND TIME SIGNAL US340	
2502-2625 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103 5.114	2502-2505 STANDARD FREQUENCY AND TIME SIGNAL	2502-2505 STANDARD FREQUENCY AND TIME SIGNAL US340		
2625-2650 MARITIME MOBILE MARITIME RADIONAVIGATION 5.92	2505-2850 FIXED MOBILE	2505-2850 FIXED MOBILE	2505-2850 FIXED LAND MOBILE MARITIME MOBILE	International Fixed (23) Maritime (80) Aviation (87) Private Land Mobile (90)
2650-2850 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103		US285 US340	US285 US340	
2850-3025 AERONAUTICAL MOBILE (R) 5.111 5.115		2850-3025 AERONAUTICAL MOBILE (R) 5.111 5.115 US283 US340		Aviation (87)
3025-3155 AERONAUTICAL MOBILE (OR)		3025-3155 AERONAUTICAL MOBILE (OR) US340		
3155-3200 FIXED MOBILE except aeronautical mobile (R) 5.116 5.117		3155-3230 FIXED MOBILE except aeronautical mobile (R)		International Fixed (23) Maritime (80) Aviation (87) Private Land Mobile (90)
3200-3230 FIXED MOBILE except aeronautical mobile (R) BROADCASTING 5.113 5.116		US340		

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MOBILE except aeronautical mobile
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MARITIME MOBILE 5.127

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4438-4650 FIXED MOBILE except aeronautical mobile (R)		4438-4650 FIXED MOBILE except aeronautical mobile	4438-4650 FIXED MOBILE except aeronautical mobile (R) US340		International Fixed (23) Maritime (80) Aviation (87) Private Land Mobile (90)
4650-4700 AERONAUTICAL MOBILE (R)			4650-4700 AERONAUTICAL MOBILE (R) US282 US283 US340		Aviation (87)
4700-4750 AERONAUTICAL MOBILE (OR)			4700-4750 AERONAUTICAL MOBILE (OR) US340		
4750-4850 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE BROADCASTING 5.113	4750-4850 FIXED MOBILE except aeronautical mobile (R) BROADCASTING 5.113	4750-4850 FIXED BROADCASTING 5.113 Land mobile	4750-4850 FIXED MOBILE except aeronautical mobile (R) US340		International Fixed (23) Maritime (80) Aviation (87)
4850-4995 FIXED LAND MOBILE BROADCASTING 5.113			4850-4995 FIXED MOBILE US340	4850-4995 FIXED US340	
4995-5003 STANDARD FREQUENCY AND TIME SIGNAL (5000 kHz)			4995-5003 STANDARD FREQUENCY AND TIME SIGNAL (5000 kHz) US340		
5003-5005 STANDARD FREQUENCY AND TIME SIGNAL Space research			5003-5005 STANDARD FREQUENCY AND TIME SIGNAL US340 G106	5003-5005 STANDARD FREQUENCY AND TIME SIGNAL US340	
5005-5060 FIXED BROADCASTING 5.113			5005-5060 FIXED US340		International Fixed (23) Maritime (80) Aviation (87) Private Land Mobile (90)

International Table			United States Table		FCC Rule Part(s)
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5060-5250 FIXED Mobile except aeronautical mobile 5.133			5060-5450 FIXED Mobile except aeronautical mobile		International Fixed (23) Maritime (80) Aviation (87) Private Land Mobile (90)
5250-5450 FIXED MOBILE except aeronautical mobile			US212 US340		
5450-5480 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE	5450-5480 AERONAUTICAL MOBILE (R)	5450-5480 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE	5450-5480 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
5480-5680 AERONAUTICAL MOBILE (R) 5.111 5.115			5480-5680 AERONAUTICAL MOBILE (R) 5.111 5.115 US283 US340		
5680-5730 AERONAUTICAL MOBILE (OR) 5.111 5.115			5680-5730 AERONAUTICAL MOBILE (OR) 5.111 5.115 US340		
5730-5900 FIXED LAND MOBILE	5730-5900 FIXED MOBILE except aeronautical mobile (R)		5730-5950 FIXED MOBILE except aeronautical mobile (R)		International Fixed (23) Maritime (80) Aviation (87)
5900-5950 BROADCASTING 5.134 5.136			US340		
5950-6200 BROADCASTING			5950-6200 BROADCASTING US340		Radio Broadcast (HF) (73)
6200-6525 MARITIME MOBILE 5.109 5.110 5.130 5.132 5.137			6200-6525 MARITIME MOBILE 5.109 5.110 5.130 5.132 US82 US296 US340		Maritime (80)
6525-6685 AERONAUTICAL MOBILE (R)			6525-6685 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)

6685-6765 AERONAUTICAL MOBILE (OR) 5.138			6685-6765 AERONAUTICAL MOBILE (OR) US340		
6765-7000 FIXED Land mobile 5.139 5.138			6765-7000 FIXED Mobile 5.138 US340		ISM Equipment (18) International Fixed (23) Aviation (87)
7000-7100 AMATEUR AMATEUR-SATELLITE 5.140 5.141			7000-7100 US340	7000-7100 AMATEUR 5.120 AMATEUR-SATELLITE US340	Amateur (97)
7100-7300 BROADCASTING	7100-7300 AMATEUR 5.142	7100-7300 BROADCASTING	7100-7300 US340	7100-7300 AMATEUR 5.120 5.142 US340	
7300-7350 BROADCASTING 5.134 5.143			7300-8100 FIXED Mobile US340		International Fixed (23) Maritime (80) Aviation (87) Private Land Mobile (90)
7350-8100 FIXED Land mobile 5.144					
8100-8195 FIXED MARITIME MOBILE			8100-8195 MARITIME MOBILE US236 US340		Maritime (80)
8195-8815 MARITIME MOBILE 5.109 5.110 5.132 5.145 5.111			8195-8815 MARITIME MOBILE 5.109 5.110 5.132 5.145 5.111 US82 US296 US340		
8815-8965 AERONAUTICAL MOBILE (R)			8815-8965 AERONAUTICAL MOBILE (R) US340		Aviation (87)
8965-9040 AERONAUTICAL MOBILE (OR)			8965-9040 AERONAUTICAL MOBILE (OR) US340		

International Table			United States Table		FCC Rule Part(s)
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9040-9400 FIXED			9040-9500 FIXED		International Fixed (23) Maritime (80) Aviation (87)
9400-9500 BROADCASTING 5.134 5.146			US340		
9500-9900 BROADCASTING 5.147			9500-9900 BROADCASTING 5.147 5.148 US235 US340		International Fixed (23) Radio Broadcast (HF) (73)
9900-9995 FIXED			9900-9995 FIXED US340		International Fixed (23) Aviation (87)
9995-10003 STANDARD FREQUENCY AND TIME SIGNAL (10000 kHz) 5.111			9995-10003 STANDARD FREQUENCY AND TIME SIGNAL (10000 kHz) 5.111 US340		
10003-10005 STANDARD FREQUENCY AND TIME SIGNAL Space research 5.111			10003-10005 STANDARD FREQUENCY AND TIME SIGNAL 5.111 US340 G106	10003-10005 STANDARD FREQUENCY AND TIME SIGNAL 5.111 US340	
10005-10100 AERONAUTICAL MOBILE (R) 5.111			10005-10100 AERONAUTICAL MOBILE (R) 5.111 US283 US340		Aviation (87)
10100-10150 FIXED Amateur			10100-10150 US247 US340	10100-10150 AMATEUR 5.120 US247 US340	Amateur (97)
10150-11175 FIXED Mobile except aeronautical mobile (R)			10150-11175 FIXED Mobile except aeronautical mobile (R) US340		International Fixed (23) Aviation (87)
11175-11275 AERONAUTICAL MOBILE (OR)			11175-11275 AERONAUTICAL MOBILE (OR) US340		

11275-11400 AERONAUTICAL MOBILE (R)	11275-11400 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
11400-11600 FIXED	11400-11650 FIXED		International Fixed (23) Aviation (87)
11600-11650 BROADCASTING 5.134 5.146	US340		
11650-12050 BROADCASTING 5.147	11650-12050 BROADCASTING US235 US340		International Fixed (23) Radio Broadcast (HF) (73)
12050-12100 BROADCASTING 5.134 5.146	12050-12230 FIXED		International Fixed (23) Aviation (87)
12100-12230 FIXED	US340		
12230-13200 MARITIME MOBILE 5.109 5.110 5.132 5.145	12230-13200 MARITIME MOBILE 5.109 5.110 5.132 5.145 US82 US296 US340		International Fixed (23) Maritime (80)
13200-13260 AERONAUTICAL MOBILE (OR)	13200-13260 AERONAUTICAL MOBILE (OR) US340		
13260-13360 AERONAUTICAL MOBILE (R)	13260-13360 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
13360-13410 FIXED RADIO ASTRONOMY 5.149	13360-13410 RADIO ASTRONOMY 5.149 G115	13360-13410 RADIO ASTRONOMY 5.149	

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
13410-13570 FIXED Mobile except aeronautical mobile (R) 5.150			13410-13570 FIXED Mobile except aeronautical mobile (R) 5.150 US340	13410-13570 FIXED 5.150 US340	ISM Equipment (18) International Fixed (23) Aviation (87)
13570-13600 BROADCASTING 5.134 5.151			13570-13600 FIXED Mobile except aeronautical mobile (R) US340	13570-13600 FIXED US340	International Fixed (23) Aviation (87)
13600-13800 BROADCASTING			13600-13800 BROADCASTING 5.148 US340		International Fixed (23) Radio Broad. (HF) (73)
13800-13870 BROADCASTING 5.134 5.151			13800-14000 FIXED Mobile except aeronautical mobile (R) US340	13800-14000 FIXED US340	International Fixed (23) Aviation (87)
13870-14000 FIXED Mobile except aeronautical mobile (R)					
14000-14250 AMATEUR AMATEUR-SATELLITE			14000-14350	14000-14250 AMATEUR 5.120 AMATEUR-SATELLITE US340	Amateur (97)
14250-14350 AMATEUR 5.152				14250-14350 AMATEUR 5.120 US340	
14350-14990 FIXED Mobile except aeronautical mobile (R)			14350-14990 FIXED Mobile except aeronautical mobile (R) US340	14350-14990 FIXED US340	International Fixed (23) Aviation (87)
14990-15005 STANDARD FREQUENCY AND TIME SIGNAL (15000 kHz) 5.111			14990-15005 STANDARD FREQUENCY AND TIME SIGNAL (15000 kHz) 5.111 US340		

15005-15010 STANDARD FREQUENCY AND TIME SIGNAL Space research	15005-15010 STANDARD FREQUENCY AND TIME SIGNAL US340 G106	15005-15010 STANDARD FREQUENCY AND TIME SIGNAL US340	
15010-15100 AERONAUTICAL MOBILE (OR)	15010-15100 AERONAUTICAL MOBILE (OR) US340		
15100-15600 BROADCASTING	15100-15600 BROADCASTING 5.148 US340		International Fixed (23) Radio Broadcast (HF) (73)
15600-15800 BROADCASTING 5.134 5.146	15600-16360 FIXED		International Fixed (23) Aviation (87)
15800-16360 FIXED 5.153	US340		
16360-17410 MARITIME MOBILE 5.109 5.110 5.132 5.145	16360-17410 MARITIME MOBILE 5.109 5.110 5.132 5.145 US82 US296 US340		Maritime (80)
17410-17480 FIXED	17410-17550 FIXED		International Fixed (23) Aviation (87)
17480-17550 BROADCASTING 5.134 5.146	US340		
17550-17900 BROADCASTING	17550-17900 BROADCASTING 5.148 US340		International Fixed (23) Radio Broadcast (HF) (73)

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17900-17970 AERONAUTICAL MOBILE (R)			17900-17970 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
17970-18030 AERONAUTICAL MOBILE (OR)			17970-18030 AERONAUTICAL MOBILE (OR) US340		
18030-18052 FIXED			18030-18068 FIXED		International Fixed (23) Maritime (80)
18052-18068 FIXED Space research			US340		
18068-18168 AMATEUR AMATEUR-SATELLITE 5.154			18068-18168 US340	18068-18168 AMATEUR 5.120 AMATEUR-SATELLITE US340	International Fixed (23) Amateur (97)
18168-18780 FIXED Mobile except aeronautical mobile			18168-18780 FIXED Mobile US340		International Fixed (23) Maritime (80) Aviation (87)
18780-18900 MARITIME MOBILE			18780-18900 MARITIME MOBILE US82 US296 US340		International Fixed (23) Maritime (80)
18900-19020 BROADCASTING 5.134 5.146			18900-19680 FIXED		International Fixed (23) Aviation (87)
19020-19680 FIXED			US340		
19680-19800 MARITIME MOBILE 5.132			19680-19800 MARITIME MOBILE 5.132 US340		Maritime (80)
19800-19990 FIXED			19800-19990 FIXED US340		International Fixed (23) Aviation (87)

19990-19995 STANDARD FREQUENCY AND TIME SIGNAL Space research 5.111	19990-19995 STANDARD FREQUENCY AND TIME SIGNAL Space research G106 5.111 US340	19990-19995 STANDARD FREQUENCY AND TIME SIGNAL Space research 5.111 US340	
19995-20010 STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz) 5.111	19995-20010 STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz) 5.111 US340 G106	19995-20010 STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz) 5.111 US340	
20010-21000 FIXED Mobile	20010-21000 FIXED Mobile US340	20010-21000 FIXED US340	
21000-21450 AMATEUR AMATEUR-SATELLITE	21000-21450 US340	21000-21450 AMATEUR 5.120 AMATEUR-SATELLITE US340	Amateur (97)
21450-21850 BROADCASTING	21450-21850 BROADCASTING 5.148 US340		International Fixed (23) Radio Broadcast (HF) (73)
21850-21870 FIXED 5.155A 5.155	21850-21924 FIXED		International Fixed (23) Aviation (87)
21870-21924 FIXED 5.155B	US340		
21924-22000 AERONAUTICAL MOBILE (R)	21924-22000 AERONAUTICAL MOBILE (R) US340		Aviation (87)
22000-22855 MARITIME MOBILE 5.132 5.156	22000-22855 MARITIME MOBILE 5.132 US82 US296 US340		International Fixed (23) Maritime (80)

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22855-23000 FIXED 5.156			22855-23000 FIXED US340		International Fixed (23) Aviation (87)
23000-23200 FIXED Mobile except aeronautical mobile (R) 5.156			23000-23200 FIXED Mobile except aeronautical mobile (R) US340	23000-23200 FIXED US340	
23200-23350 FIXED 5.156A AERONAUTICAL MOBILE (OR)			23200-23350 AERONAUTICAL MOBILE (OR) US340		
23350-24000 FIXED MOBILE except aeronautical mobile 5.157			23350-24890 FIXED MOBILE except aeronautical mobile US340	23350-24890 FIXED US340	International Fixed (23) Aviation (87)
24000-24890 FIXED LAND MOBILE					
24890-24990 AMATEUR AMATEUR-SATELLITE			24890-24990 US340	24890-24990 AMATEUR 5.120 AMATEUR-SATELLITE US340	Amateur (97)
24990-25005 STANDARD FREQUENCY AND TIME SIGNAL (25000 kHz)			24990-25005 STANDARD FREQUENCY AND TIME SIGNAL (25000 kHz) US340		
25005-25010 STANDARD FREQUENCY AND TIME SIGNAL Space research			25005-25010 STANDARD FREQUENCY AND TIME SIGNAL US340 G106	25005-25010 STANDARD FREQUENCY AND TIME SIGNAL US340	
25010-25070 FIXED MOBILE except aeronautical mobile			25010-25070 US340	25010-25070 LAND MOBILE US340 NG112	Private Land Mobile (90)

25070-25210 MARITIME MOBILE	25070-25210 MARITIME MOBILE US82 US281 US296 US340	25070-25210 MARITIME MOBILE US82 US281 US296 US340 NG112	Maritime (80) Private Land Mobile (90)
25210-25550 FIXED MOBILE except aeronautical mobile	25210-25330 US340	25210-25330 LAND MOBILE US340	Private Land Mobile (90)
	25330-25550 FIXED MOBILE except aeronautical mobile US340	25330-25550 US340	
25550-25670 RADIO ASTRONOMY 5.149	25550-25670 RADIO ASTRONOMY US74 5.149		
25670-26100 BROADCASTING	25670-26100 BROADCASTING US25 US340		Radio Broadcast (HF) (73) Remote Pickup (74D)
26100-26175 MARITIME MOBILE 5.132	26100-26175 MARITIME MOBILE 5.132 US340		Auxiliary Broadcasting (74) Maritime (80)

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International Table			United States Table		FCC Rule Part(s)
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26175-27500 FIXED MOBILE except aeronautical mobile			26175-26480 US340	26175-26480 LAND MOBILE US340	Auxiliary Broadcasting (74)
			26480-26950 FIXED MOBILE except aeronautical mobile US10 US340	26480-26950 US10 US340	
			26950-27410 5.150 US340	26950-26960 FIXED 5.150 US340	ISM Equipment (18) International Fixed (23)
				26960-27230 MOBILE except aeronautical mobile 5.150 US340	ISM Equipment (18) Personal Radio (95)
				27230-27410 FIXED MOBILE except aeronautical mobile 5.150 US340	ISM Equipment (18) Private Land Mobile (90) Personal Radio (95)
5.150			27410-27540 US340	27410-27540 FIXED LAND MOBILE US340	Private Land Mobile (90)
27500-28000 METEOROLOGICAL AIDS FIXED MOBILE			27540-28000 FIXED MOBILE US298 US340	27540-28000 US298 US340	

28-33 MHz (HF/VHF)

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
28-29.7 AMATEUR AMATEUR-SATELLITE			28-29.89	28-29.7 AMATEUR AMATEUR-SATELLITE US340	Amateur (97)
29.7-30.005 FIXED MOBILE				29.7-29.8 LAND MOBILE US340	Private Land Mobile (90)
			US340	29.8-29.89 FIXED US340	International Fixed (23) Aviation (87)
			29.89-29.91 FIXED MOBILE US340	29.89-29.91 US340	
			29.91-30 US340	29.91-30 FIXED US340	International Fixed (23) Aviation (87)
30.005-30.01 SPACE OPERATION (satellite identification) FIXED MOBILE SPACE RESEARCH			30-30.56 FIXED MOBILE	30-30.56	
30.01-37.5 FIXED MOBILE			30.56-32	30.56-32 FIXED LAND MOBILE NG124	Private Land Mobile (90)
			32-33 FIXED MOBILE	32-33	
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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
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			34-35 FIXED MOBILE	34-35	
			35-36	35-36 FIXED LAND MOBILE	Public Mobile (22) Private Land Mobile (90)
			36-37 FIXED MOBILE US220	36-37 US220	
			37-37.5	37-37.5 LAND MOBILE NG124	Private Land Mobile (90)
37.5-38.25 FIXED MOBILE Radio astronomy 5.149			37.5-38 Radio astronomy 5.149	37.5-38 LAND MOBILE Radio astronomy 5.149 NG59 NG124	
			38-38.25 FIXED MOBILE RADIO ASTRONOMY 5.149 US81	38-38.25 RADIO ASTRONOMY 5.149 US81	
38.25-39.986 FIXED MOBILE			38.25-39 FIXED MOBILE	38.25-39	
			39-40	39-40 LAND MOBILE NG124	Private Land Mobile (90)
39.986-40.02 FIXED MOBILE Space research			40-42 FIXED MOBILE	40-40.98	ISM Equipment (18) Private Land Mobile (90)

40.02-40.98 FIXED MOBILE 5.150				5.150 US210	
40.98-41.015 FIXED MOBILE Space research 5.160 5.161			5.150 US210 US220	40.98-42 US220	
41.015-44 FIXED MOBILE 5.160 5.161			42-46.6	42-43.69 FIXED LAND MOBILE NG124 NG141	Public Mobile (22) Private Land Mobile (90)
				43.69-46.6 LAND MOBILE NG124 NG141	Private Land Mobile (90)
44-47 FIXED MOBILE 5.162 5.162A			46.6-47 FIXED MOBILE	46.6-47	
47-68 BROADCASTING	47-50 FIXED MOBILE	47-50 FIXED MOBILE BROADCASTING 5.162A	47-49.6	47-49.6 LAND MOBILE NG124	Private Land Mobile (90)
			49.6-50 FIXED MOBILE	49.6-50	
5.162A 5.163 5.164 5.165 5.169 5.171	See next page for 50-68 MHz		See next page for 50-73 MHz	See next page for 50-72 MHz	See next page for 50-72 MHz

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 47-68 MHz	50-54 AMATEUR 5.162A 5.166 5.167 5.168 5.170		50-73	50-54 AMATEUR	Amateur (97)
	54-68 BROADCASTING Fixed Mobile 5.172	54-68 FIXED MOBILE BROADCASTING 5.162A		54-72 BROADCASTING NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
68-74.8 FIXED MOBILE except aeronautical Mobile	68-72 BROADCASTING Fixed Mobile 5.173	68-74.8 FIXED MOBILE			
	72-73 FIXED MOBILE			72-73 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Private Land Mobile (90) Personal Radio (95)
	73-74.6 RADIO ASTRONOMY 5.178		73-74.6 RADIO ASTRONOMY US74		
5.149 5.174 5.175 5.177 5.179	74.6-74.8 FIXED MOBILE	5.149 5.176 5.179	74.6-74.8 FIXED MOBILE US273		Private Land Mobile (90)
74.8-75.2 AERONAUTICAL RADIONAVIGATION 5.180 5.181			74.8-75.2 AERONAUTICAL RADIONAVIGATION 5.180		Aviation (87)
75.2-87.5 FIXED MOBILE except aeronautical Mobile	75.2-75.4 FIXED MOBILE 5.179		75.2-75.4 FIXED MOBILE US273		Private Land Mobile (90)

	75.4-76 FIXED MOBILE	75.4-87 FIXED MOBILE	75.4-88	75.4-76 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Private Land Mobile (90) Personal Radio (95)
	76-88 BROADCASTING Fixed Mobile	5.182 5.183 5.188 87-100 FIXED MOBILE BROADCASTING		76-88 BROADCASTING	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
5.175 5.179 5.184 5.187 87.5-100 BROADCASTING	5.185			NG128 NG129 NG149	
5.190	88-100 BROADCASTING		88-108	88-108 BROADCASTING	Broadcast Radio (FM) (73) Auxiliary Broadcasting (74)
100-108 BROADCASTING 5.192 5.194			US93	US93 NG2 NG128 NG129	
108-117.975 AERONAUTICAL RADIONAVIGATION 5.197			108-117.975 AERONAUTICAL RADIONAVIGATION US93		Note: The NTIA Manual (footnote G126) states that differential GPS stations may be authorized in the 108-117.975 MHz band, but the FCC has not yet addressed this footnote.
117.975-137 AERONAUTICAL MOBILE (R)			117.975-121.9375 AERONAUTICAL MOBILE (R) 5.111 5.199 5.200 591 US26 US28		Aviation (87)
			121.9375-123.0875 591 US30 US31 US33 US80 US102 US213	121.9375-123.0875 AERONAUTICAL MOBILE 591 US30 US31 US33 US80 US102 US213	
			123.0875-123.5875 AERONAUTICAL MOBILE 5.200 591 US32 US33 US112		
5.111 5.198 5.199 5.200 5.201 5.202 5.203 5.203A 5.203B			See next page for 123.5875-137 MHz		See next page for 123.5875-137 MHz

123.5875-148 MHz (VHF)					Page 27
International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 117.975-137 MHz			123.5875-128.8125 AERONAUTICAL MOBILE (R) 591 US26		Aviation (87)
			128.8125-132.0125 591	128.8125-132.0125 AERONAUTICAL MOBILE (R) 591	
			132.0125-136.00 AERONAUTICAL MOBILE (R) 591 US26		
			136-137 591 US244	136-137 AERONAUTICAL MOBILE (R) 591 US244	Satellite Communications (25) Aviation (87)
137-137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.209 SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137-137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320 SPACE RESEARCH (space-to-Earth) 599A		Satellite Communications (25)
137.025-137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Fixed Mobile-satellite (space-to-Earth) 5.208A 5.209 Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137.025-137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-earth) Mobile-satellite (space-to-Earth) 599B US318 US319 US320 599A		
137.175-137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.209 SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137.175-137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320 SPACE RESEARCH (space-to-Earth) 599A		

137.825-138 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Fixed Mobile-satellite (space-to-Earth) 5.208A 5.209 Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137.825-138 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Mobile-satellite (space-to-Earth) 599B US318 US319 US320 599A		
138-143.6 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	138-143.6 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	138-143.6 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	138-144 FIXED MOBILE	138-144	
143.6-143.65 AERONAUTICAL MOBILE (OR) SPACE RESEARCH (space-to-Earth) 5.211 5.212 5.214	143.6-143.65 FIXED MOBILE RADIOLOCATION SPACE RESEARCH (space-to-Earth)	143.6-143.65 FIXED MOBILE SPACE RESEARCH (space-to-Earth) 5.207 5.213			
143.65-144 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	143.65-144 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	143.65-144 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	US10 G30	US10	
144-146 AMATEUR AMATEUR-SATELLITE 5.216			144-148	144-146 AMATEUR 510 AMATEUR-SATELLITE	Amateur (97)
146-148 FIXED MOBILE except aeronautical mobile (R)	146-148 AMATEUR 5.217	146-148 AMATEUR FIXED MOBILE 5.217		146-148 AMATEUR	

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
148-149.9 FIXED MOBILE except aeronautical mobile (R) MOBILE-SATELLITE (Earth-to-space) 5.209 5.218 5.219 5.221	148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.209 5.218 5.219 5.221		148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 599B US319 US320 US323 US325 5.218 608A US10 G30	148-149.9 MOBILE-SATELLITE (Earth-to-space) 599B US319 US320 US323 US325 5.218 608A US10	Satellite Communications (25)
149.9-150.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.224A RADIONAVIGATION-SATELLITE 5.224B 5.220 5.222 5.223			149.9-150.05 MOBILE-SATELLITE (Earth-to-space) 599B US319 US322 RADIONAVIGATION-SATELLITE 5.223 608B		
150.05-153 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149	150.05-156.7625 FIXED MOBILE		150.05-150.8 FIXED MOBILE US216 G30	150.05-150.8 US216	
			150.8-152.855 US216	150.8-152.855 FIXED LAND MOBILE US216 NG4 NG51 NG112 NG124	Public Mobile (22) Private Land Mobile (90) Personal Radio (95)
153-154 FIXED MOBILE except aeronautical mobile (R) Meteorological aids			152.855-154	152.855-154 LAND MOBILE NG4 NG124	Auxiliary Broadcasting (74) Private Land Mobile (90)
154-156.7625 FIXED MOBILE except aeronautical Mobile (R) 5.226 5.227			154-156.2475 5.226	154-156.2475 FIXED LAND MOBILE 5.226 NG112 NG117 NG124 NG148	Maritime (80) Private Land Mobile (90) Personal Radio (95)
	5.225 5.226 5.227		156.2475-157.0375	156.2475-157.0375 MARITIME MOBILE	

156.7625-156.8375 MARITIME MOBILE (distress and calling) 5.111 5.226		5.226 5.227 US77 US106 US107 US266	5.226 5.227 US77 US106 US107 US266 NG117	
156.8375-174 FIXED MOBILE except aeronautical Mobile	156.8375-174 FIXED MOBILE	157.0375-157.1875 MARITIME MOBILE 5.226 US214 US266 G109	157.0375-157.1875 5.226 US214 US266	Private Land Mobile (90)
		157.1875-157.45 5.226 US223 US266	157.1875-157.45 LAND MOBILE MARITIME MOBILE 5.226 US223 US266 NG111	Maritime (80) Private Land Mobile (90)
		157.45-161.575 5.226 US266	157.45-161.575 FIXED LAND MOBILE 5.226 US266 NG6 NG28 NG70 NG111 NG112 NG124 NG148 NG155	Public Mobile (22) Maritime (80) Private Land Mobile (90)
		161.575-161.625 5.226 US77	161.575-161.625 MARITIME MOBILE 5.226 US77 NG6 NG17	Public Mobile (22) Maritime (80)
		161.625-161.775 5.226	161.625-161.775 LAND MOBILE 5.226 NG6	Public Mobile (22) Auxiliary Broadcasting (74)
		161.775-162.0125 5.226 US266	161.775-162.0125 LAND MOBILE MARITIME MOBILE 5.226 US266 NG6	Public Mobile (22) Maritime (80) Private Land Mobile (90)
5.226 5.229	5.226 5.230 5.231 5.232	See next page for 162.0125-174 MHz		See next page for 162.0125-174 MHz

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 156.8375-174 MHz			162.0125-173.2 FIXED MOBILE 5.226 US8 US11 US13 US216 US223 US300 US312 G5	162.0125-173.2 5.226 US8 US11 US13 US216 US223 US300 US312	Auxiliary Broadcasting (74) Private Land Mobile (90)
			173.2-173.4	173.2-173.4 FIXED Land mobile	Private Land Mobile (90)
			173.4-174 FIXED MOBILE G5	173.4-174	
174-223 BROADCASTING	174-216 BROADCASTING Fixed Mobile 5.234	174-223 FIXED MOBILE BROADCASTING	174-216	174-216 BROADCASTING NG115 NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
	216-220 FIXED MARITIME MOBILE Radiolocation 5.241 5.242		216-220 Fixed Mobile Radiolocation 5.241 G2 US210 US229	216-220 FIXED MOBILE except aeronautical mobile US210 US229 NG152 NG173	Maritime (80) Private Land Mobile (90) Personal Radio (95) Amateur (97)
	220-225 AMATEUR FIXED MOBILE Radiolocation 5.241		220-222 FIXED LAND MOBILE Radiolocation 5.241 G2 US335	220-222 FIXED LAND MOBILE US335	Private Land Mobile (90)
5.235 5.237 5.243		5.233 5.238 5.240 5.245	222-225 Radiolocation 5.241 G2	222-225 AMATEUR	Amateur (97)

223-230 BROADCASTING Fixed Mobile 5.243 5.246 5.247	225-235 FIXED MOBILE	223-230 FIXED MOBILE BROADCASTING AERONAUTICAL RADIONAVIGATION Radiolocation 5.250	225-235 FIXED MOBILE	225-235	
230-235 FIXED MOBILE 5.247 5.251 5.252		230-235 FIXED MOBILE AERONAUTICAL RADIONAVIGATION 5.250	G27		
235-267 FIXED MOBILE 5.111 5.199 5.252 5.254 5.256			235-267 FIXED MOBILE 5.111 5.199 5.256 G27 G100	235-267 5.111 5.199 5.256	
267-272 FIXED MOBILE Space operation (space-to-Earth) 5.254 5.257			267-322 FIXED MOBILE	267-322	
272-273 SPACE OPERATION (space-to-Earth) FIXED MOBILE 5.254					
273-312 FIXED MOBILE 5.254					
312-315 FIXED MOBILE Mobile-satellite (Earth-to-space) 5.254 5.255					
See next page for 315-322 MHz			G27 G100		

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
315-322 FIXED MOBILE 5.254			See previous page for 267-322 MHz		See previous page for 267-322 MHz
322-328.6 FIXED MOBILE RADIO ASTRONOMY 5.149			322-328.6 FIXED MOBILE 5.149 G27	322-328.6 5.149	
328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258 5.259			328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258		
335.4-387 FIXED MOBILE 5.254			335.4-399.9 FIXED MOBILE	335.4-399.9	
387-390 FIXED MOBILE Mobile-satellite (space-to-Earth) 5.208A 5.254 5.255					
390-399.9 FIXED MOBILE 5.254			G27 G100		
399.9-400.05 MOBILE-SATELLITE (Earth-to-space) 5.209 A5.224A RADIONAVIGATION-SATELLITE 5.222 5.224B 5.260 5.220			399.9-400.05 MOBILE-SATELLITE (Earth-to-space) US319 US322 RADIONAVIGATION-SATELLITE 5.260		
400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261 5.262			400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261		

400.15-401 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.209 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.262 5.264	400.15-401 METEOROLOGICAL AIDS (radiosonde) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US319 US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 647B US70	400.15-401 METEOROLOGICAL AIDS (radiosonde) MOBILE-SATELLITE (space-to-Earth) 599B US319 US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 647B US70	Satellite Communications (25)
401-402 METEOROLOGICAL AIDS SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	401-402 METEOROLOGICAL AIDS (radiosonde) SPACE OPERATION (space-to-Earth) Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US70		
402-403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	402-403 METEOROLOGICAL AIDS (radiosonde) US70 Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US345		Personal Radio (95)
403-406 METEOROLOGICAL AIDS Fixed Mobile except aeronautical mobile	403-406 METEOROLOGICAL AIDS (radiosonde) US70 US345 G6	403-406 METEOROLOGICAL AIDS (radiosonde) US70 US345	
406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267	406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267		
406.1-410 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149	406.1-410 FIXED MOBILE RADIO ASTRONOMY US74 US13 US117 G5 G6	406.1-410 RADIO ASTRONOMY US74 US13 US117	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
410-420 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-space) 5.268			410-420 FIXED MOBILE US13 G5	410-420 US13	
420-430 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271			420-450 RADIOLOCATION G2	420-450 Amateur 5.282 5.286 US7 US87 US217 US228 US230 NG135	Private Land Mobile (90) Amateur (97)
430-440 AMATEUR RADIOLOCATION 5.138 5.271 5.272 5.273 5.274 5.275 5.276 5.277 5.280 5.281 5.282 5.283	430-440 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279 5.281 5.282				
440-450 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271 5.284 5.285 5.286			5.286 US7 US87 US217 US228 US230 G8		
450-455 FIXED MOBILE 5.209 5.271 5.286 5.286A 5.286B 5.286C 5.286D 5.286E			450-454 5.286 US87	450-454 LAND MOBILE 5.286 US87 NG112 NG124	Auxiliary Broadcasting (74) Private Land Mobile (90)
			454-456	454-455 FIXED LAND MOBILE NG12 NG112 NG148	Public Mobile (22) Maritime (80)
455-456 FIXED MOBILE 5.209 5.271 5.286A 5.286B 5.286C 5.286E	455-456 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	455-456 FIXED MOBILE 5.209 5.271 5.286A 5.286B 5.286C 5.286E		455-456 LAND MOBILE	Auxiliary Broadcasting (74)

456-459 FIXED MOBILE 5.271 5.287 5.288			456-460	456-460 FIXED LAND MOBILE	Public Mobile (22) Maritime (80) Private Land Mobile (90)
459-460 FIXED MOBILE 5.209 5.271 5.286A 5.286B 5.286C 5.286E	459-460 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	459-460 FIXED MOBILE 5.209 5.271 5.286A 5.286B 5.286C 5.286E	5.288 669	5.288 669 NG112 NG124 NG148	
460-470 FIXED MOBILE Meteorological-satellite (space-to-Earth)			460-470 Meteorological-satellite (space-to-Earth)	460-462.5375 FIXED LAND MOBILE 5.289 US201 US209 NG124	Private Land Mobile (90)
				462.5375-462.7375 LAND MOBILE 5.289 US201	Personal Radio (95)
				462.7375-467.5375 FIXED LAND MOBILE 5.289 669 US201 US209 US216 NG124	Private Land Mobile (90)
				467.5375-467.7375 LAND MOBILE 5.289 669 US201	Personal Radio (95)
				467.7375-470 FIXED LAND MOBILE	Private Land Mobile (90)
5.287 5.288 5.289 5.290			5.288 5.289 669 US201 US209 US216	5.288 5.289 US201 US216 NG124	

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
470-790 BROADCASTING	470-512 BROADCASTING Fixed Mobile 5.292 5.293	470-585 FIXED MOBILE BROADCASTING 5.291 5.298	470-608	470-512 BROADCASTING NG128 NG149 FIXED NG127 LAND MOBILE NG66 NG114	Public Mobile (22) Broadcast Radio (TV) (73) Auxiliary Broadcasting (74) Private Land Mobile (90)
	512-608 BROADCASTING 5.297	585-610 FIXED MOBILE BROADCASTING RADIONAVIGATION 5.149 5.305 5.306 5.307		512-608 BROADCASTING NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
	608-614 RADIO ASTRONOMY Mobile-satellite except aeronautical mobile-satellite (Earth-to-space)		608-614 RADIO ASTRONOMY US74 LAND MOBILE US350 US246		Personal (95)
	614-806 BROADCASTING Fixed Mobile	610-890 FIXED MOBILE 5.317A BROADCASTING	614-890	614-698 BROADCASTING NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
				698-746 BROADCASTING NG128 FIXED MOBILE NG159	Wireless Communications (27) Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
				746-764 BROADCASTING NG128 FIXED MOBILE NG159	Wireless Communications (27) Broadcast Radio (TV) (73) Auxiliary Broadcasting (74) Private Land Mobile (90)

5.149 5.291A 5.294 5.296 5.300 5.302 5.304 5.306 5.311 5.312				764-776 FIXED MOBILE NG128 NG158 NG159	Auxiliary Broadcasting (74) Private Land Mobile (90)
790-862 FIXED BROADCASTING				776-794 BROADCASTING NG128 FIXED MOBILE NG159	Wireless Communications (27) Broadcast Radio (TV) (73) Auxiliary Broadcast. (74) Private Land Mobile (90)
	5.293 5.309 5.311			794-806 FIXED MOBILE NG128 NG158 NG159	Auxiliary Broadcasting (74) Private Land Mobile (90)
	806-890 FIXED MOBILE 5.317A BROADCASTING			806-821 FIXED LAND MOBILE NG30 NG31 NG43 NG63	Public Mobile (22) Private Land Mobile (90)
				821-824 LAND MOBILE NG30 NG43 NG63	Private Land Mobile (90)
				824-849 FIXED LAND MOBILE NG30 NG43 NG63 NG151	Public Mobile (22)
5.312 5.314 5.315 5.316 5.319 5.321					
See next page for 862-890 MHz	5.317 5.318	5.149 5.305 5.306 5.307 5.311 5.320		See next page for 849-894 MHz	See next page for 866-896 MHz

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous pages for 470-862 MHz	See previous pages for 614-890 MHz	See previous pages for 585-890 MHz	See previous pages for 614-890 MHz	See previous pages for 614-849 MHz	See previous pages for 614-849 MHz
				849-851 AERONAUTICAL MOBILE NG30 NG63	Public Mobile (22)
				851-866 FIXED LAND MOBILE NG30 NG31 NG63	Public Mobile (22) Private Land Mobile (90)
862-890 FIXED MOBILE except aeronautical Mobile 5.317A BROADCASTING 5.322 5.319 5.323				866-869 LAND MOBILE NG30 NG63	Private Land Mobile (90)
				869-894 FIXED LAND MOBILE US116 US268 NG30 NG63 NG151	Public Mobile (22)
890-942 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322 Radiolocation	890-902 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation	890-942 FIXED MOBILE 5.317A BROADCASTING Radiolocation	890-902	894-896 AERONAUTICAL MOBILE US116 US268	
				896-901 FIXED LAND MOBILE US116 US268	Private Land Mobile (90)
	5.318 5.325		US116 US268 G2	901-902 FIXED MOBILE US116 US268	Personal Communications (24)

	902-928 FIXED Amateur Mobile except aeronautical mobile 5.325A Radiolocation 5.150 5.325 5.326		902-928 RADIOLOCATION G59 5.150 US215 US218 US267 US275 G11	902-928 5.150 US215 US218 US267 US275	ISM Equipment (18) Private Land Mobile (90) Amateur (97)
	928-942 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation		928-932	928-929 FIXED US116 US215 US268 NG120	Public Mobile (22) Private Land Mobile (90) Fixed Microwave (101)
				929-930 FIXED LAND MOBILE US116 US215 US268	Private Land Mobile (90)
				930-931 FIXED MOBILE US116 US215 US268	Personal Communications (24)
				931-932 FIXED LAND MOBILE US116 US215 US268	Public Mobile (22)
			932-935 FIXED US215 US268 G2	932-935 FIXED US215 US268 NG120	Public Mobile (22) Fixed Microwave (101)
			935-940 US116 US215 US268 G2	935-940 FIXED LAND MOBILE US116 US215 US268	Private Land Mobile (90)
			940-941 US116 US268 G2	940-941 FIXED MOBILE US116 US268	Personal Communications (24)
5.323	5.325	5.327	See next page for 941-944 MHz		See next page for 941-944 MHz

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 890-942 MHz			941-944 FIXED US268 US301 US302 G2	941-944 FIXED US268 US301 US302 NG120	Public Mobile (22) Fixed Microwave (101)
942-960 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322 5.323	942-960 FIXED MOBILE 5.317A	942-960 FIXED MOBILE 5.317A BROADCASTING 5.320	944-960	944-960 FIXED NG120	Public Mobile (22) Auxiliary Broadcast (74) Fixed Microwave (101)
960-1215 AERONAUTICAL RADIONAVIGATION 5.328 5.328A			960-1215 AERONAUTICAL RADIONAVIGATION 5.328 US224		Aviation (87)
1215-1240 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.329 5.329A SPACE RESEARCH (active) 5.330 5.331 5.332			1215-1240 RADIOLOCATION 5.333 G56 RADIONAVIGATION-SATELLITE (space-to-Earth)	1215-1240 5.333	
1240-1260 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.329 5.329A SPACE RESEARCH (active) Amateur 5.330 5.331 5.332 5.334 5.335			1240-1300 RADIOLOCATION 5.333 G56	1240-1300 Amateur	Amateur (97)
1260-1300 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.329 5.329A SPACE RESEARCH (active) Amateur 5.282 5.330 5.331 5.334 5.335 5.335A			5.334	5.282 5.333 5.334	
1300-1350 AERONAUTICAL RADIONAVIGATION 5.337 RADIOLOCATION RADIONAVIGATION-SATELLITE (Earth-to-space) 5.149 5.337A			1300-1350 AERONAUTICAL RADIO-NAVIGATION 5.337 Radiolocation G2 5.149	1300-1350 AERONAUTICAL RADIO-NAVIGATION 5.337 5.149	Aviation (87)

1350-1400 FIXED MOBILE RADIOLOCATION	1350-1400 RADIOLOCATION	1350-1390 FIXED MOBILE RADIOLOCATION G2 5.149 5.334 5.339 US311 G27 G114	1350-1390 5.149 5.334 5.339 US311	
		1390-1395	1390-1392 FIXED MOBILE except aeronautical mobile FIXED-SATELLITE (Earth-to-space) US368 5.149 5.339 US311 US351	Wireless Communications (27)
			1392-1395 FIXED MOBILE except aeronautical mobile	
		5.149 5.339 US311 US351	5.149 5.339 US311 US351	
		1395-1400 LAND MOBILE US350 5.149 U5.339 US311 US351		Personal (95)
5.149 5.338 5.339	5.149 5.334 5.339			
1400-1427 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341		1400-1427 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246		
1427-1429 SPACE OPERATION (Earth-to-space) FIXED MOBILE except aeronautical mobile 5.341		1427-1429.5 LAND MOBILE US350	1427-1429.5 LAND MOBILE Fixed (telemetry)	Private Land Mobile (90) Personal (95)
See next page for 1429-1452 MHz		5.341 US352	5.341 US350 US352	
		See next page for 1429.5-1432 MHz	1429.5-1430 FIXED (telemetry) LAND MOBILE (telemetry) 5.341 US350 US352	

1430-1610 MHz (UHF) Page 43

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
1429-1452 FIXED MOBILE except aeronautical Mobile 5.341 5.342	1429-1452 FIXED MOBILE 5.343 5.341		1429.5-1432 5.341 US352	See previous page 1430-1432 FIXED (telemetry) LAND MOBILE (telemetry) FIXED-SATELLITE (space-to-Earth) US368 5.341 US350 US352	See previous page Private Land Mobile (90) Personal (95)
			1432-1435 5.341 US361	1432-1435 FIXED MOBILE except aeronautical mobile 5.341 US361	Wireless Communications (27)
1452-1492 FIXED MOBILE except aeronautical mobile BROADCASTING 5.345 5.347 BROADCASTING-SATELLITE 5.345 5.347 5.341 5.342	1452-1492 FIXED MOBILE 5.343 BROADCASTING 5.345 5.347 BROADCASTING-SATELLITE 5.345 5.347 5.341 5.344		1435-1525 MOBILE (aeronautical telemetry) 5.341 US78		Aviation (87)
1492-1525 FIXED MOBILE except aeronautical mobile 5.341 5.342	1492-1525 FIXED MOBILE 5.343 MOBILE-SATELLITE (space-to-Earth) 5.348A 5.341 5.344 5.348	1492-1525 FIXED MOBILE 5.341 5.348A			
1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) 5.351A Earth exploration-satellite Mobile except aeronautical mobile 5.349 5.341 5.342 5.350 5.351 5.352A 5.354	1525-1530 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.351A Earth exploration-satellite Fixed Mobile 5.343 5.341 5.351 5.354	1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) 5.351A Earth exploration-satellite Mobile 5.349 5.341 5.351 5.352A 5.354	1525-1530 MOBILE-SATELLITE (space-to-Earth) Mobile (aeronautical telemetry) 5.341 5.351 US78		Satellite Communications (25) Aviation (87)

1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.351A 5.353A Earth exploration-satellite Fixed Mobile except aeronautical mobile 5.341 5.342 5.351 5.354	1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.351A 5.353A Earth exploration-satellite Fixed Mobile 5.343 5.341 5.351 5.354	1530-1535 MOBILE-SATELLITE (space-to-Earth) MARITIME MOBILE-SATELLITE (space-to-Earth) Mobile (aeronautical telemetry) 5.341 5.351 US78 US315	
1535-1559 MOBILE-SATELLITE (space-to-Earth) 5.351A 5.341 5.351 5.353A 5.354 5.355 5.356 5.357 5.357A 5.359 5.362A		1535-1544 MOBILE-SATELLITE (space-to-Earth) MARITIME MOBILE-SATELLITE (space-to-Earth) 5.341 5.351 US315	Satellite Communications (25) Maritime (80)
		1544-1545 MOBILE-SATELLITE (space-to-Earth) 5.341 5.356	
		1545-1549.5 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) Mobile-satellite (space-to-Earth) 5.341 5.351 US308 US309	Aviation (87)
		1549.5-1558.5 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.341 5.351 US308 US309	
		1558.5-1559 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) 5.341 5.351 US308 US309	
1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.329A 5.341 5.362B 5.362C 5.363		1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) 5.341 US208 US260	Note: The NTIA Manual (footnote G126) states that differential GPS stations may be authorized in the 1559-1610 MHz band, but the FCC has not yet addressed this footnote.

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION 5.341 5.355 5.359 5.363 5.364 5.366 5.367 5.368 5.369 5.371 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.370 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Radiodetermination-satellite (Earth-to-space) 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) US319 AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE(Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.372 US208		Satellite Communications (25) Aviation (87)
1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION 5.149 5.341 5.355 5.359 5.363 5.364 5.366 5.367 5.368 5.369 5.371 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) 5.149 5.341 5.364 5.366 5.367 5.368 5.370 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION Radiodetermination-satellite (Earth-to-space) 5.149 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) US319 RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) 5.149 5.341 5.364 5.366 5.367 5.368 5.372 US208		
1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to-Earth) 5.341 5.355 5.359 5.363 5.364 5.365 5.366 5.367 5.368 5.369 5.371 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) Mobile-satellite (space-to-Earth) 5.341 5.364 5.365 5.366 5.367 5.368 5.370 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to-Earth) Radiodetermination-satellite (Earth-to-space) 5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) US319 AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) Mobile-satellite (space-to-Earth) 5.341 5.364 5.365 5.366 5.367 5.368 5.372 US208		

1626.5-1660 MOBILE-SATELLITE (Earth-to-space) 5.351A	1626.5-1645.5 MOBILE-SATELLITE (Earth-to-space) MARITIME MOBILE-SATELLITE (Earth-to-space) 5.341 5.351 US315	Satellite Communications (25) Maritime (80)
	1645.5-1646.5 MOBILE-SATELLITE (Earth-to-space) 5.341 5.375	
	1646.5-1651 AERONAUTICAL MOBILE-SATELLITE (R) (Earth-to-space) Mobile-satellite (Earth-to-space) 5.341 5.351 US308 US309	Aviation (87)
5.341 5.351 5.353A 5.354 5.355 5.357A 5.359 5.362A 5.374 5.375 5.376	1651-1660 MOBILE-SATELLITE (Earth-to-space) AERONAUTICAL MOBILE-SATELLITE (R) (Earth-to-space) 5.341 5.351 US308 US309	
1660-1660.5 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY 5.149 5.341 5.351 5.354 5.362A 5.376A	1660-1660.5 AERONAUTICAL MOBILE-SATELLITE (R) (Earth-to-space) RADIO ASTRONOMY 5.149 5.341 5.351 US308 US309	
1660.5-1668.4 RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149 5.341 5.379 5.379A	1660.5-1668.4 RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246	
1668.4-1670 METEOROLOGICAL AIDS FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149 5.341	1668.4-1670 METEOROLOGICAL AIDS (radiosonde) RADIO ASTRONOMY US74 5.149 5.341 US99	

1670-2110 MHz (UHF) — Page 47

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
1670-1675 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE 5.380 5.341			1670-1675 5.341 US211 US362	1670-1675 FIXED MOBILE except aeronautical mobile 5.341 US211 US362	Wireless Communications (27)
1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SAT-ELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.341	1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SAT-ELLITE (space-to-Earth) MOBILE except aeronautical mobile MOBILE-SATELLITE (Earth-to-space) 5.341 5.377	1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SAT-ELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.341	1675-1700 METEOROLOGICAL AIDS (radiosonde) METEOROLOGICAL-SATELLITE (space-to-Earth)		
1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SAT-ELLITE (space-to-Earth) Fixed Mobile except aeronautical mobile 5.289 5.341 5.382	1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SAT-ELLITE (space-to-Earth) MOBILE-SATELLITE (Earth-to-space) 5.289 5.341 5.377 5.381	1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SAT-ELLITE (space-to-Earth) 5.289 5.341 5.381	5.289 5.341 US211		
1700-1710 FIXED METEOROLOGICAL-SAT-ELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341	1700-1710 FIXED METEOROLOGICAL-SAT-ELLITE (space-to-Earth) MOBILE except aeronautical mobile MOBILE-SATELLITE (Earth-to-space) 5.289 5.341 5.377	1700-1710 FIXED METEOROLOGICAL-SAT-ELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341 5.384	1700-1710 FIXED G118 METEOROLOGICAL-SAT-ELLITE (space-to-Earth) 5.289 5.341	1700-1710 METEOROLOGICAL-SAT-ELLITE (space-to-Earth) Fixed 5.289 5.341	
1710-1930 FIXED MOBILE 5.380 5.384A 5.388A			1710-1755 FIXED MOBILE 5.341 US256	1710-1755 5.341 US256	

5.149 5.341 5.385 5.386 5.387 5.388			1755-1850 FIXED MOBILE G42	1755-1850	
1930-1970 FIXED MOBILE 5.388A 5.388	1930-1970 FIXED MOBILE 5.388A Mobile-satellite (Earth-to-space) 5.388	1930-1970 FIXED MOBILE 5.388A 5.388	1850-2025	1850-1990 FIXED MOBILE	RF Devices (15) Personal Communications (24) Fixed Microwave (101)
1970-1980 FIXED MOBILE 5.388A 5.388					
1980-2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.351A 5.388 5.389A 5.389B 5.389F				1990-2025 MOBILE-SATELLITE (Earth-to-space)	Satellite Communications (25)
2010-2025 FIXED MOBILE 5.388A 5.388	2010-2025 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.388 5.389C 5.389D 5.389E 5.390	2010-2025 FIXED MOBILE 5.388A 5.388		NG156	
2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (Earth-to-space) (space-to-space) 5.392			2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) SPACE RESEARCH (Earth-to-space) (space-to-space) 5.391 5.392 US90 US222 US346 US347	2025-2110 FIXED NG23 NG118 MOBILE 5.391 5.392 US90 US222 US346 US347	TV Auxiliary Broadcasting (74F) Cable TV Relay (78) Local TV Transmission (101J)

2110-2345 MHz (UHF) — Page 49

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
2110-2120 FIXED MOBILE 5.388A SPACE RESEARCH (deep space) (Earth-to-space) 5.388			2110-2120 US252	2110-2150 FIXED NG23 MOBILE US252 NG153	Public Mobile (22) Fixed Microwave (101)
2120-2160 FIXED MOBILE 5.388A 5.388	2120-2160 FIXED MOBILE 5.388A Mobile-satellite (space-to-Earth) 5.388	2120-2160 FIXED MOBILE 5.388A 5.388	2120-2200	2150-2160 FIXED NG23	Domestic Public Fixed (21) Fixed Microwave (101)
2160-2170 FIXED MOBILE 5.388A 5.388 5.392A	2160-2170 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.388 5.389C 5.389D 5.389E 5.390	2160-2170 FIXED MOBILE 5.388A 5.388		2160-2165 FIXED NG23 MOBILE NG153	Domestic Public Fixed (21) Public Mobile (22) Fixed Microwave (101)
2170-2200 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A 5.388 5.389A 5.389F 5.392A				2165-2200 MOBILE-SATELLITE (space-to-Earth) NG23 NG168	Satellite Communications (25)
2200-2290 SPACE OPERATION (space-to-Earth) (space-to-space) EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (space-to-Earth) (space-to-space)			2200-2290 SPACE OPERATION (space-to-Earth) (space-to-space) EARTH EXPLORATION- SATELLITE (space-to- Earth) (space-to-space) FIXED (line-of-sight only)	2200-2290	

5.392		MOBILE (line-of-sight only including aeronautical telemetry, but excluding flight testing of manned aircraft) SPACE RESEARCH (space-to-Earth) (space-to-space) 5.392 US303	US303	
2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)		2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)	2290-2300 SPACE RESEARCH (deep space) (space-to-Earth)	
2300-2450 FIXED MOBILE Amateur Radiolocation	2300-2450 FIXED MOBILE RADIOLOCATION Amateur	2300-2305 G123	2300-2305 Amateur	Amateur (97) Note: 2300-2305 MHz became non-Federal Government exclusive spectrum in August 1995
		2305-2310 US338 G123	2305-2310 FIXED MOBILE except aeronautical mobile RADIOLOCATION Amateur US338	Wireless Communications (27) Amateur (97)
		2310-2360 Fixed Mobile US339 Radiolocation G2 G120	2310-2320 FIXED MOBILE US339 RADIOLOCATION BROADCASTING-SATELLITE US327 5.396 US338	Wireless Communications (27)
			2320-2345 BROADCASTING-SATELLITE US327 Mobile US276 US328 5.396	Satellite Communications (25)
5.150 5.282 5.395	5.150 5.282 5.393 5.394 5.396	5.396 US327 US328 See next page	See next page for 2345-2450 MHz	See next page for 2345-2450 MHz

2345-2655 MHz (UHF)					Page 51
International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 2300-2450 MHz			See previous page for 2310-2360 MHz	2345-2360 FIXED MOBILE US339 RADIOLOCATION BROADCASTING-SATELLITE US327 5.396	Wireless Communications (27)
			2360-2385 MOBILE US276 RADIOLOCATION G2 Fixed G120	2360-2385 MOBILE US276	
			2385-2390 US363	2385-2390 FIXED MOBILE NG174 US363	Wireless Communications (27)
			2390-2400 G122	2390-2400 AMATEUR	RF Devices (15) Amateur (97)
			2400-2402 5.150 G123	2400-2402 Amateur 5.150 5.282	ISM Equipment (18) Amateur (97)
			2402-2417 5.150 G122	2402-2417 AMATEUR 5.150 5.282	RF Devices (15) ISM Equipment (18) Amateur (97)
			2417-2450 Radiolocation G2 5.150 G124	2417-2450 Amateur 5.150 5.282	ISM Equipment (18) Amateur (97)
2450-2483.5 FIXED MOBILE Radiolocation 5.150 5.397	2450-2483.5 FIXED MOBILE RADIOLOCATION 5.150 5.394		2450-2483.5 5.150 US41	2450-2483.5 FIXED MOBILE Radiolocation 5.150 US41	ISM Equipment (18) Private Land Mobile (90) Fixed Microwave (101)

2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A Radiolocation 5.150 5.371 5.397 5.398 5.399 5.400 5.402	2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIOLOCATION RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402	2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIOLOCATION Radiodetermination-satellite (space-to-Earth) 5.398 5.150 5.400 5.402	2483.5-2500 MOBILE-SATELLITE (space-to-Earth) US319 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402 US41	2483.5-2500 MOBILE-SATELLITE (space-to-Earth) US319 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402 US41 NG147	ISM Equipment (18) Satellite Communications (25) Private Land Mobile (90) Fixed Microwave (101)
2500-2520 FIXED 5.409 5.410 5.411 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (space-to-Earth) 5.351A 5.403 5.405 5.407 5.412 5.414	2500-2520 FIXED 5.409 5.411 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (space-to-Earth) 5.351A 5.403 5.404 5.407 5.414 5.415A		2500-2655	2500-2655 FIXED 5.409 5.411 US205 FIXED-SATELLITE (space-to-Earth) NG102 MOBILE except aeronautical mobile BROADCASTING-SATELLITE NG101	Domestic Public Fixed (21) Auxiliary Broadcasting (74)
2520-2655 FIXED 5.409 5.410 5.411 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.339 5.403 5.405 5.412 5.418 5.418B 5.418C	2520-2655 FIXED 5.409 5.411 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.339 5.403 5.418B 5.418C	2520-2535 FIXED 5.409 5.411 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.403 5.415A 2535-2655 FIXED 5.409 5.411 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.339 5.418 5.418A 5.418B 5.418C	5.339 US205 US269	5.339 US269	

2655-3700 MHz (UHF/SHF) Page 53

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
2655-2670 FIXED 5.409 5.410 5.411 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.412 5.420	2655-2670 FIXED 5.409 5.411 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.420	2655-2670 FIXED 5.409 5.411 FIXED-SATELLITE (Earth-to-space) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.420	2655-2690 Earth exploration-satellite (passive) Radio astronomy Space research (passive)	2655-2690 FIXED US205 FIXED-SATELLITE (Earth-to-space) NG102 MOBILE except aeronautical mobile BROADCASTING-SATELLITE NG101 Earth exploration-satellite (passive) Radio astronomy Space research (passive)	Domestic Public Fixed (21) Auxiliary Broadcasting (74)
2670-2690 FIXED 5.409 5.410 5.411 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (Earth-to-space) 5.351A Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.412 5.419 5.420	2670-2690 FIXED 5.409 5.411 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (Earth-to-space) 5.351A Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.419 5.420	2670-2690 FIXED 5.409 5.411 FIXED-SATELLITE (Earth-to-space) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (Earth-to-space) 5.351A Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.419 5.420 5.420A	US205 US269	US269 NG47	
2690-2700 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.421 5.422			2690-2700 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
2700-2900 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation 5.423 5.424			2700-2900 AERONAUTICAL RADIO-NAVIGATION 5.337 METEOROLOGICAL AIDS Radiolocation G2 5.423 US18 G15	2700-2900 5.423 US18	

2900-3100 RADIONAVIGATION 5.426 Radiolocation 5.425 5.427			2900-3100 MARITIME RADIONAVIGATION Radiolocation G56 5.427 US44 US316	2900-3100 MARITIME RADIONAVIGATION Radiolocation US44 5.5427 US316	Maritime (80) Private Land Mobile (90)
3100-3300 RADIOLOCATION Earth exploration-satellite (active) Space research (active) 5.149 5.428			3100-3300 RADIOLOCATION 5.333 US110 G59 5.149	3100-3300 Radiolocation 5.333 US110 5.149	Private Land Mobile (90)
3300-3400 RADIOLOCATION 5.149 5.429 5.430	3300-3400 RADIOLOCATION Amateur Fixed Mobile 5.149 5.430	3300-3400 RADIOLOCATION Amateur 5.149 5.429	3300-3500 RADIOLOCATION US108 G31 5.149	3300-3500 Amateur Radiolocation US108 5.149 5.282	Private Land Mobile (90) Amateur (97)
3400-3600 FIXED FIXED-SATELLITE (space-to-Earth) Mobile Radiolocation 5.431	3400-3500 FIXED FIXED-SATELLITE (space-to-Earth) Amateur Mobile Radiolocation 5.433 5.282 5.432				
3600-4200 FIXED FIXED-SATELLITE (space-to-Earth) Mobile	3500-3700 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile Radiolocation 5.433 5.435		3500-3650 RADIOLOCATION US110 G59 AERONAUTICAL RADIONAVIGATION (ground-based) G110 US245	3500-3600 Radiolocation US110 3600-3650 FIXED-SATELLITE (space-to-Earth) US245 Radiolocation US110	Private Land Mobile (90)
			3650-3700 US245 US348 US349	3650-3700 FIXED FIXED-SATELLITE (space-to-Earth) NG169 MOBILE except aeronautical mobile NG170 US245 US348 US349	
	See next page for 3700-4200 MHz		See next page for 3700-4200 MHz		See next page for 3700-4200 MHz

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 3600-4200 MHz	3700-4200 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile		3700-4200	3700-4200 FIXED NG41 FIXED-SATELLITE (space-to-Earth)	International Fixed (23) Satellite Communications (25) Fixed Microwave (101)
4200-4400 AERONAUTICAL RADIONAVIGATION 5.438 5.439 5.440			4200-4400 AERONAUTICAL RADIONAVIGATION 5.440 US261		Aviation (87)
4400-4500 FIXED MOBILE			4400-4500 FIXED MOBILE	4400-4500	
4500-4800 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 MOBILE			4500-4800 FIXED MOBILE US245	4500-4800 FIXED-SATELLITE (space-to-Earth) 792A US245	
4800-4990 FIXED MOBILE 5.442 Radio astronomy			4800-4940 FIXED MOBILE 5.149 US203	4800-4940 5.149 US203	
5.149 5.339 5.443			4940-4990 5.149 5.339 US311 G122	4940-4990 FIXED MOBILE except aeronautical mobile 5.149 5.339 US311	Private Land Mobile (90) Fixed Microwave (101)
4990-5000 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY Space research (passive) 5.149			4990-5000 RADIO ASTRONOMY US74 Space research (passive) US246		
5000-5150 AERONAUTICAL RADIONAVIGATION 5.367 5.443A 5.443B 5.444 5.444A			5000-5250 AERONAUTICAL RADIO-NAVIGATION US260	5000-5150 AERONAUTICAL RADIO-NAVIGATION US260 5.367 5.444A US211 US344 US370	Satellite Communications (25) Aviation (87)

5150-5250 AERONAUTICAL RADIONAVIGATION FIXED-SATELLITE (Earth-to-space) 5.447A 5.446 5.447 5.447B 5.447C	5.367 US211 US307 US344 US370	5150-5250 AERONAUTICAL RADIO-NAVIGATION US260 FIXED-SATELLITE (Earth-to-space) 5.447A US344 5.447C US211 US307	
5250-5255 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.447D 5.448 5.448A	5250-5350 RADIOLOCATION 5.333 US110 G59	5250-5350 Radiolocation 5.333 US110	
5255-5350 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.448 5.448A			
5350-5460 EARTH EXPLORATION-SATELLITE (active) 5.448B AERONAUTICAL RADIONAVIGATION 5.449 Radiolocation	5350-5460 AERONAUTICAL RADIO-NAVIGATION 5.449 RADIOLOCATION G56 US48	5350-5460 AERONAUTICAL RADIO-NAVIGATION 5.449 Radiolocation US48	Aviation (87)
5460-5470 RADIONAVIGATION 5.449 Radiolocation	5460-5470 RADIONAVIGATION 5.449 Radiolocation G56 US49 US65	5460-5470 RADIONAVIGATION 5.449 Radiolocation US49 US65	
5470-5650 MARITIME RADIONAVIGATION Radiolocation	5470-5600 MARITIME RADIONAVIGATION Radiolocation G56 US50 US65	5470-5600 MARITIME RADIONAVIGATION Radiolocation US50 US65	Maritime (80)
	5600-5650 MARITIME RADIONAVIGATION METEOROLOGICAL AIDS Radiolocation US51 G56 5.452 US65	5600-5650 MARITIME RADIONAVIGATION METEOROLOGICAL AIDS Radiolocation US51 5.452 US65	
5.450 5.451 5.452			

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
5650-5725 RADIOLOCATION Amateur Space research (deep space) 5.282 5.451 5.453 5.454 5.455			5650-5925 RADIOLOCATION G2	5650-5830 Amateur	ISM Equipment (18) Amateur (97)
5725-5830 FIXED-SATELLITE (Earth-to-space) RADIOLOCATION Amateur 5.150 5.451 5.453 5.455 5.456	5725-5830 RADIOLOCATION Amateur 5.150 5.453 5.455			5.150 5.282	
5830-5850 FIXED-SATELLITE (Earth-to-space) RADIOLOCATION Amateur Amateur-satellite (space-to-Earth) 5.150 5.451 5.453 5.455 5.456	5830-5850 RADIOLOCATION Amateur Amateur-satellite (space-to-Earth) 5.150 5.453 5.455			5830-5850 Amateur Amateur-satellite (space-to-Earth) 5.150	
5850-5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.150	5850-5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Amateur Radiolocation 5.150	5850-5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Radiolocation 5.150	5.150 US245	5850-5925 FIXED-SATELLITE (Earth-to-space) US245 MOBILE NG160 Amateur 5.150	ISM Equipment (18) Private Land Mobile (90) Amateur (97)
5925-6700 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE			5925-6425	5925-6425 FIXED NG41 FIXED-SATELLITE (Earth-to-space)	Satellite Communications (25) Fixed Microwave (101)
			6425-6525 5.440 5.458	6425-6525 FIXED-SATELLITE (Earth-to-space) MOBILE 5.440 5.458	Auxiliary Broadcasting (74) Cable TV Relay (78) Fixed Microwave (101)

	6525-6700	6525-6700 FIXED FIXED-SATELLITE (Earth-to-space)	Satellite Communications (25) Fixed Microwave (101)
5.149 5.440 5.458	5.149 5.458	5.149 5.458	
6700-7075 FIXED FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441 MOBILE	6700-7125	6700-6875 FIXED FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441 5.458 5.458A 5.458B	
		6875-7025 FIXED NG118 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441 MOBILE NG171 5.458 5.458A 5.458B	Satellite Communications (25) Auxiliary Broadcasting (74) Cable TV Relay (78)
5.458 5.458A 5.458B 5.458C		7025-7075 FIXED NG118 FIXED-SATELLITE (Earth-to-space) NG172 MOBILE NG171 5.458 5.458A 5.458B	
7075-7250 FIXED MOBILE	5.458	7075-7125 FIXED NG118 MOBILE NG171 5.458	
	7125-7190 FIXED 5.458 US252 G116	7125-7190 5.458 US252	
	7190-7235 FIXED SPACE RESEARCH (Earth-to-space) 5.458	7190-7250	
	7235-7250 FIXED		
5.458 5.459 5.460	5.458	5.458	

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
7250-7300 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE 5.461			7250-7300 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Fixed G117	7250-8025	
7300-7450 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.461			7300-7450 FIXED FIXED-SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G117		
7450-7550 FIXED FIXED-SATELLITE (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.461A			7450-7550 FIXED FIXED-SATELLITE (space-to-Earth) METEOROLOGICAL-SAT- ELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G104 G117		
7550-7750 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile			7550-7750 FIXED FIXED-SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G117		
7750-7850 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) 5.461B MOBILE except aeronautical mobile			7750-7900 FIXED		
7850-7900 FIXED MOBILE except aeronautical mobile					

7900-8025 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE	7900-8025 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Fixed		
5.461	G117		
8025-8175 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.463	8025-8175 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) (no airborne transmissions)	8025-8175	
5.462A	US258 G117	US258	
8175-8215 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) MOBILE 5.463	8175-8215 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) (no airborne transmissions)	8175-8215	
5.462A	US258 G104 G117		

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
8215-8400 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.463 5.462A			8215-8400 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) (no airborne transmissions) US258 G117	8215-8400 US258	
8400-8500 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-Earth) 5.465 5.466 5.467			8400-8450 FIXED SPACE RESEARCH (space-to-Earth) (deep space only)	8400-88450	
			8450-8500 FIXED SPACE RESEARCH (space-to-Earth)	8450-8500 SPACE RESEARCH (space-to-Earth)	
8500-8550 RADIOLOCATION 5.468 5.469			8500-9000 RADIOLOCATION 5.333 US110 G59	8500-9000 Radiolocation 5.333 US110	
8550-8650 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.468 5.469 5.469A					
8650-8750 RADIOLOCATION 5.468 5.469					
8750-8850 RADIOLOCATION AERONAUTICAL RADIONAVIGATION 5.470 5.471					

8850-9000 RADIOLOCATION MARITIME RADIONAVIGATION 5.472 5.473	US53	US53	
9000-9200 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation 5.471	9000-9200 AERONAUTICAL RADIO-NAVIGATION 5.337 Radiolocation G2 US48 US54 G19	9000-9200 AERONAUTICAL RADIO-NAVIGATION 5.337 Radiolocation US48 US54	Aviation (87)
9200-9300 RADIOLOCATION MARITIME RADIONAVIGATION 5.472 5.473 5.474	9200-9300 MARITIME RADIO-NAVIGATION 5.472 Radiolocation US110 G59 5.474	9200-9300 MARITIME RADIO-NAVIGATION 5.472 Radiolocation US110 5.474	
9300-9500 RADIONAVIGATION 5.476 Radiolocation 5.427 5.474 5.475	9300-9500 RADIONAVIGATION 5.476 US66 Radiolocation US51 G56 Meteorological aids 5.427 5.474 US67 US71	9300-9500 RADIONAVIGATION 5.476 US66 Radiolocation US51 Meteorological aids 5.427 5.474 US67 US71	
9500-9800 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION SPACE RESEARCH (active) 5.476A	9500-10000 RADIOLOCATION 5.333 US110	9500-10000 Radiolocation 5.333 US110	
9800-10000 RADIOLOCATION Fixed 5.477 5.478 5.479	5.479	5.479	

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
10-10.45 FIXED MOBILE RADIOLOCATION Amateur 5.479	10-10.45 RADIOLOCATION Amateur 5.479 5.480	10-10.45 FIXED MOBILE RADIOLOCATION Amateur 5.479	10-10.45 RADIOLOCATION 5.479 US58 US108 G32	10-10.45 Radiolocation Amateur 5.479 US58 US108 NG42	Private Land Mobile (90) Amateur (97)
10.45-10.5 RADIOLOCATION Amateur Amateur-satellite 5.481			10.45-10.5 RADIOLOCATION US58 US108 G32	10.45-10.5 Radiolocation Amateur Amateur-satellite US58 US108 NG42 NG134	
10.5-10.55 FIXED MOBILE Radiolocation	10.5-10.55 FIXED MOBILE RADIOLOCATION		10.5-10.55 RADIOLOCATION US59		Private Land Mobile (90)
10.55-10.6 FIXED MOBILE except aeronautical mobile Radiolocation			10.55-10.6	10.55-10.6 FIXED	Fixed Microwave (101)
10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) Radiolocation 5.149 5.482			10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US265 US277	10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED SPACE RESEARCH (passive) US265 US277	
10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.483			10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246 US355		

10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 5.484A (Earth-to-space) 5.484 MOBILE except aeronautical mobile	10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 5.484A MOBILE except aeronautical mobile		10.7-11.7 US211	10.7-11.7 FIXED NG41 FIXED-SATELLITE (space-to-Earth) 5.441 US211 NG104 US355	International Fixed (23) Satellite Communications (25) Fixed Microwave (101)
11.7-12.5 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	11.7-12.1 FIXED 5.486 FIXED-SATELLITE (space-to-Earth) 5.484A Mobile except aeronautical mobile 5.485 5.488	11.7-12.2 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	11.7-12.1 5.486	11.7-12.2 FIXED-SATELLITE (space-to-Earth) NG143 NG145 Mobile except aeronautical mobile	Satellite Communications (25) Fixed Microwave (101)
	12.1-12.2 FIXED-SATELLITE (space-to-Earth) 5.484A 5.485 5.488 5.489	5.487 5.487A 5.492	12.1-12.2	5.486 5.488	
5.487 5.487A 5.492	12.2-12.7 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	12.2-12.5 FIXED MOBILE except aeronautical mobile BROADCASTING 5.484A 5.487 5.491	12.2-12.7	12.2-12.7 FIXED BROADCASTING-SATELLITE	International Fixed (23) Satellite Communications (25) Fixed Microwave (101)
12.5-12.75 FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space)	5.487A 5.488 5.490 5.492	12.5-12.75 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A	5.490	5.487A 5.488 5.490	
5.494 5.495 5.496	See next page for 12.7-12.75 GHz	MOBILE except aeronautical mobile BROADCASTING-SATELLITE 5.493	See next page for 12.7-12.75 GHz		See next page for 12.7-12.75 GHz

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 12.5-12.75 GHz	12.7-12.75 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile	See previous page for 12.5-12.75 GHz	12.7-12.75	12.7-12.75 FIXED NG118 FIXED-SATELLITE (Earth-to-space) MOBILE NG53	Satellite Communications (25) Auxiliary Broadcasting (74) Cable TV Relay (78) Fixed Microwave (101)
12.75-13.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.441 MOBILE Space research (deep space) (space-to-Earth) US251			12.75-13.25 US251	12.75-13.25 FIXED NG118 FIXED-SATELLITE (Earth-to-space) 5.441 NG104 MOBILE US251 NG53	
13.25-13.4 EARTH EXPLORATION-SATELLITE (active) AERONAUTICAL RADIONAVIGATION 5.497 SPACE RESEARCH (active) 5.498A 5.499			13.25-13.4 AERONAUTICAL RADIONAVIGATION 5.497 Space research (Earth-to-space)		Aviation (87)
13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.499 5.500 5.501 5.501B			13.4-13.75 RADIOLOCATION 5.333 US110 G59 Space research Standard frequency and time signal-satellite (Earth-to-space)	13.4-13.75 Radiolocation 5.333 US110 Space research Standard frequency and time signal-satellite (Earth-to-space)	Private Land Mobile (90)
13.75-14 FIXED-SATELLITE (Earth-to-space) 5.484A RADIOLOCATION Standard frequency and time signal-satellite (Earth-to-space) Space research 5.499 5.500 5.501 5.502 5.503 5.503A			13.75-14 RADIOLOCATION US110 G59 Standard frequency and time signal-satellite (Earth-to-space) Space research US337 5.503A US356 US357	13.75-14 FIXED-SATELLITE (Earth-to-space) US337 Radiolocation US110 Standard frequency and time signal-satellite (Earth-to-space) Space research 5.503A US356 US357	Satellite Communications (25) Private Land Mobile (90)

14-14.25 FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) except aeronautical mobile-satellite Space research 5.505			14-14.2 RADIONAVIGATION US292 Space research	14-14.2 FIXED-SATELLITE (Earth-to-space) RADIONAVIGATION US292 Land mobile-satellite (Earth-to-space) Space research	Satellite Communications (25) Maritime (80) Aviation (87)
14.25-14.3 FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) except aeronautical mobile-satellite Space research 5.505 5.508 5.509			14.2-14.4	14.2-14.4 FIXED-SATELLITE (Earth-to-space) Land mobile-satellite (Earth-to-space) Mobile except aeronautical mobile	Satellite Communications (25) Fixed Microwave (101)
14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) except aeronautical mobile-satellite Radionavigation-satellite	14.3-14.4 FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 Mobile-satellite (Earth-to-space) except aeronautical mobile-satellite Radionavigation-satellite	14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) except aeronautical mobile-satellite Radionavigation-satellite			
14.4-14.47 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) except aeronautical mobile-satellite Space research (space-to-Earth)			14.4-14.47 Fixed Mobile	14.4-14.47 FIXED-SATELLITE (Earth-to-space) Land mobile-satellite (Earth-to-space)	Satellite Communications (25)
14.47-14.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) except aeronautical mobile-satellite Radio astronomy 5.149			14.47-14.5 Fixed Mobile 5.149 US203	14.47-14.5 FIXED-SATELLITE (Earth-to-space) Land mobile-satellite (Earth-to-space) 5.149 US203	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
14.5-14.8 FIXED FIXED-SATELLITE (Earth-to-space) 5.510 MOBILE Space research			14.5-14.7145 FIXED Mobile Space research	14.5-14.7145	
14.8-15.35 FIXED MOBILE Space research			14.7145-15.1365 MOBILE Fixed Space research US310	14.7145-15.1365 US310	
5.339			15.1365-15.35 FIXED Mobile Space research 5.339 US211	15.1365-15.35 5.339 US211	
15.35-15.4 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.511			15.35-15.4 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
15.4-15.43 AERONAUTICAL RADIONAVIGATION 5.511D			15.4-15.43 AERONAUTICAL RADIONAVIGATION US260 US211		Aviation (87)
15.43-15.63 FIXED SATELLITE (Earth-to-space) 5.511A AERONAUTICAL RADIONAVIGATION 5.511C			15.43-15.63 AERONAUTICAL RADIO-NAVIGATION US260 5.511C US211 US359	15.4-15.43 FIXED SATELLITE (Earth-to-space) AERONAUTICAL RADIO-NAVIGATION US260 5.511C US211 US359	Satellite Communications (25) Aviation (87)
15.63-15.7 AERONAUTICAL RADIONAVIGATION 5.511D			15.63-15.7 AERONAUTICAL RADIONAVIGATION US260 US211		Aviation (87)
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16.6-17.1 RADIOLOCATION Space research (deep space) (Earth-to-space) 5.512 5.513			16.6-17.1 RADIOLOCATION US110 G59 Space research (deep space) (Earth-to-space)		
17.1-17.2 RADIOLOCATION 5.512 5.513			17.1-17.2 RADIOLOCATION US110 G59		
17.2-17.3 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.512 5.513 5.513A			17.2-17.3 RADIOLOCATION US110 G59 Earth exploration-satellite (active) Space research (active)	17.2-17.3 Radiolocation US110 Earth exploration-satellite (active) Space research (active)	
17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 Radiolocation 5.514	17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 BROADCASTING-SATELLITE Radiolocation 5.514 5.515 5.517	17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 Radiolocation 5.514	17.3-17.7 Radiolocation US259 G59	17.3-17.7 FIXED-SATELLITE (Earth-to-space) US271 BROADCASTING-SATELLITE NG163 US259	Satellite Communications (25)
17.7-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE	17.7-17.8 FIXED FIXED-SATELLITE (space-to-Earth) (Earth-to-space) 5.516 BROADCASTING-SATELLITE Mobile 5.518 5.515 5.517	17.7-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE	17.7-17.8	17.7-17.8 FIXED FIXED-SATELLITE (Earth-to-space) US271 NG144	Satellite Communications (25) Auxiliary Broadcasting (74) Cable TV Relay (78) Fixed Microwave (101)
	17.8-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE		17.8-18.3 FIXED-SATELLITE (space-to-Earth) G117 5.519 US334	17.8-18.3 FIXED 5.519 US334 NG144	Auxiliary Broadcasting (74) Cable TV Relay (78) Fixed Microwave (101)
18.1-18.4 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.520 MOBILE 5.519 5.521			See next page for 18.3-18.6 GHz	See next page for 18.3-18.58 GHz	See next page for 18.3-18.58 GHz

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				18.58-18.6 FIXED-SATELLITE (space-to-Earth) NG164 US334 NG144	Satellite Communications (25)
18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile Space research (passive) 5.522A 5.522C	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile SPACE RESEARCH (passive) 5.222A	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile Space research (passive) 5.522A	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 G117 SPACE RESEARCH (passive) US254 US334	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 NG164 SPACE RESEARCH (passive) US254 US334 NG144	
18.8-19.3 FIXED FIXED-SATELLITE (space-to-Earth) 5.523A MOBILE			18.8-20.2 FIXED-SATELLITE (space-to-Earth) G117	18.8-19.3 FIXED-SATELLITE (space-to-Earth) NG165 US334 NG144	
19.3-19.7 FIXED FIXED-SATELLITE (space-to-Earth) (Earth-space) 5.523B 5.523C 5.523D 5.523E MOBILE				19.3-19.7 FIXED FIXED-SATELLITE (space-to-Earth) NG166 US334 NG144	Satellite Communications (25) Auxiliary Broadcast. (74) Cable TV Relay (78) Fixed Microwave (101)
19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A Mobile-satellite (space-to-Earth) 5.524	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528 5.529	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A Mobile-satellite (space-to-Earth) 5.524		19.7-20.1 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.525 5.526 5.527 5.528 5.529 US334	Satellite Communications (25)

20.1-20.2 FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528			US334	20.1-20.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.525 5.526 5.527 5.528 US334	
20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) 5.524			20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) G117	20.2-21.2 Standard frequency and time signal-satellite (space-to-Earth)	
21.2-21.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)			21.2-21.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263		Fixed Microwave (101)
21.4-22 FIXED MOBILE BROADCASTING-SATELLITE 5.530	21.4-22 FIXED MOBILE	21.4-22 FIXED MOBILE BROADCASTING-SATELLITE 5.530 5.531	21.4-22 FIXED MOBILE		
22-22.21 FIXED MOBILE except aeronautical mobile 5.149			22-22.21 FIXED MOBILE except aeronautical mobile 5.149		
22.21-22.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) 5.149 5.532			22.21-22.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) 5.149 US263		

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22.55-23.55 FIXED INTER-SATELLITE MOBILE 5.149			22.55-23.55 FIXED INTER-SATELLITE MOBILE 5.149 US278		Satellite Communications (25) Fixed Microwave (101)
23.55-23.6 FIXED MOBILE			23.55-23.6 FIXED MOBILE		Fixed Microwave (101)
23.6-24 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			23.6-24 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
24-24.05 AMATEUR AMATEUR-SATELLITE 5.150			24-24.05 5.150 US211	24-24.05 AMATEUR AMATEUR-SATELLITE 5.150 US211	ISM Equipment (18) Amateur (97)
24.05-24.25 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.150			24.05-24.25 RADIOLOCATION US110 G59 Earth exploration-satellite (active) 5.150	24.05-24.25 Radiolocation US110 Amateur Earth exploration-satellite (active) 5.150	ISM Equipment (18) Private Land Mobile (90) Amateur (97)
24.25-24.45 FIXED	24.25-24.45 RADIONAVIGATION	24.25-24.45 RADIONAVIGATION FIXED MOBILE	24.25-24.45	24.25-24.45 FIXED	Fixed Microwave (101)

24.45-24.75 FIXED INTER-SATELLITE	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533	24.45-24.65 FIXED INTER-SATELLITE MOBILE RADIONAVIGATION 5.533	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533		Satellite Communications (25)
	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SAT- ELLITE (Earth-to-space)	24.65-24.75 FIXED INTER-SATELLITE MOBILE 5.533 5.534	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SATELLITE (Earth-to-space)		
24.75-25.25 FIXED	24.75-25.25 FIXED-SATELLITE (Earth-to-space) 5.535	24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.535 MOBILE 5.534	24.75-25.05 RADIONAVIGATION	24.75-25.05 FIXED-SATELLITE (Earth-to-space) NG167 RADIONAVIGATION	Satellite Communications (25) Aviation (87)
			25.05-25.25	25.05-25.25 FIXED-SATELLITE (Earth-to-space) NG167 FIXED	Satellite Communications (25) Fixed Microwave (101)
25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)			25.25-25.5 FIXED MOBILE Standard frequency and time signal-satellite (Earth-to-space)	25.25-27 Standard frequency and time signal-satellite (Earth-to- space) Earth exploration-satellite (space-to-space)	Note: In its Manual, NTIA has added a primary inter-satellite service allocation to the band 25.25-27.5 GHz, limited the use of this allocation by adopting footnote 5.536, and has changed the directional indicator for the Earth exploration-satellite service allocation in the band 25.5-27 GHz from space-to-space to space-to-Earth.
25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) 5.536A 5.536B FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)			25.5-27 FIXED MOBILE Standard frequency and time signal-satellite (Earth-to-space) Earth exploration-satellite (space-to-space)		
27-27.5 FIXED INTER-SATELLITE 5.536 MOBILE	27-27.5 FIXED FIXED-SATELLITE (Earth-to-space) INTER-SATELLITE 5.536 5.537 MOBILE		27-27.5 FIXED MOBILE	27-27.5 Earth exploration-satellite (space-to-space)	

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27.5-28.5 FIXED 5.537A FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 MOBILE 5.538 5.540			27.5-30	27.5-29.5 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE	Satellite Communications (25) Fixed Microwave (101)
28.5-29.1 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.523A 5.539 MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540					
29.1-29.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.523C 5.523E 5.535A 5.539 5.541A MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540					
29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.525 5.526 5.527 5.529 5.540 5.542	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542		29.5-29.9 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) 5.525 5.526 5.527 5.529	Satellite Communications (25)
29.9-30 FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.543 5.525 5.526 5.527 5.538 5.540 5.542				29.9-30 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) 5.525 5.526 5.527 5.543	

30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) 5.542			30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) G117	30-31 Standard frequency and time signal-satellite (space-to-Earth)	
31-31.3 FIXED 5.543A MOBILE Standard frequency and time signal-satellite (space-to-Earth) Space research 5.544 5.545 5.149			31-31.3 Standard frequency and time signal-satellite (space-to-Earth) 5.149 US211	31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space-to-Earth) 5.149 US211	Fixed Microwave (101)
31.3-31.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			31.3-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive)		
31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149 5.546	31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149	US246		
31.8-32 FIXED 5.547A RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth) 5.547 5.547B 5.548			31.8-32 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548 US211	31.8-32 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548 US211	

International Table			United States Table		FCC Rule Part(s)
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32-32.3 FIXED 5.547A INTER-SATELLITE RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth) 5.547 5.547C 5.548			32-32.3 INTER-SATELLITE US278 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548	32-32.3 INTER-SATELLITE US278 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548	
32.3-33 FIXED 5.547A INTER-SATELLITE RADIONAVIGATION 5.547 5.547D 5.548			32.3-33 INTER-SATELLITE US278 RADIONAVIGATION US69 5.548		Aviation (87)
33-33.4 FIXED 5.547A RADIONAVIGATION 5.547 5.547E			33-33.4 RADIONAVIGATION US69 US360 G117		
33.4-34.2 RADIOLOCATION 5.549			33.4-36 RADIOLOCATION US110 G34	33.4-36 Radiolocation US110	Private Land Mobile (90)
34.2-34.7 RADIOLOCATION SPACE RESEARCH (deep space) (Earth-to-space) 5.549					
34.7-35.2 RADIOLOCATION Space research 5.550 5.549					
35.2-35.5 METEOROLOGICAL AIDS RADIOLOCATION 5.549					
35.5-36 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active)					

36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) 5.149	36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263 US342		
37-37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth) 5.547	37-38 FIXED MOBILE SPACE RESEARCH (space-to-Earth)	37-37.6 FIXED MOBILE	
37.5-38 FIXED FIXED-SATELLITE (space-to-Earth) 5.551AA MOBILE SPACE RESEARCH (space-to-Earth) Earth exploration-satellite (space-to-Earth) 5.547		37.6-38.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE	Satellite Communications (25)
38-39.5 FIXED FIXED-SATELLITE (space-to-Earth) 5.551AA MOBILE Earth exploration-satellite (space-to-Earth) 5.547	38-38.6 FIXED MOBILE 38.6-39.5 US291	38.6-39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE US291	Auxiliary Broadcasting (74) Fixed Microwave (101)
39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) 5.551AA MOBILE MOBILE-SATELLITE (space-to-Earth) Earth exploration-satellite (space-to-Earth) 5.547	39.5-40 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US291 G117	39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) US291	

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40-40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) SPACE RESEARCH (Earth-to-space) Earth exploration-satellite (space-to-Earth)			40-40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) SPACE RESEARCH (Earth-to-space) Earth exploration-satellite (space-to-Earth) G117	40-40.5 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth)	Satellite Communications (25)
40.5-41 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING BROADCASTING-SATELLITE Mobile 5.547	40.5-41 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING BROADCASTING-SATELLITE Mobile Mobile-satellite (space-to-Earth) 5.547	40.5-41 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING BROADCASTING-SATELLITE Mobile 5.547	40.5-42.5	40.5-41 FIXED-SATELLITE (space-to-Earth) BROADCASTING BROADCASTING-SATELLITE Mobile Fixed US211	
41-42.5 FIXED FIXED-SATELLITE (space-to-Earth) 5.551AA BROADCASTING BROADCASTING-SATELLITE Mobile 5.547 5.551F 5.551G			US211	41-42.5 FIXED BROADCASTING BROADCASTING-SATELLITE MOBILE US211	
42.5-43.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149 5.547			42.5-43.5 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile RADIO ASTRONOMY US342	42.5-43.5 RADIO ASTRONOMY US342	

43.5-47 MOBILE 5.553 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE	43.5-45.5 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) G117	43.5-45.5	
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5.554	46.9-47 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIONAVIGATION- SATELLITE 5.554	46.9-47 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIONAVIGATION- SATELLITE FIXED 5.554	
47-47.2 AMATEUR AMATEUR-SATELLITE	47-48.2	47-47.2 AMATEUR AMATEUR-SATELLITE	Amateur (97)
47.2-50.2 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE		47.2-48.2 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE US264	
	48.2-50.2 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE US264 5.555 US342		Satellite Communications (25)
5.149 5.340 5.552A 5.555			

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50.4-51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Mobile-satellite (Earth-to-space)			50.4-51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE MOBILE-SATELLITE (Earth-to-space) G117	50.4-51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE MOBILE-SATELLITE (Earth-to-space)	
51.4-52.6 FIXED MOBILE 5.547 5.556			51.4-52.6 FIXED MOBILE		
52.6-54.25 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) 5.340 5.556			52.6-54.25 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US246		
54.25-55.78 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.556A SPACE RESEARCH (passive) 5.556B			54.25-55.78 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.556A SPACE RESEARCH (passive)		
55.78-56.9 EARTH EXPLORATION-SATELLITE (passive) FIXED 5.557A INTER-SATELLITE 5.556A MOBILE 5.558 SPACE RESEARCH (passive) 5.547 5.557			55.78-56.9 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.556A MOBILE 5.558 SPACE RESEARCH (passive) US263 US353		
56.9-57 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.558A MOBILE 5.558 SPACE RESEARCH (passive)			56.9-57 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE G128 MOBILE 5.558	56.9-57 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE 5.558 SPACE RESEARCH	

5.547 5.557	SPACE RESEARCH (passive) US263	(passive) US263	
57-58.2 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.556A MOBILE 5.558 SPACE RESEARCH (passive) 5.547 5.557	57-58.2 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.556A MOBILE 5.558 SPACE RESEARCH (passive) US263		RF Devices (15)
58.2-59 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) 5.547 5.556	58.2-59 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US353 US354		
59-59.3 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.556A MOBILE 5.558 RADIOLOCATION 5.559 SPACE RESEARCH (passive)	59-59.3 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.556A MOBILE 5.558 RADIOLOCATION 5.559 SPACE RESEARCH (passive) US353	59-59.3 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE 5.558 RADIOLOCATION 5.559 SPACE RESEARCH (passive) US353	
59.3-64 FIXED INTER-SATELLITE MOBILE 5.558 RADIOLOCATION 5.559 5.138	59.3-64 FIXED INTER-SATELLITE MOBILE 5.558 RADIOLOCATION 5.559 5.138 US353	59.3-64 FIXED MOBILE 5.558 RADIOLOCATION 5.559 5.138 US353	RF Devices (15) ISM Equipment (18)
64-65 FIXED INTER-SATELLITE MOBILE except aeronautical mobile 5.547 5.556	64-65 FIXED INTER-SATELLITE MOBILE except aeronautical mobile	64-65 FIXED MOBILE except aeronautical mobile	

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65-66 EARTH EXPLORATION-SATELLITE FIXED INTER-SATELLITE MOBILE except aeronautical mobile SPACE RESEARCH 5.547			65-66 EARTH EXPLORATION-SATELLITE FIXED MOBILE except aeronautical mobile SPACE RESEARCH	65-66 EARTH EXPLORATION-SATELLITE FIXED INTER-SATELLITE MOBILE except aeronautical mobile SPACE RESEARCH	
66-71 INTER-SATELLITE MOBILE 5.553 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554			66-71 MOBILE 5.553 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554	66-71 INTER-SATELLITE MOBILE 5.553 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554	
71-74 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)			71-74 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE MOBILE-SATELLITE (Earth-to-space) US270		
74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE Space research (space-to-Earth) 5.559A 5.561			74-75.5 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE		
			75.5-76	75.5-76 AMATEUR AMATEUR-SATELLITE	Amateur (97)
76-77.5 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.149			76-81 RADIOLOCATION	76-77 RADIOLOCATION Amateur	RF Devices (15)
				77-77.5 RADIOLOCATION Amateur Amateur-satellite	Amateur (97)

77.5-78 AMATEUR AMATEUR-SATELLITE Radio astronomy Space research (space-to-Earth) 5.149		77.5-78 RADIOLOCATION AMATEUR AMATEUR-SATELLITE	
78-79 RADIOLOCATION Amateur Amateur-satellite Radio astronomy Space research (space-to-Earth) 5.149 5.560		78-81 RADIOLOCATION Amateur Amateur-satellite	
79-81 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.149	5.560	5.560	
81-84 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY Space research (space-to-Earth) 5.149 5.561A	81-84 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)		
84-86 FIXED FIXED SATELLITE (Earth-to-space) 5.561B MOBILE RADIO ASTRONOMY 5.149	84-86 FIXED MOBILE US211 US377	84-86 FIXED MOBILE BROADCASTING BROADCASTING-SATELLITE US211 US377	
86-92 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	86-92 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		

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92-94 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149			92-95 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIOLOCATION		
94-94.1 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) Radio astronomy 5.562 5.562A					
94.1-95 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149			US342		
95-100 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.149 5.554			95-100 MOBILE US376 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE Radiolocation 5.149 5.554		
100-102 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341			100-102 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) 5.341 US246		
102-105 FIXED MOBILE RADIO ASTRONOMY 5.149 5.341			102-105 FIXED FIXED-SATELLITE (space-to-Earth) 5.341 US211		

105-109.5 FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.149 5.341	105-116 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive)	
109.5-111.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341		
111.8-114.25 FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.149 5.341		
114.25-116 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341	5.341 US246	
116-119.98 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562C SPACE RESEARCH (passive) 5.341	116-119.98 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE MOBILE US373 SPACE RESEARCH (passive) 5.341 US211 US263	

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119.98-122.25 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562C SPACE RESEARCH (passive) 5.138 5.341			119.98-120.02 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE MOBILE US373 SPACE RESEARCH (passive) Amateur 5.341 US211 US263		
122.25-123 FIXED INTER-SATELLITE MOBILE 5.558 Amateur 5.138			120.02-126 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE MOBILE US373 SPACE RESEARCH (passive) 5.138 US211 US263		ISM Equipment (18)
123-130 FIXED SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) RADIONAVIGATION RADIONAVIGATION-SATELLITE Radio astronomy 5.562D 5.149 5.554			126-134 FIXED INTER-SATELLITE MOBILE US373 RADIOLOCATION US374		
130-134 EARTH EXPLORATION-SATELLITE (active) 5.562E FIXED INTER-SATELLITE MOBILE 5.558 RADIO ASTRONOMY 5.149 5.562A					
134-136 AMATEUR AMATEUR-SATELLITE Radio astronomy			134-142 MOBILE US376 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE Radiolocation		
136-141 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite 5.149					

FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149	142-144	142-144 AMATEUR AMATEUR-SATELLITE	Amateur (97)
	144-149 RADIOLOCATION 5.149 US372	144-149 RADIOLOCATION Amateur Amateur-satellite 5.149 US372	
148.5-151.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive)	149-150 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE		
	150-151 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (passive) US263 US342 US369		
5.340			
151.5-155.5 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149	151-164 FIXED FIXED-SATELLITE (space-to-Earth)		
155.5-158.5 EARTH EXPLORATION-SATELLITE (passive) 5.562F FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.149 5.562G			
158.5-164 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)	US211		

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International Table			United States Table		FCC Rule Part(s)
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164-167 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			164-168 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) US246		
167-174.5 FIXED FIXED-SATELLITE (space-to-Earth) INTER-SATELLITE MOBILE 5.558 5.149 5.562D			168-170 FIXED MOBILE		
			170-174.5 FIXED INTER-SATELLITE MOBILE 5.558 US342 US369		
174.5-174.8 FIXED INTER-SATELLITE MOBILE 5.558			174.5-174.8 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE MOBILE 5.558 SPACE RESEARCH (passive) US263 US342 US369		
174.8-182 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)			174.8-176.5 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE MOBILE US373 SPACE RESEARCH (passive) US263 US342 US369		
			176.5-182 FIXED INTER-SATELLITE MOBILE US373 US211 US342 US369		
182-185 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.563			182-185 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) US246		

185-190 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)	185-190 FIXED INTER-SATELLITE MOBILE US373 US211 US342 US369	
190-191.8 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) 5.340	190-191.8 MOBILE US376 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE US371	
191.8-200 FIXED INTER-SATELLITE MOBILE 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.149 5.341 5.554	191.8-200 MOBILE US376 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.341 5.554	
200-202 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341 5.563A	200-202 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) 5.341 US263	
202-209 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341 5.563A	202-217 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE	
209-217 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY 5.149 5.341	5.341	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
217-226 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.149 5.341			217-231 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246		
226-231.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			231-235 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Radiolocation		
231.5-232 FIXED MOBILE Radiolocation					
232-235 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Radiolocation			US211		
235-238 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) SPACE RESEARCH (passive) 5.563A 5.563B			235-238 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (passive) US263		
238-240 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE			238-241 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Radiolocation		
240-241 FIXED MOBILE RADIOLOCATION					

241-248 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite 5.138 5.149	241-248 RADIOLOCATION 5.138	241-248 RADIOLOCATION Amateur Amateur-satellite 5.138	ISM Equipment (18) Amateur (97)
248-250 AMATEUR AMATEUR-SATELLITE Radio astronomy 5.149	248-250	248-250 AMATEUR AMATEUR-SATELLITE	Amateur (97)
250-252 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.563A	250-252 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US342 US372		
252-265 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.149 5.554	252-265 MOBILE US376 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554 US211 US342 US369 US372		
265-275 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY 5.149 5.563A	265-275 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY US342		
275-1000 (Not allocated) 5.565	275-300 FIXED MOBILE US375		
	300-1000 (Not allocated) US375		Amateur (97)

Note: The International Telecommunication Union has re-numbered international footnotes using a new numbering scheme and has substantively revised the text of certain of these international footnotes. These international footnotes shall be listed immediately below this note in I. Until such time as the Commission has considered the substantively revised international footnotes that have previously been adopted domestically, certain of the old international footnotes shall apply in the United States. These footnotes appear immediately after footnote 5.565 in II.

I. New Numbering Scheme

5.53 Administrations authorizing the use of frequencies below 9 kHz shall ensure that no harmful interference is caused thereby to the services to which the bands above 9 kHz are allocated.

5.54 Administrations conducting scientific research using frequencies below 9 kHz are urged to advise other administrations that may be concerned in order that such research may be afforded all practicable protection from harmful interference.

5.55 *Additional allocation:* in Armenia, Azerbaijan, Bulgaria, Georgia, Kyrgyzstan, the Russian Federation, Tajikistan and Turkmenistan, the band 14–17 kHz is also allocated to the radionavigation service on a primary basis.

5.56 The stations of services to which the bands 14–19.95 kHz and 20.05–70 kHz and in Region 1 also the bands 72–84 kHz and 86–90 kHz are allocated may transmit standard frequency and time signals. Such stations shall be afforded protection from harmful interference. In Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Kazakstan, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., Russian Federation, Tajikistan, Turkmenistan and Ukraine, the frequencies 25 kHz and 50 kHz will be used for this purpose under the same conditions.

5.57 The use of the bands 14–19.95 kHz, 20.05–70 kHz and 70–90 kHz (72–84 kHz and 86–90 kHz in Region 1) by the maritime mobile service is limited to coast radiotelegraph stations (A1A and F1B only). Exceptionally, the use of class J2B or J7B emissions is authorized subject to the necessary bandwidth not exceeding that normally used for class A1A or F1B emissions in the band concerned.

5.58 *Additional allocation:* in Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgyzstan, the Russian Federation, Tajikistan and Turkmenistan, the band 67–70 kHz is also allocated to the radionavigation service on a primary basis.

5.59 *Different category of service:* in Bangladesh and Pakistan, the allocation of the bands 70–72 kHz and 84–86 kHz to the fixed and maritime mobile services is on a primary basis (see No. 5.33).

5.60 In the bands 70–90 kHz (70–86 kHz in Region 1) and 110–130 kHz (112–130 kHz in Region 1), pulsed radionavigation systems may be used on condition that they do not cause harmful interference to other services to which these bands are allocated.

5.61 In Region 2, the establishment and operation of stations in the maritime radionavigation service in the bands 70–90 kHz and 110–130 kHz shall be subject to agreement obtained under No. 9.21 with administrations whose services, operating in accordance with the Table, may be affected. However, stations of the fixed, maritime mobile and radiolocation services shall not cause harmful interference to stations in the maritime radionavigation service established under such agreements.

5.62 Administrations which operate stations in the radionavigation service in the band 90–110 kHz are urged to coordinate technical and operating characteristics in such a way as to avoid harmful interference to the services provided by these stations.

5.64 Only classes A1A or F1B, A2C, A3C, F1C or F3C emissions are authorized for stations of the fixed service in the bands allocated to this service between 90 kHz and 160 kHz (148.5 kHz in Region 1) and for stations of the maritime mobile service in the bands allocated to this service between 110 kHz and 160 kHz (148.5 kHz in Region 1). Exceptionally, class J2B or J7B emissions are also authorized in the bands between 110 kHz and 160 kHz (148.5 kHz in Region 1) for stations of the maritime mobile service.

5.65 *Different category of service:* in Bangladesh, the allocation of the bands 112–117.6 kHz and 126–129 kHz to the fixed and maritime mobile services is on a primary basis (see No. 5.33).

5.66 *Different category of service:* in Germany, the allocation of the band 115–117.6 kHz to the fixed and maritime mobile services is on a primary basis (see No. 5.33) and to the radionavigation service on a secondary basis (see No. 5.32).

5.67 *Additional allocation:* in Azerbaijan, Bulgaria, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 130–148.5 kHz is also allocated to the radionavigation service on a secondary basis. Within and between these countries this service shall have an equal right to operate.

5.68 *Alternative allocation:* in Angola, Botswana, Burundi, the Congo, Malawi, Dem. Rep. of the Congo, Rwanda and South Africa, the band 160–200 kHz is allocated to the fixed service on a primary basis.

5.69 *Additional allocation:* in Somalia, the band 200–255 kHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.70 *Alternative allocation:* in Angola, Botswana, Burundi, Cameroon, the Central African Rep., the Congo, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Nigeria, Oman, Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland, Tanzania, Chad, Zambia and Zimbabwe, the band 200–283.5 kHz is allocated to the aeronautical radionavigation service on a primary basis.

5.71 *Alternative allocation:* in Tunisia, the band 255–283.5 kHz is allocated to the broadcasting service on a primary basis.

5.72 Norwegian stations of the fixed service situated in northern areas (north of 60° N) subject to auroral disturbances are allowed to continue operation on four frequencies in the bands 283.5–490 kHz and 510–526.5 kHz.

5.73 The band 285–325 kHz (283.5–325 kHz in Region 1) in the maritime radionavigation service may be used to transmit supplementary navigational information using narrow-band techniques, on condition that no harmful interference is caused to radiobeacon stations operating in the radionavigation service.

5.74 *Additional Allocation:* in Region 1, the frequency band 285.3–285.7 kHz is also allocated to the maritime radionavigation service (other than radiobeacons) on a primary basis.

5.75 *Different category of service:* in Armenia, Azerbaijan, Belarus, Georgia, Moldova, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and the Black Sea areas of Bulgaria and Romania, the allocation of the band 315–325 kHz to the maritime radionavigation service is on a primary basis under the condition that in the Baltic Sea area, the assignment of frequencies in this band to new stations in the maritime or aeronautical radionavigation services shall be subject to prior consultation between the administrations concerned.

5.76 The frequency 410 kHz is designated for radio direction-finding in the maritime radionavigation service. The other radionavigation services to which the band 405–415 kHz is allocated shall not cause harmful

interference to radio direction-finding in the band 406.5–413.5 kHz.

5.77 *Different category of service:* in Australia, China, the French Overseas Territories of Region 3, India, Indonesia (until 1 January 2005), Iran (Islamic Republic of), Japan, Pakistan, Papua New Guinea and Sri Lanka, the allocation of the band 415–495 kHz to the aeronautical radionavigation service is on a primary basis. Administrations in these countries shall take all practical steps necessary to ensure that aeronautical radionavigation stations in the band 435–495 kHz do not cause interference to reception by coast stations of ship stations transmitting on frequencies designated for ship stations on a worldwide basis (see No. 52.39).

5.78 *Different category of service:* in Cuba, the United States of America and Mexico, the allocation of the band 415–435 kHz to the aeronautical radionavigation service is on a primary basis.

5.79 The use of the bands 415–495 kHz and 505–526.5 kHz (505–510 kHz in Region 2) by the maritime mobile service is limited to radiotelegraphy.

5.79A When establishing coast stations in the NAVTEX service on the frequencies 490 kHz, 518 kHz and 4 209.5 kHz, administrations are strongly recommended to coordinate the operating characteristics in accordance with the procedures of the International Maritime Organization (IMO) (see Resolution 339 (Rev.WRC–97)).

5.80 In Region 2, the use of the band 435–495 kHz by the aeronautical radionavigation service is limited to non-directional beacons not employing voice transmission.

5.82 In the maritime mobile service, the frequency 490 kHz is, from the date of full implementation of the GMDSS (see Resolution 331 (Rev.WRC–97)), to be used exclusively for the transmission by coast stations of navigational and meteorological warnings and urgent information to ships, by means of narrow-band direct-printing telegraphy. The conditions for use of the frequency 490 kHz are prescribed in Articles 31 and 52. In using the band 415–495 kHz for the aeronautical radionavigation service, administrations are requested to ensure that no harmful interference is caused to the frequency 490 kHz.

5.83 The frequency 500 kHz is an international distress and calling frequency for Morse radiotelegraphy. The conditions for its use are prescribed in Articles 31 and 52, and in Appendix 13.

5.84 The conditions for the use of the frequency 518 kHz by the maritime mobile service are prescribed in Articles 31 and 52 and in Appendix 13.

5.86 In Region 2, in the band 525–535 kHz the carrier power of broadcasting stations shall not exceed 1 kW during the day and 250 W at night.

5.87 *Additional allocation:* in Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the band 526.5–535 kHz is also allocated to the mobile service on a secondary basis.

5.87A *Additional allocation:* in Uzbekistan, the band 526.5–1606.5 kHz is also allocated to the radionavigation service on a primary basis. Such use is subject to agreement obtained under No. 9.21 with administrations concerned and limited to ground-based radiobeacons in operation on 27 October 1997 until the end of their lifetime.

5.88 *Additional allocation:* in China, the band 526.5–535 kHz is also allocated to the aeronautical radionavigation service on a secondary basis.

5.89 In Region 2, the use of the band 1605–1705 kHz by stations of the broadcasting service is subject to the Plan established by the Regional Administrative Radio Conference (Rio de Janeiro, 1988).

The examination of frequency assignments to stations of the fixed and mobile services in the band 1625–1705 kHz shall take account of the allotments appearing in the Plan established by the Regional Administrative Radio Conference (Rio de Janeiro, 1988).

5.90 In the band 1605–1705 kHz, in cases where a broadcasting station of Region 2 is concerned, the service area of the maritime mobile stations in Region 1 shall be limited to that provided by ground-wave propagation.

5.91 *Additional allocation:* in the Philippines and Sri Lanka, the band 1606.5–1705 kHz is also allocated to the broadcasting service on a secondary basis.

5.92 Some countries of Region 1 use radiodetermination systems in the bands 1606.5–1625 kHz, 1635–1800 kHz, 1850–2160 kHz, 2194–2300 kHz, 2502–2850 kHz and 3500–3800 kHz, subject to agreement obtained under No. 9.21. The radiated mean power of these stations shall not exceed 50 W.

5.93 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Georgia, Hungary, Kazakstan, Latvia, Lithuania, Moldova, Mongolia, Nigeria, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., the Russian Federation, Tajikistan, Chad, Turkmenistan and Ukraine, the bands 1625–1635 kHz, 1800–1810 kHz and 2160–2170 kHz and, in Bulgaria, the bands 1625–1635 kHz and 1800–1810 kHz, are also allocated to the fixed and land mobile services on a primary basis, subject to agreement obtained under No. 9.21.

5.96 In Germany, Armenia, Austria, Azerbaijan, Belarus, Denmark, Estonia, Finland, Georgia, Hungary, Ireland, Israel, Jordan, Kazakstan, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Norway, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., the United Kingdom, the Russian Federation, Sweden, Switzerland, Tajikistan, Turkmenistan and Ukraine, administrations may allocate up to 200 kHz to their amateur service in the bands 1715–1800 kHz and 1850–2000 kHz. However, when allocating the bands within this range to their amateur service, administrations shall, after prior consultation with administrations of neighbouring countries, take such steps as may be necessary to prevent harmful interference from their amateur service to the fixed and mobile services of other countries. The mean power of any amateur station shall not exceed 10 W.

5.97 In Region 3, the Loran system operates either on 1850 kHz or 1950 kHz, the bands occupied being 1825–1875 kHz and 1925–1975 kHz respectively. Other services to which the band 1800–2000 kHz is allocated may use any frequency therein on condition that no harmful interference is caused to the Loran system operating on 1850 kHz or 1950 kHz.

5.98 *Alternative allocation:* in Angola, Armenia, Azerbaijan, Belarus, Belgium, Bulgaria, Cameroon, the Congo, Denmark, Egypt, Eritrea, Spain, Ethiopia, Georgia, Greece, Italy, Kazakstan, Lebanon, Lithuania, Moldova, the Netherlands, Syria, Kyrgyzstan, the Russian Federation, Somalia, Tajikistan, Tunisia, Turkmenistan, Turkey and Ukraine, the band 1810–1830 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.99 *Additional allocation:* in Saudi Arabia, Austria, Bosnia and Herzegovina, Iraq, Libya, Uzbekistan, Slovakia, the Czech Rep., Romania, Slovenia, Chad, Togo and Yugoslavia, the band 1810–1830 kHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.100 In Region 1, the authorization to use the band 1810–1830 kHz by the amateur service in countries situated totally or partially north of 40° N shall be given only after consultation with the countries mentioned in Nos. 5.98 and 5.99 to define the necessary steps to be taken to prevent harmful interference between amateur stations and stations of other services operating in accordance with Nos. 5.98 and 5.99.

5.101 *Alternative allocation:* in Burundi and Lesotho, the band 1810–1850 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.102 *Alternative allocation:* in Argentina, Bolivia, Chile, Mexico, Paraguay, Peru, Uruguay and Venezuela, the band 1850–2000 kHz is allocated to the fixed, mobile except aeronautical mobile, radiolocation and radionavigation services on a primary basis.

5.103 In Region 1, in making assignments to stations in the fixed and mobile services in the bands 1850–2045 kHz, 2194–2498 kHz, 2502–2625 kHz and 2650–2850 kHz, administrations should bear in mind the special requirements of the maritime mobile service.

5.104 In Region 1, the use of the band 2025–2045 kHz by the meteorological aids service is limited to oceanographic buoy stations.

5.105 In Region 2, except in Greenland, coast stations and ship stations using radiotelephony in the band 2065–2107 kHz shall be limited to class J3E emissions and to a peak envelope power not exceeding 1 kW. Preferably, the following carrier frequencies should be used: 2065.0 kHz, 2079.0 kHz, 2082.5 kHz, 2086.0 kHz, 2093.0 kHz, 2096.5 kHz, 2100.0 kHz and 2103.5 kHz. In Argentina and Uruguay, the carrier frequencies 2068.5 kHz and 2075.5 kHz are also used for this purpose, while the frequencies within the band 2072–2075.5 kHz are used as provided in No. 52.165.

5.106 In Regions 2 and 3, provided no harmful interference is caused to the maritime mobile service, the frequencies between 2065 kHz and 2107 kHz may be used by stations of the fixed service communicating only within national borders and whose mean power does not exceed 50 W. In notifying the frequencies, the attention of the Bureau should be drawn to these provisions.

5.107 *Additional allocation:* in Saudi Arabia, Botswana, Eritrea, Ethiopia, Iraq, Lesotho, Libya, Somalia and Swaziland, the band 2160–2170 kHz is also allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis. The mean power of stations in these services shall not exceed 50 W.

5.108 The carrier frequency 2182 kHz is an international distress and calling frequency for radiotelephony. The conditions for the use of the band 2173.5–2190.5 kHz are prescribed in Articles 31 and 52 and in Appendix 13.

5.109 The frequencies 2187.5 kHz, 4207.5 kHz, 6312 kHz, 8414.5 kHz, 12577 kHz and 16804.5 kHz are international distress frequencies for digital selective calling. The conditions for the use of these frequencies are prescribed in Article 31.

5.110 The frequencies 2174.5 kHz, 4177.5 kHz, 6268 kHz, 8376.5 kHz, 12520 kHz and 16695 kHz are international distress frequencies for narrow-band direct-printing telegraphy. The conditions for the use of these frequencies are prescribed in Article 31.

5.111 The carrier frequencies 2182 kHz, 3023 kHz, 5680 kHz, 8364 kHz and the frequencies 121.5 MHz, 156.8 MHz and 243 MHz may also be used, in accordance with the procedures in force for terrestrial radiocommunication services, for search and rescue operations concerning manned space vehicles. The conditions for the use of the frequencies are prescribed in Article 31 and in Appendix 13.

The same applies to the frequencies 10003 kHz, 14993 kHz and 19993 kHz, but in each of these cases emissions must be confined in a band of ± 3 kHz about the frequency.

5.112 *Alternative allocation:* in Bosnia and Herzegovina, Cyprus, Denmark, Greece, Iceland, Malta, Sri Lanka and Yugoslavia, the band 2194–2300 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.113 For the conditions for the use of the bands 2300–2495 kHz (2498 kHz in Region 1), 3200–3400 kHz, 4750–4995 kHz and 5005–5060 kHz by the broadcasting service, see Nos. 5.16 to 5.20, 5.21 and 23.3 to 23.10.

5.114 *Alternative allocation:* in Bosnia and Herzegovina, Cyprus, Denmark, Greece, Iraq, Malta, and Yugoslavia, the band 2502–2625 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.115 The carrier (reference) frequencies 3023 kHz and 5680 kHz may also be used, in accordance with Article 31 and Appendix 13 by stations of the maritime mobile service engaged in coordinated search and rescue operations.

5.116 Administrations are urged to authorize the use of the band 3155–3195 kHz to provide a common worldwide channel for low power wireless hearing aids. Additional channels for these devices may be assigned by administrations in the bands between 3155 kHz and 3400 kHz to suit local needs.

It should be noted that frequencies in the range 3000 kHz to 4000 kHz are suitable for hearing aid devices which are designed to operate over short distances within the induction field.

5.117 *Alternative allocation:* in Bosnia and Herzegovina, Cyprus, Côte d'Ivoire, Denmark, Egypt, Greece, Iceland, Liberia, Malta, Sri Lanka, Togo and Yugoslavia, the band 3155–3200 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.118 *Additional allocation:* in the United States, Japan, Mexico, Peru and Uruguay, the band 3230–3400 kHz is also allocated to the radiolocation service on a secondary basis.

5.119 *Additional allocation:* in Honduras, Mexico, Peru and Venezuela, the band 3500–3750 kHz is also allocated to the fixed and mobile services on a primary basis.

5.120 For the use of the bands allocated to the amateur service at 3.5 MHz, 7.0 MHz, 10.1 MHz, 14.0 MHz, 18.068 MHz, 21.0 MHz, 24.89 MHz and 144 MHz in the event of natural disasters, see Resolution 640.[1](SUP–WRC–2000)

5.122 *Alternative allocation:* in Argentina, Bolivia, Chile, Ecuador, Paraguay, Peru and Uruguay, the band 3750–4000 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.123 *Additional allocation:* in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the band 3900–3950 kHz is also allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

5.125 *Additional allocation:* in Greenland, the band 3950–4000 kHz is also allocated to the broadcasting service on a primary basis. The power of the broadcasting stations operating in this band shall not exceed that necessary for a national service and shall in no case exceed 5 kW.

5.126 In Region 3, the stations of those services to which the band 3995–4005 kHz is allocated may transmit standard frequency and time signals.

5.127 The use of the band 4000–4063 kHz by the maritime mobile service is limited to ship stations using radiotelephony (see No. 52.220 and Appendix 17).

5.128 In Afghanistan, Argentina, Armenia, Azerbaijan, Belarus, Botswana, Burkina Faso, the Central African Rep., China, Georgia, India, Kazakstan, Mali, Niger, Kyrgyzstan, Russian Federation, Tajikistan, Chad, Turkmenistan and Ukraine, in the bands 4063–4123 kHz, 4130–4133 kHz and 4408–4438 kHz, stations of limited power in the fixed service which are situated at least 600 km from the coast

[1] This Resolution was abrogated by WRC–97.

may operate on condition that harmful interference is not caused to the maritime mobile service.

5.129 On condition that harmful interference is not caused to the maritime mobile service, the frequencies in the bands 4063–4123 kHz and 4130–4438 kHz may be used exceptionally by stations in the fixed service communicating only within the boundary of the country in which they are located with a mean power not exceeding 50 W.

5.130 The conditions for the use of the carrier frequencies 4125 kHz and 6215 kHz are prescribed in Articles 31 and 52 and in Appendix 13.

5.131 The frequency 4209.5 kHz is used exclusively for the transmission by coast stations of meteorological and navigational warnings and urgent information to ships by means of narrow-band direct-printing techniques.

5.132 The frequencies 4210 kHz, 6314 kHz, 8416.5 kHz, 12579 kHz, 16806.5 kHz, 19680.5 kHz, 22376 kHz and 26100.5 kHz are the international frequencies for the transmission of maritime safety information (MSI) (see Appendix 17).

5.133 *Different category of service:* in Armenia, Azerbaijan, Belarus, Georgia, Kazakstan, Latvia, Lithuania, Moldova, Uzbekistan, Kyrgyzstan, Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 5130–5250 kHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

5.134 The use of the bands 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 13570–13600 kHz, 13800–13870 kHz, 15600–15800 kHz, 17480–17550 kHz and 18900–19020 kHz by the broadcasting service is limited to single-sideband emissions with the characteristics specified in Appendix 11 or to any other spectrum-efficient modulation techniques recommended by ITU–R. Access to these bands shall be subject to the decisions of a competent conference.

5.136 The band 5900–5950 kHz is allocated, until 1 April 2007, to the fixed service on a primary basis, as well as to the following services: in Region 1 to the land mobile service on a primary basis, in Region 2 to the mobile except aeronautical mobile (R) service on a primary basis, and in Region 3 to the mobile except aeronautical mobile (R) service on a secondary basis, subject to application of the procedure referred to in Resolution 21 (Rev.WRC–95). After 1 April 2007, frequencies in this band may be used by stations in the above-mentioned services, communicating only within the boundary of the country in which they are located, on the condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

5.137 On condition that harmful interference is not caused to the maritime mobile service, the bands 6200–6213.5 kHz and 6220.5–6525 kHz may be used exceptionally by stations in the fixed service, communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 W. At the time of notification of these frequencies, the attention of the Bureau will be drawn to the above conditions.

5.138 The following bands:

6765–6795 kHz (centre frequency 6780 kHz),

433.05–434.79 MHz (centre frequency 433.92 MHz) in Region 1 except in the countries mentioned in No. 5.280,

61–61.5 GHz (centre frequency 61.25 GHz),

122–123 GHz (centre frequency 122.5 GHz), and

244–246 GHz (centre frequency 245 GHz)

are designated for industrial, scientific and medical (ISM) applications. The use of these frequency bands for ISM applications shall be subject to special authorization by the administration concerned, in agreement with other administrations whose radiocommunication services might be affected. In applying this provision, administrations shall have due regard to the latest relevant ITU–R Recommendations.

5.139 *Different category of service:* in Armenia, Azerbaijan, Belarus, Georgia, Kazakstan, Latvia, Lithuania, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 6765–7000 kHz to the land mobile service is on a primary basis (see No. 5.33).

5.140 *Additional allocation:* in Angola, Iraq, Rwanda, Somalia and Togo, the band 7000–7050 kHz is also allocated to the fixed service on a primary basis.

5.141 *Alternative allocation:* in Egypt, Eritrea, Ethiopia, Guinea, Libya and Madagascar, the band 7000–7050 kHz is allocated to the fixed service on a primary basis.

5.142 The use of the band 7100–7300 kHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3.

5.143 The band 7300–7350 kHz is allocated, until 1 April 2007, to the fixed service on a primary basis and to the land mobile service on a secondary basis, subject to application of the procedure referred to in Resolution 21 (Rev.WRC–95). After 1 April 2007, frequencies in this band may be used by stations in the above-mentioned services, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

5.144 In Region 3, the stations of those services to which the band 7995–8005 kHz is allocated may transmit standard frequency and time signals.

5.145 The conditions for the use of the carrier frequencies 8291 kHz, 12290 kHz and 16420 kHz are prescribed in Articles 31 and 52 and in Appendix 13.

5.146 The bands 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 15600–15800 kHz, 17480–17550 kHz and 18900–19020 kHz are allocated to the fixed service on a primary basis until 1 April 2007, subject to application of the procedure referred to in Resolution 21 (Rev.WRC–95). After 1 April 2007, frequencies in these bands may be used by stations in the fixed service, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies in the fixed service, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

5.147 On condition that harmful interference is not caused to the broadcasting service, frequencies in the bands 9775–9900 kHz, 11650–11700 kHz and 11975–12050 kHz may be used by stations in the fixed service communicating only within the boundary of the country in which they are located, each station using a total radiated power not exceeding 24 dBW.

5.148 The bands 9775–9900 kHz, 11650–11700 kHz, 11975–12050 kHz, 13600–13800 kHz, 15450–15600 kHz, 17550–17700 kHz and 21750–21850 kHz are allocated to the fixed service on

a primary basis subject to the procedure described in Resolution 8. The use of these bands by the broadcasting service shall be subject to provisions to be established by the world administrative radio conference for the planning of HF bands allocated to the broadcasting service (see Resolution 508). Within these bands, the date of commencement of operations in the broadcasting servive on a planned channel shall not be earlier than the date of completion of satisfactory transfer, according to the procedures described in Resolution 8, of all assignments to stations in the fixed service operating in accordance with the Table and other provisions of the Radio Regulations, which are recorded in the Master Register and which may be affected by boadcating operations on that channel. (SUP—WRC–97)

5.149 In making assignments to stations of other services to which the bands:

13360–13410 kHz,
25550–25670 kHz,
37.5–38.25 MHz,
73–74.6 MHz in Regions 1 and 3,
150.05–153 MHz in Region 1,
322–328.6 MHz,
406.1–410 MHz,
608–614 MHz in Regions 1 and 3,
1330–1400 MHz,
1610.6–1613.8 MHz,
1660–1670 MHz,
1718.8–1722.2 MHz,
2655–2690 MHz,
3260–3267 MHz,
3332–3339 MHz,
3345.8–3352.5 MHz,
4825–4835 MHz,
4950–4990 MHz,
4990–5000 MHz,
6650–6675.2 MHz,
10.6–10.68 GHz,
14.47–14.5 GHz,
22.01–22.21 GHz,
22.21–22.5 GHz,
22.81–22.86 GHz,
23.07–23.12 GHz,
31.2–31.3 GHz,
31.5–31.8 GHz in Regions 1 and 3,
36.43–36.5 GHz,
42.5–43.5 GHz,
42.77–42.87 GHz,
43.07–43.17 GHz,
43.37–43.47 GHz,
48.94–49.04 GHz,
76–86 GHz,
92–94 GHz,
94.1–100 GHz,
102–109.5 GHz,
111.8–114.25 GHz,
128.33–128.59 GHz,
129.23–129.49 GHz,
130–134 GHz,
136–148.5 GHz,
151.5–158.5 GHz,
168.59–168.93 GHz,
171.11–171.45 GHz,
172.31–172.65 GHz,
173.52–173.85 GHz,
195.75–196.15 GHz,
209–226 GHz,
241–250 GHz,
252–275 GHz

are allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 4.5 and 4.6 and Article 29).

5.150 The following bands:

13553–13567 kHz (centre frequency 13560 kHz),
26957–27283 kHz (centre frequency 27120 kHz),
40.66–40.70 MHz (centre frequency 40.68 MHz),
902–928 MHz in Region 2 (centre frequency 915 MHz),
2400–2500 MHz (centre frequency 2450 MHz),
5725–5875 MHz (centre frequency 5800 MHz), and
24–24.25 GHz (centre frequency 24.125 GHz)

are also designated for industrial, scientific and medical (ISM) applications. Radiocommunication services operating within these bands must accept harmful interference which may be caused by these applications. ISM equipment operating in these bands is subject to the provisions of No. 15.13.

5.151 The bands 13570–13600 kHz and 13800–13870 kHz are allocated, until 1 April 2007, to the fixed service on a primary basis and to the mobile except aeronautical mobile (R) service on a secondary basis, subject to application of the procedure referred to in Resolution 21 (Rev.WRC–95). After 1 April 2007, frequencies in these bands may be used by stations in the above-mentioned services, communicating only within the boundary of the country in which they are located, on the condition that harmful interference is not caused to the broadcasting service. When using frequencies in these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

5.152 *Additional allocation:* in Armenia, Azerbaijan, China, Côte d'Ivoire, Georgia, Iran (Islamic Republic of), Kazakstan, Moldova, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 14250–14350 kHz is also allocated to the fixed service on a primary basis. Stations of the fixed service shall not use a radiated power exceeding 24 dBW.

5.153 In Region 3, the stations of those services to which the band 15995–16005 kHz is allocated may transmit standard frequency and time signals.

5.154 *Additional allocation:* in Armenia, Azerbaijan, Georgia, Kazakstan, Moldova, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 18068–18168 kHz is also allocated to the fixed service on a primary basis for use within their boundaries, with a peak envelope power not exceeding 1 kW.

5.155 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Hungary, Kazakstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 21850–21870 kHz is also allocated to the aeronautical mobile (R) services on a primary basis.

5.155A In Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Kazakstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the use of the band 21850–21870 kHz by the fixed service is limited to provision of services related to aircraft flight safety.

5.155B The band 21870–21924 kHz is used by the fixed service for provision of services related to aircraft flight safety.

5.156 *Additional allocation:* in Nigeria, the band 22720–23200 kHz is also allocated to the meteorological aids service (radiosondes) on a primary basis.

5.156A The use of the band 23200–23350 kHz by the fixed service is limited to provision of services related to aircraft flight safety.

5.157 The use of the band 23350–24000 kHz by the maritime mobile service is limited to inter-ship radiotelegraphy.

5.160 *Additional allocation:* in Botswana, Burundi, Lesotho, Malawi, Dem. Rep. of the Congo, Rwanda and Swaziland, the band 41–44 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.161 *Additional allocation:* in Iran (Islamic Republic of) and Japan, the band 41–44 MHz is also allocated to the radiolocation service on a secondary basis.

5.162 *Additional allocation:* in Australia and New Zealand, the band 44–47 MHz is also allocated to the broadcasting service on a primary basis.

5.162A *Additional allocation:* in Germany, Austria, Belgium, Bosnia and Herzegovina, China, Vatican, Denmark, Spain, Estonia, Finland, France, Ireland, Iceland, Italy, Latvia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Lithuania, Luxembourg, Moldova, Monaco, Norway, the Netherlands, Poland, Portugal, Slovakia, the Czech Rep., the United Kingdom, the Russian Federation, Sweden and Switzerland the band 46–68 MHz is also allocated to the radiolocation service on a secondary basis. This use is limited to the operation of wind profiler radars in accordance with Resolution 217 (WRC–97).

5.163 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Estonia, Georgia, Hungary, Kazakstan, Latvia, Lithuania, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., Russian Federation, Tajikistan, Turkmenistan and Ukraine, the bands 47–48.5 MHz and 56.5–58 MHz are also allocated to the fixed and land mobile services on a secondary basis.

5.164 *Additional allocation:* in Albania, Germany, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, C''te d'Ivoire, Denmark, Spain, Finland, France, Gabon, Greece, Ireland, Israel, Italy, Jordan, Lebanon, Libya, Liechtenstein, Luxembourg, Madagascar, Mali, Malta, Morocco, Mauritania, Monaco, Nigeria, Norway, the Netherlands, Poland, Syria, the United Kingdom, Senegal, Slovenia, Sweden, Switzerland, Swaziland, Togo, Tunisia, Turkey and Yugoslavia the band 47–68 MHz, in Romania the band 47–58 MHz and in the Czech Rep. the band 66–68 MHz, are also allocated to the land mobile service on a primary basis. However, stations of the land mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations of countries other than those mentioned in connection with the band.

5.165 *Additional allocation:* in Angola, Cameroon, the Congo, Madagascar, Mozambique, Somalia, Sudan, Tanzania and Chad, the band 47–68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.166 *Alternative allocation:* in New Zealand, the band 50–51 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis; the band 53–54 MHz is allocated to the fixed and mobile services on a primary basis.

5.167 *Alternative allocation:* in Bangladesh, Brunei Darussalam, India, Indonesia, Iran (Islamic Republic of), Malaysia, Pakistan, Singapore and Thailand, the band 50–54 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis.

5.168 *Additional allocation:* in Australia, China and the Dem. People's Rep. of Korea, the band 50–54 MHz is also allocated to the broadcasting service on a primary basis.

5.169 *Alternative allocation:* in Botswana, Burundi, Lesotho, Malawi, Namibia, Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland, Zambia and Zimbabwe, the band 50–54 MHz is allocated to the amateur service on a primary basis.

5.170 *Additional allocation:* in New Zealand, the band 51–53 MHz is also allocated to the fixed and mobile services on a primary basis.

5.171 *Additional allocation:* in Botswana, Burundi, Lesotho, Malawi, Mali, Namibia, Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland and Zimbabwe, the band 54–68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.172 *Different category of service:* in the French Overseas Departments in Region 2, Guyana, Jamaica and Mexico, the allocation of the band 54–68 MHz to the fixed and mobile services is on a primary basis (see No. 5.33).

5.173 *Different category of service:* in the French Overseas Departments in Region 2, Guyana, Jamaica and Mexico, the allocation of the band 68–72 MHz to the fixed and mobile services is on a primary basis (see No. 5.33).

5.174 *Alternative allocation:* in Bulgaria, Hungary, Poland and Romania, the band 68–73 MHz is allocated to the broadcasting service on a primary basis and used in accordance with the decisions in the Final Acts of the Special Regional Conference (Geneva, 1960).

5.175 *Alternative allocation:* in Armenia, Azerbaijan, Belarus, Georgia, Kazakstan, Latvia, Lithuania, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the bands 68–73 MHz and 76–87.5 MHz are allocated to the broadcasting service on a primary basis. The services to which these bands are allocated in other countries and the broadcasting service in the countries listed above are subject to agreements with the neighbouring countries concerned.

5.176 *Additional allocation:* in Australia, China, Korea (Rep. of), Estonia (subject to agreement obtained under No. 9.21), the Philippines, the Dem. People's Rep. of Korea and Samoa, the band 68–74 MHz is also allocated to the broadcasting service on a primary basis.

5.177 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Kazakstan, Latvia, Moldova, Uzbekistan, Poland, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 73–74 MHz is also allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

5.178 *Additional allocation:* in Colombia, Costa Rica, Cuba, El Salvador, Guatemala, Guyana, Honduras and Nicaragua, the band 73–74.6 MHz is also allocated to the fixed and mobile services on a secondary basis.

5.179 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, China, Georgia, Kazakstan, Latvia, Lithuania, Moldova, Mongolia, Kyrgyzstan, Slovakia, the Czech Rep., Russian Federation, Tajikistan, Turkmenistan and Ukraine, the bands 74.6–74.8 MHz and 75.2–75.4 MHz are also allocated to the aeronautical radionavigation service, on a primary basis, for ground-based transmitters only.

5.180 The frequency 75 MHz is assigned to marker beacons. Administrations shall refrain from assigning frequencies close to the limits of the guardband to stations of other services which, because of their power or geographical position, might cause harmful interference or otherwise place a constraint on marker beacons.

Every effort should be made to improve further the characteristics of airborne receivers and to limit the power of transmitting stations close to the limits 74.8 MHz and 75.2 MHz.

5.181 *Additional allocation:* in Egypt, Israel, Japan, and Syria, the band 74.8–75.2 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedure invoked under No. 9.21.

5.182 *Additional allocation:* in Western Samoa, the band 75.4–87 MHz is also allocated to the broadcasting service on a primary basis.

5.183 *Additional allocation:* in China, Korea (Rep. of), Japan, the Philippines and the Dem. People's Rep. of Korea, the band 76–87 MHz is also allocated to the broadcasting service on a primary basis.

5.184 *Additional allocation:* in Bulgaria and Romania, the band 76–87.5 MHz is also allocated to the broadcasting service on a primary basis and used in accordance with the decisions contained in the Final Acts of the Special Regional Conference (Geneva, 1960).

5.185 *Different category of service:* in the United States, the French Overseas Departments in Region 2, Guyana, Jamaica, Mexico and Paraguay, the allocation of the band 76–88 MHz to the fixed and mobile services is on a primary basis (see No. 5.33).

5.187 *Alternative allocation:* in Albania, the band 81–87.5 MHz is allocated to the broadcasting service on a primary basis and used in accordance with the decisions contained in the Final Acts of the Special Regional Conference (Geneva, 1960).

5.188 *Additional allocation:* in Australia, the band 85–87 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service in Australia is subject to special agreements between the administrations concerned.

5.190 *Additional allocation:* in Monaco, the band 87.5–88 MHz is also allocated to the land mobile service on a primary basis, subject to agreement obtained under No. 9.21.

5.192 *Additional allocation:* in China and Korea (Rep. of), the band 100–108 MHz is also allocated to the fixed and mobile services on a primary basis.

5.194 *Additional allocation:* in Azerbaijan, Lebanon, Syria, Kyrgyzstan, Somalia and Turkmenistan, the band 104–108 MHz is also allocated to the mobile, except aeronautical mobile (R), service on a secondary basis.

5.197 *Additional allocation:* in Japan, Pakistan and Syria, the band 108–111.975 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedures invoked under No. 9.21.

5.198 *Additional allocation:* the band 117.975–136 MHz is also allocated to the aeronautical mobile-satellite (R) service on a secondary basis, subject to agreement obtained under No. 9.21.

5.199 The bands 121.45–121.55 MHz and 242.95–243.05 MHz are also allocated to the mobile-satellite service for the reception on board satellites of emissions from emergency position-indicating radiobeacons transmitting at 121.5 MHz and 243 MHz (see Appendix 13).

5.200 In the band 117.975–136 MHz, the frequency 121.5 MHz is the aeronautical emergency frequency and, where required, the frequency 123.1 MHz is the aeronautical frequency auxiliary to 121.5 MHz. Mobile stations of the maritime mobile service may communicate on these frequencies under the conditions laid down in Article 31 and Appendix 13 for distress and safety purposes with stations of the aeronautical mobile service.

5.201 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Bulgaria, Estonia, Georgia, Hungary, Iran (Islamic Republic of), Iraq, Japan, Kazakstan, Latvia, Moldova, Mongolia, Mozambique, Uzbekistan, Papua New Guinea, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 132–136 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

5.202 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Belarus, Bulgaria, the United Arab Emirates, Georgia, Iran (Islamic Republic of), Jordan, Latvia, Moldova, Oman, Uzbekistan, Poland, Syria, Kyrgyzstan, Slovakia, the Czech Rep., Romania, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 136–137 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

5.203 In the band 136–137 MHz, existing operational meteorological satellites may continue to operate, under the conditions defined in No. 4.4 with respect to the aeronautical mobile service, until 1 January 2002. Administrations shall not authorize new frequency assignments in this band to stations in the meteorological-satellite service.

5.203A *Additional allocation:* in Israel, Mauritania, Qatar and Zimbabwe, the band 136–137 MHz is also allocated to the fixed and mobile, except aeronautical mobile (R), services on a secondary basis until 1 January 2005.

5.203B *Additional allocation:* in Saudi Arabia, United Arab Emirates, Jordan, Oman and Syria, the band 136–137 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis until 1 January 2005.

5.204 *Different category of service:* in Afghanistan, Saudi Arabia, Bahrain, Bangladesh, Bosnia and Herzegovina, Brunei Darussalam, China, Cuba, the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Malaysia, Oman, Pakistan, Philippines, Qatar, Singapore, Sri Lanka, Thailand, Yemen and Yugoslavia, the band 137–138 MHz is allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis (see No. 5.33).

5.205 *Different category of service:* in Israel and Jordan, the allocation of the band 137–138 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 5.33).

5.206 *Different category of service:* in Armenia, Azerbaijan, Belarus, Bulgaria, Egypt, Finland, France, Georgia, Greece, Kazakstan, Lebanon, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Syria, Slovakia, the Czech Rep., Romania, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 137–138 MHz to the aeronautical mobile (OR) service is on a primary basis (see No. 5.33).

5.207 *Additional allocation:* in Australia, the band 137–144 MHz is also allocated to the broadcasting service on a primary basis until that service can be accommodated within regional broadcasting allocations.

5.208 The use of the band 137–138 MHz by the mobile-satellite service is subject to coordination under No. 9.11A.

5.208A In making assignments to space stations in the mobile-satellite service in the bands 137–138 MHz, 387–390 MHz and 400.15–401 MHz, administrations shall take all practicable steps to protect the radio astronomy service in the bands 150.05–153 MHz, 322–328.6 MHz, 406.1–410 MHz and 608–614 MHz from harmful interference from unwanted emissions. The threshold levels of interference detrimental to the radio astronomy service are shown in Table 1 of Recommendation ITU–R RA.769–1.

5.209 The use of the bands 137–138 MHz, 148–150.05 MHz, 399.9–400.05 MHz, 400.15–401 MHz, 454–456 MHz and 459–460 MHz by the mobile-

satellite service is limited to non-geostationary-satellite systems.

5.210 *Additional allocation:* in France, Italy, Liechtenstein, Slovakia, the Czech Rep., the United Kingdom and Switzerland, the bands 138–143.6 MHz and 143.65–144 MHz are also allocated to the space research service (space-to-Earth) on a secondary basis.

5.211 *Additional allocation:* in Germany, Saudi Arabia, Austria, Bahrain, Belgium, Bosnia and Herzegovina, Denmark, the United Arab Emirates, Spain, Finland, Greece, Ireland, Israel, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Liechtenstein, Luxembourg, Mali, Malta, Norway, the Netherlands, Qatar, the United Kingdom, Somalia, Sweden, Switzerland, Tanzania, Tunisia, Turkey and Yugoslavia, the band 138–144 MHz is also allocated to the maritime mobile and land mobile services on a primary basis.

5.212 *Alternative allocation:* in Angola, Botswana, Burundi, Cameroon, the Central African Rep., the Congo, Gabon, Gambia, Ghana, Guinea, Iraq, Jordan, Lesotho, Liberia, Libya, Malawi, Mozambique, Namibia, Nigeria, Oman, Dem. Rep. of the Congo, Rwanda, Sierra Leone, South Africa, Swaziland, Chad, Togo, Zambia and Zimbabwe, the band 138–144 MHz is allocated to the fixed and mobile services on a primary basis.

5.213 *Additional allocation:* in China, the band 138–144 MHz is also allocated to the radiolocation service on a primary basis.

5.214 *Additional allocation:* in Bosnia and Herzegovina, Croatia, Eritrea, Ethiopia, Kenya, The Former Yugoslav Republic of Macedonia, Malta, Somalia, Sudan, Tanzania and Yugoslavia, the band 138–144 MHz is also allocated to the fixed service on a primary basis.

5.216 *Additional allocation:* in China, the band 144–146 MHz is also allocated to the aeronautical mobile (OR) service on a secondary basis.

5.217 *Alternative allocation:* in Afghanistan, Bangladesh, Cuba, Guyana and India, the band 146–148 MHz is allocated to the fixed and mobile services on a primary basis.

5.218 *Additional allocation:* the band 148–149.9 MHz is also allocated to the space operation service (Earth-to-space) on a primary basis, subject to agreement obtained under No. 9.21. The bandwidth of any individual transmission shall not exceed ± 25 kHz.

5.219 The use of the band 148–149.9 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The mobile-satellite service shall not constrain the development and use of the fixed, mobile and space operation services in the band 148–149.9 MHz.

5.220 The use of the bands 149.9–150.05 MHz and 399.9–400.05 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The mobile-satellite service shall not constrain the development and use of the radionavigation-satellite service in the bands 149.9–150.05 MHz and 399.9–400.05 MHz.

5.221 Stations of the mobile-satellite service in the band 148–149.9 MHz shall not cause harmful interference to, or claim protection from, stations of the fixed or mobile services operating in accordance with the Table of Frequency Allocations in the following countries: Albania, Algeria, Germany, Saudi Arabia, Australia, Austria, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brunei Darussalam, Bulgaria, Cameroon, China, Cyprus, Congo, Korea (Rep. of), Croatia, Cuba, Denmark, Egypt, the United Arab Emirates, Eritrea, Spain, Estonia, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guinea, Guinea Bissau, Hungary, India, Iran (Islamic Republic of), Ireland, Iceland, Israel, Italy, Jamaica, Japan, Jordan, Kazakstan, Kenya, Kuwait, Latvia, The Former Yugoslav Republic of Macedonia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Mali, Malta, Mauritania, Moldova, Mongolia, Mozambique, Namibia, Norway, New Zealand, Oman, Uganda, Uzbekistan, Pakistan, Panama, Papua New Guinea, Paraguay, the Netherlands, the Philippines, Poland, Portugal, Qatar, Syria, Kyrgyzstan, Slovakia, Romania, the United Kingdom, the Russian Federation, Senegal, Sierra Leone, Singapore, Slovenia, Sri Lanka, South Africa, Sweden, Switzerland, Swaziland, Tanzania, Chad, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Ukraine, Viet Nam, Yemen, Yugoslavia, Zambia, and Zimbabwe.

5.222 Emissions of the radionavigation-satellite service in the bands 149.9–150.05 MHz and 399.9–400.05 MHz may also be used by receiving earth stations of the space research service.

5.223 Recognizing that the use of the band 149.9–150.05 MHz by the fixed and mobile services may cause harmful interference to the radionavigation-satellite service, administrations are urged not to authorize such use in application of No. 4.4.

5.224A The use of the bands 149.9–150.05 MHz and 399.9–400.05 MHz by the mobile-satellite service (Earth-to-space) is limited to the land mobile-satellite service (Earth-to-space) until 1 January 2015.

5.224B The allocation of the bands 149.9–150.05 MHz and 399.9–400.05 MHz to the radionavigation-satellite service shall be effective until 1 January 2015.

5.225 *Additional allocation:* in Australia and India, the band 150.05–153 MHz is also allocated to the radio astronomy service on a primary basis.

5.226 The frequency 156.8 MHz is the international distress, safety and calling frequency for the maritime mobile VHF radiotelephone service. The conditions for the use of this frequency are contained in Article 31 and Appendix 13.

In the bands 156–156.7625 MHz, 156.8375–157.45 MHz, 160.6–160.975 MHz and 161.475–162.05 MHz, each administration shall give priority to the maritime mobile service on only such frequencies as are assigned to stations of the maritime mobile service by the administration (see Articles 31 and 52, and Appendix 13).

Any use of frequencies in these bands by stations of other services to which they are allocated should be avoided in areas where such use might cause harmful interference to the maritime mobile VHF radiocommunication service.

However, the frequency 156.8 MHz and the frequency bands in which priority is given to the maritime mobile service may be used for radiocommunications on inland waterways subject to agreement between interested and affected administrations and taking into account current frequency usage and existing agreements.

5.227 In the maritime mobile VHF service the frequency 156.525 MHz is to be used exclusively for digital selective calling for distress, safety and calling. The conditions for the use of this frequency are prescribed in Articles 31 and 52, and Appendices 13 and 18.

5.229 *Alternative allocation:* in Morocco, the band 162–174 MHz is allocated to the broadcasting service on a primary basis. The use of this band shall be subject to agreement with administrations having services, operating or planned, in accordance with the Table which are likely to be affected. Stations in existence on 1 January 1981, with their technical characteristics as of that date, are not affected by such agreement.

5.230 *Additional allocation:* in China, the band 163–167 MHz is also allocated to the space operation service (space-to-Earth) on a primary basis, subject to agreement obtained under No. 9.21.

5.231 *Additional allocation:* in Afghanistan, China and Pakistan, the band 167–174 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service into this band shall be subject to agreement with the neighbouring countries in Region 3 whose services are likely to be affected.

5.232 *Additional allocation:* in Japan, the band 170–174 MHz is also allocated to the broadcasting service on a primary basis.

5.233 *Additional allocation:* in China, the band 174–184 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis, subject to agreement obtained under No. 9.21. These services shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations.

5.234 *Different category of service:* in Mexico, the allocation of the band 174–216 MHz to the fixed and mobile services is on a primary basis (see No. 5.33).

5.235 *Additional allocation:* in Germany, Austria, Belgium, Denmark, Spain, Finland, France, Israel, Italy, Liechtenstein, Malta, Monaco, Norway, the Netherlands, the United Kingdom, Sweden and Switzerland, the band 174–223 MHz is also allocated to the land mobile service on a primary basis. However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, broadcasting stations, existing or planned, in countries other than those listed in this footnote.

5.237 *Additional allocation:* in the Congo, Eritrea, Ethiopia, Gambia, Guinea, Libya, Malawi, Mali, Senegal, Sierra Leone, Somalia, Tanzania and Zimbabwe, the band 174–223 MHz is also allocated to the fixed and mobile services on a secondary basis.

5.238 *Additional allocation:* in Bangladesh, India, Pakistan and the Philippines, the band 200–216 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.240 *Additional allocation:* in China and India, the band 216–223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

5.241 In Region 2, no new stations in the radiolocation service may be authorized in the band 216–225 MHz. Stations authorized prior to 1 January 1990 may continue to operate on a secondary basis.

5.242 *Additional allocation:* in Canada, the band 216–220 MHz is also allocated to the land mobile service on a primary basis.

5.243 *Additional allocation:* in Somalia, the band 216–225 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to not causing harmful interference to existing or planned broadcasting services in other countries.

5.245 *Additional allocation:* in Japan, the band 222–223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

5.246 *Alternative allocation:* in Spain, France, Israel and Monaco, the band 223–230 MHz is allocated to the broadcasting and land mobile services on a primary basis (see No. 5.33) on the basis that, in the preparation of frequency plans, the broadcasting service shall have prior choice of frequencies; and allocated to the fixed and mobile, except land mobile, services on a secondary basis. However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations in Morocco and Algeria.

5.247 *Additional allocation:* in Saudi Arabia, Bahrain, the United Arab Emirates, Jordan, Oman, Qatar and Syria, the band 223–235 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.250 *Additional allocation:* in China, the band 225–235 MHz is also allocated to the radio astronomy service on a secondary basis.

5.251 *Additional allocation:* in Nigeria, the band 230–235 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to agreement obtained under No. 9.21.

5.252 *Alternative allocation:* in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the bands 230–238 MHz and 246–254 MHz are allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

5.254 The bands 235–322 MHz and 335.4–399.9 MHz may be used by the mobile-satellite service, subject to agreement obtained under No. 9.21, on condition that stations in this service do not cause harmful interference to those of other services operating or planned to be operated in accordance with the Table of Frequency Allocations.

5.255 The bands 312–315 MHz (Earth-to-space) and 387–390 MHz (space-to-Earth) in the mobile-satellite service may also be used by non-geostationary-satellite systems. Such use is subject to coordination under No. 9.11A.

5.256 The frequency 243 MHz is the frequency in this band for use by survival craft stations and equipment used for survival purposes (see Appendix 13).

5.257 The band 267–272 MHz may be used by administrations for space telemetry in their countries on a primary basis, subject to agreement obtained under No. 9.21.

5.258 The use of the band 328.6–335.4 MHz by the aeronautical radionavigation service is limited to Instrument Landing Systems (glide path).

5.259 *Additional allocation:* in Egypt, Israel, Japan, and Syria, the band 328.6–335.4 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedure invoked under No. 9.21.

5.260 Recognizing that the use of the band 399.9–400.05 MHz by the fixed and mobile services may cause harmful interference to the radionavigation satellite service, administrations are urged not to authorize such use in application of No. 4.4.

5.261 Emissions shall be confined in a band of ±25 kHz about the standard frequency 400.1 MHz.

5.262 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Bosnia and Herzegovina, Bulgaria, Colombia, Costa Rica, Cuba, Egypt, the United Arab Emirates, Ecuador, Georgia, Hungary, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakstan, Kuwait, Liberia, Malaysia, Moldova, Nigeria, Uzbekistan, Pakistan, the Philippines, Qatar, Syria, Kyrgyzstan, Slovakia, Romania, the Russian Federation, Singapore, Somalia, Tajikistan, Turkmenistan, Ukraine and Yugoslavia, the band 400.05–401 MHz is also allocated to the fixed and mobile services on a primary basis.

5.263 The band 400.15–401 MHz is also allocated to the space research service in the space-to-space direction for communications with manned space vehicles. In this application, the space research service will not be regarded as a safety service.

5.264 The use of the band 400.15–401 MHz by the mobile-satellite service is subject to coordination under No.

9.11A. The power flux-density limit indicated in Annex 1 of Appendix 5 shall apply until such time as a competent world radiocommunication conference revises it.

5.266 The use of the band 406–406.1 MHz by the mobile-satellite service is limited to low power satellite emergency position-indicating radiobeacons (see also Article 31 and Appendix 13).

5.267 Any emission capable of causing harmful interference to the authorized uses of the band 406–406.1 MHz is prohibited.

5.268 Use of the band 410–420 MHz by the space research service is limited to communications within 5 km of an orbiting, manned space vehicle. The power flux-density at the surface of the Earth produced by emissions from extra-vehicular activities shall not exceed -153 dB(W/m^2) for $0° \leq \delta \leq 5°$, $-153 + 0.077\ (\delta - 5)$ dB(W/m^2) for $5° \leq \delta \leq 70°$ and -148 dB(W/m^2) for $70° \leq \delta \leq 90°$, where δ is the angle of arrival of the radio-frequency wave and the reference bandwidth is 4 kHz. No. 4.10 does not apply to extra-vehicular activities. In this frequency band the space research (space-to-space) service shall not claim protection from, nor constrain the use and development of, stations of the fixed and mobile services.

5.269 *Different category of service:* in Australia, the United States, India, Japan and the United Kingdom, the allocation of the bands 420–430 MHz and 440–450 MHz to the radiolocation service is on a primary basis (see No. 5.33).

5.270 *Additional allocation:* in Australia, the United States, Jamaica and the Philippines, the bands 420–430 MHz and 440–450 MHz are also allocated to the amateur service on a secondary basis.

5.271 *Additional allocation:* in Azerbaijan, Belarus, China, Estonia, India, Latvia, Lithuania, Kyrgyzstan and Turkmenistan, the band 420–460 MHz is also allocated to the aeronautical radionavigation service (radio altimeters) on a secondary basis.

5.272 *Different category of service:* in France, the allocation of the band 430–434 MHz to the amateur service is on a secondary basis (see No. 5.32).

5.273 *Different category of service:* in Denmark, Libya and Norway, the allocation of the bands 430–432 MHz and 438–440 MHz to the radiolocation service is on a secondary basis (see No. 5.32).

5.274 *Alternative allocation:* in Denmark, Norway and Sweden, the bands 430–432 MHz and 438–440 MHz are allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.275 *Additional allocation:* in Bosnia and Herzegovina, Croatia, Estonia, Finland, Latvia, The Former Yugoslav Republic of Macedonia, Libya, Slovenia and Yugoslavia, the bands 430–432 MHz and 438–440 MHz are also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.]

5.276 *Additional allocation:* in Afghanistan, Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burkina Faso, Burundi, Egypt, the United Arab Emirates, Ecuador, Eritrea, Ethiopia, Greece, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Jordan, Kenya, Kuwait, Lebanon, Libya, Liechtenstein, Malaysia, Malta, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syria, the Dem. People's Rep. of Korea, Singapore, Somalia, Switzerland, Tanzania, Thailand, Togo, Turkey and Yemen, the band 430–440 MHz is also allocated to the fixed service on a primary basis and the bands 430–435 MHz and 438–440 MHz are also allocated to the mobile, except aeronautical mobile, service on a primary basis.

5.277 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Cameroon, Congo, Djibouti, Georgia, Hungary, Israel, Kazakstan, Latvia, Mali, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, the Russian Federation, Rwanda, Tajikistan, Chad, Turkmenistan and Ukraine, the band 430–440 MHz is also allocated to the fixed service on a primary basis.

5.278 *Different category of service:* in Argentina, Colombia, Costa Rica, Cuba, Guyana, Honduras, Panama and Venezuela, the allocation of the band 430–440 MHz to the amateur service is on a primary basis (see No. 5.33).

5.279 *Additional allocation:* in Mexico, the bands 430–435 MHz and 438–440 MHz are also allocated on a primary basis to the land mobile service, subject to agreement obtained under No. 9.21. 5.280 In Germany, Austria, Bosnia and Herzegovina, Croatia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Portugal, Slovenia, Switzerland and Yugoslavia, the band 433.05–434.79 MHz (centre frequency 433.92 MHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication services of these countries operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 15.13.

5.281 *Additional allocation:* in the French Overseas Departments in Region 2 and India, the band 433.75–434.25 MHz is also allocated to the space operation service (Earth-to-space) on a primary basis. In France and in Brazil, the band is allocated to the same service on a secondary basis.

5.282 In the bands 435–438 MHz, 1260–1270 MHz, 2400–2450 MHz, 3400–3410 MHz (in Regions 2 and 3 only) and 5650–5670 MHz, the amateur-satellite service may operate subject to not causing harmful interference to other services operating in accordance with the Table (see No. 5.43). Administrations authorizing such use shall ensure that any harmful interference caused by emissions from a station in the amateur-satellite service is immediately eliminated in accordance with the provisions of No. 25.11. The use of the bands 1260–1270 MHz and 5650–5670 MHz by the amateur-satellite service is limited to the Earth-to-space direction.

5.283 *Additional allocation:* in Austria, the band 438–440 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.284 *Additional allocation:* in Canada, the band 440–450 MHz is also allocated to the amateur service on a secondary basis.

5.285 *Different category of service:* in Canada, the allocation of the band 440–450 MHz to the radiolocation service is on a primary basis (see No. 5.33).

5.286 The band 449.75–450.25 MHz may be used for the space operation service (Earth-to-space) and the space research service (Earth-to-space), subject to agreement obtained under No. 9.21.

5.286A The use of the bands 454–456 MHz and 459–460 MHz by the mobile-satellite service is subject to coordination under No. 9.11A.

5.286B The use of the band 454–455 MHz in the countries listed in No. 5.286D, 455–456 MHz and 459–460 MHz in Region 2, and 454–456 MHz and 459–460 MHz in the countries listed in No. 5.286E, by stations in the mobile-satellite service, shall not cause harmful interference to, or claim protection from, stations of the fixed or mobile services operating in accordance with the Table of Frequency Allocations.

5.286C The use of the band 454–455 MHz in the countries listed in No. 5.286D, 455–456 MHz and 459–460 MHz in Region 2, and 454–456 MHz and 459–460 MHz in the countries listed in No. 5.286E, by stations in the mobile-satellite service, shall not constrain the development and use of the fixed and mobile services operating in accordance

with the Table of Frequency Allocations.

5.286D *Additional allocation:* in Canada, the United States, Mexico and Panama, the band 454–455 MHz is also allocated to the mobile-satellite service (Earth-to-space) on a primary basis.

5.286E *Additional allocation:* in Cape Verde, Indonesia, Nepal, Nigeria and Papua New Guinea, the bands 454–456 MHz and 459–460 MHz are also allocated to the mobile-satellite (Earth-to-space) service on a primary basis.

5.287 In the maritime mobile service, the frequencies 457.525 MHz, 457.550 MHz, 457.575 MHz, 467.525 MHz, 467.550 MHz and 467.575 MHz may be used by on-board communication stations. Where needed, equipment designed for 12.5 kHz channel spacing using also the additional frequencies 457.5375 MHz, 457.5625 MHz, 467.5375 MHz and 467.5625 MHz may be introduced for on-board communications. The use of these frequencies in territorial waters may be subject to the national regulations of the administration concerned. The characteristics of the equipment used shall conform to those specified in Recommendation ITU–R M.1174 (see Resolution 341 (WRC–97)).

5.288 In the territorial waters of the United States and the Philippines, the preferred frequencies for use by on-board communication stations shall be 457.525 MHz, 457.550 MHz, 457.575 MHz and 457.600 MHz paired, respectively, with 467.750 MHz, 467.775 MHz, 467.800 MHz and 467.825 MHz. The characteristics of the equipment used shall conform to those specified in Recommendation ITU–R M.1174.

5.289 Earth exploration-satellite service applications, other than the meteorological-satellite service, may also be used in the bands 460–470 MHz and 1690–1710 MHz for space-to-Earth transmissions subject to not causing harmful interference to stations operating in accordance with the Table.

5.290 *Different category of service:* in Afghanistan, Azerbaijan, Belarus, China, Japan, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 460–470 MHz to the meteorological-satellite service (space-to-Earth) is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

5.291 *Additional allocation:* in China, the band 470–485 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis subject to agreement obtained under No. 9.21 and subject to not causing harmful interference to existing and planned broadcasting stations.

5.291A *Additional allocation:* in Germany, Austria, Denmark, Estonia, Finland, Liechtenstein, Norway, Netherlands, the Czech Rep. and Switzerland, the band 470–494 MHz is also allocated to the radiolocation service on a secondary basis. This use is limited to the operation of wind profiler radars in accordance with Resolution 217 (WRC–97).

5.292 *Different category of service:* in Mexico and Venezuela, the allocation of the band 470–512 MHz to the fixed and mobile services, and in Argentina and Uruguay to the mobile service, is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

5.293 *Different category of service:* in Canada, Chile, Colombia, Cuba, the United States, Guyana, Honduras, Jamaica, Mexico, Panama and Peru, the allocation of the bands 470–512 MHz and 614–806 MHz to the fixed and mobile services is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21. In Argentina and Ecuador, the allocation of the band 470–512 MHz to the fixed and mobile services is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

5.294 *Additional allocation:* in Burundi, Cameroon, the Congo, Ethiopia, Israel, Kenya, Lebanon, Libya, Malawi, Senegal, Sudan, Syria, and Yemen, the band 470–582 MHz is also allocated to the fixed service on a secondary basis.

5.296 *Additional allocation:* in Germany, Austria, Belgium, Cyprus, Denmark, Spain, Finland, France, Ireland, Israel, Italy, Libya, Lithuania, Malta, Morocco, Monaco, Norway, the Netherlands, Portugal, Syria, the United Kingdom, Sweden, Switzerland, Swaziland and Tunisia, the band 470–790 MHz is also allocated on a secondary basis to the land mobile service, intended for applications ancillary to broadcasting. Stations of the land mobile service in the countries listed in this footnote shall not cause harmful interference to existing or planned stations operating in accordance with the Table in countries other than those listed in this footnote.

5.297 *Additional allocation:* in Costa Rica, Cuba, El Salvador, the United States, Guatemala, Guyana, Honduras, Jamaica and Mexico, the band 512–608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under No. 9.21.

5.298 *Additional allocation:* in India, the band 549.75–550.25 MHz is also allocated to the space operation service (space-to-Earth) on a secondary basis.

5.300 *Additional allocation:* in Israel, Libya, Syria and Sudan, the band 582–790 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

5.302 *Additional allocation:* in the United Kingdom, the band 590–598 MHz is also allocated to the aeronautical radionavigation service on a primary basis. All new assignments to stations in the aeronautical radionavigation service, including those transferred from the adjacent bands, shall be subject to coordination with the Administrations of the following countries: Germany, Belgium, Denmark, Spain, France, Ireland, Luxembourg, Morocco, Norway and the Netherlands.

5.304 *Additional allocation:* in the African Broadcasting Area (see Nos. 5.10 to 5.13), the band 606–614 MHz is also allocated to the radio astronomy service on a primary basis.

5.305 *Additional allocation:* in China, the band 606–614 MHz is also allocated to the radio astronomy service on a primary basis.

5.306 *Additional allocation:* in Region 1, except in the African Broadcasting Area (see Nos. 5.10 to 5.13), and in Region 3, the band 608–614 MHz is also allocated to the radio astronomy service on a secondary basis.

5.307 *Additional allocation:* in India, the band 608–614 MHz is also allocated to the radio astronomy service on a primary basis.

5.309 *Different category of service:* in Costa Rica, El Salvador and Honduras, the allocation of the band 614–806 MHz to the fixed service is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

5.311 Within the frequency band 620–790 MHz, assignments may be made to television stations using frequency modulation in the broadcasting-satellite service subject to agreement between the administrations concerned and those having services, operating in accordance with the Table, which may be affected (see Resolutions 33 (Rev.WRC–97) and 507). Such stations shall not produce a power flux-density in excess of the value -129 dB(W/m^2) for angles of arrival less than 20° (see Recommendation 705) within the territories of other countries without the consent of the administrations of those countries.

5.312 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Hungary, Kazakstan, Latvia, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Russian Federation, Tajikistan, Turkmenistan and Ukraine,

the band 645–862 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.314 *Additional allocation:* in Austria, Italy, Moldova, Uzbekistan, the United Kingdom and Swaziland, the band 790–862 MHz is also allocated to the land mobile service on a secondary basis.

5.315 *Alternative allocation:* in Greece, Italy and Tunisia, the band 790–838 MHz is allocated to the broadcasting service on a primary basis.

5.316 *Additional allocation:* in Germany, Saudi Arabia, Bosnia and Herzegovina, Burkina Faso, Cameroon, C''te d'Ivoire, Croatia, Denmark, Egypt, Finland, Israel, Kenya, The Former Yugoslav Republic of Macedonia, Libya, Liechtenstein, Monaco, Norway, the Netherlands, Portugal, Syria, Sweden, Switzerland and Yugoslavia, the band 790–830 MHz, and in these same countries and in Spain, France, Gabon and Malta, the band 830–862 MHz, are also allocated to the mobile, except aeronautical mobile, service on a primary basis. However, stations of the mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to, or claim protection from, stations of services operating in accordance with the Table in countries other than those mentioned in connection with the band.

5.317 *Additional allocation:* in Region 2 (except Brazil and the United States), the band 806–890 MHz is also allocated to the mobile-satellite service on a primary basis, subject to agreement obtained under No. 9.21. The use of this service is intended for operation within national boundaries.

5.317A Administrations wishing to implement International Mobile Telecommunications-2000 (IMT–2000) may use those parts of the band 806–960 MHz which are allocated to the mobile service on a primary basis and are used or planned to be used for mobile systems (see Resolution 224 (WRC–2000)). This identification does not preclude the use of these bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations.

5.318 *Additional allocation:* in Canada, the United States and Mexico, the ands 849–851 MHz and 894–896 MHz are also allocated to the aeronautical mobile service on a primary basis, for public correspondence with aircraft. The use of the band 849–851 MHz is limited to transmissions from aeronautical stations and the use of the band 894–896 MHz is limited to transmissions from aircraft stations.

5.319 *Additional allocation:* in Belarus, Russian Federation and Ukraine, the bands 806–840 MHz (Earth-to-space) and 856–890 MHz (space-to-Earth) are also allocated to the mobile-satellite, except aeronautical mobile-satellite (R), service. The use of these bands by this service shall not cause harmful interference to, or claim protection from, services in other countries operating in accordance with the Table of Frequency Allocations and is subject to special agreements between the administrations concerned.

5.320 *Additional allocation:* in Region 3, the bands 806–890 MHz and 942–960 MHz are also allocated to the mobile-satellite, except aeronautical mobile-satellite (R), service on a primary basis, subject to agreement obtained under No. 9.21. The use of this service is limited to operation within national boundaries. In seeking such agreement, appropriate protection shall be afforded to services operating in accordance with the Table, to ensure that no harmful interference is caused to such services.

5.321 *Alternative allocation:* in Italy, the band 838–854 MHz is allocated to the broadcasting service on a primary basis as from 1 January 1995.

5.322 In Region 1, in the band 862–960 MHz, stations of the broadcasting service shall be operated only in the African Broadcasting Area (see Nos. 5.10 to 5.13) excluding Algeria, Egypt, Spain, Libya, Morocco, Namibia, Nigeria, South Africa, Tanzania, Zimbabwe and Zambia, subject to agreement obtained under No. 9.21.

5.323 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, Hungary, Kazakstan, Latvia, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 862–960 MHz is also allocated to the aeronautical radionavigation service on a primary basis. Such use is subject to agreement obtained under No. 9.21 with administrations concerned and limited to ground-based radiobeacons in operation on 27 October 1997 until the end of their lifetime.

5.325 *Different category of service:* in the United States, the allocation of the band 890–942 MHz to the radiolocation service is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

5.325A *Different category of service:* in Cuba, the allocation of the band 902–915 MHz to the land mobile service is on a primary basis.

5.326 *Different category of service:* in Chile, the band 903–905 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21.

5.327 *Different category of service:* in Australia, the allocation of the band 915–928 MHz to the radiolocation service is on a primary basis (see No. 5.33).

5.328 The use of the band 960–1215 MHz by the aeronautical radionavigation service is reserved on a worldwide basis for the operation and development of airborne electronic aids to air navigation and any directly associated ground-based facilities.

5.328A *Additional allocation:* the band 1164–1215 MHz is also allocated to the radionavigation-satellite service (space-to-Earth) (space-to-space) on a primary basis. The aggregate power flux-density produced by all the space stations of all radionavigation-satellite systems at the Earth's surface shall not exceed the provisional value of -115 dB(W/m^2) in any 1 MHz band for all angles of arrival. Stations in the radionavigation-satellite service shall not cause harmful interference to, nor claim protection from, stations of the aeronautical-radionavigation service. The provisions of Resolution 605 (WRC–2000) apply.

5.329 Use of the radionavigation-satellite service in the band 1215–1300 MHz shall be subject to the condition that no harmful interference is caused to, and no protection is claimed from, the radionavigation service authorized under No. 5.331. See also Resolution 606 (WRC–2000).

5.329A Use of systems in the radionavigation-satellite service (space-to-space) operating in the bands 1215–1300 MHz and 1559–1610 MHz is not intended to provide safety service applications, and shall not impose any additional constraints on other systems or services operating in accordance with the Table.

5.330 *Additional allocation:* in Angola, Saudi Arabia, Bahrain, Bangladesh, Cameroon, China, the United Arab Emirates, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Libya, Morocco, Mozambique, Nepal, Nigeria, Pakistan, the Philippines, Qatar, Syria, Somalia, Sudan, Sri Lanka, Chad, Togo and Yemen, the band 1215–1300 MHz is also allocated to the fixed and mobile services on a primary basis.

5.331 *Additional allocation:* in Algeria, Germany, Austria, Bahrain, Belgium, Benin, Bosnia and Herzegovina, Burundi, Cameroon, China, Croatia, Denmark, the United Arab Emirates, France, Greece, India, Iran (Islamic Republic of), Iraq, Kenya, The Former Yugoslav Republic of

Macedonia, Liechtenstein, Luxembourg, Mali, Mauritania, Norway, Oman, the Netherlands, Portugal, Qatar, Senegal, Slovenia, Somalia, Sudan, Sri Lanka, Sweden, Switzerland, Turkey and Yugoslavia, the band 1215–1300 MHz is also allocated to the radionavigation service on a primary basis.

5.332 In the band 1215–1260 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service, the radionavigation-satellite service and other services allocated on a primary basis.

5.333 In the bands 1215–1300 MHz, 3100–3300 MHz, 5250–5350 MHz, 8550–8650 MHz, 9500–9800 MHz and 13.4–14.0 GHz, radiolocation stations installed on spacecraft may also be employed for the earth exploration-satellite and space research services on a secondary basis. (SUP–WRC–97)

5.334 *Additional allocation:* in Canada and the United States, the bands 1240–1300 MHz and 1350–1370 MHz are also allocated to the aeronautical radionavigation service on a primary basis.

5.335 In Canada and the United States in the band 1240–1300 MHz, active spaceborne sensors in the earth exploration-satellite and space research services shall not cause interference to, claim protection from, or otherwise impose constraints on operation or development of the aeronautical radionavigation service.

5.335A In the band 1260–1300 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service and other services allocated by footnotes on a primary basis.

5.337 The use of the bands 1300–1350 MHz, 2700–2900 MHz and 9000–9200 MHz by the aeronautical radionavigation service is restricted to ground-based radars and to associated airborne transponders which transmit only on frequencies in these bands and only when actuated by radars operating in the same band.

5.337A The use of the band 1300–1350 MHz by earth stations in the radionavigation-satellite service and by stations in the radiolocation service shall not cause harmful interference to, nor constrain the operation and development of, the aeronautical-radionavigation service.

5.338 In Azerbaijan, Bulgaria, Mongolia, Kyrgyzstan, Slovakia, the Czech Rep., Romania and Turkmenistan, existing installations of the radionavigation service may continue to operate in the band 1350–1400 MHz.

5.339 The bands 1370–1400 MHz, 2640–2655 MHz, 4950–4990 MHz and 15.20–15.35 GHz are also allocated to the space research (passive) and earth exploration-satellite (passive) services on a secondary basis.

5.340 All emissions are prohibited in the following bands:

1400–1427 MHz,
2690–2700 MHz, except those provided for by Nos. 5.421 and 5.422,
10.68–10.7 GHz, except those provided for by No. 5.483,
15.35–15.4 GHz, except those provided for by No. 5.511,
23.6–24 GHz,
31.3–31.5 GHz,
31.5–31.8 GHz, in Region 2,
48.94–49.04 GHz,from airborne stations,
50.2–50.4 GHz,[2] except those provided for by No. 5.555A,
52.6–54.25 GHz,
86–92 GHz,
100–102 GHz,
109.5–111.8 GHz,
114.25–116 GHz,
148.5–151.5 GHz,
164–167 GHz,
182–185 GHz, except those provided for by No. 5.563,
190–191.8 GHz,
200–209 GHz,
226–231.5 GHz,
250–252 GHz.

5.341 In the bands 1400–1727 MHz, 101–120 GHz and 197–220 GHz, passive research is being conducted by some countries in a programme for the search for intentional emissions of extraterrestrial origin.

5.342 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, Uzbekistan, Kyrgystan, the Russian Federation and Ukraine, the band 1429–1535 MHz is also allocated to the aeronautical mobile service on a primary basis exclusively for the purposes of aeronautical telemetry within the national territory. As of 1 April 2007, the use of the band 1452–1492 MHz is subject to agreement between the administrations concerned.

5.343 In Region 2, the use of the band 1435–1535 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

5.344 *Alternative allocation:* in the United States, the band 1452–1525 MHz is allocated to the fixed and mobile services on a primary basis (see also No. 5.343).

5.345 Use of the band 1452–1492 MHz by the broadcasting-satellite service, and by the broadcasting service, is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (WARC–92).

5.347 *Different category of service:* in Bangladesh, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Cuba, Denmark, Egypt, Greece, Ireland, Italy, Kenya, Mozambique, Portugal, Sri Lanka, Swaziland, Yemen, Yugoslavia and Zimbabwe, the allocation of the band 1452–1492 MHz to the broadcasting-satellite service and the broadcasting service is on a secondary basis until 1 April 2007.

5.348 The use of the band 1492–1525 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. However, no coordination threshold in Article 21 for space stations of the mobile-satellite service with respect to terrestrial services shall apply to the situation referred to in No. 5.343. With respect to the situation referred to in No. 5.343, the requirement for coordination in the band 1492–1525 MHz will be determined by band overlap.

5.348A In the band 1492–1525 MHz, the coordination threshold in terms of the power flux-density levels at the surface of the Earth in application of No. 9.11A for space stations in the mobile-satellite (space-to-Earth) service, with respect to the land mobile service use for specialized mobile radios or used in conjunction with public switched telecommunication networks (PSTN) operating within the territory of Japan, shall be -150 dB(W/m^2) in any 4 kHz band for all angles of arrival, instead of those given in Table 5–2 of Appendix 5. The above threshold level of the power flux-density shall apply until it is changed by a competent world radiocommunication conference.

5.349 *Different category of service:* in Saudi Arabia, Azerbaijan, Bahrain, Bosnia and Herzegovina, Cameroon, Egypt, France, Iran (Islamic Republic of), Iraq, Israel, Kazakstan, Kuwait, The Former Yugoslav Republic of Macedonia, Lebanon, Morocco, Qatar, Syria, Kyrgyzstan, Romania, Turkmenistan, Yemen and Yugoslavia, the allocation of the band 1525–1530 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

[2] 5.340.1 The allocation to the earth exploration-satellite service (passive) and the space research service (passive) in the band 50.2–50.4 GHz should not impose undue constraints on the use of the adjacent bands by the primary allocated services in those bands.

5.350 *Additional allocation:* in Azerbaijan, Kyrgyzstan and Turkmenistan, the band 1525–1530 MHz is also allocated to the aeronautical mobile service on a primary basis.

5.351 The bands 1525–1544 MHz, 1545–1559 MHz, 1626.5–1645.5 MHz and 1646.5–1660.5 MHz shall not be used for feeder links of any service. In exceptional circumstances, however, an earth station at a specified fixed point in any of the mobile-satellite services may be authorized by an administration to communicate via space stations using these bands.

5.351A For the use of the bands 1525–1544 MHz, 1545–1559 MHz, 1610–1626.5 MHz, 1626.5–1645.5 MHz, 1646.5–1660.5 MHz, 1980–2010 MHz, 2170–2200 MHz, 2483.5–2500 MHz, 2500–2520 MHz and 2670–2690 MHz by the mobile-satellite service, see Resolutions 212 (Rev.WRC–97) and 225 (WRC–2000).

5.352A In the band 1525–1530 MHz, stations in the mobile-satellite service, except stations in the maritime mobile-satellite service, shall not cause harmful interference to, or claim protection from, stations of the fixed service in France and French overseas territories in Region 3, Algeria, Saudi Arabia, Egypt, Guinea, India, Israel, Italy, Jordan, Kuwait, Mali, Malta, Morocco, Mauritania, Nigeria, Oman, Pakistan, Philippines, Qatar, Syria, Tanzania, Viet Nam and Yemen notified prior to 1 April 1998.

5.353A In applying the procedures of Section II of Article 9 to the mobile-satellite service in the bands 1530–1544 MHz and 1626.5–1645.5 MHz, priority shall be given to accommodating the spectrum requirements for distress, urgency and safety communications of the Global Maritime Distress and Safety System (GMDSS). Maritime mobile-satellite distress, urgency and safety communications shall have priority access and immediate availability over all other mobile satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, distress, urgency and safety communications of the GMDSS. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services. (The provisions of Resolution 222 (WRC–2000) shall apply.)

5.354 The use of the bands 1525–1559 MHz and 1626.5–1660.5 MHz by the mobile-satellite services is subject to coordination under No. 9.11A.

5.355 *Additional allocation:* in Bahrain, Bangladesh, Congo, Egypt, Eritrea, Iraq, Israel, Jordan, Kuwait, Lebanon, Malta, Morocco, Qatar, Syria, Somalia, Sudan, Chad, Togo and Yemen, the bands 1540–1559 MHz, 1610–1645.5 MHz and 1646.5–1660 MHz are also allocated to the fixed service on a secondary basis.

5.356 The use of the band 1544–1545 MHz by the mobile-satellite service (space-to-Earth) is limited to distress and safety communications (see Article 31).

5.357 Transmissions in the band 1545–1555 MHz from terrestrial aeronautical stations directly to aircraft stations, or between aircraft stations, in the aeronautical mobile (R) service are also authorized when such transmissions are used to extend or supplement the satellite-to-aircraft links.

5.357A In applying the procedures of Section II of Article 9 to the mobile-satellite service in the bands 1545–1555 MHz and 1646.5–1656.5 MHz, priority shall be given to accommodating the spectrum requirements of the aeronautical mobile-satellite (R) service providing transmission of messages with priority 1 to 6 in Article 44. Aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44 shall have priority access and immediate availability, by pre-emption if necessary, over all other mobile-satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services. (The provisions of Resolution 222 (WRC–2000) shall apply.)

5.359 *Additional allocation:* in Germany, Saudi Arabia, Armenia, Austria, Azerbaijan, Belarus, Benin, Bosnia and Herzegovina, Bulgaria, Cameroon, Spain, France, Gabon, Georgia, Greece, Guinea, Guinea-Bissau, Hungary, Jordan, Kazakstan, Kuwait, Latvia, Lebanon, Libya, Lithuania, Mali, Morocco, Mauritania, Moldova, Mongolia, Nigeria, Uganda, Uzbekistan, Pakistan, Poland, Syria, Kyrgyzstan, the Dem. People's Rep. of Korea, Romania, the Russian Federation, Senegal, Swaziland, Tajikistan, Tanzania, Tunisia, Turkmenistan and Ukraine, the bands 1550–1559 MHz, 1610–1645.5 MHz and 1646.5–1660 MHz are also allocated to the fixed service on a primary basis. Administrations are urged to make all practicable efforts to avoid the implementation of new fixed-service stations in these bands.

5.362A In the United States, in the bands 1555–1559 MHz and 1656.5–1660.5 MHz, the aeronautical mobile-satellite (R) service shall have priority access and immediate availability, by pre-emption if necessary, over all other mobile-satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services.

5.362B *Additional allocation:* The band 1559–1610 MHz is also allocated to the fixed service on a primary basis until 1 January 2005 in Germany, Armenia, Azerbaijan, Belarus, Benin, Bosnia and Herzegovina, Bulgaria, Spain, France, Gabon, Georgia, Greece, Guinea, Guinea-Bissau, Hungary, Kazakstan, Latvia, Lithuania, Moldova, Mongolia, Nigeria, Uganda, Uzbekistan, Pakistan, Poland, Kyrgyzstan, the Dem. People's Rep. of Korea, Romania, the Russian Federation, Senegal, Swaziland, Tajikistan, Tanzania, Turkmenistan and Ukraine, and until 1 January 2010 in Saudi Arabia, Cameroon, Jordan, Kuwait, Lebanon, Libya, Mali, Morocco, Mauritania, Syria and Tunisia. After these dates, the fixed service may continue to operate on a secondary basis until 1 January 2015, at which time this allocation shall no longer be valid. Administrations are urged to take all practicable steps to protect the radionavigation-satellite service and the aeronautical radionavigation service and not authorize new frequency assignments to fixed-service systems in this band.

5.362C *Additional allocation:* in Bahrain, Bangladesh, Congo, Egypt, Eritrea, Iraq, Israel, Jordan, Kuwait, Lebanon, Malta, Morocco, Qatar, Syria, Somalia, Sudan, Chad, Togo and Yemen, the band 1559–1610 MHz is also allocated to the fixed service on a secondary basis until 1 January 2015, at which time this allocation shall no longer be valid. Administrations are urged to take all practicable steps to protect the radionavigation-satellite service and not authorize new frequency assignments to fixed-service systems in this band.

5.363 *Alternative allocation:* in Sweden, the band 1590–1626.5 MHz is allocated to the aeronautical radionavigation service on a primary basis.

5.364 The use of the band 1610–1626.5 MHz by the mobile-satellite service (Earth-to-space) and by the radiodetermination-satellite service

(Earth-to-space) is subject to coordination under No. 9.11A. A mobile earth station operating in either of the services in this band shall not produce a peak e.i.r.p. density in excess of −15 dB(W/4 kHz) in the part of the band used by systems operating in accordance with the provisions of No. 5.366 (to which No. 4.10 applies), unless otherwise agreed by the affected administrations. In the part of the band where such systems are not operating, the mean e.i.r.p. density of a mobile earth station shall not exceed −3 dB(W/4 kHz). Stations of the mobile-satellite service shall not claim protection from stations in the aeronautical radionavigation service, stations operating in accordance with the provisions of No. 5.366 and stations in the fixed service operating in accordance with the provisions of No. 5.359. Administrations responsible for the coordination of mobile-satellite networks shall make all practicable efforts to ensure protection of stations operating in accordance with the provisions of No. 5.366.

5.365 The use of the band 1613.8–1626.5 MHz by the mobile-satellite service (space-to-Earth) is subject to coordination under No. 9.11A.

5.366 The band 1610–1626.5 MHz is reserved on a worldwide basis for the use and development of airborne electronic aids to air navigation and any directly associated ground-based or satellite-borne facilities. Such satellite use is subject to agreement obtained under No. 9.21.

5.367 *Additional allocation:* The bands 1610–1626.5 MHz and 5000–5150 MHz are also allocated to the aeronautical mobile-satellite (R) service on a primary basis, subject to agreement obtained under No. 9.21.

5.368 With respect to the radiodetermination-satellite and mobile-satellite services the provisions of No. 4.10 do not apply in the band 1610–1626.5 MHz, with the exception of the aeronautical radionavigation-satellite service.

5.369 *Different category of service:* in Angola, Australia, Burundi, China, Côte d'Ivoire, Eritrea, Ethiopia, India, Iran (Islamic Republic of), Israel, Jordan, Lebanon, Liberia, Libya, Madagascar, Mali, Pakistan, Papua New Guinea, Dem. Rep. of the Congo, Syria, Senegal, Sudan, Swaziland, Togo and Zambia, the allocation of the band 1610–1626.5 MHz to the radiodetermination-satellite service (Earth-to-space) is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21 from countries not listed in this provision.

5.370 *Different category of service:* in Venezuela, the allocation to the radiodetermination-satellite service in the band 1610–1626.5 MHz (Earth-to-space) is on a secondary basis.

5.371 *Additional allocation:* in Region 1, the bands 1610–1626.5 MHz (Earth-to-space) and 2483.5–2500 MHz (space-to-Earth) are also allocated to the radiodetermination-satellite service on a secondary basis, subject to agreement obtained under No. 9.21.

5.372 Harmful interference shall not be caused to stations of the radio astronomy service using the band 1610.6–1613.8 MHz by stations of the radiodetermination-satellite and mobile-satellite services (No. 29.13 applies).

5.374 Mobile earth stations in the mobile-satellite service operating in the bands 1631.5–1634.5 MHz and 1656.5–1660 MHz shall not cause harmful interference to stations in the fixed service operating in the countries listed in No. 5.359.

5.375 The use of the band 1645.5–1646.5 MHz by the mobile-satellite service (Earth-to-space) and for inter-satellite links is limited to distress and safety communications (see Article 31).

5.376 Transmissions in the band 1646.5–1656.5 MHz from aircraft stations in the aeronautical mobile (R) service directly to terrestrial aeronautical stations, or between aircraft stations, are also authorized when such transmissions are used to extend or supplement the aircraft-to-satellite links.

5.376A Mobile earth stations operating in the band 1660–1660.5 MHz shall not cause harmful interference to stations in the radio astronomy service.

5.377 In the band 1675–1710 MHz, stations in the mobile-satellite service shall not cause harmful interference to, nor constrain the development of, the meteorological-satellite and meteorological aids services (see Resolution 213 (Rev.WRC–95)[3]) and the use of this band shall be subject to coordination under No. 9.11A.

5.379 *Additional allocation:* in Bangladesh, India, Indonesia, Nigeria and Pakistan, the band 1660.5–1668.4 MHz is also allocated to the meteorological aids service on a secondary basis.

5.379A Administrations are urged to give all practicable protection in the band 1660.5–1668.4 MHz for future research in radio astronomy, particularly by eliminating air-to-ground transmissions in the meteorological aids service in the band 1664.4–1668.4 MHz as soon as practicable.

5.380 The bands 1670–1675 MHz and 1800–1805 MHz are intended for use, on a worldwide basis, by administrations wishing to implement aeronautical public correspondence. The use of the band 1670–1675 MHz by stations in the systems for public correspondence with aircraft is limited to transmissions from aeronautical stations and the use of the band 1800–1805 MHz is limited to transmissions from aircraft stations.

5.381 *Additional allocation:* in Afghanistan, Costa Rica, Cuba, India, Iran (Islamic Republic of), Malaysia, Pakistan and Sri Lanka, the band 1690–1700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.382 *Different category of service:* in Saudi Arabia, Armenia, Austria, Azerbaijan, Bahrain, Belarus, Bosnia and Herzegovina, Bulgaria, the Congo, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guinea, Hungary, Iraq, Israel, Jordan, Kazakstan, Kuwait, the Former Yugoslav Republic of Macedonia, Lebanon, Mauritania, Moldova, Mongolia, Oman, Uzbekistan, Poland, Qatar, Syria, Kyrgyzstan, Romania, Russian Federation, Somalia, Tajikistan, Tanzania, Turkmenistan, Ukraine, Yemen and Yugoslavia, the allocation of the band 1690–1700 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 5.33), and in the Dem. People's Rep. of Korea, the allocation of the band 1690–1700 MHz to the fixed service is on a primary basis (see No. 5.33) and to the mobile, except aeronautical mobile, service on a secondary basis.

5.384 *Additional allocation:* in India, Indonesia and Japan, the band 1700–1710 MHz is also allocated to the space research service (space-to-Earth) on a primary basis.

5.384A The bands, or portions of the bands, 1710–1885 MHz and 2500–2690 MHz, are identified for use by administrations wishing to implement International Mobile Telecommunications-2000 (IMT–2000) in accordance with Resolution 223 (WRC–2000). This identification does not preclude the use of these bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations.

5.385 *Additional allocation:* the band 1718.8–1722.2 MHz is also allocated to the radio astronomy service on a secondary basis for spectral line observations.

5.386 *Additional allocation:* the band 1750–1850 MHz is also allocated to the space operation (Earth-to-space) and space research (Earth-to-space) services in Region 2, in Australia, India, Indonesia and Japan on a primary basis,

[3] Note by the Secretariat: This Resolution was abrogated by WRC–2000.

subject to agreement obtained under No. 9.21, having particular regard to troposcatter systems.

5.387 *Additional allocation:* in Azerbaijan, Belarus, Georgia, Kazakstan, Mali, Mongolia, Kyrgyzstan, Slovakia, Romania, Tajikistan and Turkmenistan, the band 1770–1790 MHz is also allocated to the meteorological-satellite service on a primary basis, subject to agreement obtained under No. 9.21.

5.388 The bands 1885–2025 MHz and 2110–2200 MHz are intended for use, on a worldwide basis, by administrations wishing to implement International Mobile Telecommunications-2000 (IMT–2000). Such use does not preclude the use of these bands by other services to which they are allocated. The bands should be made available for IMT–2000 in accordance with Resolution 212 (Rev.WRC–97). (See also Resolution 223 (WRC–2000).)

5.388A In Regions 1 and 3, the bands 1885–1980 MHz, 2010–2025 MHz and 2110–2170 MHz and, in Region 2, the bands 1885–1980 MHz and 2110–2160 MHz may be used by high altitude platform stations as base stations to provide International Mobile Telecommunications-2000 (IMT–2000), in accordance with Resolution 221 (WRC–2000). The use by IMT–2000 applications using high altitude platform stations as base stations does not preclude the use of these bands by any station in the services to which they are allocated and does not establish priority in the Radio Regulations.

5.389A The use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (WRC–95)[4]. The use of these bands shall not commence before 1 January 2000; however the use of the band 1980–1990 MHz in Region 2 shall not commence before 1 January 2005.

5.389B The use of the band 1980–1990 MHz by the mobile-satellite service shall not cause harmful interference to or constrain the development of the fixed and mobile services in Argentina, Brazil, Canada, Chile, Ecuador, the United States, Honduras, Jamaica, Mexico, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

5.389C The use of the bands 2010–2025 MHz and 2160–2170 MHz in Region 2 by the mobile-satellite service shall not commence before 1 January 2002 and is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (WRC–95)[4].

5.389D In Canada and the United States the use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite service shall not commence before 1 January 2000.

5.389E The use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite service in Region 2 shall not cause harmful interference to or constrain the development of the fixed and mobile services in Regions 1 and 3.

5.389F In Algeria, Benin, Cape Verde, Egypt, Iran (Islamic Republic of), Mali, Syria and Tunisia, the use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service shall neither cause harmful interference to the fixed and mobile services, nor hamper the development of those services prior to 1 January 2005, nor shall the former service request protection from the latter services.

5.390 In Argentina, Brazil, Chile, Colombia, Cuba, Ecuador, Suriname and Uruguay, the use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite services shall not cause harmful interference to stations in the fixed and mobile services before 1 January 2005. After this date, the use of these bands is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (WRC–95).[5]

5.391 In making assignments to the mobile service in the bands 2025–2110 MHz and 2200–2290 MHz, administrations shall not introduce high-density mobile systems, as described in Recommendation ITU–R SA.1154, and shall take that Recommendation into account for the introduction of any other type of mobile system.

5.392 Administrations are urged to take all practicable measures to ensure that space-to-space transmissions between two or more non-geostationary satellites, in the space research, space operations and Earth exploration-satellite services in the bands 2025–2110 MHz and 2200–2290 MHz, shall not impose any constraints on Earth-to-space, space-to-Earth and other space-to-space transmissions of those services and in those bands between geostationary and non-geostationary satellites.

5.392A *Additional allocation:* in Russian Federation, the band 2160–2200 MHz is also allocated to the space research service (space-to-Earth) on a primary basis until 1 January 2005. Stations in the space research service shall not cause harmful interference to, or claim protection from, stations in the fixed and mobile services operating in this frequency band.

5.393 *Additional allocation:* in the United States, India and Mexico, the band 2310–2360 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial sound broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (WARC–92), with the exception of resolves 3 in regard to the limitation on broadcasting-satellite systems in the upper 25 MHz.

5.394 In the United States, the use of the band 2300–2390 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services. In Canada, the use of the band 2300–2483.5 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services.

5.395 In France, the use of the band 2310–2360 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

5.396 Space stations of the broadcasting-satellite service in the band 2310–2360 MHz operating in accordance with No. 5.393 that may affect the services to which this band is allocated in other countries shall be coordinated and notified in accordance with Resolution 33 (Rev.WRC–97). Complementary terrestrial broadcasting stations shall be subject to bilateral coordination with neighbouring countries prior to their bringing into use.

5.397 *Different category of service:* in France, the band 2450–2500 MHz is allocated on a primary basis to the radiolocation service (see No. 5.33). Such use is subject to agreement with administrations having services operating or planned to operate in accordance with the Table of Frequency Allocations which may be affected.

5.398 In respect of the radiodetermination-satellite service in the band 2483.5–2500 MHz, the provisions of No. 4.10 do not apply.

5.399 In Region 1, in countries other than those listed in No. 5.400, harmful interference shall not be caused to, or protection shall not be claimed from, stations of the radiolocation service by stations of the radiodetermination satellite service.

5.400 *Different category of service:* in Angola, Australia, Bangladesh, Burundi, China, Eritrea, Ethiopia, India, Iran (Islamic Republic of), Jordan, Lebanon, Liberia, Libya, Madagascar, Mali, Pakistan, Papua New Guinea, Dem. Rep. of the Congo, Syria, Sudan, Swaziland, Togo and Zambia, the

[4] Note by the Secretariat: This Resolution was revised by WRC–2000.

[5] Note by the Secretariat: This Resolution was revised by WRC–2000.

allocation of the band 2483.5–2500 MHz to the radiodetermination-satellite service (space-to-Earth) is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21 from countries not listed in this provision.

5.402 The use of the band 2483.5–2500 MHz by the mobile-satellite and the radiodetermination-satellite services is subject to the coordination under No. 9.11A. Administrations are urged to take all practicable steps to prevent harmful interference to the radio astronomy service from emissions in the 2483.5–2500 MHz band, especially those caused by second-harmonic radiation that would fall into the 4990–5000 MHz band allocated to the radio astronomy service worldwide.

5.403 Subject to agreement obtained under No. 9.21, the band 2520–2535 MHz (until 1 January 2005 the band 2500–2535 MHz) may also be used for the mobile-satellite (space-to-Earth), except aeronautical mobile-satellite, service for operation limited to within national boundaries. The provisions of No. 9.11A apply.

5.404 *Additional allocation:* in India and Iran (Islamic Republic of), the band 2500–2516.5 MHz may also be used for the radiodetermination-satellite service (space-to-Earth) for operation limited to within national boundaries, subject to agreement obtained under No. 9.21.

5.405 *Additional allocation:* in France, the band 2500–2550 MHz is also allocated to the radiolocation service on a primary basis. Such use is subject to agreement with the administrations having services operating or planned to operate in accordance with the Table which may be affected.

5.407 In the band 2500–2520 MHz, the power flux-density at the surface of the Earth from space stations operating in the mobile-satellite (space-to-Earth) service shall not exceed -152 dB(W/(m^2 4 kHz)) in Argentina, unless otherwise agreed by the administrations concerned.

5.409 Administrations shall make all practicable efforts to avoid developing new tropospheric scatter systems in the band 2500–2690 MHz.

5.410 The band 2500–2690 MHz may be used for tropospheric scatter systems in Region 1, subject to agreement obtained under No. 9.21.

5.411 When planning new tropospheric scatter radio-relay links in the band 2500–2690 MHz, all possible measures shall be taken to avoid directing the antennae of these links towards the geostationary-satellite orbit.

5.412 *Alternative allocation:* in Azerbaijan, Bulgaria, Kyrgyzstan and Turkmenistan, the band 2500–2690 MHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.413 In the design of systems in the broadcasting-satellite service in the bands between 2500 MHz and 2690 MHz, administrations are urged to take all necessary steps to protect the radio astronomy service in the band 2690–2700 MHz.

5.414 The allocation of the frequency band 2500–2520 MHz to the mobile-satellite service (space-to-Earth) shall be effective on 1 January 2005 and is subject to coordination under No. 9.11A.

5.415 The use of the bands 2500–2690 MHz in Region 2 and 2500–2535 MHz and 2655–2690 MHz in Region 3 by the fixed-satellite service is limited to national and regional systems, subject to agreement obtained under No. 9.21, giving particular attention to the broadcasting-satellite service in Region 1. In the direction space-to-Earth, the power flux-density at the Earth's surface shall not exceed the values given in Article 21, Table 21–4.

5.415A *Additional allocation:* in India and Japan, subject to agreement obtained under No. 9.21, the band 2515–2535 MHz may also be used for the aeronautical mobile-satellite service (space-to-Earth) for operation limited to within their national boundaries.

5.416 The use of the band 2520–2670 MHz by the broadcasting-satellite service is limited to national and regional systems for community reception, subject to agreement obtained under No. 9.21. The power flux-density at the Earth's surface shall not exceed the values given in Article 21, Table 21–4.

5.418 *Additional allocation:* in Bangladesh, Belarus, Korea (Rep. of), India, Japan, Pakistan, Singapore, Sri Lanka and Thailand, the band 2535–2655 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (WARC–92). The provisions of No. 5.416 and Table 21–4 of Article 21, do not apply to this additional allocation. Use of non-geostationary-satellite systems in the broadcasting-satellite service (sound) is subject to Resolution 539 (WRC–2000).

5.418A In certain Region 3 countries listed in No. 5.418, use of the band 2630–2655 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound) for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000, is subject to the application of the provisions of No. 9.12A, in respect of geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received after 2 June 2000, and No. 22.2 does not apply. No. 22.2 shall continue to apply with respect to geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received before 3 June 2000. Use of the band by non-geostationary-satellite systems in the broadcasting-satellite service (sound) is subject to the provisions of Resolution 539 (WRC–2000), and such systems shall be in accordance with Resolution 528 (WARC–92).

5.418B Use of the band 2630–2655 MHz by non-geostationary-satellite systems for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000, is subject to the application of the provisions of No. 9.12. Resolution 539 (WRC–2000) applies.

5.418C Use of the band 2630–2655 MHz by geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000 is subject to the application of the provisions of No. 9.13 with respect to non-geostationary-satellite systems in the broadcasting-satellite service (sound), and No. 22.2 does not apply. Resolution 539 (WRC–2000) applies.

5.419 The allocation of the frequency band 2670–2690 MHz to the mobile-satellite service shall be effective from 1 January 2005. When introducing systems of the mobile-satellite service in this band, administrations shall take all necessary steps to protect the satellite systems operating in this band prior to 3 March 1992. The coordination of mobile-satellite systems in the band shall be in accordance with No. 9.11A.

5.420 The band 2655–2670 MHz (until 1 January 2005 the band 2655–2690 MHz) may also be used for the mobile-satellite (Earth-to-space), except aeronautical mobile-satellite, service for operation limited to within national boundaries, subject to agreement obtained under No. 9.21. The coordination under No. 9.11A applies.

5.420A *Additional allocation:* in India and Japan, subject to agreement obtained under No. 9.21, the band 2670–2690 MHz may also be used for the aeronautical mobile-satellite service (Earth-to-space) for operation limited to within their national boundaries.

5.421 *Additional allocation:* in Germany and Austria, the band 2690–2695 MHz is also allocated to the fixed service on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

5.422 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Bosnia and Herzegovina, Brunei Darussalam, Congo, Cote d'Ivoire, Cuba, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Georgia, Guinea, Guinea-Bissau, Iran (Islamic Republic of), Iraq, Israel, Jordan, Lebanon, Malaysia, Mali, Mauritania, Moldova, Mongolia, Nigeria, Oman, Uzbekistan, Pakistan, the Philippines, Qatar, Syria, Kyrgyzstan, the Dem. Rep. of the Congo, Romania, the Russian Federation, Somalia, Tajikistan, Tunisia, Turkmenistan, Ukraine, Yemen and Yugoslavia, the band 2690–2700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

5.423 In the band 2700–2900 MHz, ground-based radars used for meteorological purposes are authorized to operate on a basis of equality with stations of the aeronautical radionavigation service.

5.424 *Additional allocation:* in Canada, the band 2850–2900 MHz is also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars.

5.425 In the band 2900–3100 MHz, the use of the shipborne interrogator-transponder system (SIT) shall be confined to the sub-band 2930–2950 MHz.

5.426 The use of the band 2900–3100 MHz by the aeronautical radionavigation service is limited to ground-based radars.

5.427 In the bands 2900–3100 MHz and 9300–9500 MHz, the response from radar transponders shall not be capable of being confused with the response from radar beacons (racons) and shall not cause interference to ship or aeronautical radars in the radionavigation service, having regard, however, to No. 4.9.

5.428 *Additional allocation:* in Azerbaijan, Bulgaria, Cuba, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 3100–3300 MHz is also allocated to the radionavigation service on a primary basis.

5.429 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, China, the Congo, Korea (Rep. of), the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Libya, Malaysia, Oman, Pakistan, Qatar, Syria, Dem. People's Rep. of Korea and Yemen, the band 3300–3400 MHz is also allocated to the fixed and mobile services on a primary basis. The countries bordering the Mediterranean shall not claim protection for their fixed and mobile services from the radiolocation service.

5.430 *Additional allocation:* in Azerbaijan, Bulgaria, Cuba, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 3300–3400 MHz is also allocated to the radionavigation service on a primary basis.

5.431 *Additional allocation:* in Germany, Israel, Nigeria and the United Kingdom, the band 3400–3475 MHz is also allocated to the amateur service on a secondary basis.

5.432 *Different category of service:* in Korea (Rep. of), Japan and Pakistan, the allocation of the band 3400–3500 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

5.433 In Regions 2 and 3, in the band 3400–3600 MHz the radiolocation service is allocated on a primary basis. However, all administrations operating radiolocation systems in this band are urged to cease operations by 1985. Thereafter, administrations shall take all practicable steps to protect the fixed-satellite service and coordination requirements shall not be imposed on the fixed-satellite service.

5.435 In Japan, in the band 3620–3700 MHz, the radiolocation service is excluded.

5.438 Use of the band 4200–4400 MHz by the aeronautical radionavigation service is reserved exclusively for radio altimeters installed on board aircraft and for the associated transponders on the ground. However, passive sensing in the earth exploration-satellite and space research services may be authorized in this band on a secondary basis (no protection is provided by the radio altimeters).

5.439 *Additional allocation:* in Iran (Islamic Republic of) and Libya, the band 4200–4400 MHz is also allocated to the fixed service on a secondary basis.

5.440 The standard frequency and time signal-satellite service may be authorized to use the frequency 4202 MHz for space-to-Earth transmissions and the frequency 6427 MHz for Earth-to-space transmissions. Such transmissions shall be confined within the limits of ± 2 MHz of these frequencies, subject to agreement obtained under No. 9.21.

5.441 The use of the bands 4500–4800 MHz (space-to-Earth), 6725–7025 MHz (Earth-to-space) by the fixed-satellite service shall be in accordance with the provisions of Appendix 30B. The use of the bands 10.7–10.95 GHz (space-to-Earth), 11.2–11.45 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by geostationary-satellite systems in the fixed-satellite service shall be in accordance with the provisions of Appendix 30B. The use of the bands 10.7–10.95 GHz (space-to Earth), 11.2–11.45 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by a non-geostationary-satellite system in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.442 In the bands 4825–4835 MHz and 4950–4990 MHz, the allocation to the mobile service is restricted to the mobile, except aeronautical mobile, service.

5.443 *Different category of service:* in Argentina, Australia and Canada, the allocation of the bands 4825–4835 MHz and 4950–4990 MHz to the radio astronomy service is on a primary basis (see No. 5.33).

5.443A *Additional allocation:* The band 5000–5010 MHz is also allocated to the radionavigation-satellite service (Earth-to-space) on a primary basis. See Resolution 603 (WRC–2000).

5.443B *Additional allocation:* The band 5010–5030 MHz is also allocated to the radionavigation-satellite service (space-to-Earth) (space-to-space) on a primary basis. In order not to cause harmful interference to the microwave landing system operating above 5030 MHz, the aggregate power flux-density produced at the Earth's surface in the band 5030–5150 MHz by all the space stations within any radionavigation-

satellite service system (space-to-Earth) operating in the band 5010–5030 MHz shall not exceed ''124.5 dB(W/m²) in a 150 kHz band. In order not to cause harmful interference to the radio astronomy service in the band 4990–5000 MHz, the aggregate power flux-density produced in the 4990–5000 MHz band by all the space stations within any radionavigation-satellite service (space-to-Earth) system operating in the 5010–5030 MHz band shall not exceed the provisional value of −171 dB(W/m²) in a 10 MHz band at any radio astronomy observatory site for more than 2% of the time. For the use of this band, Resolution 604 (WRC–2000) applies.

5.444 The band 5030–5150 MHz is to be used for the operation of the international standard system (microwave landing system) for precision approach and landing. The requirements of this system shall take precedence over other uses of this band. For the use of this band, No. 5.444A and Resolution 114 (WRC–95) apply.

5.444A *Additional allocation:* the band 5091–5150 MHz is also allocated to the fixed-satellite service (Earth-to-space) on a primary basis. This allocation is limited to feeder links of non-geostationary mobile-satellite systems and is subject to coordination under No. 9.11A.

In the band 5091–5150 MHz, the following conditions also apply:

—Prior to 1 January 2010, the use of the band 5091–5150 MHz by feeder links of non-geostationary-satellite systems in the mobile-satellite service shall be made in accordance with Resolution 114 (WRC–95);

—Prior to 1 January 2010, the requirements of existing and planned international standard systems for the aeronautical radionavigation service which cannot be met in the 5000–5091 MHz band, shall take precedence over other uses of this band;

—After 1 January 2008, no new assignments shall be made to stations providing feeder links of non-geostationary mobile-satellite systems;

—After 1 January 2010, the fixed-satellite service will become secondary to the aeronautical radionavigation service.

5.446 *Additional allocation:* in the countries listed in Nos. 5.369 and 5.400, the band 5150–5216 MHz is also allocated to the radiodetermination-satellite service (space-to-Earth) on a primary basis, subject to agreement obtained under No. 9.21. In Region 2, the band is also allocated to the radiodetermination-satellite service (space-to-Earth) on a primary basis. In Regions 1 and 3, except those countries listed in Nos. 5.369 and 5.400, the band is also allocated to the radiodetermination-satellite service (space-to-Earth) on a secondary basis. The use by the radiodetermination-satellite service is limited to feeder links in conjunction with the radiodetermination-satellite service operating in the bands 1610–1626.5 MHz and/or 2483.5–2500 MHz. The total power flux-density at the Earth's surface shall in no case exceed −159 dB(W/m²) in any 4 kHz band for all angles of arrival.

5.447 *Additional allocation:* in Germany, Austria, Belgium, Denmark, Spain, Estonia, Finland, France, Greece, Israel, Italy, Japan, Jordan, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malta, Norway, Pakistan, the Netherlands, Portugal, Syria, the United Kingdom, Sweden, Switzerland and Tunisia, the band 5150–5250 MHz is also allocated to the mobile service, on a primary basis, subject to agreement obtained under No. 9.21.

5.447A The allocation to the fixed-satellite service (Earth-to-space) is limited to feeder links of non-geostationary-satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A.

5.447B *Additional allocation:* the band 5150–5216 MHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis. This allocation is limited to feeder links of non-geostationary-satellite systems in the mobile-satellite service and is subject to provisions of No. 9.11A. The power flux-density at the Earth's surface produced by space stations of the fixed-satellite service operating in the space-to-Earth direction in the band 5150–5216 MHz shall in no case exceed −164 dB(W/m²) in any 4 kHz band for all angles of arrival.

5.447C Administrations responsible for fixed-satellite service networks in the band 5150–5250 MHz operated under Nos. 5.447A and 5.447B shall coordinate on an equal basis in accordance with No. 9.11A with administrations responsible for non-geostationary-satellite networks operated under No. 5.446 and brought into use prior to 17 November 1995. Satellite networks operated under No. 5.446 brought into use after 17 November 1995 shall not claim protection from, and shall not cause harmful interference to, stations of the fixed-satellite service operated under Nos. 5.447A and 5.447B.

5.447D The allocation of the band 5250–5255 MHz to the space research service on a primary basis is limited to active spaceborne sensors. Other uses of the band by the space research service are on a secondary basis.

5.448 *Additional allocation:* in Austria, Azerbaijan, Bulgaria, Libya, Mongolia, Kyrgyzstan, Slovakia, the Czech Rep., Romania and Turkmenistan, the band 5250–5350 MHz is also allocated to the radionavigation service on a primary basis.

5.448A The use of the frequency band 5250–5350 MHz by the earth exploration-satellite (active) and space research (active) services shall not constrain the future development and deployment of the radiolocation service.

5.448B The earth exploration-satellite (active) service operating in the band 5350–5460 MHz shall not cause harmful interference to, or constrain the use and development of, the aeronautical radionavigation service.

5.449 The use of the band 5350–5470 MHz by the aeronautical radionavigation service is limited to airborne radars and associated airborne beacons.

5.450 *Additional allocation:* in Austria, Azerbaijan, Bulgaria, Iran (Islamic Republic of), Mongolia, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Turkmenistan and Ukraine, the band 5470–5650 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.451 *Additional allocation:* in the United Kingdom, the band 5470–5850 MHz is also allocated to the land mobile service on a secondary basis. The power limits specified in Nos. 21.2, 21.3, 21.4 and 21.5 shall apply in the band 5725–5850 MHz.

5.452 Between 5600 MHz and 5650 MHz, ground-based radars used for meteorological purposes are authorized to operate on a basis of equality with stations of the maritime radionavigation service.

5.453 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, China, Congo, Korea (Rep. of), Egypt, the United Arab Emirates, Gabon, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Libya, Madagascar, Malaysia, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syria, the Dem. People's Rep. of Korea, Singapore, Swaziland, Tanzania, Chad and Yemen, the band 5650–5850 MHz is also allocated to the fixed and mobile services on a primary basis.

5.454 *Different category of service:* in Azerbaijan, Belarus, Georgia, Mongolia, Uzbekistan, Kyrgyzstan, the Russian Federation, Tajikistan,

Turkmenistan and Ukraine, the allocation of the band 5670–5725 MHz to the space research service is on a primary basis (see No. 5.33).

5.455 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, Cuba, Georgia, Hungary, Kazakstan, Latvia, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 5670–5850 MHz is also allocated to the fixed service on a primary basis.

5.456 *Additional allocation:* in Germany and in Cameroon, the band 5755–5850 MHz is also allocated to the fixed service on a primary basis.

5.458 In the band 6425–7075 MHz, passive microwave sensor measurements are carried out over the oceans. In the band 7075–7250 MHz, passive microwave sensor measurements are carried out. Administrations should bear in mind the needs of the Earth exploration-satellite (passive) and space research (passive) services in their future planning of the bands 6425–7025 MHz and 7075–7250 MHz.

5.458A In making assignments in the band 6700–7075 MHz to space stations of the fixed-satellite service, administrations are urged to take all practicable steps to protect spectral line observations of the radio astronomy service in the band 6650–6675.2 MHz from harmful interference from unwanted emissions.

5.458B The space-to-Earth allocation to the fixed-satellite service in the band 6700–7075 MHz is limited to feeder links for non-geostationary satellite systems of the mobile-satellite service and is subject to coordination under No. 9.11A. The use of the band 6700–7075 MHz (space-to-Earth) by feeder links for non-geostationary satellite systems in the mobile-satellite service is not subject to No. 22.2.

5.458C Administrations making submissions in the band 7025–7075 MHz (Earth-to-space) for geostationary-satellite systems in the fixed-satellite service after 17 November 1995 shall consult on the basis of relevant ITU–R Recommendations with the administrations that have notified and brought into use non-geostationary-satellite systems in this frequency band before 18 November 1995 upon request of the latter administrations. This consultation shall be with a view to facilitating shared operation of both geostationary-satellite systems in the fixed-satellite service and non-geostationary-satellite systems in this band.

5.459 *Additional allocation:* in Russian Federation, the frequency bands 7100–7155 MHz and 7190–7235 MHz are also allocated to the space operation service (Earth-to-space) on a primary basis, subject to agreement obtained under No. 9.21.

5.460 *Additional allocation:* the band 7145–7235 MHz is also allocated to the space research (Earth-to-space) service on a primary basis, subject to agreement obtained under No. 9.21. The use of the band 7145–7190 MHz is restricted to deep space; no emissions to deep space shall be effected in the band 7190–7235 MHz.

5.461 *Additional allocation:* the bands 7250–7375 MHz (space-to-Earth) and 7900–8025 MHz (Earth-to-space) are also allocated to the mobile-satellite service on a primary basis, subject to agreement obtained under No. 9.21.

5.461A The use of the band 7450–7550 MHz by the meteorological-satellite service (space-to-Earth) is limited to geostationary-satellite systems. Non-geostationary meteorological-satellite systems in this band notified before 30 November 1997 may continue to operate on a primary basis until the end of their lifetime.

5.461B The use of the band 7750–7850 MHz by the meteorological-satellite service (space-to-Earth) is limited to non-geostationary satellite systems.

5.462A In Regions 1 and 3 (except for Japan), in the band 8025–8400 MHz, the earth exploration-satellite service using geostationary satellites shall not produce a power flux-density in excess of the following provisional values for angles of arrival (θ), without the consent of the affected administration:

-174 dB(W/m$_2$) in a 4 kHz band for $0 \leq \theta < 5°$

$-174 + 0.5\ (\theta - 5)$ dB(W/m^2) in a 4 kHz band for $5 \leq < 25°$

-164 dB(W/m^2) in a 4 kHz band for $25 \leq \theta \leq 90°$

These values are subject to study under Resolution 124 (WRC–97).[6]

5.463 Aircraft stations are not permitted to transmit in the band 8025–8400 MHz.

5.465 In the space research service, the use of the band 8400–8450 MHz is limited to deep space.

5.466 *Different category of service:* in Israel, Malaysia, Singapore and Sri Lanka, the allocation of the band 8400–8500 MHz to the space research service is on a secondary basis (see No. 5.32).

5.467 *Alternative allocation:* in the United Kingdom, the band 8400–8500 MHz is allocated to the radiolocation and space research services on a primary basis.

[6] Note by the Secretariat: This Resolution was revised by WRC–2000.

5.468 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burundi, Cameroon, China, the Congo, Costa Rica, Egypt, the United Arab Emirates, Gabon, Guyana, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, Qatar, Syria, Dem. People's Rep. of Korea, Senegal, Singapore, Somalia, Swaziland, Tanzania, Chad, Togo, Tunisia and Yemen, the band 8500–8750 MHz is also allocated to the fixed and mobile services on a primary basis.

5.469 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Hungary, Lithuania, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 8500–8750 MHz is also allocated to the land mobile and radionavigation services on a primary basis.

5.469A In the band 8550–8650 MHz, stations in the earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, or constrain the use and development of, stations of the radiolocation service.

5.470 The use of the band 8750–8850 MHz by the aeronautical radionavigation service is limited to airborne Doppler navigation aids on a centre frequency of 8800 MHz.

5.471 *Additional allocation:* in Algeria, Germany, Bahrain, Belgium, China, the United Arab Emirates, France, Greece, Indonesia, Iran (Islamic Republic of), Libya, the Netherlands, Qatar and Sudan, the bands 8825–8850 MHz and 9000–9200 MHz are also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars only.

5.472 In the bands 8850–9000 MHz and 9200–9225 MHz, the maritime radionavigation service is limited to shore-based radars.

5.473 *Additional allocation:* in Armenia, Austria, Azerbaijan, Belarus, Bulgaria, Cuba, Georgia, Hungary, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the bands 8850–9000 MHz and 9200–9300 MHz are also allocated to the radionavigation service on a primary basis.

5.474 In the band 9200–9500 MHz, search and rescue transponders (SART) may be used, having due regard to the

appropriate ITU–R Recommendation (see also Article 31).

5.475 The use of the band 9300–9500 MHz by the aeronautical radionavigation service is limited to airborne weather radars and ground-based radars. In addition, ground-based radar beacons in the aeronautical radionavigation service are permitted in the band 9300–9320 MHz on condition that harmful interference is not caused to the maritime radionavigation service. In the band 9300–9500 MHz, ground-based radars used for meteorological purposes have priority over other radiolocation devices.

5.476 In the band 9300–9320 MHz in the radionavigation service, the use of shipborne radars, other than those existing on 1 January 1976, is not permitted until 1 January 2001.

5.476A In the band 9500–9800 MHz, stations in the earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, or constrain the use and development of, stations of the radionavigation and radiolocation services.

5.477 *Different category of service:* in Algeria, Saudi Arabia, Austria, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lebanon, Liberia, Malaysia, Nigeria, Oman, Pakistan, Qatar, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Sweden, Trinidad and Tobago, and Yemen, the allocation of the band 9800–10000 MHz to the fixed service is on a primary basis (see No. 5.33).

5.478 *Additional allocation:* in Azerbaijan, Bulgaria, Mongolia, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Turkmenistan and Ukraine, the band 9800–10000 MHz is also allocated to the radionavigation service on a primary basis.

5.479 The band 9975–10025 MHz is also allocated to the meteorological-satellite service on a secondary basis for use by weather radars.

5.480 *Additional allocation:* in Argentina, Brazil, Chile, Costa Rica, Cuba, El Salvador, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru, Uruguay and Venezuela, the band 10–10.45 GHz is also allocated to the fixed and mobile services on a primary basis.

5.481 *Additional allocation:* in Germany, Angola, Brazil, China, Costa Rica, El Salvador, Ecuador, Spain, Guatemala, Japan, Morocco, Nigeria, Oman, Uzbekistan, Paraguay, Peru, the Dem. People's Rep. of Korea, Sweden, Tanzania, Thailand and Uruguay, the band 10.45–10.5 GHz is also allocated to the fixed and mobile services on a primary basis.

5.482 In the band 10.6–10.68 GHz, stations of the fixed and mobile, except aeronautical mobile, services shall be limited to a maximum equivalent isotropically radiated power of 40 dBW and the power delivered to the antenna shall not exceed −3 dBW. These limits may be exceeded subject to agreement obtained under No. 9.21. However, in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, China, the United Arab Emirates, Georgia, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Kazakstan, Kuwait, Latvia, Lebanon, Moldova, Nigeria, Uzbekistan, Pakistan, the Philippines, Qatar, Syria, Kyrgyzstan, Russian Federation, Tajikistan, Turkmenistan and Ukraine, the restrictions on the fixed and mobile, except aeronautical mobile, services are not applicable.

5.483 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Bosnia and Herzegovina, China, Colombia, Korea (Rep. of), Costa Rica, Egypt, the United Arab Emirates, Georgia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kazakstan, Kuwait, Latvia, Lebanon, Moldova, Mongolia, Uzbekistan, Qatar, Kyrgyzstan, the Dem. People's Rep. of Korea, Romania, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, Yemen and Yugoslavia, the band 10.68–10.7 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

5.484 In Region 1, the use of the band 10.7–11.7 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service.

5.484A The use of the bands 10.95–11.2 GHz (space-to-Earth), 11.45–11.7 GHz (space-to-Earth), 11.7–12.2 GHz (space-to-Earth) in Region 2, 12.2–12.75 GHz (space-to-Earth) in Region 3, 12.5–12.75 GHz (space-to-Earth) in Region 1, 13.75–14.5 GHz (Earth-to-space), 17.8–18.6 GHz (space-to-Earth), 19.7–20.2 GHz (space-to-Earth), 27.5–28.6 GHz (Earth-to-space), 29.5–30 GHz (Earth-to-space) by a non-geostationary-satellite system in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.485 In Region 2, in the band 11.7–12.2 GHz, transponders on space stations in the fixed-satellite service may be used additionally for transmissions in the broadcasting-satellite service, provided that such transmissions do not have a maximum e.i.r.p. greater than 53 dBW per television channel and do not cause greater interference or require more protection from interference than the coordinated fixed-satellite service frequency assignments. With respect to the space services, this band shall be used principally for the fixed-satellite service.

5.486 *Different category of service:* in Mexico and the United States, the allocation of the band 11.7–12.1 GHz to the fixed service is on a secondary basis (see No. 5.32).

5.487 In the band 11.7–12.5 GHz in Regions 1 and 3, the fixed, fixed-satellite, mobile, except aeronautical mobile, and broadcasting services, in accordance with their respective allocations, shall not cause harmful interference to, or claim protection from, broadcasting-satellite stations operating in accordance with the provisions of the Regions 1 and 3 Plan in Appendix 30.

5.487A *Additional allocation:* in Region 1, the band 11.7–12.5 GHz, in Region 2, the band 12.2–12.7 GHz and, in Region 3, the band 11.7–12.2 GHz, are also allocated to the fixed-satellite service (space-to-Earth) on a primary basis, limited to non-geostationary systems and subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the broadcasting-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the

complete coordination or notification information, as appropriate, for the geosationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.488 The use of the band 11.7–12.2 GHz by geostationary-satellite networks in the fixed-satellite service in Region 2 is subject to the provisions of Resolution 77 (WRC–2000). For the use of the band 12.2–12.7 GHz by the broadcasting-satellite service in Region 2, see Appendix 30.

5.489 *Additional allocation:* in Peru, the band 12.1–12.2 GHz is also allocated to the fixed service on a primary basis.

5.490 In Region 2, in the band 12.2–12.7 GHz, existing and future terrestrial radiocommunication services shall not cause harmful interference to the space services operating in conformity with the broadcasting-satellite Plan for Region 2 contained in Appendix 30.

5.491 *Additional allocation:* in Region 3, the band 12.2–12.5 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis. The power flux-density limits in Table 21–4 of Article 21 shall apply to this frequency band. The introduction of the service in relation to the broadcasting-satellite service in Region 1 shall follow the procedures specified in Article 7 of Appendix 30, with the applicable frequency band extended to cover 12.2–12.5 GHz.

5.492 Assignments to stations of the broadcasting-satellite service which are in conformity with the appropriate regional Plan or included in the Regions 1 and 3 List in Appendix 30 may also be used for transmissions in the fixed-satellite service (space-to-Earth), provided that such transmissions do not cause more interference, or require more protection from interference, than the broadcasting-satellite service transmissions operating in conformity with the Plan or the List, as appropriate.

5.493 The broadcasting-satellite service in the band 12.5–12.75 GHz in Region 3 is limited to a power flux-density not exceeding -111 dB(W/(m^2 · 27 MHz)) for all conditions and for all methods of modulation at the edge of the service area.

5.494 *Additional allocation:* in Algeria, Angola, Saudi Arabia, Bahrain, Cameroon, the Central African Rep., the Congo, Côte d'Ivoire, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Madagascar, Mali, Morocco, Mongolia, Nigeria, Qatar, Dem. Rep. of the Congo, Syria, Senegal, Somalia, Sudan, Chad, Togo and Yemen, the band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.495 *Additional allocation:* in Bosnia and Herzegovina, Croatia, Denmark, France, Greece, Liechtenstein, Monaco, Uganda, Portugal, Romania, Slovenia, Switzerland, Tanzania, Tunisia and Yugoslavia, the band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

5.496 *Additional allocation:* in Austria, Azerbaijan, Kyrgyzstan and Turkmenistan, the band 12.5–12.75 GHz is also allocated to the fixed service and the mobile, except aeronautical mobile, service on a primary basis. However, stations in these services shall not cause harmful interference to fixed-satellite service earth stations of countries in Region 1 other than those listed in this footnote. Coordination of these earth stations is not required with stations of the fixed and mobile services of the countries listed in this footnote. The power flux-density limit at the Earth's surface given in Table 21–4 of Article 21, for the fixed-satellite service shall apply on the territory of the countries listed in this footnote.

5.497 The use of the band 13.25–13.4 GHz by the aeronautical radionavigation service is limited to Doppler navigation aids.

5.498A The Earth exploration-satellite (active) and space research (active) services operating in the band 13.25–13.4 GHz shall not cause harmful interference to, or constrain the use and development of, the aeronautical radionavigation service.

5.499 *Additional allocation:* in Bangladesh, India and Pakistan, the band 13.25–14 GHz is also allocated to the fixed service on a primary basis.

5.500 *Additional allocation:* in Algeria, Angola, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, Egypt, the United Arab Emirates, Gabon, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Madagascar, Malaysia, Mali, Malta, Morocco, Mauritania, Nigeria, Pakistan, Qatar, Syria, Senegal, Singapore, Sudan, Chad and Tunisia, the band 13.4–14 GHz is also allocated to the fixed and mobile services on a primary basis.

5.501 *Additional allocation:* in Austria, Azerbaijan, Hungary, Japan, Mongolia, Kyrgyzstan, Romania, the United Kingdom and Turkmenistan, the band 13.4–14 GHz is also allocated to the radionavigation service on a primary basis.

5.501A The allocation of the band 13.4–13.75 GHz to the space research service on a primary basis is limited to active spaceborne sensors. Other uses of the band by the space research service are on a secondary basis.

5.501B In the band 13.4–13.75 GHz, the Earth exploration-satellite (active) and space research (active) services shall not cause harmful interference to, or constrain the use and development of, the radiolocation service.

5.502 In the band 13.75–14 GHz, an earth station in the fixed-satellite service shall have a minimum antenna diameter of 4.5 m and the e.i.r.p. of any emission should be at least 68 dBW and should not exceed 85 dBW. In addition the e.i.r.p., averaged over one second, radiated by a station in the radiolocation or radionavigation services shall not exceed 59 dBW. The protection of assignments to receiving space stations in the fixed-satellite service operating with earth stations that, individually, have an e.i.r.p. of less than 68 dBW shall not impose constraints on the operation of the radiolocation and radionavigation stations operating in accordance with the Radio Regulations. No. 5.43A does not apply. See Resolution 733 (WRC–2000).

5.503 In the band 13.75–14 GHz, geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 shall operate on an equal basis with stations in the fixed-satellite service; after that date, new geostationary space stations in the space research service will operate on a secondary basis. Until those geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 cease to operate in this band:

—The e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in geostationary-satellite orbit shall not exceed 71 dBW in the 6 MHz band from 13.772 to 13.778 GHz;

—The e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in non-geostationary-satellite orbit shall not exceed 51 dBW in the 6 MHz band from 13.772 to 13.778 GHz.

Automatic power control may be used to increase the e.i.r.p. density in the 6 MHz band in this frequency range to compensate for rain attenuation, to the extent that the power flux-density at the fixed-satellite service space station does not exceed the value resulting from use

by an earth station of an e.i.r.p. of 71 dBW or 51 dBW, as appropriate, in the 6 MHz band in clear-sky conditions.

5.503A Until 1 January 2000, stations in the fixed-satellite service shall not cause harmful interference to non-geostationary space stations in the space research and Earth exploration-satellite services. After that date, these non-geostationary space stations will operate on a secondary basis in relation to the fixed-satellite service. Additionally, when planning earth stations in the fixed-satellite service to be brought into service between 1 January 2000 and 1 January 2001, in order to accommodate the needs of spaceborne precipitation radars operating in the band 13.793–13.805 GHz, advantage should be taken of the consultation process and the information given in Recommendation ITU–R SA.1071.

5.504 The use of the band 14–14.3 GHz by the radionavigation service shall be such as to provide sufficient protection to space stations of the fixed-satellite service.

5.505 *Additional allocation:* in Algeria, Angola, Saudi Arabia, Bahrain, Bangladesh, Botswana, Brunei Darussalam, Cameroon, China, Congo, Korea (Rep. of), Egypt, the United Arab Emirates, Gabon, Guatemala, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lesotho, Lebanon, Malaysia, Mali, Morocco, Mauritania, Oman, Pakistan, the Philippines, Qatar, Syria, the Dem. People's Rep. of Korea, Senegal, Singapore, Somalia, Sudan, Swaziland, Tanzania, Chad and Yemen, the band 14–14.3 GHz is also allocated to the fixed service on a primary basis.

5.506 The band 14–14.5 GHz may be used, within the fixed-satellite service (Earth-to-space), for feeder links for the broadcasting-satellite service, subject to coordination with other networks in the fixed-satellite service. Such use of feeder links is reserved for countries outside Europe.

5.508 *Additional allocation:* in Germany, Bosnia and Herzegovina, France, Greece, Ireland, Iceland, Italy, The Former Yugoslav Republic of Macedonia, Libya, Liechtenstein, Portugal, the United Kingdom, Slovenia, Switzerland and Yugoslavia, the band 14.25–14.3 GHz is also allocated to the fixed service on a primary basis.

5.509 *Additional allocation:* in Japan the band 14.25–14.3 GHz is also allocated to the mobile, except aeronautical mobile, service on a primary basis.

5.510 The use of the band 14.5–14.8 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. This use is reserved for countries outside Europe.

5.511 *Additional allocation:* in Saudi Arabia, Bahrain, Bosnia and Herzegovina, Cameroon, Egypt, the United Arab Emirates, Guinea, Iran (Islamic Republic of), Iraq, Israel, Kuwait, Lebanon, Libya, Pakistan, Qatar, Syria, Slovenia, Somalia and Yugoslavia, the band 15.35–15.4 GHz is also allocated to the fixed and mobile services on a secondary basis.

5.511A The band 15.43–15.63 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis. Use of the band 15.43–15.63 GHz by the fixed-satellite service (space-to-Earth and Earth-to-space) is limited to feeder links of non-geostationary systems in the mobile-satellite service, subject to coordination under No. 9.11A. The use of the frequency band 15.43–15.63 GHz by the fixed-satellite service (space-to-Earth) is limited to feeder links of non-geostationary systems in the mobile-satellite service for which advance publication information has been received by the Bureau prior to 2 June 2000. In the space-to-Earth direction, the minimum earth station elevation angle above and gain towards the local horizontal plane and the minimum coordination distances to protect an earth station from harmful interference shall be in accordance with Recommendation ITU–R S.1341. In order to protect the radio astronomy service in the band 15.35–15.4 GHz, the aggregate power flux-density radiated in the 15.35–15.4 GHz band by all the space stations within any feeder-link of a non-geostationary system in the mobile-satellite service (space-to-Earth) operating in the 15.43–15.63 GHz band shall not exceed the level of -156 dB(W/m2) in a 50 MHz bandwidth, into any radio astronomy observatory site for more than 2% of the time.

5.511C Stations operating in the aeronautical radionavigation service shall limit the effective e.i.r.p. in accordance with Recommendation ITU–R S.1340. The minimum coordination distance required to protect the aeronautical radionavigation stations (No. 4.10 applies) from harmful interference from feeder-link earth stations and the maximum e.i.r.p. transmitted towards the local horizontal plane by a feeder-link earth station shall be in accordance with Recommendation ITU–R S.1340.

5.511D Fixed-satellite service systems for which complete information for advance publication has been received by the Bureau by 21 November 1997 may operate in the bands 15.4–15.43 GHz and 15.63–15.7 GHz in the space-to-Earth direction and 15.63–15.65 GHz in the Earth-to-space direction. In the bands 15.4–15.43 GHz and 15.65–15.7 GHz, emissions from a non-geostationary space station shall not exceed the power flux-density limits at the Earth's surface of -146 dB(W/(m^2 · MHz)) for any angle of arrival. In the band 15.63–15.65 GHz, where an administration plans emissions from a non-geostationary space station that exceed -146 dB(W/(m^2 · MHz)) for any angle of arrival, it shall coordinate under No. 9.11A with the affected administrations. Stations in the fixed-satellite service operating in the band 15.63–15.65 GHz in the Earth-to-space direction shall not cause harmful interference to stations in the aeronautical radionavigation service (No. 4.10 applies).

5.512 *Additional allocation:* in Algeria, Angola, Saudi Arabia, Austria, Bahrain, Bangladesh, Bosnia and Herzegovina, Brunei Darussalam, Cameroon, the Congo, Costa Rica, Egypt, El Salvador, the United Arab Emirates, Finland, Guatemala, India, Indonesia, Iran (Islamic Republic of), Jordan, Kuwait, Libya, Malaysia, Morocco, Mozambique, Nepal, Nicaragua, Oman, Pakistan, Qatar, Singapore, Slovenia, Somalia, Sudan, Swaziland, Tanzania, Chad, Yemen and Yugoslavia, the band 15.7–17.3 GHz is also allocated to the fixed and mobile services on a primary basis.

5.513 *Additional allocation:* in Israel, the band 15.7–17.3 GHz is also allocated to the fixed and mobile services on a primary basis. These services shall not claim protection from or cause harmful interference to services operating in accordance with the Table in countries other than those included in No. 5.512.

5.513A Spaceborne active sensors operating in the band 17.2–17.3 GHz shall not cause harmful interference to, or constrain the development of, the radiolocation and other services allocated on a primary basis.

5.514 *Additional allocation:* in Algeria, Germany, Angola, Saudi Arabia, Austria, Bahrain, Bangladesh, Bosnia and Herzegovina, Cameroon, Costa Rica, El Salvador, the United Arab Emirates, Finland, Guatemala, Honduras, India, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Libya, Nepal, Nicaragua, Oman, Pakistan, Qatar, Slovenia, Sudan and Yugoslavia, the band 17.3–17.7 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits given in Nos. 21.3 and 21.5 shall apply.

5.515 In the band 17.3–17.8 GHz, sharing between the fixed-satellite service (Earth-to-space) and the broadcasting-satellite service shall also be in accordance with the provisions of § 1 of Annex 4 of Appendix 30A.

5.516 The use of the band 17.3–18.1 GHz by geostationary-satellite systems in the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. The use of the band 17.3–17.8 GHz in Region 2 by systems in the fixed-satellite service (Earth-to-space) is limited to geostationary satellites. For the use of the band 17.3–17.8 GHz in Region 2 by feeder links for the broadcasting-satellite service in the band 12.2–12.7 GHz, see Article 11. The use of the bands 17.3–18.1 GHz (Earth-to-space) in Regions 1 and 3 and 17.8–18.1 GHz (Earth-to-space) in Region 2 by non-geostationary-satellite systems in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.517 In Region 2, the allocation to the broadcasting-satellite service in the band 17.3–17.8 GHz shall come into effect on 1 April 2007. After that date, use of the fixed-satellite (space-to-Earth) service in the band 17.7–17.8 GHz shall not claim protection from and shall not cause harmful interference to operating systems in the broadcasting-satellite service.

5.518 *Different category of service:* in Region 2, the allocation of the band 17.7–17.8 GHz to the mobile service is on a primary basis until 31 March 2007.

5.519 *Additional allocation:* the band 18.1–18.3 GHz is also allocated to the meteorological-satellite service (space-to-Earth) on a primary basis. Its use is limited to geostationary satellites and shall be in accordance with the provisions of Article 21, Table 21–4.

5.520 The use of the band 18.1–18.4 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links of geostationary-satellite systems in the broadcasting-satellite service.

5.521 *Alternative allocation:* in Germany, Denmark, the United Arab Emirates, Greece and Slovakia, the band 18.1–18.4 GHz is allocated to the fixed, fixed-satellite (space-to-Earth) and mobile services on a primary basis (see No. 5.33). The provisions of No. 5.519 also apply.

5.522A The emissions of the fixed service and the fixed-satellite service in the band 18.6–18.8 GHz are limited to the values given in Nos. 21.5A and 21.16.2, respectively.

5.522B The use of the band 18.6–18.8 GHz by the fixed-satellite service is limited to geostationary systems and systems with an orbit of apogee greater than 20 000 km.

5.522C In the band 18.6–18.8 GHz, in Algeria, Saudi Arabia, Bahrain, Egypt, the United Arab Emirates, Jordan, Lebanon, Libya, Morocco, Oman, Qatar, Syria, Tunisia and Yemen, fixed-service systems in operation at the date of entry into force of the Final Acts of WRC–2000 are not subject to the limits of No. 21.5A.

5.523A The use of the bands 18.8–19.3 GHz (space-to-Earth) and 28.6–29.1 GHz (Earth-to-space) by geostationary and non-geostationary fixed-satellite service networks is subject to the application of the provisions of No. 9.11A and No. 22.2 does not apply. Administrations having geostationary-satellite networks under coordination prior to 18 November 1995 shall cooperate to the maximum extent possible to coordinate pursuant to No. 9.11A with non-geostationary-satellite networks for which notification information has been received by the Bureau prior to that date, with a view to reaching results acceptable to all the parties concerned. Non-geostationary-satellite networks shall not cause unacceptable interference to geostationary fixed-satellite service networks for which complete Appendix 4 notification information is considered as having been received by the Bureau prior to 18 November 1995.

5.523B The use of the band 19.3–19.6 GHz (Earth-to-space) by the fixed-satellite service is limited to feeder links for non-geostationary-satellite systems in the mobile-satellite service. Such use is subject to the application of the provisions of No. 9.11A, and No. 22.2 does not apply.

5.523C No. 22.2 shall continue to apply in the bands 19.3–19.6 GHz and 29.1–29.4 GHz, between feeder links of non-geostationary mobile-satellite service networks and those fixed-satellite service networks for which complete Appendix 4 coordination information, or notification information, is considered as having been received by the Bureau prior to 18 November 1995.

5.523D The use of the band 19.3–19.7 GHz (space-to-Earth) by geostationary fixed-satellite service systems and by feeder links for non-geostationary-satellite systems in the mobile-satellite service is subject to the application of the provisions of No. 9.11A, but not subject to the provisions of No. 22.2. The use of this band for other non-geostationary fixed-satellite service systems, or for the cases indicated in Nos. 5.523C and 5.523E, is not subject to the provisions of No. 9.11A and shall continue to be subject to Articles 9 (except No. 9.11A) and 11 procedures, and to the provisions of No. 22.2.

5.523E No. 22.2 shall continue to apply in the bands 19.6–19.7 GHz and 29.4–29.5 GHz, between feeder links of non-geostationary mobile-satellite service networks and those fixed-satellite service networks for which complete Appendix 4 coordination information, or notification information, is considered as having been received by the Bureau by 21 November 1997.

5.524 *Additional allocation:* in Afghanistan, Algeria, Angola, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, China, the Congo, Costa Rica, Egypt, the United Arab Emirates, Gabon, Guatemala, Guinea, India, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Dem. Rep. of the Congo, Syria, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Tanzania, Chad, Togo and Tunisia, the band 19.7–21.2 GHz is also allocated to the fixed and mobile services on a primary basis. This additional use shall not impose any limitation on the power flux-density of space stations in the fixed-satellite service in the band 19.7–21.2 GHz and of space stations in the mobile-satellite service in the band 19.7–20.2 GHz where the allocation to the mobile-satellite service is on a primary basis in the latter band.

5.525 In order to facilitate interregional coordination between networks in the mobile-satellite and fixed-satellite services, carriers in the mobile-satellite service that are most susceptible to interference shall, to the extent practicable, be located in the

higher parts of the bands 19.7–20.2 GHz and 29.5–30 GHz.

5.526 In the bands 19.7–20.2 GHz and 29.5–30 GHz in Region 2, and in the bands 20.1–20.2 GHz and 29.9–30 GHz in Regions 1 and 3, networks which are both in the fixed-satellite service and in the mobile-satellite service may include links between earth stations at specified or unspecified points or while in motion, through one or more satellites for point-to-point and point-to-multipoint communications.

5.527 In the bands 19.7–20.2 GHz and 29.5–30 GHz, the provisions of No. 4.10 do not apply with respect to the mobile-satellite service.

5.528 The allocation to the mobile-satellite service is intended for use by networks which use narrow spot-beam antennas and other advanced technology at the space stations. Administrations operating systems in the mobile-satellite service in the band 19.7–20.1 GHz in Region 2 and in the band 20.1–20.2 GHz shall take all practicable steps to ensure the continued availability of these bands for administrations operating fixed and mobile systems in accordance with the provisions of No. 5.524.

5.529 The use of the bands 19.7–20.1 GHz and 29.5–29.9 GHz by the mobile-satellite service in Region 2 is limited to satellite networks which are both in the fixed-satellite service and in the mobile-satellite service as described in No. 5.526.

5.530 In Regions 1 and 3, the allocation to the broadcasting-satellite service in the band 21.4–22 GHz shall come into effect on 1 April 2007. The use of this band by the broadcasting-satellite service after that date and on an interim basis prior to that date is subject to the provisions of Resolution 525 (WARC–92).

5.531 *Additional allocation:* in Japan, the band 21.4–22 GHz is also allocated to the broadcasting service on a primary basis.

5.532 The use of the band 22.21–22.5 GHz by the Earth exploration-satellite (passive) and space research (passive) services shall not impose constraints upon the fixed and mobile, except aeronautical mobile, services.

5.533 The inter-satellite service shall not claim protection from harmful interference from airport surface detection equipment stations of the radionavigation service.

5.534 *Additional allocation:* in Japan, the band 24.65–25.25 GHz is also allocated to the radionavigation service on a primary basis until 2008.

5.535 In the band 24.75–25.25 GHz, feeder links to stations of the broadcasting-satellite service shall have priority over other uses in the fixed-satellite service (Earth-to-space). Such other uses shall protect and shall not claim protection from existing and future operating feeder-link networks to such broadcasting satellite stations.

5.535A The use of the band 29.1–29.5 GHz (Earth-to-space) by the fixed-satellite service is limited to geostationary-satellite systems and feeder links to non-geostationary-satellite systems in the mobile-satellite service. Such use is subject to the application of the provisions of No. 9.11A, but not subject to the provisions of No. 22.2, except as indicated in Nos. 5.523C and 5.523E where such use is not subject to the provisions of No. 9.11A and shall continue to be subject to Articles 9 (except No. 9.11A) and 11 procedures, and to the provisions of No. 22.2.

5.536 Use of the 25.25–27.5 GHz band by the inter-satellite service is limited to space research and Earth exploration-satellite applications, and also transmissions of data originating from industrial and medical activities in space.

5.536A Administrations installing Earth exploration-satellite service earth stations cannot claim protection from stations in the fixed and mobile services operated by neighbouring administrations. In addition, earth stations operating in the Earth exploration-satellite service should take into account Recommendation ITU–R SA.1278.

5.536B In Germany, Saudi Arabia, Austria, Belgium, Brazil, Bulgaria, China, Korea (Rep. of), Denmark, Egypt, United Arab Emirates, Spain, Estonia, Finland, France, Hungary, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Jordan, Kenya, Kuwait, Lebanon, Libya, Liechtenstein, Lithuania, Moldova, Norway, Oman, Uganda, Pakistan, the Philippines, Poland, Portugal, Syria, Slovakia, the Czech Rep., Romania, the United Kingdom, Singapore, Sweden, Switzerland, Tanzania, Turkey, Viet Nam and Zimbabwe, earth stations operating in the Earth exploration-satellite service in the band 25.5–27 GHz shall not claim protection from, or constrain the use and deployment of, stations of the fixed and mobile services.

5.537 Space services using non-geostationary satellites operating in the inter-satellite service in the band 27–27.5 GHz are exempt from the provisions of No. 22.2.

5.537A In Bhutan, Indonesia, Iran (Islamic Republic of), Japan, Maldives, Mongolia, Myanmar, Pakistan, the Dem. People's Rep. of Korea, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the band 27.5–28.35 GHz may also be used by high altitude platform stations (HAPS). The use of the band 27.5–28.35 GHz by HAPS is limited to operation in the HAPS-to-ground direction and shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems or other co-primary services.

5.538 *Additional allocation:* the bands 27.500–27.501 GHz and 29.999–30.000 GHz are also allocated to the fixed-satellite service (space-to-Earth) on a primary basis for the beacon transmissions intended for up-link power control. Such space-to-Earth transmissions shall not exceed an equivalent isotropically radiated power (e.i.r.p.) of 10 dBW in the direction of adjacent satellites on the geostationary-satellite orbit. In the band 27.500–27.501 GHz, such space-to-Earth transmissions shall not produce a power flux-density in excess of the values specified in Article 21, Table 21–4 on the Earth's surface.

5.539 The band 27.5–30 GHz may be used by the fixed-satellite service (Earth-to-space) for the provision of feeder links for the broadcasting-satellite service.

5.540 *Additional allocation:* the band 27.501–29.999 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a secondary basis for beacon transmissions intended for up-link power control.

5.541 In the band 28.5–30 GHz, the earth exploration-satellite service is limited to the transfer of data between stations and not to the primary collection of information by means of active or passive sensors.

5.541A Feeder links of non-geostationary networks in the mobile-satellite service and geostationary networks in the fixed-satellite service operating in the band 29.1–29.5 GHz (Earth-to-space) shall employ uplink adaptive power control or other methods of fade compensation, such that the earth station transmissions shall be conducted at the power level required to meet the desired link performance while reducing the level of mutual interference between both networks. These methods shall apply to networks for which Appendix 4 coordination information is considered as having been received by the Bureau after 17 May 1996 and until they are changed by a future competent world radiocommunication conference. Administrations submitting Appendix 4 information for coordination before this date are encouraged to utilize these techniques to the extent practicable.

5.542 *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, China, Congo, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guinea, India, Iran (Islamic Republic of), Iraq, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Pakistan, the Philippines, Qatar, Syria, the Dem. People's Rep. of Korea, Somalia, Sudan, Sri Lanka and Chad, the band 29.5–31 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits specified in Nos. 21.3 and 21.5 shall apply.

5.543 The band 29.95–30 GHz may be used for space-to-space links in the Earth exploration-satellite service for telemetry, tracking, and control purposes, on a secondary basis.

5.543A In Bhutan, Indonesia, Iran (Islamic Republic of), Japan, Maldives, Mongolia, Myanmar, Pakistan, the Dem. People's Rep. of Korea, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the band 31–31.3 GHz may also be used by high altitude platform stations (HAPS) in the ground-to-HAPS direction. The use of the band 31–31.3 GHz by systems using HAPS shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems or other co-primary services, taking into account No. 5.545. The use of HAPS in the band 31–31.3 GHz shall not cause harmful interference to the passive services having a primary allocation in the band 31.3–31.8 GHz, taking into account the interference criteria given in Recommendations ITU–R SA.1029 and ITU–R RA.769. The administrations of the countries listed above are urged to limit the deployment of HAPS in the band 31–31.3 GHz to the lower half of this band (31–31.15 GHz) until WRC–03.

5.544 In the band 31–31.3 GHz the power flux-density limits specified in Article 21, Table 21–4 shall apply to the space research service.

5.545 *Different category of service:* in Armenia, Azerbaijan, Belarus, Georgia, Mongolia, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 31–31.3 GHz to the space research service is on a primary basis (see No. 5.33).

5.546 *Different category of service:* in Saudi Arabia, Armenia, Azerbaijan, Belarus, Egypt, the United Arab Emirates, Spain, Estonia, Finland, Georgia, Hungary, Iran (Islamic Republic of), Israel, Jordan, Latvia, Lebanon, Moldova, Mongolia, Uzbekistan, Poland, Syria, Kyrgyzstan, Romania, the United Kingdom, the Russian Federation, Tajikistan, Turkmenistan, Turkey and Ukraine, the allocation of the band 31.5–31.8 GHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 5.33).

5.547 The bands 31.8–33.4 GHz, 37–40 GHz, 40.5–43.5 GHz, 51.4–52.6 GHz, 55.78–59 GHz and 64–66 GHz are available for high-density applications in the fixed service (see Resolutions 75 (WRC–2000) and 79 (WRC–2000)). Administrations should take this into account when considering regulatory provisions in relation to these bands. Because of the potential deployment of high-density applications in the fixed-satellite service in the bands 39.5–40 GHz and 40.5–42 GHz, administrations should further take into account potential constraints to high-density applications in the fixed service, as appropriate (see Resolution 84 (WRC–2000)).

5.547A Administrations should take practical measures to minimize the potential interference between stations in the fixed service and airborne stations in the radionavigation service in the 31.8–33.4 GHz band, taking into account the operational needs of the airborne radar systems.

5.547B *Alternative allocation:* in the United States, the band 31.8–32 GHz is allocated to the radionavigation and space research (deep space) (space-to-Earth) services on a primary basis.

5.547C *Alternative allocation:* in the United States, the band 32–32.3 GHz is allocated to the inter-satellite, radionavigation and space research (deep space) (space-to-Earth) services on a primary basis.

5.547D *Alternative allocation:* in the United States, the band 32.3–33 GHz is allocated to the inter-satellite and radionavigation services on a primary basis.

5.547E *Alternative allocation:* in the United States, the band 33–33.4 GHz is allocated to the radionavigation service on a primary basis.

5.548 In designing systems for the inter-satellite and radionavigation services in the band 32–33 GHz, and for the space research service (deep space) in the band 31.8–32.3 GHz, administrations shall take all necessary measures to prevent harmful interference between these services, bearing in mind the safety aspects of the radionavigation service (see Recommendation 707).

5.549 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Egypt, the United Arab Emirates, Gabon, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Malta, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, Dem. Rep. of the Congo, Syria, Senegal, Singapore, Somalia, Sudan, Sri Lanka, Togo, Tunisia and Yemen, the band 33.4–36 GHz is also allocated to the fixed and mobile services on a primary basis.

5.550 *Different category of service:* in Armenia, Azerbaijan, Belarus, Georgia, Mongolia, Uzbekistan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 34.7–35.2 GHz to the space research service is on a primary basis (see No. 5.33).

5.551 Radars located on spacecraft may be operated on a primary basis in the band 35.5–35.6 GHz. (SUP—WRC–97)

5.551A In the band 35.5–36.0 GHz, active spaceborne sensors in the earth exploration-satellite and space research services shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service, the meteorological aids service and other services allocated on a primary basis.

5.551AA In the bands 37.5–40 GHz and 42–42.5 GHz, non-geostationary-satellite systems in the fixed-satellite service should employ power control or other methods of downlink fade compensation of the order of 10 dB, such that the satellite transmissions are at power levels required to meet the desired link performance while reducing the level of interference to the fixed service. The use of downlink fade compensation methods are under study by the ITU–R (see Resolution 84 (WRC–2000)).

5.551F *Different category of service:* in Japan, the allocation of the band 41.5–42.5 GHz to the mobile service is on a primary basis (see No. 5.33).

5.551G In order to protect the radio astronomy service in the band 42.5–43.5 GHz, the aggregate power flux-density in the 42.5–43.5 GHz band produced by all the space stations in any non-geostationary-satellite system in the fixed-satellite service (space-to-Earth) or in the broadcasting-satellite service (space-to-Earth) system operating in the 41.5–42.5 GHz band shall not exceed—167 dB(W/m^2) in any 1 MHz band at the site of a radio astronomy station for more that 2% of the time. The power flux-density in the band 42.5–43.5 GHz produced by any geostationary station in the fixed-satellite service (space-to-Earth) or in the broadcasting-satellite service (space-to-Earth) operating in the band 42–42.5 GHz shall not exceed—167 dB(W/m^2) in any 1 MHz band at the site of a radio astronomy station. These

limits are provisional and will be reviewed in accordance with Resolution 128 (Rev.WRC–2000).

5.552 The allocation of the spectrum for the fixed-satellite service in the bands 42.5–43.5 GHz and 47.2–50.2 GHz for Earth-to-space transmission is greater than that in the band 37.5–39.5 GHz for space-to-Earth transmission in order to accommodate feeder links to broadcasting satellites. Administrations are urged to take all practicable steps to reserve the band 47.2–49.2 GHz for feeder links for the broadcasting-satellite service operating in the band 40.5–42.5 GHz.

5.552A The allocation to the fixed service in the bands 47.2–47.5 GHz and 47.9–48.2 GHz is designated for use by high altitude platform stations. The use of the bands 47.2–47.5 GHz and 47.9–48.2 GHz is subject to the provisions of Resolution 122 (WRC–97)[7]

5.553 In the bands 43.5–47 GHz and 66–71 GHz, stations in the land mobile service may be operated subject to not causing harmful interference to the space radiocommunication services to which these bands are allocated (see No. 5.43).

5.554 In the bands 43.5–47 GHz, 66–71 GHz, 95–100 GHz, 123–130 GHz, 191.8–200 GHz and 252–265 GHz, satellite links connecting land stations at specified fixed points are also authorized when used in conjunction with the mobile-satellite service or the radionavigation-satellite service.

5.555 *Additional allocation:* the band 48.94–49.04 GHz is also allocated to the radio astronomy service on a primary basis.

5.555A The band 50.2–50.4 GHz is also allocated, on a primary basis, to the fixed and mobile services until 1 July 2000.

5.556 In the bands 51.4–54.25 GHz, 58.2–59 GHz and 64–65 GHz, radio astronomy observations may be carried out under national arrangements.

5.556A Use of the bands 54.25–56.9 GHz, 57–58.2 GHz and 59–59.3 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density at all altitudes from 0 km to 1000 km above the Earth's surface produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, shall not exceed -147 dB(W/(m^2 · 100 MHz)) for all angles of arrival.

5.556B *Additional allocation:* in Japan, the band 54.25–55.78 GHz is also allocated to the mobile service on a primary basis for low-density use.

[7] Note by the Secretariat: This Resolution was revised by WRC–2000.

5.557 *Additional allocation:* in Japan, the band 55.78–58.2 GHz is also allocated to the radiolocation service on a primary basis.

5.557A In the band 55.78–56.26 GHz, in order to protect stations in the Earth exploration-satellite service (passive), the maximum power density delivered by a transmitter to the antenna of a fixed service station is limited to -26 dB(W/MHz).

5.558 In the bands 55.78–58.2 GHz, 59–64 GHz, 66–71 GHz, 122.25–123 GHz, 130–134 GHz, 167–174.8 GHz and 191.8–200 GHz, stations in the aeronautical mobile service may be operated subject to not causing harmful interference to the inter-satellite service (see No. 5.43).

5.558A Use of the band 56.9–57 GHz by inter-satellite systems is limited to links between satellites in geostationary-satellite orbit and to transmissions from non-geostationary satellites in high-Earth orbit to those in low-Earth orbit. For links between satellites in the geostationary-satellite orbit, the single entry power flux-density at all altitudes from 0 km to 1000 km above the Earth's surface, for all conditions and for all methods of modulation, shall not exceed -147 dB(W/(m^2 · 100 MHz)) for all angles of arrival.

5.559 In the band 59–64 GHz, airborne radars in the radiolocation service may be operated subject to not causing harmful interference to the inter-satellite service (see No. 5.43).

5.559A The band 75.5–76 GHz is also allocated to the amateur and amateur-satellite services on a primary basis until the year 2006.

5.560 In the band 78–79 GHz radars located on space stations may be operated on a primary basis in the Earth exploration-satellite service and in the space research service.

5.561 In the band 74–76 GHz, stations in the fixed, mobile and broadcasting services shall not cause harmful interference to stations of the fixed-satellite service or stations of the broadcasting-satellite service operating in accordance with the decisions of the appropriate frequency assignment planning conference for the broadcasting-satellite service.

5.561A The 81–81.5 GHz band is also allocated to the amateur and amateur-satellite services on a secondary basis.

5.561B In Japan, use of the band 84–86 GHz, by the fixed-satellite service (Earth-to-space) is limited to feeder links in the broadcasting-satellite service using the geostationary-satellite orbit.

5.562 The use of the band 94–94.1 GHz by the Earth exploration-satellite (active) and space research (active) services is limited to spaceborne cloud radars.

5.562A In the bands 94–94.1 GHz and 130–134 GHz, transmissions from space stations of the Earth exploration-satellite service (active) that are directed into the main beam of a radio astronomy antenna have the potential to damage some radio astronomy receivers. Space agencies operating the transmitters and the radio astronomy stations concerned should mutually plan their operations so as to avoid such occurrences to the maximum extent possible.

5.562B In the bands 105–109.5 GHz, 111.8–114.25 GHz, 155.5–158.5 GHz and 217–226 GHz, the use of this allocation is limited to space-based radio astronomy only.

5.562C Use of the band 116–122.25 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, at all altitudes from 0 km to 1000 km above the Earth's surface and in the vicinity of all geostationary orbital positions occupied by passive sensors, shall not exceed -148 dB(W/(m^2 · MHz)) for all angles of arrival.

5.562D *Additional allocation:* In Korea (Rep. of), the bands 128–130 GHz, 171–171.6 GHz, 172.2–172.8 GHz and 173.3–174 GHz are also allocated to the radio astronomy service on a primary basis until 2015.

5.562E The allocation to the Earth exploration-satellite service (active) is limited to the band 133.5–134 GHz.

5.562F In the band 155.5–158.5 GHz, the allocation to the Earth exploration-satellite (passive) and space research (passive) services shall terminate on 1 January 2018.

5.562G The date of entry into force of the allocation to the fixed and mobile services in the band 155.5–158.5 GHz shall be 1 January 2018.

5.562H Use of the bands 174.8–182 GHz and 185–190 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, at all altitudes from 0 to 1000 km above the Earth's surface and in the vicinity of all geostationary orbital positions occupied by passive sensors, shall not exceed -144 dB(W/(m^2 · MHz)) for all angles of arrival.

5.563 *Additional allocation:* in the United Kingdom, the band 182–185 GHz is also allocated to the fixed and mobile services on a primary basis.

5.563A In the bands 200–209 GHz, 235–238 GHz, 250–252 GHz and 265–275 GHz, ground-based passive atmospheric sensing is carried out to monitor atmospheric constituents.

5.563B The band 237.9–238 GHz is also allocated to the Earth exploration-satellite service (active) and the space research service (active) for spaceborne cloud radars only.

5.565 The frequency band 275–1000 GHz may be used by administrations for experimentation with, and development of, various active and passive services. In this band a need has been identified for the following spectral line measurements for passive services:

—Radio astronomy service: 275–323 GHz, 327–371 GHz, 388–424 GHz, 426–442 GHz, 453–510 GHz, 623–711 GHz, 795–909 GHz and 926–945 GHz;

—Earth exploration-satellite service (passive) and space research service (passive): 275–277 GHz, 294–306 GHz, 316–334 GHz, 342–349 GHz, 363–365 GHz, 371–389 GHz, 416–434 GHz, 442–444 GHz, 496–506 GHz, 546–568 GHz, 624–629 GHz, 634–654 GHz, 659–661 GHz, 684–692 GHz, 730–732 GHz, 851–853 GHz and 951–956 GHz.

Future research in this largely unexplored spectral region may yield additional spectral lines and continuum bands of interest to the passive services. Administrations are urged to take all practicable steps to protect these passive services from harmful interference until the date when the allocation Table is established in the above-mentioned frequency band.

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United States (US) Footnotes

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US342 In making assignments to stations of other services to which the following bands:

13360–13410 kHz,
37.5–38.25 MHz,
322–328.6 MHz*,
1330–1400 MHz*,
1610.6–1613.8 MHz*,
1660–1670 MHz,
3260–3267 MHz*,
3332–3339 MHz*,
3345.8–3352.5 MHz*,
4825–4835 MHz*,
14.47–14.5 GHz*,
22.01–22.21 GHz*,
22.21–22.5 GHz,
22.81–22.86 GHz*,
23.07–23.12 GHz*,
31.2–31.3 GHz,
36.43–36.5 GHz*,
42.5–43.5 GHz,
48.94–49.04 GHz*,
93.07–93.27 GHz*,
97.88–98.08 GHz*,
140.69–140.98 GHz*,
144.68–144.98 GHz*,
145.45–145.75 GHz*,
146.82–147.12 GHz*,
150–151 GHz*,
174.42–175.02 GHz*,
177–177.4 GHz*,
178.2–178.6 GHz*,
181–181.46 GHz*,
186.2–186.6 GHz*,
250–251 GHz*,
257.5–258 GHz*,
261–265 GHz,
262.24–262.76 GHz*,
265–275 GHz,
265.64–266.16 GHz*,
267.34–267.86 GHz*,
271.74–272.26 GHz*

are allocated (* indicates radio astronomy use for spectral line observations), all practicable steps shall be taken to protect the radio astronomy service from harmful interference. Emissions from spaceborne or air-borne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 4.5 and 4.6 and Article 29 of the ITU Radio Regulations).

* * * * *

US356 In the band 13.75–14 GHz, an earth station in the fixed-satellite service shall have a minimum antenna diameter of 4.5 m and the e.i.r.p. of any emission should be at least 68 dBW and should not exceed 85 dBW. In addition the e.i.r.p., averaged over one second, radiated by a station in the radiolocation service towards the geostationary-satellite orbit shall not exceed 59 dBW. Receiving space stations in the fixed-satellite service shall not claim protection from radiolocation transmitting stations operating in accordance with the United States Table of Frequency Allocations. ITU Radio Regulation No. 5.43A does not apply.

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US369 *Additional allocation:* the bands 150–151 GHz, 174.42–175.02 GHz, 177–177.4 GHz, 178.2–178.6 GHz, 181–181.46 GHz, 186.2–186.6 GHz and 257.5–258 GHz are also allocated to the radio astronomy service on a secondary basis for spectral line observations.

US370 The band 5000–5150 MHz is to be used for the operation of the international standard system (microwave landing system) for precision approach and landing. The requirements of this system shall take precedence over other uses of this band. For the use of this band, ITU Radio Regulation No. 5.444A and Resolution 114 (WRC–95) apply.

US371 In the bands 134–142 GHz and 190–191.8 GHz, satellite links connecting land stations at specified fixed points are also authorized when used in conjunction with the mobile-satellite service or the radionavigation-satellite service.

US372 *Additional allocation:* the bands 140.69–140.98 GHz, 144.68–144.98 GHz, 145.45–145.75 GHz, 146.82–147.12 GHz, 250–251 GHz and 262.24–262.76 GHz are also allocated to the radio astronomy service on a primary basis.

US373 In the bands 116–134 GHz, 174.8–182 GHz and 185–190 GHz, stations in the aeronautical mobile service may be operated subject to not causing harmful interference to the inter-satellite service (see ITU Radio Regulation No. 5.43).

US374 In the band 126–134 GHz, airborne radars in the radiolocation service may be operated subject to not causing harmful interference to the inter-satellite service (see ITU Radio Regulation No. 5.43).

US375 The frequency band 275–400 GHz may be used by administrations for experimentation with, and development of, various active and passive services. In this band a need has been identified for the following spectral line measurements for passive services:

—Radio astronomy service: 278–280 GHz and 343–348 GHz;

—Earth exploration-satellite service (passive) and space research service (passive): 275–277 GHz, 300–302 GHz, 324–326 GHz, 345–347 GHz, 363–365 GHz and 379–381 GHz.

Future research in this largely unexplored spectral region may yield additional spectral lines and continuum bands of interest to the passive services. Administrations are urged to take all practicable steps to protect these passive services from harmful interference until the next competent world radiocommunication conference.

US376 In the bands 95–100 GHz, 134–142 GHz, 190–200 GHz and 252–265 GHz, stations in the land mobile service may be operated subject to not causing harmful interference to the space radiocommunication services to which these bands are allocated (see No. 5.43).

US377 In the band 84–86 GHz, stations in the fixed, mobile and broadcasting services shall not cause harmful interference to broadcasting-satellite stations operating in accordance with the decisions of the

appropriate frequency assignment planning conference for the broadcasting-satellite service.

Non-Federal Government (NG) Footnotes

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NG143 In the band 11.7–12.2 GHz, protection from harmful interference shall be afforded to transmissions from space stations not in conformance with ITU Radio Regulation 5.488 only if the operations of such space stations impose no unacceptable constraints on operations or orbit locations of space stations in conformance with 5.488.

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Federal Register

Monday,
September 23, 2002

Part III

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 740, 742, and 774

Department of State

22 CFR Part 121

Licensing Jurisdiction for "Space Qualified" Items and Telecommunications Items for Use on Board Satellites; Final Rule

Amendments of the United States Munitions List; Final Rules

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, and 774

[Docket No. 020726182–2182–01]

RIN 0694–AC49

Licensing Jurisdiction for ''Space Qualified'' Items and Telecommunications Items for Use on Board Satellites

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends the Export Administration Regulations (EAR) to clarify what ''space qualified'' items are controlled on the Commerce Control List (CCL) and are therefore subject to the EAR. This rule also removes the License Exception eligibility and amends the CCL for certain ''space qualified'' items. In addition, this rule adds ''regional stability'' as the reason for control for certain items. The Department of State is publishing in the **Federal Register** a separate rule that will clarify what ''space qualified'' items are on the U.S. Munitions List, and therefore subject to the International Traffic in Arms Regulations.

DATES: This rule is effective: September 23, 2002.

FOR FURTHER INFORMATION CONTACT: Gene Christiansen in the Office of Strategic Trade and Foreign Policy Controls, Bureau of Industry and Security, U.S. Department of Commerce at (202) 482–1837.

SUPPLEMENTARY INFORMATION:

Background

Section 1513(a) of the National Defense Authorization Act for FY 1999 (NDAA FY99) mandated the transfer of satellites and ''related items'' from the Department of Commerce, Commerce Control List (CCL) to the Department of State, United States Munitions List (USML). The transfer of ''related items'' has engendered confusion concerning licensing authority for certain ''space qualified'' items—*i.e.*, items designed, manufactured and tested to meet the special electrical, mechanical or environmental requirements for use in the launch and deployment of satellites or high-altitude flight systems operating at altitudes of 100 kilometers or higher.

This rule clarifies the licensing jurisdiction of certain ''space qualified'' items. This rule is consistent with the existing licensing jurisdiction for items specifically designed or modified for items with military applications. Such items are under the licensing jurisdiction of the Department of State. Items on the USML are exclusively controlled for export or reexport by the Department of State and are not within the scope of the Export Administration Regulations.

This rule is the result of extensive review of the affected ''space qualified'' items by the Departments of Commerce, Defense, and State. It provides for the transfer of ''space qualified'' atomic frequency standards (formerly controlled by Export Control Classification Number (ECCN) 3A002.g.2), solid state detectors (formerly ECCN 6A002.a.1), imaging sensors (formerly ECCN 6A002.b.2.b.1), cryocoolers (formerly ECCN 6A002.d.1), optical systems parts (formerly ECCN 6A004.c) and optical control equipment (formerly ECCN 6A004.d.1) from the CCL to the USML. This rule also provides criteria governing the split jurisdiction between the Departments of Commerce and State over ''space qualified'' traveling wave tubes (ECCN 3A001.b.1.a.4.c), photovoltaic arrays (ECCN 3A001.e.1.c), telecommunications equipment for use on board satellites (ECCN 5A001.a.2 and a.3), and the technology to develop and produce telecommunications equipment for use on board satellites (ECCN 5E001.b.1). Finally, this rule confirms Department of Commerce jurisdiction of ''space qualified'' tape recorders (ECCN 3A002.a.3.b), data recorders (ECCN 3A992.b.3), laser radar (ECCN 6A008.j.1), and focal plane arrays and the technology to make focal plane arrays (ECCN 6A002.e).

Please note, that software for ''space qualified'' cryocoolers remains on the U.S. Munitions List (22 CFR 121.1) under Category XV, Space Systems and Associated Equipment.

Pursuant to consultations with the Department of State, this rule adds regional stability controls (RS Column 1) for ''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment, including ''space qualified'' LIDAR equipment specially designed for surveying or for meteorological observation (ECCN 6A998.b, software therefor 6D991, technology therefor 6E991), ''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) (6A008.j.1, software therefor 6D001 and 6D002, technology therefor 6E001), and focal plane arrays (ECCN 6A002.e, software therefor 6D991, technology therefor 6E001 and 6E002). The expansion of RS controls for this equipment is described in a report to the Congress, dated August 19, 2002.

This rule supercedes any commodity classification decisions and advisory opinions issued by the Department of Commerce prior to the effective date of this rule concerning items which this rule either (i) transfers to State Department jurisdiction or (ii) retains under Commerce Department jurisdiction but removes from eligibility for export or reexport under License Exception authorization or without a license. Items licensed by the Department of Commerce as of September 23, 2002, including those already exported, remain subject to the EAR and the licenses remain in effect in accordance with their terms.

Specifically, this rule makes revisions to the following ECCNs:

In Category 3, Electronics:

• 3A001 is amended by:

(1) Revising the Related Controls paragraph to specify that the following items are now subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121):

(A) ''Space qualified'' helix tubes (traveling wave tubes), or derivatives thereof operating at frequencies higher than 31 GHz and defined in 3A001.b.1.a.4.c;

(B) ''Space qualified'' microwave solid state amplifiers operating at frequencies higher than 31 GHz defined in 3A001.b.4.b;

(C) ''Space qualified'' microwave ''assemblies'' capable of operating at frequencies exceeding 31 GHz and defined in 3A001.b.6;

(D) ''Space qualified'' microwave power amplifiers operating at frequencies higher than 31 GHz and defined in 3A001.b.8.; and

(E) ''Space qualified'' and radiation hardened photovoltaic arrays as defined in 3A001.e.1.c (*i.e.*, not having silicon cells or not having single, dual or triple junction solar cells that have gallium arsenide as one of the junctions), spacecraft/satellite solar concentrators and batteries.

(2) Adding a definition for photovoltaic arrays to the Related Definitions section.

• 3A002 is amended by revising the Related Controls paragraph to note that ''space qualified'' atomic frequency standards defined in 3A002.g.2 are now subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121).

• 3D001 is amended by revising:

(1) The Related Controls paragraph to note that ''software'' specially designed for the ''development'' or ''production'' of the following equipment is under the export licensing authority of the

Department of State, Office of Defense Trade Controls (22 CFR part 121): (1.) When operating at frequencies higher than 31 GHz and ''space qualified'': helix tubes (traveling wave tubes (TWT)) defined in 3A001.b.1.a.4.c; microwave solid state amplifiers defined in 3A001.b.4.b; microwave ''assemblies'' defined in 3A001.b.6; and traveling wave tube amplifiers (TWTA) defined in 3A001.b.8; (2.) ''Space qualified'' and radiation hardened photovoltaic arrays defined in 3A001.e.1.c (*i.e.*, not having silicon cells or single, dual or triple junction solar cells that have gallium arsenide as one of the junctions), spacecraft/satellite solar concentrators and batteries; and (3.) ''Space qualified'' atomic frequency standards defined in 3A002.g.2.

(2) Revising TSR eligibility under the License Exception section of 3D001, to note the removal of ''software'' specially designed for the ''development'' or ''production'' of Traveling Wave Tube Amplifiers described in 3A001.b.8 having operating frequencies exceeding 18 GHz from License Exception TSR eligibility.

(3) The Related Definitions section to add a definition for photovoltaic arrays.

• 3E001 is amended by:

(1) Revising the Related Controls paragraph to note that ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of the following equipment is under the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121): (1.) When operating at frequencies higher than 31 GHz and ''space qualified'': helix tubes (traveling wave tubes (TWT)) defined in 3A001.b.1.a.4.c; microwave solid state amplifiers defined in 3A001.b.4.b; microwave ''assemblies'' defined in 3A001.b.6; and traveling wave tube amplifiers (TWTA) defined in 3A001.b.8; (2.) ''Space qualified'' and radiation hardened photovoltaic arrays defined in 3A001.e.1.c (*i.e.*, not having silicon cells or single, dual or triple junction solar cells that have gallium arsenide as one of the junctions), spacecraft/satellite solar concentrators and batteries; and (3.) ''Space qualified'' atomic frequency standards defined in 3A002.g.2.

(2) Revising TSR eligibility under the License Exception section of 3D001, to note the removal of ''technology'' specially designed for the ''development'' or ''production'' of Traveling Wave Tube Amplifiers described in 3A001.b.8 having operating frequencies exceeding 18 GHz from License Exception TSR eligibility.

(3) Revising the Related Definitions section to add a definition for photovoltaic arrays.

In Category 5, Telecommunications and ''Information Security'', Part I (Telecommunications):

• 5A001 is amended by revising the Related Controls paragraph to note that telecommunications equipment defined in 5A001.a.1 through 5A001.a.3 for use on board satellites is now subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121).

• 5A991 is amended by:

(1) Adding a Related Control note that states telecommunication equipment defined in 5A991 for use on board satellites is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121).

(2) Adding references to related controls in 5E101 and 5E991.

(3) Removing from the List of Items controlled the note under paragraph 5A991.b.1 that reads, ''5A991.b.1 does not control equipment specially designed to be integrated and operated in any satellite system for civil use.''

• 5E001 is amended by revising:

(1) The Related Controls paragraph to note that ''technology'' defined in 5E001.b.1, 5E001.b.2, 5E001.b.4, and 5E001.c for use on board satellites is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121). Technology defined in 5E001.b.1 for *non*-satellite uses remains subject to the export licensing authority of the Department of Commerce, Bureau of Industry and Security.

In Category 6, Sensors and Lasers:

• 6A002 is amended by:

(1) Moving the notes contained in the Related Definitions paragraph to the Related Controls paragraph;

(2) Revising the Related Controls paragraph to note that:

(a) The following commodities are now subject to the export licensing authority of U.S. Department of State, Office of Defense Trade Controls (22 CFR part 121): ''space qualified'' solid-state detectors defined in 6A002.a.1, ''space qualified'' imaging sensors (*e.g.*, ''monospectral imaging sensors'' and ''multispectral imaging sensors'') defined in 6A002.b.2.b.1, and ''space qualified'' cryocoolers defined in 6A002.d.1, unless, on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security;

(b) ''Space qualified'' ''focal plane arrays'' defined in 6A002.e remain subject to the export licensing authority of the Department of Commerce, Bureau of Industry and Security, but are removed from License Exception eligibility; and

(c) Exporters may apply for a commodity jurisdiction request with the Department of State, Office of Defense Trade Controls for ''space qualified'' solid-state detectors defined in 6A002.a.1 and ''imaging sensors'' (*e.g.*, ''monospectral imaging sensors'' and multispectral imaging sensors'') defined in 6A002.b.2.b.1 that may have predominantly civil applications.

(3) Adding RS Column 1 controls for 6A002.e, ''space qualified'' ''focal plane arrays.''

• 6A004 is amended by revising the Related Controls paragraph to note that ''space qualified'' components for optical systems defined in 6A004.c and optical control equipment defined in 6A004.d.1 are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121).

• 6A008 is amended by:

(1.) Revising the License Exception section to note that equipment defined in 6A008.j.1 (''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment) is no longer eligible for License Exception LVS;

(2.) Revising the License Requirement section to add RS Column 1 controls to 6A008.j.1 (''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR));

(3.) Revising the ''Related Controls'' paragraph to note specifically that LIDAR equipment specially designed for surveying or for meteorological observation is controlled under ECCN 6A998.b

• 6A998 is amended by:

(1) Revising the heading;

(2) Moving the airborne radar equipment from the heading to 6A998.a; and (3) Adding the ''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment specially designed for surveying or for meteorological observation, released from control under the note in 6A008.j, to 6A998.b; and controlling them under regional stability controls (RS column 1) and antiterrorism (AT Column 1).

• 6D001 is amended by:

(1) Revising the License Requirements to add regional stability as a reason for control to software for equipment controlled by 6A008.j.1.

(2) Revising the License Exception section to note that ''software'' for the ''development'' or ''production'' of equipment defined in 6A008.j.1 is not eligible for License Exception TSR; and

(3) Revising the Related Controls paragraph in the List of Items Controlled section to note that ''software'' specially designed for the ''development'' or ''production'' of the following commodities is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121): ''space qualified'' components for optical systems defined in 6A004.c and ''space qualified'' optical control equipment defined in 6A004.d.1.

• 6D002 is amended by:

(1) Revising the License Requirements section to add regional stability as a reason for control to software for equipment controlled by 6A008.j.1.

(2) Revising the License Exception section to note that ''software'' for the ''use'' of equipment defined in 6A008.j.1 is not eligible for License Exception TSR; and

(3) Revising the Related Controls paragraph in the List of Items Controlled section to note that ''software'' specially designed for the ''use'' of ''space qualified'' ''imaging sensors'' (*e.g.*, ''monospectral imaging sensors'' and ''multispectral imaging sensors'') defined in 6A002.b.2.b.1 are now subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121), unless, on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security.

• 6D104 is amended by revising the Related Controls paragraph in the List of Items Controlled section to note that ''software'' specially designed for the ''use'' of ''space qualified'' solid-state (optical) detectors defined in 6A002.a.1 is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121), unless, on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security.

• 6D991 is amended by:

(1) Revising the header to include 6A002.e; and

(2) Adding regional stability controls (RS column 1) to ''software'' for equipment controlled by 6A002.e and 6A998.b.

• 6E001 is amended by:

(1) Revising the Reason for Control section to add regional stability as a reason for control for technology for items controlled by 6A002.e, 6A003.b.4, or 6A008.j.1.

(2) Revising the License Exception section to note that ''technology'' for the ''development'' of commodities defined in 6A002.e or 6A008.j.1; and ''software'' for commodities defined in 6A002.e or 6A008.j.1 and controlled in 6D001, 6D002, or 6D104 are no longer eligible for License Exception TSR; and

(3) Revising the Related Controls paragraph in the List of Items Controlled section to note that ''Technology'' according to the General Technology Note for the ''development'' of the following commodities is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121): ''Space qualified''

(1) Components for optical systems defined in 6A004.c and optical control equipment defined in 6A004.d.1.;

(2) Solid-state detectors defined in 6A002.a.1, ''imaging sensors'' (*e.g.*, ''monospectral imaging sensors'' and ''multispectral imaging sensors'') defined in 6A002.b.2.b.1, and cryocoolers defined in 6A002.d.1 unless on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security.

• 6E002 is amended by:

(1) Revising the Reason for Control section to add regional stability as a reason for control for technology for items controlled by 6A002.e, 6A003.b.4, or 6A008.j.1.

(2) Revising the License Exception section to note that ''technology'' for the ''production'' of commodities defined in 6A002.e or 6A008.j.1 is no longer eligible for License Exception TSR.

(3) Revising the Related Controls paragraph in the List of Items Controlled section to note that ''Technology'' according to the General Technology Note for the ''production'' of the following commodities is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121): (1) Components for optical systems defined in 6A004.c and optical control equipment defined in 6A004.d.1.; (2) Solid-state detectors defined in 6A002.a.1, sbull I11''imaging sensors'' (*e.g.*, ''monospectral imaging sensors'' and ''multispectral imaging sensors'') defined in 6A002.b.2.b.1, and cryocoolers defined in 6A002.d.1 unless on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security.

• 6E991 is amended by adding regional stability controls (RS column 1) for ''technology'' for equipment controlled by 6A998.b.

In addition to the revisions made to the CCL, this rule adds a restriction that applies to all License Exceptions in section 740.2. Specifically, this rule adds paragraph (a)(6) to this section, which removes the following items from License Exception eligibility: Commodities defined in 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b; ''software'' for commodities defined in 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b and controlled under ECCNs 3D001 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6D001, 6D002, 6D104, 6D991; and ''technology'' for commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b and controlled under ECCNs 3E001, 6E001, 6E002, 6E101, 6E102, 6E991.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001 (66 FR 44025 (August 22, 2001)), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Savings Clause

Shipments of items which this rule either (i) transfers to State Department jurisdiction or (ii) retains under Commerce Department jurisdiction but removes from eligibility for export or reexport under License Exception authorization or without a license (''NLR''—no license required) that were on dock for loading, on lighter, laden aboard an exporting carrier or en route aboard a carrier to a port of export on September 23, 2002, pursuant to actual orders for export to that destination, may proceed to that destination under the previous License Exception or NLR authorization provision so long as they have been exported from the United States before October 21, 2002. Any such items not actually exported before midnight October 21, 2002 require a license in accordance with this regulation.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply

with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 45 minutes for a manual submission and 40 minutes for an electronic submission.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 740

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Parts 742 and 774

Exports, Foreign trade.

Accordingly, parts 740, 742, and 774 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR part 740 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901–911, Pub. L. 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

2. The authority citation for 15 CFR part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

3. The authority citation for 15 CFR part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

PART 740—[AMENDED]

4. Section 740.2 is amended by adding paragraph (a)(7) to read as follows:

§ 740.2 Restrictions on all License Exceptions.

* * * * *

(a) * * *

(7) *''Space qualified'' items.* Commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b; ''software'' for commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b and controlled under ECCNs 3D001 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6D001, 6D002, 6D104, 6D991; and ''technology'' for commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b and controlled under ECCNs 3E001, 6E001, 6E002, 6E101, 6E102, 6E991.

* * * * *

PART 742—[AMENDED]

5. Section 742.6 is amended by revising paragraph (a)(1), to read as follows:

§ 742.6 Regional stability.

(a) * * *

(1) As indicated in the CCL and in RS Column 1 of the Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to all destinations, except Canada, for items described on the CCL under ECCNs 6A002.a.1, a.2, a.3, .c, or .e; 6A003.b.3 and b.4; 6A008.j.1; 6A998.b; 6D001 (only ''software'' for the ''development'' or ''production'' of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D002 (only ''software'' for the ''use'' of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D991 (only ''software'' for the ''development,'' ''production,'' or ''use'' of equipment controlled by 6A002.e or 6A998.b); 6E001 (only ''technology'' for ''development'' of items in 6A002.a.1, a.2, a.3, and .c or .e, 6A003.b.3 and b.4, or 6A008.j.1); 6E002 (only ''technology'' for ''production'' of items in 6A002.a.1, a.2, a.3, .c, or .e, 6A003.b.3 or b.4, or 6A008.j.1); 6E991 (only ''technology'' for the ''development,'' ldquo;production,'' or ''use'' of equipment controlled by 6A998.b); 7D001 (only ''software'' for ''development'' or ''production'' of items in 7A001, 7A002, or 7A003); 7E001 (only ''technology'' for the ''development'' of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E002 (only ''technology'' for the ''production'' of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E101 (only ''technology'' for the ''use'' of inertial navigation systems, inertial equipment, and specially designed components for civil aircraft).

* * * * *

PART 774—[AMENDED]

6. Supplement No. 1 to part 774, Category 3 (Electronics), is amended by:

a. Revising the *Related Controls* and *Related Definitions* paragraph in the List of Items Controlled section of ECCNs 3A001 and 3A002; and

b. Revising the License Exceptions and List of Items Controlled sections of ECCNs 3D001 and 3E001, to read as follows:

3A001 Electronic Components, as Follows (see List of Items Controlled).

* * * * *

License Exceptions

LVS: N/A for MT or NP
Yes for:
$1500: 3A001.c
$3000: 3A001.b.1, b.2, b.3, .d, .e

and .f
$5000: 3A001.a, and .b.4 to b.7
GBS: Yes for 3A001.a.1.b, a.2 to a.12, b.2, and b.8 (except for TWTAs exceeding 18 GHz)
CIV: Yes for 3A001.a.3.a (for processors with a CTP less than or equal to 12,000 MTOPS), a.3.b, a.3.c, a.4, a.7, and a.11.

List of Items Controlled

Unit: * * *

Related Controls: (1.) The following commodities are under the export licensing authority of the Department of State, Office of Defense

Trade Controls (22 CFR part 121) when ''space qualified'' and operating at frequencies higher than 31 GHz: helix tubes (traveling wave tubes (TWT)) defined in 3A001.b.1.a.4.c; microwave solid state amplifiers defined in 3A001.b.4.b; microwave ''assemblies'' defined in 3A001.b.6; traveling wave tube amplifiers (TWTA) defined in 3A001.b.8; and derivatives thereof; 2.) ''Space qualified'' and radiation hardened photovoltaic arrays, as defined in 3A001.e.1.c, having silicon cells or having single, dual or triple junction solar cells that have gallium arsenide as one of the junctions, are subject to the export licensing authority of the Department of Commerce. All other ''space qualified'' and radiation hardened photovoltaic arrays defined in 3A001.e.1.c and spacecraft/satellite concentrators and batteries are under the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121). See also 3A101, 3A201, and 3A991

Related Definitions: For the purposes of integrated circuits in 3A001.a.1, 5 x 10^3 Gy(Si) = 5 x 10^5 Rads (Si); 5 x 10^6 Gy (Si)/s = 5 x 10^8 Rads (Si)/s. For purposes of photovoltaic arrays in 3A001.e.1.c, an array predominately consists of: a substrate; solar cells having silicon cells or having single, dual, and or triple junction solar cells that have gallium arsenide as one of the junctions; coverglass; ultra-violet coating(s); and bonding agent(s). Spacecraft/satellite: solar concentrators, power conditioners and or controllers, bearing and power transfer assembly, and or deployment hardware/systems are controlled under the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121).

Items:

* * * * *

3A002 General purpose electronic equipment, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: ''Space qualified'' atomic frequency standards defined in 3A002.g.2 are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121). See also 3A292 and 3A992.

Related Definitions: N/A

Items:

* * * * *

3D001 ''Software'' Specially Designed for the ''Development'' or ''Production'' of Equipment Controlled by 3A001.b to 3A002.g or 3B (Except 3B991 and 3B992).

* * * * *

License Exceptions

CIV: N/A

TSR: Yes, except for ''software'' specially designed for the ''development'' or ''production'' of Traveling Wave Tube Amplifiers described in 3A001.b.8 having operating frequencies exceeding 18 GHz.

List of Items Controlled

Unit: $ value.

Related Controls: ''Software'' specially designed for the ''development'' or ''production'' of the following equipment is under the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121): (a) When operating at frequencies higher than 31 GHz and ''space qualified'': Helix tubes (traveling wave tubes (TWT)) defined in 3A001.b.1.a.4.c; microwave solid state amplifiers defined in 3A001.b.4.b; microwave ''assemblies'' defined in 3A001.b.6; and traveling wave tube amplifiers (TWTA) defined in 3A001.b.8; (b) ''Space qualified'' and radiation hardened photovoltaic arrays defined in 3A001.e.1.c (*i.e.*, not having silicon cells or single, dual or triple junction solar cells that have gallium arsenide as one of the junctions), spacecraft/satellite solar concentrators and batteries; and (c) ''Space qualified'' atomic frequency standards defined in 3A002.g.2. See also 3D101

Related Definitions: For purposes of photovoltaic arrays in 3A001.e.1.c, an array predominately consists of: a substrate; solar cells having silicon cells or having single, dual, and or triple junction solar cells that have gallium arsenide as one of the junctions; coverglass; ultra-violet coating(s); and bonding agent(s). Spacecraft/satellite: solar concentrators, power conditioners and or controllers, bearing and power transfer assembly, and or deployment hardware/systems are controlled under the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121).

Items:

The list of items controlled is contained in the ECCN heading.

* * * * *

3E001 ''Technology'' According to the General Technology Note for the Development'' or ''Production'' of Equipment or Materials Controlled by 3A (Except 3A292, 3A980, 3A981, 3A991 or 3A992), 3B (Except 3B991 or 3B992) or 3C.

* * * * *

License Exceptions

CIV: N/A

TSR: Yes, except N/A for MT, and ''technology'' specially designed for the ''development'' or ''production'' of Traveling Wave Tube Amplifiers described in 3A001.b.8 having operating frequencies exceeding 18 GHz.

List of Items Controlled

Unit: N/A

Related Controls: (1.) See also 3E101 and 3E201. (2.) 3E001 does not control ''technology'' for the ''development'' or ''production'' of: (a) Microwave transistors operating at frequencies below 31 GHz; (b) Integrated circuits controlled by 3A001.a.3 to a.12, having all of the following: 1. Using ''technology'' of 0.7 micrometer or more, AND 2. Not incorporating multi-layer structures. (3.) The term multi-layer structures in this entry does not include devices incorporating a maximum of two metal layers and two polysilicon layers. (4.) ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of the following commodities is under the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121): (a) When operating at frequencies higher than 31 GHz and ''space qualified'': helix tubes (traveling wave tubes (TWT)) defined in 3A001.b.1.a.4.c; microwave solid state amplifiers defined in 3A001.b.4.b; microwave ''assemblies'' defined in 3A001.b.6; or traveling wave tube amplifiers (TWTA) defined in 3A001.b.8; (b) ''Space qualified'' and radiation hardened photovoltaic arrays defined in 3A001.e.1.c (*i.e.*, not having silicon cells or single, dual or triple junction solar cells that have gallium arsenide as one of the junctions), and spacecraft/satellite solar concentrators and batteries; and (b) ''Space qualified'' atomic frequency standards defined in 3A002.g.2.

Related Definition: For purposes of photovoltaic arrays in 3A001.e.1.c, an array predominately consists of: a substrate; solar cells having silicon cells or having single, dual, and or triple junction solar cells that have gallium arsenide as one of the junctions; coverglass; ultra-violet coating(s); and bonding agent(s). Spacecraft/satellite: solar concentrators, power conditioners and or controllers, bearing and power transfer assembly, and or deployment hardware/systems are controlled under the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121).

Items:

The list of items controlled is contained in the ECCN heading.

* * * * *

7. In Supplement No. 1 to part 774, Category 5 (Telecommunications and ''Information Security'', Part I—Telecommunications), ECCNs 5A001, 5A991, and 5E001, List of Items Controlled sections are revised to read as follows:

5A001 Telecommunications Systems, Equipment, and Components.

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List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value.

Related Controls: Telecommunications equipment defined in 5A001.a.1 through 5A001.a.3 for use on board satellites is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121). *See also* 5A101 and 5A991.

Related Definitions: N/A

Items:

a. Any type of telecommunications equipment having any of the following characteristics, functions or features:

a.1. Specially designed to withstand transitory electronic effects or electromagnetic pulse effects, both arising from a nuclear explosion;

a.2. Specially hardened to withstand gamma, neutron or ion radiation; or

a.3. Specially designed to operate outside the temperature range from 218 K (−55° C) to 397 K (124° C).

Note: 5A001.a.3 applies only to electronic equipment.

Note: 5A001.a.2 and 5A001.a.3 do not apply to equipment on board satellites.

b. Telecommunication transmission equipment and systems, and specially designed components and accessories therefor, having any of the following characteristics, functions or features:

b.1 Being underwater communications systems having any of the following characteristics:

b.1.a. An acoustic carrier frequency outside the range from 20 KHz to 60 KHz;

b.1.b. Using an electromagnetic carrier frequency below 30 KHz; or

b.1.c. Using electronic beam steering techniques;

b.2. Being radio equipment operating in the 1.5 MHz to 87.5 MHz band and having any of the following characteristics:

b.2.a. Incorporating adaptive techniques providing more than 15 dB suppression of an interfering signal; or

b.2.b. Having all of the following:

b.2.b.1. Automatically predicting and selecting frequencies and ''total digital transfer rates'' per channel to optimize the transmission; and

b.2.b.2. Incorporating a linear power amplifier configuration having a capability to support multiple signals simultaneously at an output power of 1 kW or more in the 1.5 MHz to 30 MHz frequency range or 250 W or more in the 30 MHz to 87.5 MHz frequency range, over an ''instantaneous bandwidth'' of one octave or more and with an output harmonic and distortion content of better than −80 dB;

b.3. Being radio equipment employing ''spread spectrum'' techniques, including ''frequency hopping'' techniques, having any of the following characteristics:

b.3.a. User programmable spreading codes; or

b.3.b. A total transmitted bandwidth which is 100 or more times the bandwidth of any one information channel and in excess of 50 KHz;

Note: 5A001.b.3.b does not control radio equipment specially designed for use with civil cellular radio-communications systems.

Note: 5A001.b.3 does not control equipment operating at an output power of 1.0 Watt or less.

b.4. Being digitally controlled radio receivers having all of the following:

b.4.a. More than 1,000 channels;

b.4.b. A ''frequency switching time'' of less than 1 ms;

b.4.c. Automatic searching or scanning of a part of the electromagnetic spectrum; and

b.4.d. Identification of the received signals or the type of transmitter; or

Note: 5A001.b.4 does not control radio equipment specially designed for use with civil cellular radio-communications systems.

b.5. Employing functions of digital ''signal processing'' to provide voice coding at rates of less than 2,400 bit/s.

c. Optical fiber communication cables, optical fibers and accessories, as follows:

c.1. Optical fibers of more than 500 m in length specified by the manufacturer as being capable of withstanding a proof test tensile stress of 2×10^9 N/m^2 or more;

Technical Note: Proof Test: on-line or off-line production screen testing that dynamically applies a prescribed tensile stress over a 0.5 to 3 m length of fiber at a running rate of 2 to 5 m/s while passing between capstans approximately 150 mm in diameter. The ambient temperature is a nominal 293 K (20° C) and relative humidity 40%. Equivalent national standards may be used for executing the proof test.

c.2. Optical fiber cables and accessories designed for underwater use.

Note: 5A001.c.2 does not control standard civil telecommunication cables and accessories.

N.B. 1: For underwater umbilical cables, and connectors thereof, see 8A002.a.3.

N.B. 2: For fiber-optic hull penetrators or connectors, see 8A002.c.

d. ''Electronically steerable phased array antennae'' operating above 31 GHz.

Note: 5A001.d does not control ''electronically steerable phased array antennae'' for landing systems with instruments meeting ICAO standards covering microwave landing systems (MLS).

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5A991 Telecommunication Equipment, Not Controlled by 5A001.

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List of Items Controlled

Unit: * * *

Related Controls: Telecommunication equipment defined in 5A991 for use on board satellites is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121). *See also* 5E101 and 5E991.

Related Definitions: * * *

Items:

a. Any type of telecommunications equipment, not controlled by 5A001.a, specially designed to operate outside the temperature range from 219 K (−54 °C) to 397 K (124 °C).

b. Telecommunication transmission equipment and systems, and specially designed components and accessories therefor, having any of the following characteristics, functions or features:

Note: Telecommunication transmission equipment:

a. Categorized as follows, or combinations thereof:

1. Radio equipment (e.g., transmitters, receivers and transceivers);
2. Line terminating equipment;
3. Intermediate amplifier equipment;
4. Repeater equipment;
5. Regenerator equipment;
6. Translation encoders (transcoders);
7. Multiplex equipment (statistical mutiplex included);
8. Modulators/demodulators (modems);
9. Transmultiplex equipment (see CCITT Rec. G701);
10. ''Stored program controlled'' digital crossconnection equipment;
11. ''Gateways'' and bridges;
12. ''Media access units''; and

b. Designed for use in single or multi-channel communication via any of the following:
1. Wire (line);
2. Coaxial cable;
3. Optical fiber cable;
4. Electromagnetic radiation; or
5. Underwater acoustic wave propagation.

b.1. Employing digital techniques, including digital processing of analog signals, and designed to operate at a ''digital transfer rate'' at the highest multiplex level exceeding 45 Mbit/s or a ''total digital transfer rate'' exceeding 90 Mbit/s;

b.2. Modems using the ''bandwidth of one voice channel'' with a ''data signaling rate'' exceeding 9,600 bits per second;

b.3. Being ''stored program controlled'' digital cross connect equipment with ''digital transfer rate'' exceeding 8.5 Mbit/s per port.

b.4. Being equipment containing any of the following:

b.4.a. ''Network access controllers'' and their related common medium having a ''digital transfer rate'' exceeding 33 Mbit/s; or

b.4.b. ''Communication channel controllers'' with a digital output having a ''data signaling rate'' exceeding 64,000 bit/s per channel;

Note: If any uncontrolled equipment contains a ''network access controller'', it cannot have any type of telecommunications interface, except those described in, but not controlled by 5A991.b.4.

b.5. Employing a ''laser'' and having any of the following characteristics:

b.5.a. A transmission wavelength exceeding 1,000 nm; or

b.5.b. Employing analog techniques and having a bandwidth exceeding 45 MHz;

Note: 5A991.b.5.b does not control commercial TV systems.

b.5.c. Employing coherent optical transmission or coherent optical detection techniques (also called optical heterodyne or homodyne techniques);

b.5.d. Employing wavelength division multiplexing techniques; or

b.5.e. Performing ''optical amplification'';

b.6. Radio equipment operating at input or output frequencies exceeding:

b.6.1. 31 GHz for satellite-earth station applications; or

b.6.2. 26.5 GHz for other applications;

Note: 5A991.b.6. does not control equipment for civil use when conforming with an International Telecommunications Union (ITU) allocated band between 26.5 GHz and 31 GHz.

b.7. Being radio equipment employing any of the following:

b.7.a. Quadrature-amplitude-modulation (QAM) techniques above level 4 if the ''total digital transfer rate'' exceeds 8.5 Mbit/s;

b.7.b. QAM techniques above level 16 if the ''total digital transfer rate'' is equal to or less than 8.5 Mbit/s; or

b.7.c. Other digital modulation techniques and having a ''spectral efficiency'' exceeding 3 bit/sec/Hz;

Notes: 1. 5A991.b.7 does not control equipment specially designed to be integrated and operated in any satellite system for civil use.

2. 5A991.b.7 does not control radio relay equipment for operation in an ITU allocated band:

a. Having any of the following:

a.1. Not exceeding 960 MHz; or

a.2. With a ''total digital transfer rate'' not exceeding 8.5 Mbit/s; and

b. Having a ''spectral efficiency'' not exceeding 4 bit/sec/Hz.

b.8. Providing functions of digital ''signal processing'' as follows:

b.8.a. Voice coding at rates less than 2,400 bit/s;

b.8.b. Employing circuitry that incorporates ''user-accessible programmability'' of digital ''signal processing'' circuits exceeding the limits of 4A003.b.

c. ''Stored program controlled'' switching equipment and related signaling systems, having any of the following characteristics, functions or features, and specially designed components and accessories therefor:

Note: Statistical multiplexers with digital input and digital output which provide switching are treated as ''stored program controlled'' switches.

c.1. ''Data (message) switching'' equipment or systems designed for ''packet-mode operation'' and assemblies and components therefor, n.e.s.

c.2. Containing ''Integrated Services Digital Network'' (ISDN) functions and having any of the following:

c.2.a. Switch-terminal (e.g., subscriber line) interfaces with a ''digital transfer rate'' at the highest multiplex level exceeding 192,000 bit/s, including the associated signaling channel (e.g., 2B+D); or

c.2.b. The capability that a signaling message received by a switch on a given channel that is related to a communication on another channel may be passed through to another switch.

Note: 5A991.c does not preclude the evaluation and appropriate actions taken by the receiving switch or unrelated user message traffic on a D channel of ISDN.

c.3. Routing or switching of ''datagram'' packets;

c.4. Routing or switching of ''fast select'' packets;

Note: The restrictions in 5A991.c.3 and c.4 do not apply to networks restricted to using only ''network access controllers'' or to ''network access controllers'' themselves.

c.5. Multi-level priority and pre-emption for circuit switching;

Note: 5A991.c.5 does not control single-level call preemption.

c.6. Designed for automatic hand-off of cellular radio calls to other cellular switches or automatic connection to a centralized subscriber data base common to more than one switch;

c.7. Containing ''stored program controlled'' digital crossconnect equipment with ''digital transfer rate'' exceeding 8.5 Mbit/s per port.

c.8. ''Common channel signaling'' operating in either non-associated or quasi-associated mode of operation;

c.9. ''Dynamic adaptive routing'';

c.10. Being packet switches, circuit switches and routers with ports or lines exceeding any of the following:

c.10.a. A ''data signaling rate'' of 64,000 bit/s per channel for a ''communications channel controller''; or

Note: 5A991.c.10.a does not control multiplex composite links composed only of communication channels not individually controlled by 5A991.b.1.

c.10.b. A ''digital transfer rate'' of 33 Mbit/s for a ''network access controller'' and related common media;

Note: 5A991.c.10 does not control packet switches or routers with ports or lines not exceeding the limits in 5A991.c.10.

c.11. ''Optical switching'';

c.12. Employing ''Asynchronous Transfer Mode (''ATM'') techniques.

d. Optical fibers and optical fiber cables of more than 50 m in length designed for single mode operation;

e. Centralized network control having all of the following characteristics:

e.1. Receives data from the nodes; and

e.2. Process these data in order to provide control of traffic not requiring operator decisions, and thereby performing ''dynamic adaptive routing'';

Note: 5A991.e does not preclude control of traffic as a function of predictable statistical traffic conditions.

f. Phased array antennae, operating above 10.5 GHz, containing active elements and distributed components, and designed to permit electronic control of beam shaping and pointing, except for landing systems with instruments meeting International Civil Aviation Organization (ICAO) standards (microwave landing systems (MLS)).

g. Mobile communications equipment, n.e.s., and assemblies and components therefor; or

h. Radio relay communications equipment designed for use at frequencies equal to or exceeding 19.7 GHz and assemblies and components therefor, n.e.s.

5E001 ''Technology'', (see List of Items Controlled).

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List of Items Controlled

Unit: $ value.

Related Controls: Technology defined in 5E001.b.1, 5E001.b.2, 5E001.b.4, or 5E001.c for use on board satellites is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121). See also 5E101 and 5E991

Related Definitions: N/A.

Items:

a. ''Technology'' according to the General Technology Note for the ''development'', ''production'' or ''use'' (excluding operation) of equipment, functions or features or ''software'' controlled by 5A001, 5B001 or 5D001.

b. Specific ''technologies'', as follows:

b.1. ''Required'' ''technology'' for the ''development'' or ''production'' of telecommunications equipment specially designed to be used on board satellites;

b.2. ''Technology'' for the ''development'' or ''use'' of ''laser'' communication techniques with the capability of automatically acquiring and tracking signals and maintaining communications through exoatmosphere or sub-surface (water) media;

b.3. ''Technology'' for the ''development'' of digital cellular radio systems;

b.4. ''Technology'' for the ''development'' of ''spread spectrum'' techniques, including ''frequency hopping'' techniques.

c. ''Technology'' according the General Technology Note for the ''development'' or ''production'' of any of the following telecommunication transmission or ''stored program controlled'' switching equipment, functions or features:

c.1. Equipment employing digital techniques, including ''Asynchronous Transfer Mode'' (''ATM''), designed to operate at a ''total digital transfer rate'' exceeding 1.5 Gbit/s;

c.2. Equipment employing a ''laser'' and having any of the following:

c.2.a. A transmission wavelength exceeding 1750 nm;

c.2.b. Performing ''optical amplification'' using praseodymium-doped fluoride fiber amplifiers (PDFFA);

c.2.c. Employing coherent optical transmission or coherent optical detection techniques (also called optical heterodyne or homodyne techniques);

c.2.d. Employing wavelength division multiplexing techniques exceeding 8 optical carriers in a single optical window; or

c.2.e. Employing analog techniques and having a bandwidth exceeding 2.5 GHz;

Note: 5E001.c.2.e. does not control ''technology'' for the ''development'' or ''production'' of commercial TV systems.

c.3. Equipment employing ''optical switching''; or

c.4. Radio equipment having any of the following:

c.4.a. Quadrature-amplitude-modulation (QAM) techniques above level 128; or

c.4.b. Operating at input or output frequencies exceeding 31GHz; or

Note: 5E001.c.4.b. does not control ''technology'' for the ''development'' or ''production'' of equipment designed or modified for operation in any frequency band which is ''allocated by the ITU'' for radio-communications services, but not for radio-determination.

c.5. Equipment employing ''common channel signaling'' operating in either non-associated or quasi-associated mode of operation.

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8. Supplement No. 1 to part 774, Category 6 (Sensors and Lasers), is amended by:

a. Revising the License Requirements section, and the Related Controls and Related Definitions paragraphs in the List of Items Controlled section of ECCN 6A002;

b. Revising ECCNs 6A008, 6A998, 6D001, 6D002, 6D991, 6E001, 6E002, and 6E991; and

c. Revising the Related Controls paragraph in the List of Items Controlled section of ECCNs 6A004 and 6D104, to read as follows:

6A002 Optical sensors.

License Requirements

Reason for Control: NS, MT, CC, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry ..	NS Column 2.
MT applies to optical detectors in 6A002.a.1, a.3, and .e that are specially designed or rated as electromagnetic (including ''lasers'') and ionized particle radiation resistant.	MT Column 1.
RS applies to 6A002.a.1, a.2, a.3, .c, and .e.	RS Column 1.
CC applies to police-model infrared viewers in 6A002.c.	CC Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to 6A002.a.1, a.2 a.3 and c..	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).
UN applies to 6A002	Federal Republic of Yugoslavia (Serbia and Montenegro).

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

List of Items Controlled

Unit: * * *

Related Controls: The following commodities are subject to the export licensing authority of U.S. Department of State, Office of Defense Trade Controls (22 CFR part 121): 1.) ''Image intensifiers'' defined in 6A002.a.2 and ''focal plane arrays'' defined in 6A002.a.3 specially designed, modified, or configured for military use and not part of civil equipment; 2.) ''Space qualified'' solid-state detectors defined in 6A002.a.1, ''space qualified'' imaging sensors (*e.g.*, ''monospectral imaging sensors'' and ''multispectral imaging sensors'') defined in 6A002.b.2.b.1, and ''space qualified'' cryocoolers defined in 6A002.d.1, unless, on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security. See also 6A102, 6A202, and 6A992

Note: Exporters may apply for a commodity jurisdiction request with the Department of State, Office of Defense Trade Controls for ''space qualified'' solid-state detectors defined in 6A002.a.1 and imaging sensors (*e.g.*, ''monospectral imaging sensors'' and ''multispectral imaging sensors'') defined in 6A002.b.2.b.1 that may have predominant civil application(s).

Related Definitions: N/A

Items:

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6A004 Optics.

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List of Items Controlled

Unit: * * *

Related Controls: ''Space qualified'' components for optical systems defined in 6A004.c and optical control equipment defined in 6A004.d.1 are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121). See also 6A994

Related Definitions: * * *

Items: * * *

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6A008 Radar Systems, Equipment and Assemblies Having Any of the Characteristics (See List of Items Controlled), and Specially Designed Components Therefor.

License Requirements

Reason for Control: NS, MT, RS, AT.

Control(s)	Country chart
NS applies to entire entry ..	NS Column 2.
MT applies to items that are designed for airborne applications and that are usable in systems controlled for MT reasons.	MT Column 1.
RS applies to 6A008.j.1	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000; N/A for MT and for 6A008.j.1 and 6A008.1.3

GBS: Yes, for 6A008.b, .c, and l.1 only.

CIV: Yes, for 6A008.b, .c, and l.1 only.

List of Items Controlled

Unit: $ value.

Related Controls: This entry does not control: Secondary surveillance radar (SSR); Car radar designed for collision prevention; Displays or monitors used for Air Traffic Control (ATC) having no more than 12 resolvable elements per mm; Meteorological (weather) radar. See also 6A108 and 6A998. ECCN 6A998 controls, *inter alia*, the LIDAR equipment excluded by the note to paragraph j of this ECCN (6A008).

Related Definitions: N/A.

Items:

a. Operating at frequencies from 40 GHz to 230 GHz and having an average output power exceeding 100 mW;

b. Having a tunable bandwidth exceeding ±6.25% of the center operating frequency;

Technical Note: The center operating frequency equals one half of the sum of the highest plus the lowest specified operating frequencies.

c. Capable of operating simultaneously on more than two carrier frequencies;

d. Capable of operating in synthetic aperture (SAR), inverse synthetic aperture (ISAR) radar mode, or sidelooking airborne (SLAR) radar mode;

e. Incorporating ''electronically steerable phased array antennae'';

f. Capable of heightfinding non-cooperative targets;

Note: 6A008.f does not control precision approach radar (PAR) equipment conforming to ICAO standards.

g. Specially designed for airborne (balloon or airframe mounted) operation and having Doppler ''signal processing'' for the detection of moving targets;

h. Employing processing of radar signals using any of the following:

h.1. ''Radar spread spectrum'' techniques; or

h.2. ''Radar frequency agility'' techniques;

i. Providing ground-based operation with a maximum ''instrumented range'' exceeding 185 km;

Note: 6A008.i does not control:

a. Fishing ground surveillance radar;

b. Ground radar equipment specially designed for en route air traffic control, provided that all the following conditions are met:

1. It has a maximum ''instrumented range'' of 500 km or less;

2. It is configured so that radar target data can be transmitted only one way from the radar site to one or more civil ATC centers;

3. It contains no provisions for remote control of the radar scan rate from the en route ATC center; and

4. It is to be permanently installed;

c. Weather balloon tracking radars.

j. Being ''laser'' radar or Light Detection and Ranging (LIDAR) equipment, having any of the following:

j.1. ''Space-qualified''; or

j.2. Employing coherent heterodyne or homodyne detection techniques and having an angular resolution of less (better) than 20 μr (microradians);

Note: 6A008.j does not control LIDAR equipment specially designed for surveying or for meteorological observation.

k. Having ''signal processing'' sub-systems using ''pulse compression'', with any of the following:

k.1. A ''pulse compression'' ratio exceeding 150; or

k.2. A pulse width of less than 200 ns; or

l. Having data processing sub-systems with any of the following:

l.1. ''Automatic target tracking'' providing, at any antenna rotation, the predicted target position beyond the time of the next antenna beam passage;

Note: 6A008.l.1 does not control conflict alert capability in ATC systems, or marine or harbor radar.

l.2. Calculation of target velocity from primary radar having non-periodic (variable) scanning rates;

l.3. Processing for automatic pattern recognition (feature extraction) and comparison with target characteristic data bases (waveforms or imagery) to identify or classify targets; or

l.4. Superposition and correlation, or fusion, of target data from two or more ''geographically dispersed'' and ''interconnected radar sensors'' to enhance and discriminate targets.

Note: 6A008.l.4 does not control systems, equipment and assemblies designed for marine traffic control.

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6A998 Radar Systems, Equipment and Assemblies, n.e.s., (See List of Items Controlled), and Specially Designed Components Therefor.

License Requirements

Reason for Control: RS, AT

Control(s)	Country chart
RS applies to paragraph .b	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: $ value.

Related Controls: N/A.

Related Definitions: N/A.

Items:

a. Airborne radar equipment, n.e.s., and specially designed components therefor.

b. ''Space-qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment specially designed for surveying or for meteorological observation.

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6D001 ''Software'' Specially Designed for the ''Development'' or ''Production'' of Equipment Controlled by 6A004, 6A005, 6A008, or 6B008.

License Requirements

Reason for Control: NS, MT, NP, RS, AT.

Control(s)	Country chart
NS applies to ''software'' for equipment controlled by 6A004, 6A005, 6A008 or 6B008.	NS Column 1.
MT applies to ''software'' for equipment controlled by 6A008 or 6B008 for MT reasons.	MT Column 1.
NP applies to ''software'' for equipment controlled by 6A005 for NP reasons.	NP Column 1.
RS applies to ''software'' for equipment controlled by 6A008.j.1.	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A

TSR: Yes, except for the following:

(1) Items controlled for MT reasons;

(2) ''Software'' specially designed for the ''development'' or ''production'' of ''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment defined in 6A008.j.1; or

(3) Exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''software'' specially designed for the ''development'' or ''production'' of equipment controlled by 6A008.1.3 or 6B008.

List of Items Controlled

Unit: $ value.

Related Controls: ''Software'' specially designed for the ''development'' or ''production'' of ''space qualified'' components for optical systems defined in 6A004.c and ''space qualified'' optical control equipment defined in 6A004.d.1 is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121). See also 6D991, and ECCNs 6E001 (''development'') and 6E102 (''use'') for ''technology'' for items controlled under this entry.

Related Definitions: N/A.

Items:

The list of items controlled is contained in the ECCN heading.

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6D002 ''Software'' specially designed for the ''use'' of equipment controlled by 6A002.b, 6A008, or 6B008.

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	Country chart
NS applies to entire entry ..	NS Column 1.
MT applies to ''software'' for equipment controlled by 6A008 or 6B008 for MT reasons.	MT Column 1.
RS applies to ''software'' for equipment controlled by 6A008.j.1.	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

CIV: N/A

TSR: Yes, except N/A for the following

(1) Items controlled for MT reasons; or

(2) ''Software'' specially designed for the ''use'' of ''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment defined in 6A008.j.1.

List of Items Controlled

Unit: $ value.

Related Controls: ''Software'' specially designed for the ''use'' of ''space qualified'' imaging sensors (*e.g.*, ''monospectral imaging sensors'' and''multispectral imaging sensors'') defined in 6A002.b.2.b.1 is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121), unless, on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security. ''Software'' specially designed for the ''use'' of ''space qualified'' LIDAR equipment specially designed for surveying or for meteorological observation, released from control under the note in 6A008.j, is controlled in 6D991. See also 6D102, 6D991, and 6D992

Related Definitions: N/A.

Items:

The list of items controlled is contained in the ECCN heading.

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6D104 ''Software'' Specially Designed for the ''use'' of Equipment Controlled by 6A002, 6A003, 6A007, 6A102, and 6B108, for MT Reasons.

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List of Items Controlled

Unit: * * *

Related Controls: ''Software'' specially designed for the ''use'' of ''space qualified'' solid-state (optical) detectors defined in 6A002.a.1 is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121), unless, on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security.

Related Definitions: * * *

Items: * * *

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6D991 ''Software'' Specially Designed for the ''Development'', ''Production'', or ''Use'' of Equipment Controlled by 6A002.e, 6A991, 6A996, 6A997, or 6A998.

License Requirements

Reason for Control: RS, AT

Control(s)	Country chart
RS applies to ''software'' for equipment controlled by 6A002.e or 6A998.b.	RS Column 1.
AT applies to entire entry, except ''software'' for equipment controlled by 6A991.	AT Column 1.
AT applies to ''software'' for equipment controlled by 6A991.	AT Column 2.

License Exceptions

CIV: N/A

TSR: N/A

List of Items Controlled

Unit: $ value.

Related Controls: N/A.

Related Definitions: N/A.

Items:

The list of items controlled is contained in the ECCN heading.

6E001 ''Technology'' According to the General Technology Note for the ''Development'' of Equipment, Materials or ''Software'' Controlled by 6A (Except 6A018, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, or 6A998), 6B (Except 6B995), 6C (Except 6C992 or 6C994), or 6D (Except 6D991, 6D992, or 6D993).

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN

Control(s)	Country chart
NS applies to ''technology'' for items controlled by 6A001 to 6A008, 6B004 to 6B008, 6C002 to 6C005, or 6D001 to 6D003.	NS Column 1.

Control(s)	Country chart
MT applies to ''technology'' for items controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, 6B108, 6D001, 6D002, 6D102 or 6D103 for MT reasons.	MT Column 1.
NP applies to ''technology'' for items controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225, 6A226 or 6D001 for NP reasons.	NP Column 1.
RS applies to ''technology'' for equipment controlled by 6A002.a.1, .a.2, .a.3, .c, or .e, 6A003.b.3 or .b.4, or 6A008.j.1.	RS Column 1.
CC applies to ''technology'' for equipment controlled by 6A002 for CC reasons.	CC Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to ''technology'' for equipment controlled by 6A002 or 6A003 for UN reasons.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A

TSR: Yes, except for the following:

(1) Items controlled for MT reasons;

(2) ''Technology'' for commodities controlled by 6A002.e, 6A004.e, or 6A008.j.1;

(3) ''Technology'' for ''software'' specially designed for ''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment defined in 6A008.j.1 and controlled by 6D001 or 6D002; *or*

(4) Exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' for the ''development'' of the following: (a) Items controlled by 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.5, 6A001.a.2.b, 6A001.a.2.e., 6A002.a.1.c, 6A008.l.3, 6B008, 6D003.a; (b) Equipment controlled by 6A001.a.2.c or 6A001.a.2.f when specially designed for real time applications; or (c) ''Software'' controlled by 6D001 and specially designed for the ''development'' or ''production'' of equipment controlled by 6A008.l.3 or 6B008.

List of Items Controlled

Unit: N/A

Related Controls: ''Technology'' according to the General Technology Note for the ''development'' of the following commodities is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121): ''Space qualified'' (1.) Components for optical systems defined in 6A004.c and optical control equipment defined in 6A004.d.1.; (2.) Solid-state detectors defined in 6A002.a.1, ''imaging sensors'' (e.g., ''monospectral imaging sensors'' and ''multispectral imaging sensors'') defined in 6A002.b.2.b.1, and cryocoolers defined in 6A002.d.1 unless on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security. See also 6E101, 6E201, and 6E991.

Related Definitions: N/A

Items:

The list of items controlled is contained in the ECCN heading.

6E002 ''Technology'' According to the General Technology Note for the ''Production'' of Equipment or Materials Controlled by 6A (Except 6A018, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998), 6B (Except 6B995) or 6C (Except 6C992 or 6C994).

License Requirements

Reason for Control: NS, MT, NP, RS, AT, CC, UN

Control(s)	Country chart
NS applies to ''technology'' for equipment controlled by 6A001 to 6A008, 6B004 to 6B008, or 6C002 to 6C005.	NS Column 1.
MT applies to ''technology'' for equipment controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, or 6B108 for MT reasons.	MT Column 1.
NP applies to ''technology'' for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.	NP Column 1.
RS applies to ''technology'' for equipment controlled by 6A002.a.1, .a.2, .a.3, .c or .e, 6A003.b.3 or .b.4, or 6A008.j.1.	RS Column 1.
CC applies to ''technology'' for equipment controlled by 6A002 for CC reasons.	CC Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to ''technology'' for equipment controlled by 6A002 or 6A003 for UN reasons.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro)

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A

TSR: Yes, except for the following:

(1) Items controlled for MT reasons;

(2) ''Technology'' for commodities controlled by 6A002.e, 6A004.e, 6A008.j.1; or

(3) Exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' for the ''development'' of the following: (a) Items controlled by 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.5, 6A001.a.2.b, and 6A001.a.2.c; and (b) Equipment controlled by 6A001.a.2.e and 6A001.a.2.f when specially designed for real time applications; or (c) ''Software'' controlled by 6D001 and specially designed for the ''development'' or ''production'' of equipment controlled by 6A002.a.1.c, 6A008.l.3 or 6B008.

List of Items Controlled

Unit: N/A

Related Controls: ''Technology'' according to the General Technology Note for the ''production'' of the following commodities is subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121) when intended for use on a satellite: ''Space qualified'' (1.) Components for optical systems defined in 6A004.c and optical control equipment defined in 6A004.d.1.; (2.) Solid-state detectors defined in 6A002.a.1, ''imaging sensors'' (e.g., ''monospectral imaging sensors'' and ''multispectral imaging sensors'') defined in 6A002.b.2.b.1, and cryocoolers defined in 6A002.d.1 unless on or after September 23, 2002, the Department of State issues a commodity jurisdiction determination assigning the export licensing authority to the Department of Commerce, Bureau of Industry and Security. See also 6E992.

Related Definitions: N/A

Items:

The list of items controlled is contained in the ECCN heading.

* * * * *

6E991 ''Technology'' for the ''Development'', ''Production'' or ''Use'' Equipment Controlled by 6A991, 6A996, 6A997, or 6A998.

License Requirements

Reason for Control: RS, AT

Control(s)	Country chart
RS applies to ''technology'' for equipment controlled by 6A998.b.	RS Column 1.
AT applies to entire entry except ''technology'' for equipment controlled by 6A991.	AT Column 1.
AT applies to ''technology'' for equipment controlled by 6A991.	AT Column 2.

License Exceptions

CIV: N/A.
TSR: N/A.

List of Items Controlled

Unit: N/A.
Related Controls: N/A.
Related Definitions: N/A.
Items:
The list of items controlled is contained in the ECCN heading.

Dated: September 12, 2002.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 02–23713 Filed 9–20–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice (4126)]

Amendments of the United States Munitions List

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is revising Category XV—Spacecraft Systems and Associated Equipment—of the U.S. Munitions List (USML). This regulation clarifies that certain ''space qualified'' items are covered by the USML within the International Traffic in Arms Regulations (ITAR).

EFFECTIVE DATE: September 23, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Ganzer, Office of Defense Trade Controls, Department of State, Telephone 202–663–27009 or FAX 202–261–8199. ATTN: Regulatory Change, USML Part 121, Category XV.

SUPPLEMENTARY INFORMATION: The Departments of Commerce, Defense, State and the National Security staff recently completed a review of licensing jurisdiction for ''space qualified'' items. This amendment specifies the relevant details and technical parameters associated with those ''space qualified'' items covered by Category XV–Spacecraft Systems and Associated Equipment of the USML, which are under the jurisdiction of the Department of State. The Department of Commerce will also be publishing a final rule addressing which ''space qualified'' items are covered by the Commerce Control List (CCL). Consequently, this will permit State to resume responding to requests for commodity jurisdiction determinations related to space technology, which have been deferred pending inter-agency agreement on the broader question of which agency has jurisdiction over which ''space qualified'' items.

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is exempt from review under Executive Order 12866; but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof. This rule does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. It has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Act of 1966. It will not have substantial direct effects on the States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant application of Executive Orders Nos. 12372 and 13123. However, affected U.S. persons are invited to submit written comments to the Department of State, Office of Defense Trade Controls, ATTN: Ann Ganzer, Regulatory Change, USML Part 121, Category XV, 12th Floor, SA–1, Washington, DC 20522–0112.

List of Subjects in 22 CFR Part 121

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Part 121, is amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for Part 121 continues to read as follows:

Authority: Sec. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2278, 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105–261, 112 Stat. 1920.

2. In § 121.1, Category XV—Spacecraft Systems and Associated Equipment is amended by revising paragraph (e) to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category XV—Spacecraft Systems and Associated Equipment

* * * * *

(e) All specifically designed or modified systems or subsystems, components, parts, accessories, attachments, and associated equipment for the articles in this category, including the articles identified in section 1516 of Public Law 105–261: satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines (see also Categories IV and V in this section).

Note: This coverage by the U.S. Munitions List does not include the following unless specifically designed or modified for military application (see § 120.3 of this subchapter): (For controls on these items see the Export Administration Regulations, Commerce Control List (15 CFR Parts 730 through 799).)

(1) Space qualified travelling wave tubes (also known as helix tubes or

TWTs), microwave solid state amplifiers, microwave assemblies, and travelling wave tube amplifiers operating at frequencies equal to or less than 31GHz.

(2) Space qualified photovoltaic arrays having silicon cells or having single, dual, triple junction solar cells that have gallium arsenide as one of the junctions.

(3) Space qualified tape recorders.

(4) Atomic frequency standards that are not space qualified.

(5) Space qualified data recorders.

(6) Space qualified telecommunications systems, equipment and components not designed or modified for satellite uses.

(7) Technology required for the development or production of telecommunications equipment specifically designed for non-satellite uses.

(8) Space qualified focal plane arrays having more than 2048 elements per array and having a peak response in the wavelength range exceeding 300nm but not exceeding 900nm.

(9) Space qualified laser radar or Light Detection and Ranging (LIDAR) equipment.

* * * * *

Dated: August 22, 2002.

John R. Bolton,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 02–23714 Filed 9–20–02; 8:45 am]

BILLING CODE 4710–25–P

Federal Register

Monday,

September 23, 2002

Part IV

Department of Health and Human Services

Administration for Children and Families

Administration for Native Americans: Availability of Financial Assistance; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93612–2003]

Administration for Native Americans: Availability of Financial Assistance

AGENCY: Administration for Native Americans ACF, HHS.

ACTION: Announcement of availability of competitive financial assistance for projects in competitive areas administered by the Administration for Native Americans for American Indians, Native Hawaiians, Alaska Natives and Native American Pacific Islanders.

SUMMARY: The Administration for Native Americans (ANA) announces the anticipated availability of fiscal year 2003 funds in two competitive areas:

Area (1) Social and Economic Development Strategies (SEDS)—closing dates are January 17, 2003; and May 2, 2003.

Area (2) Social and Economic Development Strategies for Alaska Natives (AK–SEDS)—closing date is May 2, 2003.

Financial assistance provided by ANA in support of projects in these two areas is intended to promote the goal of self-sufficiency for Native Americans. The printed Federal Register notice is the only official program announcement. Although all reasonable efforts are taken to assure that the files on the ANA World Wide Web Page containing electronic copies of this Program Announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete. Copies of this program announcement and many of the required forms may be obtained electronically at the ANA World Wide Web address *http://www.acf.hhs.gov/programs/ana/.*

FOR FUTHER INFORMATION CONTACT: Contact the ANA Applicant Help Desk at 202–690–7776 or toll free at 1–877–922–9262 for assistance.

SUPPLEMENTARY INFORMATION:

Introduction and Purpose

The purpose of this program announcement is to announce the anticipated availability of fiscal year 2003 funds, authorized under the Native American Programs Act of 1974 (Act), as amended, to promote the goal of social and economic self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and Native American Pacific Islanders in two competitive areas. Funding authorization is provided under sections 803(a), of the Native American Programs Act of 1974, as amended (Pub. L. 93–644, 88 Stat. 2324, 42 U.S.C. 2991b).

The Administration for Native Americans assists eligible applicants for the two competitive areas to undertake 12 to 36 month development projects that are part of long-range comprehensive plans to move toward governance, social, and/or economic self-sufficiency.

In order to streamline the application process for eligible applicants under two competitive areas, ANA is issuing a single program announcement for fiscal year 2003 funds. Information regarding ANA's mission, policy, goals, application requirements, review criteria and closing dates for the two competitive areas are included in this announcement.

The Administration for Native Americans promotes the goal of self-sufficiency in Native American communities primarily through Social and Economic Development Strategies (SEDS) projects. This program announcement is being issued in anticipation of the appropriation of funds for fiscal year 2003 and the availability of funds for these competitive areas is contingent upon sufficient final appropriations. Proposed projects are reviewed on a competitive basis against the specific evaluation criteria presented under each competitive area in this announcement.

Notice: Organizations from Palau are no longer eligible for assistance under ANA programs. See Part II, Section D: *Eligible Applicants* for additional information.

White House Initiatives: In support of the executive order on Asian American and Pacific Islanders, ANA encourages greater participation from Hawaiian and Pacific Islander communities. Executive Order on People with Disabilities encourages all communities to address the needs of people with disabilities in all programs in accordance with the Americans with Disabilities Act (ADA). ANA encourages all Native communities to address the needs of People with Disabilities in all aspects of their programs. ANA also encourages greater participation from Native organizations serving People with Disabilities.

Departmental Initiatives: In FY 2003, a special emphasis is announced for incorporating capacity-building for tribes who are operating or plan to operate Tribal Child Support Enforcement programs either solely or in conjunction with a tribal TANF program. As a part of a tribal social development project, capacity building can include cooperative agreements with States to deliver critical elements of a comprehensive child support program or such capacity-building of tribal governments to run solely tribal programs with no cooperative agreement with a state.

The Division of Children and Families has several initiatives that support and foster strong families and healthy communities. Four of those initiatives the ANA is particularly interested in are access for faith-based and community programs, support for rural communities, prevention and intervention services for youth, and the promotion of healthy relationships and strengthening families.

Faith-based and Community Initiative: Such organizations are eligible entities when they meet the ANA eligibility criteria.

Healthy Relationships and Strengthening Families Initiative: Because of the benefits of marriage for children, adults, and society, ANA is interested in promoting healthy marriage and responsible fatherhood among the populations it serves. The funds may be used to provide premarital programs and marriage education and enrichment programs to couples. These programs should provide the knowledge and skills necessary to form and sustain a healthy marriage. It may be appropriate to develop partnerships with other agencies and organizations that have experience in the field of marriage education, preparation and enrichment.

This program announcement consists of three parts.

Part I. ANA Policy and Goals

Provides general information about ANA's policies and goals for these two competitive areas. This section contains information pertaining to all applicants.

Part II. ANA Competitive Areas

Describes the competitive areas under which ANA is requesting applications:

Competitive Area (1): Governance, Social and Economic Development (SEDS); Competitive Area (2): Governance, Social and Economic Development (AK–SEDS) for Alaska Natives.

Each competitive area includes the following sections, which provide information to be used to develop an application:

A. Purpose and Availability of Funds

B. Background

C. Proposed Projects To Be Funded

D. Eligible Applicants

E. Grantee Share of the Project
F. Review Criteria
G. Application Due Date(s)
H. Contact Information

Part III. General Application Information and Guidance

Provides important information and guidance that applies to all competitive areas and must be taken into account in developing an application for either of the two competitive areas.

A. Definitions
B. Activities That Cannot Be Funded
C. Multi-Year Projects
D. Intergovernmental Review of Federal Programs
E. The Application Process
F. The Review Process
G. General Guidance to Applicants
H. Paperwork Reduction Act of 1995
I. Deadlines

Part I—ANA Policy and Goals

The mission of the Administration for Native Americans (ANA) is to promote the goal of social and economic self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and other Native American Pacific Islanders.

The Administration for Native Americans believes that a Native American community is self-sufficient when it can generate and control the resources necessary to meet its social and economic goals, and the needs of its members.

The Administration for Native Americans also believes that the responsibility for achieving self-sufficiency resides with the governing bodies of Indian tribes, Alaska Native villages, and in the leadership of Native American groups. A community's progress toward self-sufficiency is based on its efforts to plan, organize, and direct resources in a comprehensive manner, which is consistent with its established long-range goals.

The Administration for Native Americans' policy is based on three interrelated goals:

1. Governance: To assist tribal and Alaska Native village governments, Native American institutions, and local leadership to exercise local control and decision-making over their resources.

2. Social Development: To support local access to, control of, and coordination of services and programs which safeguard the health, well-being and culture of people, provide support services and training so people can work, and which are essential to a thriving and self-sufficient community in the spirit of respect for indigenous peoples' cultural and intellectual property rights.

3. Economic Development: To foster the development of stable, diversified local economies and economic activities that will provide jobs and promote economic well being.

Applicants must comply with the following ANA administrative policies:

- ANA continues a variety of requirements directed towards enforcing its policy that an eligible grant recipient may only have one active ANA grant awarded from a competitive area at any time. Therefore, while eligible applicants may compete for a grant in each of the competitive areas, an applicant may only submit one application per competitive area and no applicant may receive more than one grant in each competitive area, including any existing ANA grant. In addition, an Alaska Native entity may not submit an application under both Competitive Areas 1 and 2 for the May closing date. Alaska Native entities may receive a grant under either competitive area 1 or 2, but not under both.
- Current grantees whose project period extends beyond September 29, 2003, or who have requested an extension of the project period beyond that date, are not eligible to apply for a grant under the same program area. The Project Period is noted in Block 9 of the Financial Assistance Award document.
- Applicants for any competitive area may propose 12 to 36 month projects.
- Applicants must describe a locally determined strategy to carry out a proposed project with fundable objectives and activities.
- Local long-range planning must consider the maximum use of all available resources, how the resources will be directed to development opportunities, and present a strategy for overcoming the local issues that hinder movement toward self-sufficiency in the community.
- An application from a Tribe, Alaska Native Village or Native American organization must be from the governing body.
- ANA will not accept applications from tribal components, which are tribally authorized divisions of the tribe, unless the application includes a Tribal resolution which clearly demonstrates the Tribe's support of the project and the Tribe's understanding that the applicant's project supplants the Tribe's authority to submit an application under that specific competitive area both for the current competition and for the duration of the approved project period, should the application be funded.
- Under each competitive area, ANA will accept only one application that serves or impacts a reservation, Tribe, or Native American community.
- For the May closing, applications for SEDS grants from Alaska Native entities may be submitted under either Competitive Area 1 or Competitive Area 2, but not both.
- Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit agency can accomplish this by (1) Providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax exempt organizations described in Section 501(c)(3) of the IRS code or (2) providing a copy of the currently valid IRS tax exemption certificate, or (3) providing a copy of the articles of incorporation bearing the seal of the State or federally-recognized Tribe in which the corporation or association is domiciled. Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determinations of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for these organizations for the purpose of eligibility for ANA funds.
- An applicant, other than a Federally-recognized tribe or an Alaska Native Village government, proposing a project benefiting Native Americans must provide assurance that its duly elected or appointed board of directors is representative of the community identified to be served. To establish compliance with the requirement, applicants should provide information establishing that at least a majority of the individuals serving on the non-profit's governing board fall into one or more of the following categories: (1) A current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served.
- An applicant must provide a 20% non-federal share match of the approved project costs.
- An applicant must submit an itemized budget detailing the applicant's Federal and non-Federal share with source(s) cited.
- A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations. Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under section 501(d) of Public Law 95–134, as amended (48 U.S.C. 1469a) under which HHS waives any requirement for matching funds under

$200,000 (including in-kind contributions). Therefore, for the ANA grants under these announced programs, no match is required for grants to these insular areas.

Part II—ANA Competitive Areas

The competitive areas under this Part describe ANA's funding authorities, priorities, special initiatives, special application requirements, and review criteria. The standard requirements necessary for each application, as well as standard ANA program guidance and technical guidance are described in Part III of this announcement.

Competitive Area (1): Social and Economic Development Strategies (SEDS) Projects

A. Purpose and Availability of Funds

This competitive area promotes the goal of social and economic self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and Native American Pacific Islanders through locally developed social and economic development strategies (SEDS). Approximately $20 million of financial assistance is anticipated to be available under this priority area for governance, social, and economic development projects. ANA anticipates awarding approximately 150 competitive grants ranging from $50,000 to $1,000,000.

B. Background

A community's movement toward self-sufficiency could be jeopardized if a careful balance between governmental, social and economic development is not maintained. For example, expansion of social services, without providing opportunities for employment and economic development, could lead to dependency on social services. Conversely, inadequate support services and training could seriously impede productivity and local economic development. Additionally, the necessary infrastructures must be developed or expanded at the community level to support social and economic development and growth. In designing their social and economic development strategies, ANA encourages an applicant to use or leverage all available human, natural, financial, and physical resources. ANA encourages the development and maintenance of comprehensive strategic plans, which are an integral part of attaining and supporting the balance necessary for successful activities that lead to self-sufficiency.

ANA assists tribal and village governments, and Native American organizations, in their efforts to develop and implement community-based, long-term governance, social, and economic development strategies. These strategies must promote the goal of self-sufficiency in local communities. The SEDS approach is based on ANA's program goals and incorporates two fundamental principles:

1. The local community and its leadership are responsible for determining goals, setting priorities, and planning and implementing programs aimed at achieving those goals. The local community is in the best position to apply its own cultural, political, and socio-economic values to its long-term strategies and programs.

2. Governance and social and economic development are interrelated. In order to move toward self-sufficiency, development in one area should be balanced with development in the others. Consequently, comprehensive development strategies should address all aspects of the governmental, economic, and social infrastructures needed to promote self-sufficient communities.

These definitions should be kept in mind as a local social and economic development strategy is developed as part of a grant application. ANA's SEDS policy uses the following definitions:

Governmental infrastructure includes the constitutional, legal, and administrative development requisite for independent governance.

Social infrastructure includes those components through which health, economic well being and culture are maintained within the community and that support governance and economic goals.

Economic infrastructure includes the physical, commercial, technological, industrial and/or agricultural components necessary for a functioning local economy, which supports the life-style, embraced by the Native American community.

C. Proposed Projects To Be Funded

This section provides descriptions of activities, which are consistent with the SEDS philosophy. Proposed activities should be tailored to reflect the governance, social and economic development needs of the local community and should be consistent and supportive of the proposed project objectives. The types of projects which ANA may fund include, but are not limited to, the following:

Governance

- Improvements in the governmental, judicial and/or administrative infrastructures of tribal and village governments (such as strengthening or streamlining management procedures or the development of tribal court systems);
- Increasing the ability of tribes, villages, and Native American groups and organizations to plan, develop, and administer a comprehensive program to support community social and economic self-sufficiency (including strategic planning);
- Increasing awareness of and exercising the legal rights and benefits to which Native Americans are entitled, either by virtue of treaties, the Federal trust relationship, legislative authority, executive orders, administrative and court decisions, or as citizens of a particular state, territory, of the United States;
- Status clarification activities for Native groups seeking Federal tribal recognition. Activities such as performing research, responding to deficiencies cited by the Bureau of Acknowledgment and Research (BAR) or any other function necessary to submit a petition for Federal acknowledgment to the Department of Interior. Applicants should submit a copy of their Letter of Intent to Petition and indicate their progress within the BIA process; and
- Development of and/or amendments to tribal constitutions, court procedures and functions, by-laws or codes, and council or executive branch duties and functions.

Economic Development

- Development of a community economic infrastructure that will result in businesses, jobs, and an economic support structure;
- Establishment or expansion of businesses and jobs in areas such as tourism, specialty agriculture, energy development, light and/or heavy manufacturing, technology and Internet activities, fabrication and construction companies, housing and fisheries or aqua-culture
- Stabilizing and diversifying a Native community's economic base through business development and enterprise zone ventures.

Social Development

- Enhancing tribal capabilities to design or administer programs aimed at strengthening the social environment desired by the local community;
- Developing local and intertribal models related to comprehensive planning and delivery of services;
- Developing programs or activities to preserve and enhance tribal heritage and culture; and
- Establishing programs, which involve extended families or tribal

societies in activities that strengthen cultural identity and promote strong relationships and healthy community development.

Other SEDS Relationships. ANA encourages projects designed to use the SEDS approach to help achieve current initiatives and priorities of the Administration for Children and Families that are to:

- Address welfare reform initiatives such as moving families to work.
- Help ensure child support from both parents.
- Create access to affordable childcare for low income working families.
- Reach and help enroll children in quality pre-school programs to promote full development, including Head Start, Early Head Start and Child Care.
- Provide safety, permanency and well-being for children and double the number of adoptions from the public child welfare system.

D. Eligible Applicants

Applications from the Republic of Palau are no longer eligible for assistance under ANA programs. Palau ceased to be a Trust Territory of the United States by virtue of the compact of Free Association Act.

The following are eligible to apply under this competitive area:

- Federally recognized Indian Tribes;
- Consortia of Indian Tribes;
- Incorporated non-federally recognized Tribes;
- Incorporated non-profit multi-purpose community-based Indian organizations;
- Urban Indian Centers;
- National or regional incorporated non-profit Native American organizations with Native American community-specific objectives;
- Alaska Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or non-profit village consortia;
- Incorporated nonprofit Alaska Native multi-purpose community-based organizations;
- Nonprofit Alaska Native Regional Corporations/Associations in Alaska with village specific projects;
- Nonprofit Native organizations in Alaska with village-specific projects;
- Public and nonprofit private agencies serving Native Hawaiians (The populations served may be located on these islands or on the continental United States);
- Public and nonprofit private agencies serving native peoples from Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands. (The populations served may be located on these islands or in the United States); and
- Tribally-controlled community colleges, Tribally-controlled post-secondary vocational institutions, colleges and universities located in Hawaii, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands which serve Native American Pacific Islanders.
- Non-profit Alaska Native community entities or tribal governing bodies (Indian Reorganization Act or traditional Councils) as recognized by the Bureau of Indian Affairs.

E. Grantee Share of the Project

Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is defined as the sum of the Federal request and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. For example, a project requesting $100,000 in Federal funds must provide a non-federal share match of at least $25,000 (20% total approved project cost or 25% of federal request).

Grantees will be held accountable for the commitments of non-Federal resources as proposed, even if over the amount of the required match. Failure to provide the amount will result in disallowance of Federal match. As per 45 CFR Part 74.2, in-kind contributions are defined as the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

In addition, an applicant may include other Federal funding sources where legislation authorizes use of funds for match and provided the source relates to the ANA project; examples are: Indian Child Welfare funds, through the Department of Interior; Indian Self-Determination and Education Assistance funds, through the Department of Interior and the Department of Health and Human Services; and Community Development Block Grant funds, through the Department of Housing and Urban Development. (Under 45 CFR 74.23(a)(5) use of funds under another Federal Program for non-federal match must be authorized by statute)

F. Review Criteria

A proposed project should reflect the purposes of ANA's SEDS policy and program goals described in the Background section of this competitive area; include a social and economic development strategy which reflects the needs and specific circumstances of the local community; and address the specific developmental steps that the tribe or Native American community is undertaking toward self-sufficiency. The evaluation criteria are closely related to each other and are considered as a whole in judging the overall quality of an application.

Points are awarded only to applications, which are responsive to this competitive area and these criteria. Proposed projects will be reviewed on a competitive basis using the following evaluation criteria.

(1) Long-Range Goals and Available Resources (15 Points)

Long-range goal(s) and a strategy. The applicant provides:

- The specific governance, social, or economic, long-range community goal(s) that the project relates to;
- How the community intends to achieve the goal(s) (Inclusion of the community's entire development plan is not necessary);
- The relationship between the community's goals and plans, and the applicant's proposed plan; and
- A clearly delineated social and economic development strategy (SEDS).
- A description of what constitutes the applicant's specific community.
- The application identifies and documents pre-existing involvement and support of the community in the planning process.
- Describes how the community will be involved in the implementation of the proposed project. Except for those communities, such as Hawaii and the Pacific Islands, where the systems of governance make such involvement inappropriate.

Applicants must document the community's support for the proposed project and explain the role of the community in the planning process and implementation of the proposed project. For tribes, a current signed resolution from the governing body of the tribe supporting the project proposal and stating that there has been community involvement in the planning of this project will suffice as evidence of community support/involvement.

The type of community you serve and nature of the proposal being made will influence the type of documentation necessary. For example, a Federally-recognized Tribe may choose to address this requirement by submitting a resolution stating that community involvement has occurred in the project planning or may determine that

additional community support work is necessary. A tribal organization may submit resolutions supporting the project proposal from each of its member tribes, as well as a resolution from the applicant organization's governing body. Other examples of documentation include community surveys, minutes of community meetings, questionnaires, tribal presentations, and/or discussion/position papers that make specific reference to the proposed project submitted for funding.

In the discussion of community-based, long-range goals, non-Federally recognized and off-reservation groups are strongly encouraged to include a description of what constitutes their specific community.

Applications from National and Regional Indian and Native organizations must clearly demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project. National Indian and Native organizations should define their membership and describe how the organization operates.

In discussing the goals, strategy, and problems being addressed in the application, include sufficient background and/or history of the community concerning these issues and/or progress to date, as well as the size of the population to be served. This material will assist the reviewers in determining the appropriateness and potential benefits of the proposed project.

For all other eligible applicants, the type of community you serve will determine the type of documentation necessary. For example, an Inter-tribal organization may submit resolutions supporting the project proposal from each of its member's tribes, as well as a resolution from the applicant organization. Other examples of documentation include: community surveys; minutes of community meetings; questionnaires; tribal presentations; and/or discussion/position papers that make specific reference to the proposed project submitted for funding.

(b) Available resources (other than ANA request and the non-Federal share) which will assist, and be coordinated with the project are described. Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community. Project designs should explain how those parts of projects which ANA does not fund will be financed through other sources. For example, ANA does not fund construction. Applicants must show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

In the proposal narrative section, ''Resources Available to the Proposed Project'' the applicant should describe any specific financial circumstances which may impact on the project, such as any monetary or land settlements made to the applicant, and any restrictions on the use of those settlements. When the applicant appears to have other resources to support the proposed project and chooses not to use them, the applicant should explain why it is seeking ANA funds and not using these resources for the project.

(2) Organizational Capabilities and Qualifications (20 Points)

(a) Organizational capabilities are described.

- The management structure of the applicant is explained. Evidence of the applicant's ability to successfully manage projects of similar scope as the proposed project is demonstrated by the organization, and/or by the individuals designated to manage the project.
- The administrative structure of the applicant is explained. Where the proposed ANA project will fit within the current organizational structure is described. A project staffing pattern is presented.

(b) Position descriptions and qualifications of current and/or proposed staff are presented.

- Position descriptions and/or resumes of personnel, including those of consultants, are presented. Resumes must be included if individuals have been identified for positions in the application.
- The position descriptions and/or resumes relate specifically to the staff proposed in the Objective Work Plan and in the proposed budget.
- Position descriptions clearly describe each position's duties and clearly relate to the personnel staffing pattern required to achieve the project objectives.
- Resumes and/or proposed position descriptions demonstrate that the proposed staff are or will be qualified to carry out the project activities. Either the position descriptions or the resumes contain the qualifications and/or specialized skills necessary for overall quality management of the project.

Note: Applicants are strongly encouraged to give preference to Native Americans in hiring project staff and in contracting services under an approved ANA grant.

(3) Project Approach: Objectives, Activities and Outcomes (50 Points)

The application provides a narrative on the overall approach and operation of proposed project throughout entire project period.

(a) The application proposes a specific project Objective Work Plan (OWP). The OWP includes project objectives and specific activities for each budget period proposed and demonstrates that each of the objectives and its activities:

- Is measurable and/or quantifiable in terms of outcomes;
- Supports the community's social and economic development strategy;
- Clearly relates to the community's long-range goals;
- Can be accomplished with the available or expected resources during the proposed project period;
- Indicates when the objective, and major activities under each objective, will be accomplished;
- Specifies who will conduct the activities under each objective; and
- The approach supports a project that will be completed, or self-sustaining, or financed by other than ANA funds at the end of the project period.

The Objective Work Plan proposed should be of sufficient detail to become a monthly staff guide for project responsibilities. Applicants are encouraged to follow the recommended ANA application kit format however, it is not a requirement. The relevant information included in an Objective Work Plan should indicate what is to be achieved, how, by whom, when and indicators of evaluation.

(b) Completion of the proposed objectives will result in specific, measurable outcomes.

- The application shows how the expected outcomes will help the community meet its long-range goals.
- The specific information provided in the narrative and objective work plans on expected outcomes for each objective is the standard upon which its achievement can be evaluated at the end of each budget year.

(4) Budget (15 Points)

Detailed Federal and Non-federal share budgets and detailed budget justifications are provided for each budget period requested. The budget includes a line item justification for each requested budget category as listed in Section B of the Budget Categories Section on the SF 424A. The budget includes the necessary details to facilitate the determination of allowable costs and the relevance of these costs to

the proposed project. The applicant requests funds that are appropriate and necessary for the scope of the proposed project.

• The non-federal share budget should identify the source and is supported by letters of commitment.

—Letters of commitment are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. Statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources

—Letters of support merely express another organization's endorsement of a proposed project. Support letters are not binding commitment letters or do not factually establish the authenticity of other resources and do not offer or bind specific resources to the project

• Applicants from American Samoa, Guam, and the Northern Mariana Islands are not required to provide a 20% match since the level of funding would not invoke a required match for grants to these insular areas. Therefore, applicants from these insular areas may not have points reduced for the lack of matching funds. However, they are expected to coordinate and organize the delivery of any non-ANA resources they propose for the project.

• If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Rate Agreement must be included in the application.

• The budget includes sufficient funds for principal representatives, such as the chief financial officer or project director from the applicant organization to travel to one ANA post-award grant training and technical assistance workshop. This expenditure is mandatory for new grant recipients and optional for grantees that have had previous ANA grant awards. This travel and training should occur as soon as practical.

• For business development projects, the proposal demonstrates that the expected return on the funds used to develop the project provides a reasonable operating income and return within a future specified period.

• If a profit-making venture is being proposed, profits must be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue must be reported as general program income. A decision will be made at the time of grant award regarding appropriate use of program income. (See 45 CFR part 74 and part 92.)

• The budget may include an employee fringe benefit that provides grant-funded employees with a retirement plan in addition to Social Security. The applicant is strongly encouraged to provide a retirement plan fringe benefit for grant-funded employees' salaries up to five (5) percent. ANA supports a retirement plan as a necessary, reasonable and allowable cost in accordance with OMB rules. Minimum recommended standards for a retirement fringe benefit plan are (1) the plan exists for the exclusive benefit of the participants; funds are to be used for retirement and certain other pre-retirement needs, not for the organization's needs. (2)The plan must have a vesting schedule that does not exceed the initial budget period of the ANA grant. (3) Other alternatives may be submitted for review and approval during grant award negotiations. Alternate proposals may include the use of Individual Retirement Accounts, Money Purchase Pension Plans, Defined Benefit Pension Plans, Combination Plans, etc.

G. Application Due Date(s)

The closing dates for submission of applications under this Competitive Area 1 area: January 17, 2003 and May 2, 2003.

H. Contact Information

Contact the ANA Applicant Help Desk at 202–690–7776 or toll free at 1–877–922–9262 for assistance.

Part II—Competitive Area (2): Alaska-Specific Social and Economic Development Strategies (AK–SEDS) Projects

A. Purpose and Availability of Funds

This competitive area funds Alaska Native social and economic development projects. Approximately $2.0 million is anticipated to be available for Alaska Native governance, social and economic development projects. ANA plans to award approximately 10–15 grants under this competitive area. For individual village projects, the funding level for a budget period of 12 months will be up to $125,000; for regional nonprofit and village consortia, the funding level for a budget period of 12 months will be up to $175,000, commensurate with approved multi-village objectives.

B. Background

Based on the ANA goals described in Part I, ANA implemented a special Alaska Social and Economic Development initiative in fiscal year 1984. This special effort was designed to provide financial assistance at the village level or for village-specific projects aimed at improving a village's governance capabilities and for social and economic development. This competitive area continues to implement this special initiative. ANA believes both the non-profit and for-profit corporations in Alaska can play an important supportive role in assisting individual villages to develop and implement their own locally determined strategies which capitalize on opportunities afforded to Alaska Natives under the Alaska Native Claims Settlement Act (ANCSA), Public Law 92–203.

C. Proposed Projects To Be Funded

While the Administration for Native Americans does not fund objectives or activities for the core administration of an organization. ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place.

Examples of the types of projects that ANA may fund include but are not limited to, projects that will:

Governance

• Initiate demonstration programs at the regional level to allow Native people to become involved in developing strategies to maintain and develop their economic subsistence base;

• Assist villages in developing land use capabilities and skills in the areas of land and natural resource management and protection, resource assessment and conducting environmental impact studies;

• Assist village consortia in the development of tribal constitutions, ordinances, codes and tribal court systems;

• Develop agreements between the State and villages that transfer programs jurisdictions, and/or control to Native entities;

• Strengthen village government control of land management, including land protection, through coordination of land use planning with village corporations and cities, if appropriate;

• Assist in status clarification activities;

• Initiate village level mergers between village councils, village corporations and others to coordinate programs and services which safeguard the health, well being and culture of a community and its people;

• Strengthen local governance capabilities through the development of village consortia and regional IRAs (Indian Reorganization Act councils organized under the Indian Reorganization Act, 25 U.S.C. 473a);

• Assist villages in preparing and coordinating plans for the development and/or improvement of water and sewer systems within the village boundaries;

• Assist villages in establishing initiatives through which youth may participate in the governance of the community and be trained to assume leadership roles in village governments; and

• Consider strategies and plans to protect against, monitor, and assist when catastrophic events occur, such as oil spills or earthquakes.

Social Development

• Assist in developing training and education programs for local jobs in education, government, and health-related fields; and work with these agencies to encourage job replacement of non-Natives by trained Natives;

• Develop local models related to comprehensive planning and delivery of social services;

• Develop new service programs, initially established with ANA funds, which will be funded by local communities or the private sector for continued operation after the ANA grant expires.

• Develop or coordinate with State-funded projects, activities designed to decrease the incidence of child abuse and neglect, fetal alcohol syndrome, and/or suicides;

• Assist in obtaining licenses to provide housing or related services from State or local governments; and

• Develop businesses to provide relief for caretakers needing respite from human service-related care work.

• Develop and implement researched-based programs to sustain healthy relationships and communities.

Economic Development

• Assist villages in developing businesses and industries which: (1) Use local materials; (2) create jobs for Alaska Natives; (3) are capable of high productivity at a small scale of operation; and (4) complement traditional and necessary seasonal activities;

• Substantially increase and strengthen efforts to establish and improve the village and regional business infrastructure and the capabilities to develop and manage resources in a highly competitive cash-economy system;

• Assist villages, or consortia of villages, in developing subsistence compatible industries that will retain local dollars in villages;

• Assist in the establishment or expansion of native-businesses; and

• Assist villages in labor export; *i.e.*, people leaving the local communities for seasonal work and returning to their communities.

D. Eligible Applicants

The following organizations are eligible to apply under this competitive area:

• Federally recognized Indian Tribes in Alaska;

• Alaska Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;

• Incorporated nonprofit Alaska Native multi-purpose community-based organizations;

• Nonprofit Alaska Native Regional Corporations/Associations in Alaska with village specific projects; and

• Nonprofit Native organizations in Alaska with village specific projects.

Although for-profit regional corporations established under ANCSA are not eligible applicants, individual villages and Indian communities are encouraged to use for-profit regional corporations as subcontractors and to collaborate with them in joint-venture projects for promoting social and economic self-sufficiency. ANA encourages the for-profit corporations to assist the villages in developing applications and to participate as subcontractors in a project.

For purposes of this announcement, ANA is using the Bureau of Indian Affairs' list of Federally recognized Indian tribes which includes non-profit Alaska Native community entities and tribal governing bodies (IRA or traditional councils). Other Federally recognized Indian tribes, which are not included on this list (*e.g.*, those Tribes that have been recently recognized or restored by the United States Congress), are also eligible to apply for ANA funds.

Further information on eligibility requirements is presented in PART I, ANA Policy and Goals.

E. Grantee Share of the Project

Grantees must provide at least 20 percent of the total approved cost of the project; *i.e.* the sum of the Federal share and the non-Federal share. Further information on this requirement is in PART I ANA Policy and Goals, and in PART II SEDS, Section E, and section F, Review Criteria, sub-section (4) Budget Criteria.

F. Review Criteria

A proposed project should reflect the purposes of ANA's SEDS policy and goals as described in the Background section of this competitive area. Points are awarded only to applications, which are responsive to this competitive area and these criteria. Proposed projects are reviewed on a competitive basis using the following evaluation criteria:

(1) Long-Range Goals and Available Resources (15 Points)
(2) Organizational Capabilities and Qualifications (20 Points)
(3) Project Approach: Objectives, Activities and Outcomes (50 Points)
(4) Budget (15 Points)

Further information on requirements is in PART II SEDS, section F, Review Criteria.

G. Application Due Date

The closing date for submission of applications under this competitive area is May 2, 2003. Applicants are reminded that for this May closing, applications for SEDS grants from Alaska Native entities may be submitted under either Competitive Area 1 or Competitive Area 2, but not both. The cover page of the application must clearly indicate the correct competitive area.

H. Contact Information

Contact the ANA Applicant Help Desk at 202–690–7776 or toll free at 1–877–922–9262 for assistance.

Part III—General Application Information and Guidance

A. Definitions

Funding areas in this program announcement are based on the following definitions:

Multi-purpose Community-based Native American Organization: Is an association and/or corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several different areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, and the delivery of human services such as health care, day care, counseling, education, and training.

Multi-year Project: Is a project on a single theme that requires more than 12 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period.

Budget Period: Is the interval of time (usually 12 months) the project period is divided for budgetary and funding purposes.

Core Administration: Is funding for salaries for those functions which support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project. Under Competitive Area 2, ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place. However, functions and activities that are clearly project related are eligible for grant funding. For example, the management and administrative functions necessary to carry out an ANA approved project are not considered core administration and are, therefore, eligible costs. Additionally, ANA will fund the salaries of approved staff for time actually and reasonably spent to implement a funded ANA project.

Real Property: Means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Construction: Is the term, which specifies a project, supported through a discretionary grant or a cooperative agreement, to support the initial building of a facility.

Equipment: Is tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Renovation or Alteration: May not exceed the lesser of $150,000 or 25 percent of the total direct costs approved for the entire budget period. The work required to change the interior arrangements or other physical characteristics of an existing facility or installed equipment so that it may be more effectively used for the project. Alteration and renovation may include work referred to as improvements, conversion, rehabilitation, remodeling, or modernization, but is distinguished from construction and large-scale permanent improvements.

B. Activities That Cannot Be Funded

The Administration for Native Americans does not fund:

- Projects that operate indefinitely or require ANA funding on a recurring basis.
- Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations which are otherwise eligible to apply to ANA (third party T/TA). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable.
- The support of on-going social service delivery programs or the expansion, or continuation, of existing social service delivery programs.
- ANA will not fund the purchase of real property.
- ANA will not fund construction.
- ANA will not fund objectives or activities for the support of core administration of an organization. (exception Alaska-SEDS)
- Costs of fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under an ANA grant award. However, even though these costs are unallowable for purposes of computing charges to Federal awards, they must be treated as direct costs for purposes of determining indirect cost rates and be allocated their share of the organization's indirect costs if they represent activities which (1) include the salaries of personnel, (2) occupy space, and (3) benefit from the organization's indirect costs.

Projects or activities that generally will not meet the purposes of this announcement are further discussed in Part III, Section G, General Guidance to Applicants, below.

C. Multi-Year Projects

A multi-year project is a project on a single theme that requires more than 17 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. Applicants are encouraged to develop multi-year projects. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for up to three years. Applications for continuation grants funded under these areas beyond the one-year budget period, but within a two-to-three year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government. Therefore, this program announcement does not apply to current ANA grantees with multi-year projects that apply for continuation funding for their second or third year budget periods.

Applicants proposing multi-year projects must fully describe each year's project objectives and activities. Separate Objective Work Plans (OWPs) must be presented for each project year and a separate itemized budget of the Federal and non-Federal costs of the project for each budget period must be included.

Applicants for multi-year projects must justify the entire time-frame of the project (*i.e.*, why the project needs funding for more than one year) and clearly describe the results to be achieved for each objective by the end of each budget period of the total project period.

D. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372 or 45 CFR part 100.

E. The Application Process

1. Application Submission

(a) By Mail

One original, signed by an authorized representative, and two copies of the grant application, including all attachments, must be mailed on or before the specific closing date of each ANA competitive area to: U.S. Department of Health and Human Services, Administration for Children and Families, ACYF/Office of Grants Management, 370 L'Enfant Promenade, SW., Mail Stop: Aerospace Center 8th Floor-West, Washington, DC 20447–0002, Attention: Lois B. Hodge, ANA No. 93612–2003.

(b) By Hand Delivery

One original signed by an authorized representative, and two copies of the grant application, including all attachments may be hand delivered. Applications are accepted between the hours of 8 a.m. to 4:30 p.m., Monday through Friday. They are either received on or before the deadline date or postmarked on or before the established closing date at: Administration for

Children and Families, ACYF/Office of Grants Management, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024,Attention: Lois B. Hodge, ANA No. 93612–2003.

Applicants are encouraged to request a legibly dated receipt from a commercial carrier or U.S. Postal Service as proof of timely mailing.

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

2. Application Consideration

The ANA Commissioner determines the final action on each grant application received under this program announcement. The Commissioner's funding decision is based on the review panel's analysis of the application, recommendation and comments of ANA staff, State and Federal agencies having contract and grant performance related information, and other parties. The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this program announcement, and the availability of funds.

The Administration for Native Americans funds projects that demonstrate the strongest prospects for addressing the stated purposes of this program announcement. All applicants should consider the following points: incomplete applications and applications that do not conform to this announcement will not be accepted for review. ANA will notify applicants in writing of any such determination.

(a) An incomplete application is one that is:

- Missing Form SF 424
- Does not have an authorized signature on the SF 424. The Standard Form 424 must be signed by an individual authorized (1) to act for the applicant tribe or organization, and (2) to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.
- Does not include proof of non-profit status, if applicable.

(b) Complete applications that conform to all the requirements of this program announcement are subject to a competitive review and evaluation process (discussed in section G below). Independent review panels consisting of reviewers familiar with American Indian Tribes and Native American communities and organizations, as appropriate, evaluate each application using the published criteria in each competitive area. As a result of the review, a normalized numerical score will be assigned to each application. A normalized score reflects the average score from the reviewers, adjusted to reflect the average score from the panels.

Successful applicants are notified through an official Financial Assistance Award (FAA) document. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-ACF matching share requirement.

Each tribe, Native American organization, or other eligible applicant may compete for a grant award however, no applicant may receive more than one SEDS grant. The Administration for Native Americans will accept only one application per competitive area from any one applicant. If an eligible applicant sends in two applications for the same competitive area, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

Applications for SEDS grants from Alaska Native entities may be submitted under either Competitive Area 1 or Competitive Area 2, but not both at the same time.

F. The Review Process

1. Initial Application Review

Applications submitted by the closing date and verified by the postmark under this program announcement will undergo a pre-review screening to determine that:

- The applicant is eligible in accordance with the Eligible Applicants Section of this announcement; and
- The application is signed and submitted by the deadline explained in section G, Application Due Date, in each competitive area of this announcement.
- The application narrative, forms and materials submitted are adequate to allow the review panel to undertake an in-depth evaluation and the project described is an allowable type. (All required materials and forms are listed in the Grant Application Checklist in the Application Kit).

Applications subjected to the pre-review described above which fail to satisfy one or more of the listed requirements will be ineligible or otherwise excluded from competitive evaluation.

2. Competitive Review of Accepted Applications

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the specific evaluation criteria listed in Part II. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success.

ANA staff cannot respond to requests for information regarding funding decisions prior to the official notification to the applicants. After the Commissioner has made decisions on all applications, unsuccessful applicants are notified in writing within 30 days. The notification will be accompanied by a critique including recommendations for improving the application.

Projects will not be ranked based on general financial need.

3. Appeal of Ineligibility

Applicants, who are initially excluded from competitive evaluation because of ineligibility, may appeal an ANA decision of applicant ineligibility. Likewise, applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817 and 45 CFR part 1336, subpart C).

G. General Guidance to Applicants

The following information is provided to assist applicants in developing a competitive application.

1. Program Guidance

- Applications from National Indian and Native American organizations must demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project.
- An application should describe a clear relationship between the proposed project, the social and economic development strategy and the community's long-range goals or plan.
- The project application, including the Objective Work Plans, must clearly identify in measurable terms the expected results, benefits or outcomes of the proposed project, and the positive or continuing impact that the project will have on the community.
- Supporting documentation, including letters of support, if available, or other specific testimonies from concerned interests other than the applicant should be included to demonstrate support for the feasibility

of the project and the commitment of other resources to the proposed project.

• Applicants proposing an Economic Development project should address the project's feasibility. A business plan describing the project's feasibility and approach for the implementation and marketing of the business is recommended.

• Applications, which were not funded under a previous closing date and revised for resubmission, should refer to the changes, or reasons for not making changes, in their current application.

2. Technical Guidance

Application Kit (OMB# 0980–0204, expires April 30, 2003). The Application Kit contains the necessary forms and instructions to apply for a grant under this program announcement. Application kits may be obtained from ANA training and technical assistance providers. It is strongly encouraged that the applicants follow the ANA application kit to develop an application. The Kit provides practical information and helpful suggestions, and is an aid to help applicants prepare ANA applications.

Training and Technical Assistance (T/TA): ANA employs contractors to provide short-term training and technical assistance to eligible applicants. T/TA is available under these contracts for a wide range of needs however, the contractors are not authorized to write applications. The T/TA is provided at no cost to the eligible entity. To obtain an application kit and/or, training and technical assistance, applicants are encouraged to contact the T/TA provider within the appropriate service area. To locate the T/TA provider currently serving the region you are located in you may call the ANA Help Desk at 1–877–922–9262; or visit the ANA Web site at: http://www.acf.hhs.gov/programs/ana/.

• The Cover Page (included in the Kit) should be the first page of an application, followed by the one-page abstract.

• The SF 424, Block 13, must specify the entire project period length requested and not just the length of the first budget period. Should the application narrative propose one length of project period and the SF 424 specify a conflicting length of project period, ANA will consider the project period specified on the SF 424 as the official request.

• The SF 424, line 15a, must specify the Federal funds requested for the first Budget Period only and not the entire Project Period.

• For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing deadline date.

• The Administration for Native Americans will not fund essentially identical projects serving the same constituency.

• If other Federal funding sources could support a project, the applicant should fully explain its reasons for not pursuing other Federal funds for the project.

• The Administration for Native Americans will critically evaluate applications in which the acquisition of equipment is a major component of the Federal share of the budget. During negotiation, ANA may delete such expenditures from the budget of an otherwise approved application, if not fully justified by the applicant and deemed not appropriate to the needs of the project.

• The Administration for Native Americans recommends that the pages of the application be numbered sequentially and that a table of contents is provided. Simple tabbing of the criterion sections of the application is also helpful.

• Applicants may propose a 17-month budget and project period. However, the budget period for the first year of a multi-year project may only be 12 months.

3. Projects or Activities That Generally Will Not Meet the Purposes of This Announcement

• Projects that request funds for feasibility studies, business plans, marketing plans or written materials, such as manuals, that are not an essential part of the applicant's long-range development plan. As an objective of a larger project, business plans are allowable. ANA expects written evidence of the solid investment of time and consideration on the part of the applicant with regard to the development of business plans. Business plans should be developed based on market analysis and feasibility studies regarding the potential success to the business prior to the submission of the application.

• Core administration functions, or other activities, which essentially support only the applicant's on-going administrative functions. However, under Competitive Area 2, ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place.

• Project goals, which are not responsive to one or more of the funding competitive areas.

• Proposals from consortia of tribes that are not specific with regard to support from, and roles of, member tribes. ANA expects an application from a consortium to have goals and objectives that will create positive impacts and outcomes in the communities of its members. Proposals from consortia of tribes should have individual objectives, which are related to the larger goal of the proposed project. Project objectives may be tailored to each consortia member, but within the context of a common goal for the consortia. In situations where both a consortia of tribes and the tribes who belong to the consortia receive ANA funding, ANA expects that consortia groups will not seek funding that duplicates activities being conducted by their member tribes.

• Projects that will not be completed, self-sustaining, or supported by other than ANA funds, at the end of the project period. All projects funded by ANA must be completed, or self-sustaining or supported with other than ANA funds at the end of the project period. Completed means that the project ANA funded is finished, and the desired outcome(s) have been attained. Self-sustaining means that a project will continue without outside resources. Supported by other than ANA funds means that the project will continue beyond the ANA project period, but will be supported by funds other than ANA's.

• ANA will not fund investment capital for purchase or takeover of an existing business, for purchase or acquisition of a franchise, or for purchase of stock or other similar investment instruments.

• Renovation or alteration unless it is essential for the project.

• Projects originated and designed by consultants whom provide a major role for themselves in the proposed project and are not members of the applicant organization, tribe or village.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record keeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ANA grant applications under the Program Narrative Statement by OMB approval number 0980–0204.

I. Receipt of Applications

1. Deadlines

Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review.

Applicants are encouraged to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date or postmarked on or before the deadline date. Applicants are encouraged that express/overnight mail services do not always deliver as agreed.

No additional material will be accepted, or added to an application, unless it is postmarked by the deadline date. Applications and related materials postmarked after the closing date are classified as late.

2. Late Applications

Applications, which do not meet the Deadline criteria, are considered late applications. ACF shall notify each late applicant that its application will not be reviewed in the current competition.

3. Extension of Deadlines

The Administration for Children and Families may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is a widespread disruption of the mails. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

(Catalog of Federal Domestic Assistance Program Numbers: 93.612, Native American Programs)

Dated: September 17, 2002.

Sharon G. McCully,

Acting Deputy Commissioner, Administration for Native Americans.

[FR Doc. 02–24122 Filed 9–20–02; 8:45 am]

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Part V

Securities and Exchange Commission

17 CFR Part 240

Rule 15c3–3 Reserve Requirements for Margin Related to Security Futures Products; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–46492; File No. S7–34–02]

RIN 3235–AI61

Rule 15c3–3 Reserve Requirements for Margin Related to Security Futures Products

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Proposed rule.

SUMMARY: The Commission is proposing for comment amendments to the formula for determination of customer reserve requirements of broker-dealers under the Securities Exchange Act of 1934 in response to the anticipated trading of security futures products. The proposed amendments would permit a broker-dealer to include margin related to security futures products written, purchased or sold in customer securities accounts required and on deposit with a registered clearing agency or a derivatives clearing organization as a debit item in calculating its customer reserve requirement.

DATES: Comments must be received on or before October 23, 2002.

ADDRESSES: To help us process and review your comments more efficiently, comments should be sent by one method only.

Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comments should refer to File No. S7–34–02; this file number should be included on the subject line if e-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549 and on the SEC's Internet web site (*http://www.sec.gov*). The SEC does not edit personal identifying information, such as names or e-mail addresses, from electronic submissions. Submit only the information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 942–0132; Thomas K. McGowan, Assistant Director, at (202) 942–4886; Bonnie L. Gauch, Attorney, at (202) 942–0765; or Matthew B. Comstock, Attorney, at (202) 942–0156, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

I. Introduction

The Commission is proposing amendments to Rule 15c3–3a.[1] The amendments delineate how a broker-dealer would calculate its customer reserve requirement in light of enactment of the Commodity Futures Modernization Act of 2000 (''CFMA'')[2] and the expected trading of security futures products.

A. Background

The CFMA, which became law on December 21, 2000, amended the Commodity Exchange Act (''CEA'') and the Securities Exchange Act of 1934 (''Exchange Act'') to permit the trading of single stock and narrow-based index futures (''securities futures'') and established a framework for the regulation of security futures products (''SFPs'').[3] SFPs are both a security and a future.[4] Thus, a customer who wishes to buy or sell an SFP must conduct the SFP transaction through a person registered both with the Commodity Futures Trading Commission (''CFTC'') as a futures commission merchant (''FCM'') or as an introducing broker (''IB'') and with the Commission as a broker-dealer. The CFTC and the Commission issued joint final rules under which either the firm or the customer, if the firm so permits, may choose whether customer funds would be protected under the CFTC's segregation rules or the Commission's Rule 15c3–3[5] and the Securities Investor Protection Act of 1970 (''SIPA'').[6]

B. Protection of Customer Funds Related to SFP Transactions in Customer Securities Accounts

A person who holds an SFP in a securities account would be a customer under Exchange Act Rule 15c3–3.[7] As SIPA required,[8] the Commission adopted Rule 15c3–3 in 1972, in part, to ensure that a broker-dealer in possession of customers' funds either deployed those funds ''in safe areas of the broker-dealer's business related to servicing its customers'' or, if not deployed in such areas, deposited the funds in a reserve bank account to prevent commingling of customer and firm funds.[9] Under Rule 15c3–3, a broker-dealer must calculate what amount, if any, it must deposit on behalf of customers in the reserve bank account, entitled ''Special Reserve Bank Account for the Exclusive Benefit of Customers'' (''Reserve Bank Account''), according to the formula set forth in Rule 15c3–3a (''Reserve Formula'').[10] Generally, under the Reserve Formula, a broker-dealer must calculate any amounts it owes to its customers and the amount of funds generated through the use of customer securities, called credits, and compare this amount to any amounts its customers owe it, called debits.[11] If credits exceed customer debits, the broker-dealer must deposit that net amount in the Reserve Bank Account.[12] Therefore, the Reserve Formula requires broker-dealers to maintain a reserve against customer funds and funds generated through the use of customer securities.

Rule 15c3–3 seeks to inhibit a broker-dealer's use of customer assets in its business by prohibiting the use of those assets except for designated purposes.[13] The rule also aims to protect customers involved in a broker-dealer liquidation. If a broker-dealer holding customer property fails, Rule 15c3–3 seeks to ensure that the firm has sufficient reserves and possesses sufficient securities so that customers promptly receive their property and there is no need to use the Securities Investor Protection Corporation (''SIPC'') fund.[14]

C. Clearance and Settlement of SFPs

A clearing and carrying broker-dealer[15] may clear and settle an SFP transaction through a clearing agency registered with the Commission (''Clearing Agency'') or through a derivatives clearing organization

[1] 17 CFR 240.15c3–3a.

[2] Pub. L. No. 106–554, 114 Stat. 2763 (2000).

[3] The term ''security futures product'' includes both a security future and any option or privilege on a security future. CEA section 1a(32) (7 U.S.C. 1a(32)) and Exchange Act section 3(a)(56) (15 U.S.C. 78c(a)(56)).

[4] Exchange Act sections 3(a)(10) and (11) (15 U.S.C. 78c(a)(10) and (11)).

[5] Exchange Act Release No. 46473 (Sept. 9, 2002).

[6] 15 U.S.C. 78aaa *et seq*.

[7] *See* 17 CFR 240.15c3–3(a)(1) (definition of ''customer'').

[8] Exchange Act section 15(c)(3) (15 U.S.C. 78o(c)(3)).

[9] Exchange Act Release No. 9856 (Nov. 10, 1972), 37 FR 25224; 17 CFR 240.15c3–3(e).

[10] 17 CFR 240.15c3–3(e)(1) and (2).

[11] 17 CFR 240.15c3–3(e)(2).

[12] *Id.*

[13] Exchange Act Release No. 9856 (Nov. 10, 1972), 37 FR 25224.

[14] *Id.* SIPC may advance money from the SIPC fund to satisfy claims of customers of a failed broker-dealer, subject to certain limitations, under the Securities Investor Protection Act of 1970. 15 U.S.C. 78fff–3.

[15] A clearing and carrying broker-dealer is an entity that may hold customer funds or securities under Exchange Act Rule 15c3–1(a)(2)(i) (17 CFR 240.15c3–1(a)(2)(i)).

(''DCO'') [16] registered with the CFTC. [17] A DCO is not required to register as a Clearing Agency with the Commission under section 17A solely because it clears SFPs.[18] Similarly, a Clearing Agency is not required to register as a DCO with the CFTC solely because it clears SFPs.[19]

As part of the clearance and settlement process for customer SFP transactions, a Clearing Agency or DCO, pursuant to its rules, will require the broker-dealer carrying customer SFP accounts to post margin at the Clearing Agency or DCO. The Clearing Agency or DCO collects this margin to protect itself if a broker-dealer defaults on its obligations related to SFPs. The broker-dealer, in turn, must collect margin from the customer engaging in the SFP transaction.[20] Customer margin protects the broker-dealer if the customer defaults on its obligations under an SFP transaction.

II. Proposed Amendments

The Commission proposes to amend Rule 15c3–3a to delineate the treatment of customer margin deposited with a Clearing Agency or DCO related to SFPs for Reserve Formula purposes. Specifically, the Commission proposes to redesignate Item 14 as Item 15, add a new Item 14 and new Note G, amend Item B and amend newly redesignated Item 15, as described below. Generally, these proposed changes would permit a broker-dealer to include the amount of customer SFP margin required and on deposit at a Clearing Agency or DCO as a debit in the Reserve Formula.[21] The Reserve Formula would require a broker-dealer that clears and carries SFPs in securities accounts on behalf of customers to include SFP margin that it receives from the customer as a credit item in calculating the customer reserve requirement.[22] The Reserve Formula, however, currently does not permit a broker-dealer that clears and carries SFPs in securities accounts on behalf of customers to record an offsetting debit for customer SFP margin that it posts with a Registered Clearing Agency or DCO. Without the proposed changes to Rule15c3–3a, the broker-dealer would be required to fund its customer reserve requirement at least in part with proprietary assets, which would require the broker-dealer to maintain two reserves to cover the same customer property, one reserve in the Reserve Bank Account and the second with the Clearing Agency or DCO.

Proposed new Item 14 would permit the broker-dealer to include a debit in its Reserve Formula computation to the extent of customer SFP margin required and on deposit with a Clearing Agency or a DCO, subject to the conditions in proposed Note G. Recordation of the debit reflects the broker-dealer's use of firm assets for customer purposes.

Subparagraph (b) of proposed Note G would permit a broker-dealer to include a debit for customer SFP margin required and on deposit at a Clearing Agency or DCO under Item 14 only if it uses a Clearing Agency or DCO that meets specified criteria. Under subparagraph (b)(1) of proposed Note G, a broker-dealer could include customer SFP margin as a debit item only if the Clearing Agency or DCO has sufficient financial resources, as set forth in the proposed rule. In particular, a broker-dealer could include this debit only if the registered Clearing Agency or DCO either: (1) Maintains the highest investment-grade rating from a nationally recognized statistical rating organization (''NRSRO''), or (2) maintains security deposits from clearing members in connection with regulated options or futures transactions of least $500 million and retains additional assessment power over member firms of at least $1.5 billion.

These standards for financial resources are consistent with the customer protection function of Rule 15c3–3 and are necessary because of the unsecured nature of the debits. Requiring the highest investment-grade rating from an NRSRO provides the strongest protection against losses to margin deposited at a Clearing Agency or DCO, regardless of changing market conditions. With a lower credit rating, a Clearing Agency or DCO may not have the financial ability to meet its obligations to broker-dealers during times of market stress, which may compromise investor protection. Similarly, setting the security deposit level at $500 million and the assessment power at $1.5 billion should help to ensure that a Clearing Agency or DCO maintains liquidity and financial resources sufficient to protect customer margin on deposit. The Commission set the rating requirement, the amount of the security deposit and the assessment power at these levels based upon the Commission staff's experience and their discussions with the industry.

The term ''security deposits'' in subparagraph (b)(1) of Note G refers to a general fund consisting of cash or securities held by a Clearing Agency or DCO. The Clearing Agency or DCO may use this fund to secure its general obligations to creditors. The security deposit is in addition to, and separate from, performance bonds and margin deposited with the Clearing Agency or DCO. The term ''assessment power'' included in the proposed rule relates to a Clearing Agency or DCO's ability, under its rules, to assess its members in excess of amounts required for a security deposit to meet emergency funding needs.

Under subparagraph (b)(2) of proposed Note G, a broker-dealer could include customer SFP margin as a debit in the Reserve Formula only if the Clearing Agency or DCO at which the margin is deposited in turn deposits the margin in a bank, as that term is defined under section 3(a)(6) of the Exchange Act. Furthermore, a broker-dealer could include the debit only if the Clearing Agency or DCO with which the customer SFP margin is deposited obtains certification from the bank, in writing, that the bank, or any person claiming through the bank, cannot place a lien against, or otherwise attach, the customer margin. The purpose of these conditions is to prevent the commingling of customer property with non-customer property and, thus, help to ensure that customer property is readily available to each customer if a Clearing Agency or DCO fails.

Furthermore, a broker-dealer could include a debit item in the Reserve Formula for customer SFP margin required and on deposit with a Clearing Agency or DCO only if that clearing house, in compliance with Rule 15c3–

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[16] CEA section 1a(9) (7 U.S.C. 1a(9)). The term ''derivatives clearing organization'' means a clearinghouse, clearing association, clearing corporation, or similar entity, facility, system, or organization that, with respect to an agreement, contract, or transaction—

(i) enables each party to the agreement, contract, or transaction to substitute, through novation or otherwise, the credit of the derivatives clearing organization for the credit of the parties;

(ii) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from such agreements, contracts, or transactions executed by participants in the derivatives clearing organization; or

(iii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the derivatives clearing organization the credit risk arising from such agreements, contracts, or transactions executed by the participants.

[17] CEA section 7a-1(a), (b) and (c) (7 U.S.C. 7a-1(a), (b) and (c)).

[18] Exchange Act section 17A(b)(7)(A) (15 U.S.C 78q-1(b)(7)(A)).

[19] CEA section 7a-1(a)(2) (7 U.S.C. 7a-1(a)(2)).

[20] Exchange Act Release No. 46292 (Aug. 1, 2002), 67 FR 53145.

[21] The proposed changes would provide customer SFP margin required and on deposit at a Clearing Agency or DCO with similar debit treatment under the Reserve Formula as customer options margin required and on deposit with The Options Clearing Corporation (''OCC''). To receive debit treatment under the Reserve Formula, the collateral posted at a Clearing Agency or DCO as customer SFP margin must be the same type of collateral posted at OCC as customer options margin.

[22] 17 CFR 240.15c3–3, Item 1.

3, establishes, documents and maintains: (1) A system to safeguard the handling, transfer and delivery of cash and securities; (2) provisions for fidelity bond coverage of its employees and agents; and (3) provisions for periodic examination by independent public accountants. This proposed requirement is designed to protect customers' cash and securities by limiting the debit treatment under the Reserve Formula to customer SFP margin deposited at a Clearing Agency or DCO that addresses internal risk. Implementation of the proposed rule's requirements would assist these entities in monitoring whether customer margin is protected from both default and use in other areas of the entities' business.

Under subparagraph (b)(4) of proposed Note G, a broker-dealer could include a debit in the Reserve Formula for customer SFP margin deposited at a DCO not otherwise registered with the Commission only if the DCO has provided an undertaking to the Commission. In the undertaking, the DCO would agree to examination by the Commission for compliance with proposed subparagraphs (b)(1) through (b)(3) of proposed Note G. With the undertaking, the Commission is assured of having the ability to examine a DCO to determine if customer property is protected in the manner that Rule 15c3–3 requires.

The Commission also proposes other, related amendments to Rule 15c3–3a. First, based upon existing criteria in Note F, proposed subparagraph (a) of Note G would harmonize the type of collateral acceptable for deposit as customer SFP margin for purposes of proposed Item 14 with the type of collateral acceptable for deposit as customer options margin under Note F for purposes of Item 13. Note F currently permits inclusion of a debit in the Reserve Formula under Item 13 only if a broker-dealer deposits cash, proprietary qualified securities or letters of credit with OCC as customer options margin.[23] Subparagraph (a) of proposed Note G would permit inclusion of a debit in the Reserve Formula under proposed Item 14 only if a broker-dealer deposits the same type of collateral set forth in Note F with a Clearing Agency or a DCO as customer SFP margin.

Second, the Commission proposes to amend Note B to extend to SFPs the same Reserve Formula treatment currently afforded a letter of credit collateralized by customer securities deposited with OCC for options margin purposes. Under current Note B to the Reserve Formula, a broker-dealer that posts a letter of credit collateralized by customer securities at OCC as customer options margin must include the amount of that letter of credit as a credit item in its Reserve Formula computation, to the extent of the margin requirement. Recordation of the credit reflects the broker-dealer's use of customer assets to secure the letter of credit. A firm must include both the credit under Note B and the debit under Item 13 to set the customer reserve requirement at the appropriate level.

Similarly, the proposed amendment to Note B would require a broker-dealer to include a letter of credit collateralized by customer securities deposited with a Clearing Agency or DCO as customer SFP margin as a credit item in its Reserve Formula calculation. As with options margin, inclusion of the credit reflects use of customer assets to secure the letter of credit.[24]

Third, the Commission proposes to amend Rule 15c3–3a to redesignate current Item 14 as proposed Item 15. Proposed Item 15 would be amended to include proposed Item 14 relating to customer SFP margin in the computation of debits under the Reserve Formula.

III. Request for Comments

We invite interested persons to submit written comments on all aspects of the proposed amendments, in addition to the specific requests for comments included in the release. Further, we invite comment on other matters that might have an effect on the proposals contained in the release, including any competitive impact.

We invite comments on proposed Note G to the Reserve Formula. A broker-dealer may include customer SFP margin required and on deposit at a Clearing Agency or DCO as a debit in the Reserve Formula only if the clearing house: (1) Either maintains the highest investment-grade rating from an NRSRO, or (2) maintains security deposits from clearing members of at least $500 million and assessment power over member firms of $1.5 billion. Are these conditions necessary to help ensure the creditworthiness of those entities? Should we consider different or additional criteria to determine creditworthiness?

We also invite comment on subparagraph (b)(2) of proposed Note G. Specifically, is the requirement that customer margin be deposited in a bank as defined in section 3(a)(6) of the Act a sufficient means to segregate customer margin from non-customer property? Should we permit a broker-dealer to include customer SFP margin as a debit in the Reserve Formula if a Clearing Agency or DCO holds that margin in places other than in a bank as defined under section 3(a)(6) of the Act? Should customer SFP margin represented by securities be held in a location different from customer SFP margin represented by cash?

Furthermore, we invite comment on subparagraph (b)(3) of proposed Note G. To include a debit in the Reserve Formula for customer SFP margin, a broker-dealer must use a Clearing Agency or DCO that establishes, documents and maintains: (1) A system to safeguard the handling, transfer and delivery of cash and securities; (2) provisions for fidelity bond coverage of its employees and agents; and (3) provisions for periodic examination by independent public accountants. Would these conditions protect customer assets that a broker-dealer deposits at a Clearing Agency or DCO by aiding the clearing house in addressing internal risk? Should we consider other or additional tools to measure this risk? Are any of these criteria unnecessary?

We also invite comment on the requirement in proposed subparagraph (b)(4) that a broker-dealer obtain an undertaking from a DCO not otherwise registered with the Commission. The undertaking will clarify that representatives of, or designees to, the Commission may examine the DCO for compliance with the requirements of Rule 15c3–3a. Is the undertaking an appropriate means to help protect customers under Rule 15c3–3?

IV. Paperwork Reduction Act

Certain provisions of the proposed amendments to Rule 15c3–3a contain ''collection of information requirements'' within the meaning of the Paperwork Reduction Act of 1995.[25] The Commission has submitted the proposed amendment to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The Commission is revising the collection of information entitled ''Customer Protection—Reserves and Custody of Securities (17 CFR 240.15c3–3)'', OMB Control Number 3235–0078. 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 control number.

[23] 17 CFR 240.15c3–3a, Item 13, Note F.

[24] 17 CFR 240.15c3–3a, Item 2, Note B.

[25] 44 U.S.C. 3501.

A. Collection of Information Under These Amendments

As discussed, the proposed amendments to Rule 15c3–3a would permit a broker-dealer that clears and carries customer SFPs in securities accounts on behalf of customers to include certain credits and debits in its Reserve Formula calculation relating to SFP margin required and on deposit with a Clearing Agency or a DCO. The amendments would permit a broker-dealer to include as a debit the amount of customer SFP margin required and on deposit with a Clearing Agency or DCO only if that entity: maintains sufficient liquid capital; deposits customer SFP margin in a Reserve Bank Account to ensure the ready availability of those funds; and maintains a system for safeguarding the handling, transfer and delivery of SFPs. In addition, the amendments require a broker-dealer to obtain from a DCO not otherwise registered with the Commission an executed undertaking in which the DCO agrees to examination by the Commission to monitor the DCO's compliance with the applicable conditions set forth in the amendments to Rule 15c3–3a.

B. Proposed Use of Information

The Commission, self-regulatory organizations (''SROs'') and other securities regulatory authorities would use the information collected under the proposed amendments to Rule 15c3–3a to determine whether a broker-dealer is in compliance with Rule 15c3–3 and with other, related customer protection requirements. The Commission, SROs and other securities regulatory authorities also would use this information to monitor whether a Clearing Agency or DCO properly has safeguarded customer funds.

C. Respondents

The proposed amendments to Rule 15c3–3a would apply only to those broker-dealers that clear and carry SFPs in securities accounts for the benefit of customers. Moreover, these provisions would apply only to broker-dealers that carry customer funds, securities or property and do not claim an exemption from Rule 15c3–3a. As of October 31, 2001, there were 412 clearing firms. As of March 31, 2001, 90 broker-dealers were registered with the CFTC as FCMs, 63 of which are clearing and carrying firms. Based upon conversations between the Commission and industry representatives about the number of firms that may conduct SFP business, the staff estimates that the number of firms likely to engage in this business, in addition to the broker-dealers already registered with the CFTC as FCMs, is 10% of the clearing and carry firms not presently registered with the CFTC.[26] Thus, the staff estimates that approximately 98 firms ($63 + ((412 - 63) \times 10\%)$) will be required to comply with these proposed amendments to obtain the debit treatment.

D. Total Annual Reporting and Recordkeeping Burden

Under the proposed amendments to add new Item 14, amend and redesignate Item 15, amend Note B and add new Note G to Rule 15c3–3a, a broker-dealer that clears and carries SFPs in securities accounts for the benefit of customers may include customer SFP margin required and on deposit at a Clearing Agency or DCO as a debit item in the Reserve Formula. The Commission staff estimates that broker-dealers that engage in an SFP business will spend approximately 490 hours (or 5 hours each x 98 clearing broker-dealers) to modify software to accommodate changes in the calculation of the Reserve Formula pursuant to the proposed amendment to Note B and proposed new Item 14, and amended and redesignated Item 15. This will be a one-time burden. The Commission staff also estimates that broker-dealers will spend approximately 24.5 hours per week (or 0.25 hours $\times$ 98 clearing broker-dealers), for a yearly total of 1,274 hours (24.5 hours $\times$ 52 weeks), to verify and input the information required under the proposed amendment to Note B and proposed new Item 14.

Furthermore, broker-dealers that clear and settle SFP transactions through DCOs not otherwise registered with the Commission would spend time verify that the DCO has made the undertaking to the Commission under subparagraph (b) to Note G. The Commission staff estimates these broker-dealers will spend 24.5 hours (or 0.25 hours x 98 clearing broker-dealers) to obtain the undertakings. This will be a one-time burden unless a broker-dealer changes clearing DCOs.

E. Collection of Information Is Mandatory

The collection of information is mandatory if a broker-dealer clears and carries SFPs in securities accounts on behalf of customers and wants to record customer margin required and on deposit with a Clearing Agency or DCO as a debit item in its Reserve Formula calculation.

[26] These estimates are identical to those set forth in Exchange Act Release No. 46473 (Sept. 9, 2002).

F. Confidentiality

The collection of information under the proposed amendments to Rule 15c3–3a would be provided to the Commission and SROs, but not subject to public availability.

G. Record Retention Period

Rule 17a-4(b)(8)(xiii) requires broker-dealers to preserve information related to possession and control requirements under Rule 15c3–3 for three years, the first two years in an accessible place.

H. Request for Comment

Under 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information would have practical utility;

(ii) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those required to respond, including through the use of automated collection techniques or other forms of information technology.

Persons who desire to submit comments on the collection of information requirements should direct them to the OMB, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should also send a copy of their comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, and refer to File No. S7–34–02. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this document in the **Federal Register**; therefore, comments to OMB are best assured of having full effect if OMB receives them within 30 days of this publication. The Commission has submitted the proposed collections of information to OMB for approval. Requests for the materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–34–02, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street, NW, Washington, DC 20549.

V. Costs and Benefits of the Proposed Amendments

A. Introduction

Passage of the CFMA in December of 2000 permitted the trading of SFPs and established a framework for the Commission and CFTC to regulate SFPs jointly. This framework was necessary because the CFMA defined an SFP to be both a security and a future [27] and, therefore, subject both to the CEA and the Exchange Act. Accordingly, both Clearing Agencies, which are regulated by the Commission, and DCOs, which are regulated by the CFTC, may clear SFPs. Consistent with these provisions, the Commission is proposing to amend Exchange Act Rule 15c3–3a by redesignating Item 14 as Item 15, adding new Item 14 and new Note G, amending Item B and amending newly redesignated Item 15.

B. Benefits

The proposed amendments to Rule 15c3–3a would enhance the customer protection function of Rule 15c3–3. In particular, proposed Note G would help to protect customer property by requiring that a broker-dealer, if it wishes to include customer SFP margin as a debit item in the Reserve Formula, use only a Clearing Agency or DCO that has significant financial resources to clear and settle its customer SFP transactions. Proposed Note G would further protect customer property by conditioning the debit treatment on requirement that a broker-dealer use only a Clearing Agency or DCO that deposits customer SFP margin in a Reserve Bank Account that is for the exclusive benefit of SFP customers. The Reserve Bank Account would protect customer property from being commingled with non-customer property. The internal risk management system contemplated under proposed Note G would protect a broker-dealer and its customers by helping its Clearing Agency or DCO to monitor whether customer margin is protected from both default and use in other areas of the entities' business. These proposed enhanced customer protections would make it less likely that there would be a need to use the SIPC fund.

Proposed amended Note B, new Item 14 and new Note G are designed to help a broker-dealer that clears and carries SFPs in securities accounts on behalf of customers to calculate the appropriate customer reserve requirement under the Reserve Formula. Without amended Note B, a broker-dealer's Reserve Formula computation would not include a credit to reflect the firm's use of customer assets to secure a letter of credit, which is then used as customer SFP margin deposit with a Clearing Agency or DCO. Similarly, without proposed Item 14 and Note G, a broker-dealer's Reserve Formula computation would not include a debit to reflect the firm's use of assets for customer purposes to meet its customer SFP margin deposit requirements. In that case, a broker-dealer's regulatory costs would be higher.

Proposed amended Note B, new Item 14 and new Note G would permit a broker-dealer to include the amount of customer SFP margin required and on deposit at a Clearing Agency or DCO as a debit in the Reserve Formula. Without the proposed changes to Rule15c3–3a, the broker-dealer would be required to fund its customer reserve requirement at least in part with proprietary assets, which would require the broker-dealer to maintain two reserves to cover the same customer property, one reserve in the Reserve Bank Account and the second with the Clearing Agency or DCO. As a result, the costs of engaging in a customer SFP business would increase. Thus, proposed amended Note B, new Item 14 and new Note G lower the costs of clearing and carrying SFPs in customer securities accounts and potentially spur the growth of the SFP markets.

C. Costs

The amendments were drafted to reduce the burden of the Reserve Formula on broker-dealers by allowing a broker-dealer to include the amount of customer SFP margin required and on deposit at a Clearing Agency or DCO as a debit in the Reserve Formula. This treatment would permit a broker-dealer that clears and carries SFPs in securities accounts on behalf of customers to calculate the appropriate customer reserve requirement.

Proposed amended Note B would require broker-dealers to include certain customer SFP margin required and on deposit with a Clearing Agency or DCO as a credit item in the Reserve Formula. Proposed new Item 14 would permit broker-dealers to include customer SFP margin required and on deposit with a Registered Clearing Agency or DCO as a debit item. A broker-dealer would incur a one-time cost to re-program software that performs Reserve Formula calculations to include proposed Note B and Item 14 in those calculations. Based on the paperwork costs described above, the Commission staff preliminarily estimates total reprogramming costs would be $25,320.[28]

Under proposed Note B and proposed Item 14, the broker-dealer also would incur minimal, annual costs to verify and input debit item amounts into its customer reserve requirement calculation. We estimate the yearly paperwork burden to be 1,274 hours to complete these tasks. Therefore, the Commission staff preliminarily estimates the annual paperwork cost to broker-dealers would be $53,508 (1274 hours × $42.00 per hour for an operations specialist).[29]

Moreover, a broker-dealer that clears SFP transactions through a DCO would incur costs to obtain an undertaking from the DCO as proposed Note G requires. The Commission staff estimates the paperwork cost to the broker-dealer of obtaining the undertaking required under Note G would be $3,822.[30] The costs would be recurring only if the broker-dealer decided to clear its transactions through a different DCO. Note that only clearing and carrying broker-dealers that engage in customer SFP transactions would incur any of the costs described above.

VI. Consideration of Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

Section 3(f) of the Exchange Act [31] requires the Commission, whenever it engages in rulemaking and must consider or determine if an action is necessary or appropriate in the public interest, to consider if the action will promote efficiency, competition, and capital formation. Section 23(a)(2) of the Exchange Act [32] requires the

[27] Exchange Act sections 3(a)(10) and (11) (15 U.S.C. 78c(a)(10) and (11).

[28] Security Industry Association's (''SIA'') *Report on Management and Professional Earnings in the Securities Industry 2001,* Tables 157 and 158. According to Table 157, the hourly cost of a programmer is approximately $46.78 and the hourly cost of a senior programmer is approximately $71.25. These hourly wage costs, and all other hourly wage costs in this document, include a 35% increase above the SIA wage figures to account for overhead costs. The staff estimates that a programmer would spend approximately 4 hours to modify software to meet the requirements of proposed Note B and Items 14 and 15. Further, the Staff estimates that a senior programmer would spend approximately 1 hour on the project. Total cost: (4 hours × $46.78 per hour × 98 broker-dealers) + (1 hour × $71.25 per hour × 98 broker-dealers)) = $25,320.36.

[29] SIA's *Report on Management and Professional Earnings in the Securities Industry 2001,* Table 119.

[30] SIA's *Report on Management and Professional Earnings in the Securities Industry 2001,* Tables 107 and 110. According to Table 107, the hourly cost of an attorney is approximately $156. The Staff estimates that an attorney would spend approximately 15 minutes obtaining the undertaking. Total cost: (24.5 hours x $156 per hour) = $3,822.

[31] 15 U.S.C. 78c(f).

[32] 15 U.S.C. 78w(a)(2).

Commission, in making rules under the Exchange Act, to consider the impact that any such rule would have on competition. Exchange Act Section 23(a)(2) prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed amendments to Rule 15c3–3a are intended to clarify the treatment of customer SFP margin required and on deposit with a Clearing Agency or DCO for purposes of calculating a broker-dealer's customer reserve requirement under the Reserve Formula. We preliminarily believe that clarification of the debit treatment of customer SFP margin for Reserve Formula purposes serves as an efficient and cost-effective means for broker-dealers to determine how they will calculate their customer reserve requirements if they clear and carry SFPs in securities accounts for the benefit of customers. The proposed amendments to Rule 15c3–3a should promote efficiency because firms still may use their present systems for computation of customer reserve requirements under the Reserve Formula, after they make the required adjustments, rather than build new Reserve Formula systems.

Furthermore, the proposed amendments to Rule 15c3–3a are designed to help a broker-dealer avoid depositing proprietary assets unnecessarily in the Reserve Bank Account to meet its obligations under the Reserve Formula. We preliminarily believe that the proposals would permit broker-dealers to direct a greater portion of their assets to their businesses and, therefore, promote capital formation.

As discussed, the proposed amendments to Rule 15c3–3a would permit a broker-dealer that clears and carries SFPs in securities accounts on behalf of customers to include customer SFP margin required and on deposit with a Clearing Agency or DCO as a debit item for purposes of calculating its customer reserve requirement under the Reserve Formula. Furthermore, we note that the proposed amendments would permit this treatment regardless of whether the broker-dealer clears customer SFP transactions through a Clearing Agency or DCO, provided the Clearing Agency or DCO meets certain minimum financial standards and segregates customer SFP margin funds. Thus, we preliminarily believe that the proposed amendments to Rule 15c3–3a do not impose any competitive burden that is not necessary and appropriate in furtherance of the purposes of the Exchange Act.

The Commission requests comment on whether the proposed amendments are expected to promote efficiency, competition, and capital formation.

VII. Regulatory Flexibility Act Certification

The Commission hereby certifies, pursuant to 5 U.S.C. § 605(b), that the proposed amendments to Rule 15c3–3a, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed amendments to Rule 15c3–3a would apply only to broker-dealers that clear and carry SFPs in securities accounts for the benefit of customers. The Commission's Office of Economic Analysis has determined that as of March 31, 2001, 90 broker-dealers were also registered with the CFTC as FCMs. None of those broker-dealers is a small entity.[33] The Commission estimates that an additional eight clearing and carrying broker-dealers may clear and carry customer SFPs. None of those broker-dealers is likely to be a small entity.

The proposed amendments to Rule 15c3–3a would affect only those broker-dealers that clear and carry customer SFP transactions in securities accounts for the benefit of customers. The proposed amendment to Note B, proposed new Item 14 and proposed new Note G would permit a broker-dealer that clears and carries SFPs in customer securities accounts to include customer SFP margin required and on deposit with a Clearing Agency or DCO as a debit item for Reserve Formula purposes. As noted, these proposed amendments would allow a broker-dealer to calculate the appropriate level of the customer reserve requirement under the Reserve Formula. Thus, the proposed amendments to Rule 15c3–3, if adopted, actually would reduce the burden these entities face in meeting the customer protection requirements of the Exchange Act. Accordingly, we do not believe that the proposed amendments to Exhibit A to Exchange Act Rule 15c3–3 would have a significant economic impact on a substantial number of small entities.

We encourage written comments regarding this certification. We request that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

VIII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or ''SBREFA,''[34] we must advise the Office of Management and Budget as to whether the proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in:

- An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effect on competition, investment or innovation.

If a rule is ''major,'' its effectiveness will generally be delayed for 60 days pending Congressional review. We request comment on the potential impact of the proposed regulation on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their view to the extent possible.

IX. Statutory Authority

The Commission is proposing amendments to Rule 15c3–3a under the Exchange Act pursuant to the authority conferred by the Exchange Act, including Sections 15 and 17.[35]

Text of Proposed Rule Amendments

List of Subjects in 17 CFR Part 240

Brokers, Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, the Commission hereby proposes that Title 17, Chapter II of the Code of Federal Regulation be amended as follows.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. 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–l, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.15c3–3a is amended by:

a. In the chart, redesignating Item No. 14 as Item No. 15;

b. Adding new Item No. 14;

c. Revising newly redesignated Item No. 15;

d. Revising Note B; and

e. Adding Note G

The revisions and additions read as follows:

[33] *See* 17 CFR 240.0–10.

[34] Pub. L. No. 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. 15 U.S.C. and as a note to 5 U.S.C. 601).

[35] 15 U.S.C. 78o and 78q.

§ 240.15c3–3a Exhibit A—formula for determination reserve requirement of brokers and dealers under § 240.15c3–3.

* * * * *

	Credits	Debits
14. Margin related to security futures products written, purchased or sold in customer accounts required and on deposit with a clearing agency registered with the Commission under section 17A of the Act (15 U.S.C. 17A) or a derivatives clearing organization registered with the Commodity Futures Trading Commission under section 5b of the Commodity Exchange Act (7 U.S.C. 5b). (See Note G).	.....	XXX
Total Credits	.....	
Total Debits	.....	
15. Excess of total credits (sum of items 1–9) over total debits (sum of items 10–14) required to be on deposit in the ''Reserve Bank Account'' (§ 240.15c3–3(e)). If the computation is made monthly as permitted by this section, the deposit shall be not less than 105 percent of the excess of total credits over total debits.	.....	XXX

* * * * *

Note B. Item 2 shall include the amount of options-related or security futures product-related Letters of Credit obtained by a member of a registered clearing agency or a derivatives clearing organization which are collateralized by customers' securities, to the extent of the member's margin requirement at the registered clearing agency or derivatives clearing organization.

* * * * *

Note G. (a) Item 14 shall include the amount of margin required and on deposit with a clearing agency registered with the Commission under section 17A of the Act (15 U.S.C. 17q–1) or a derivatives clearing organization registered with the Commodity Futures Trading Commission under section 5b of the Commodity Exchange Act (7 U.S.C. 5b) for customer accounts to the extent that the margin is represented by cash, proprietary qualified securities, and letters of credit collateralized by customers' securities.

(b) Item 14 shall apply only if:

(1) The registered clearing agency or derivatives clearing organization maintains:

(i) The highest investment-grade rating from a nationally recognized statistical rating organization; or

(ii) Security deposits from clearing members in connection with regulated options or futures transactions of at least $500 million and retains assessment power over member firms of at least $1.5 billion; and

(2) The registered clearing agency or derivatives clearing organization deposits customer margin in a bank as defined in section 3(a)(6) of the Act (15 U.S.C. 78c(a)(6)) in an account designated as a ''Special Account for the Exclusive Benefit of Securities Customers.'' The bank must acknowledge in writing that the customer margin on deposit is not subject to any right, charge, security interest, lien or claim of any kind in favor of the bank or any person claiming through the bank; and

(3) The registered clearing agency or derivatives clearing organization establishes, documents, and maintains:

(i) Safeguards in the handling, transfer and delivery of cash and securities;

(ii) Provisions for fidelity bond coverage of the employees and agents of the registered clearing organization or derivatives clearing organization or other subsidiary organization; and

(iii) Provisions for periodic examination by independent public accountants; and

(iv) The derivatives clearing organization, if it is not otherwise registered with the Commission, has provided the following undertaking to the Commission:

With respect to the clearance and settlement of the customer security futures products of [BD], the undersigned hereby undertakes to permit representatives or designees of the Securities and Exchange Commission to examine it for compliance with the requirements set forth in Rule 15c3–3a, Note G. (b)(1) through (3) at any time or from time to time during business hours, and promptly to furnish to the Commission or its designees all information that the Commission reasonably deems necessary to determine that compliance.

Dated: September 12, 2002.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–24027 Filed 9–20–02; 8:45 am]

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Monday,

September 23, 2002

Part VI

Department of the Treasury

Internal Revenue Service

26 CFR Part 1

Obligations of States and Political Subdivisions and Guidance Regarding Mixed Use Output Facilities; Final Rule and Proposed Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9016]

RIN 1545–AY71

Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations on the definition of private activity bonds applicable to tax-exempt bonds issued by state and local governments for output facilities. These regulations affect issuers of tax-exempt bonds and provide needed guidance for applying the private activity bond restrictions to output facilities.

DATES: *Effective Date:* These regulations are effective November 22, 2002.

Applicability Date: For dates of applicability, see § 1.141–15 of these regulations.

FOR FURTHER INFORMATION CONTACT: Rose M. Weber (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Income Tax Regulations (26 CFR part 1) under section 141 by providing special rules for tax-exempt bonds issued for output facilities. On January 18, 2001, temporary regulations (TD 8941) (the temporary regulations) were published in the **Federal Register** (66 FR 4661) to provide guidance under the Internal Revenue Code of 1986 regarding, among other things, (a) the application of the private activity bond tests under section 141(b)(1) and (2) to output contracts for output facilities; and (b) the application of the $15 million limit under section 141(b)(4) to output facility financings. A notice of proposed rulemaking (REG–114998–99) cross-referencing the temporary regulations was published in the **Federal Register** on the same day (66 FR 4754). On July 24, 2001, the IRS held a public hearing on the proposed regulations. Written comments responding to the notice of proposed rulemaking were also received. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision and the temporary regulations are removed. The revisions are discussed below.

Explanation of Provisions

A. § 1.141–7 Special Rules for Output Facilities

1. Benefits and Burdens Test

The temporary regulations contain a benefits and burdens test for determining whether the purchase of output of an output facility is taken into account under the private business tests. In particular, the temporary regulations provide that the purchase by a nongovernmental person of available output of an output facility is taken into account under the private business tests if it has the effect of transferring substantial benefits of owning the facility and substantial burdens of paying the debt service on bonds used to finance the facility. Under this test, an output contract transfers substantial benefits of owning a facility if it gives the purchaser (directly or indirectly) rights to capacity of the facility on a basis that is preferential to the rights of the general public. An output contract transfers substantial burdens of paying debt service under this test to the extent that the issuer reasonably expects that it is substantially certain that payments will be made under the terms of the contract (disregarding default, insolvency, or other similar circumstances).

Commentators were generally critical of the benefits and burdens test in the temporary regulations. Some commentators stated that preferential rights is not an adequate concept for determining whether substantial benefits of ownership are passed through an output contract. Some commentators suggested that a substantial certainty of payment by a purchaser does not necessarily constitute a transfer of substantial burdens of paying debt service. Other commentators recommended that any sale of output by a municipal utility outside of its traditional service territory should result in private business use.

The final regulations amend the benefits and burdens test. Under the revised provision, an output contract is taken into account under the private business tests if it has the effect of transferring to a nongovernmental person the benefits of owning the facility and the burdens of paying the debt service on bonds issued to finance the facility. This test is met if a nongovernmental person agrees to purchase available output of a facility pursuant to (1) a take contract (that is, a contract under which the purchaser agrees to pay for the output if the facility is capable of providing it), or (2) a take or pay contract (that is, a contract under which the purchaser agrees to pay for the output, whether or not the facility is capable of providing it). In addition, as discussed below, certain requirements contracts may satisfy the benefits and burdens test. The final regulations define *requirements contract* as an output contract, other than a take contract or a take or pay contract, under which a nongovernmental person agrees to purchase all or part of its output requirements.

2. Requirements Contracts

The temporary regulations provide that a requirements contract under which a nongovernmental person agrees to purchase all or part of its output requirements is taken into account under the private business tests to the extent that, based on all the facts and circumstances, it meets the benefits and burdens test in those regulations. Relevant factors in making this determination include whether the purchaser's customer base has significant indicators of stability, whether the contract covers historical (rather than only projected) requirements, and whether the purchaser agrees not to construct or acquire other resources. A requirements contract that is not a sale at wholesale (a retail requirements contract) generally does not meet the benefits and burdens test in the temporary regulations, except to the extent it obligates the purchaser to have requirements or to make payments that are not contingent on its requirements. Reasonable and customary damages and termination provisions do not cause a requirements contract to meet the benefits and burdens test under the temporary regulations.

Most commentators were critical of the treatment of requirements contracts in the temporary regulations. Some commentators stated that the factors for analyzing requirements contracts are not administrable and do not necessarily indicate whether a purchaser has acquired substantial benefits of ownership or burdens of debt service. Other commentators requested that the regulations be amended to specify that requirements contracts with power marketers or with purchasers located outside the service territory of a municipal utility result in private business use.

The final regulations provide two rules under which a requirements contract may satisfy the benefits and burdens test. First, a requirements contract (retail or wholesale) generally meets the benefits and burdens test to the extent that it contains contractual terms that obligate the purchaser to

make payments that are not contingent on the output requirements of the purchaser or that obligate the purchaser to have output requirements. Second, the final regulations continue to apply a facts and circumstances approach for wholesale requirements contracts, but provide simplified factors and two safe harbors. Under this approach, the following factors tend to establish that a wholesale requirements contract meets the benefits and burdens test: (1) The term of the contract is substantial relative to the term of the issue and (2) the amount of output to be purchased represents a substantial portion of the available output. A wholesale requirements contract does not meet the benefits and burdens test under the facts and circumstances approach if it satisfies one of the following safe harbors: (1) Its term does not exceed the lesser of five years or 30 percent of the term of the issue or (2) the amount of output to be purchased does not exceed five percent of the available output of the facility.

3. Pledged Contracts

Under the temporary regulations, payments under an output contract that is pledged as security for an issue are taken into account under the private business tests even if they are not substantially certain to be made. A contract is pledged for this purpose only if the bond documents prohibit substantial amendments of the contract without the consent of bondholders.

Some commentators suggested that this provision adds undue complexity and is unnecessary in light of the benefits and burdens test. The final regulations adopt this comment and delete the provision.

4. Exception for Small Purchases of Output

The temporary regulations provide that an output contract is not taken into account under the private business tests if the average annual payments under the contract that are substantially certain to be made do not exceed 0.5 percent of the average annual debt service on all outstanding tax-exempt bonds issued to finance the facility, determined as of the effective date of the contract.

Some commentators recommended that the 0.5 percent threshold be increased to one percent, and that the exception refer to guaranteed minimum, rather than substantially certain, payments. Other commentators recommended that the exception be deleted. The final regulations increase the 0.5 percent threshold to one percent and specify that all payments to be made under the contract are taken into account.

5. Exception for Short-Term Sales of Output

The temporary regulations contain an exception under which an output contract with a nongovernmental person is not taken into account under the private business tests if: (1) The term of the contract, including all renewal options, does not exceed one year; (2) the compensation under the contract is based on generally applicable and uniformly applied rates or represents a negotiated, fair market price; and (3) the facility is not financed for a principal purpose of serving that nongovernmental person.

Most commentators recommended that this exception be expanded to permit contracts of a longer duration. These commentators stated that longer-term contracts are required in order to transfer benefits of ownership and burdens of debt service with respect to an output facility. Other commentators suggested that the exception should be narrower in scope. These commentators recommended that the exception take into account the entire anticipated period of ongoing sales, irrespective of the term of any contracts or renewal options.

The final regulations retain and amend the exception for short-term output sales. In order to exclude from the private business tests output contracts that do not transfer the benefits of ownership and the burdens of debt service, the final regulations increase the one-year period to three years.

6. Exception for Swapping and Pooling Arrangements

The temporary regulations provide that certain agreements to swap or pool output do not result in private business use to the extent that: (1) The swapped output is reasonably expected to be approximately equal in value, determined over periods of one year or less; and (2) the agreement is entered into for a qualifying purpose, such as enhancing reliability.

Some commentators recommended that the exception be expanded to apply to transactions in which the value of the swapped output is not approximately equal, but the governmental person is a net importer of power. The final regulations do not adopt this recommendation because such transactions may not in substance constitute power swaps, and are more appropriately analyzed under the benefits and burdens test.

The final regulations retain the exception for swapping and pooling arrangements, but increase the one-year period to three years.

7. Special Rule for Facilities With Significant Unutilized Capacity

The temporary regulations provide that, if an issuer reasonably expects on the issue date that persons that are treated as private business users will purchase more than 20 percent of the actual output of the facility, the Commissioner may determine the number of units produced or to be produced by the facility in one year on a reasonable basis other than by reference to nameplate capacity, such as the average expected annual output of the facility.

Commentators suggested that the 20 percent threshold be increased to 30 percent in order to be consistent with longstanding IRS ruling positions that pre-dated the issuance of regulations under section 141 for output facilities (*e.g.*, Rev. Proc. 89–3 (1989–1 C.B. 761)). The final regulations adopt this comment and change the 20 percent threshold to 30 percent.

8. Special Exception for Sales of Output Attributable to Excess Generating Capacity Resulting From Open Access

The temporary regulations contain an exception to private business use for certain purchases of output of an electric generating facility if: (1) The contract term does not exceed three years; (2) the issuer does not utilize tax-exempt financing to increase the generating capacity of its system by more than three percent during the contract term; (3) the governmental owner offers certain non-discriminatory, open access transmission tariffs; (4) all of the output sold is attributable to excess capacity resulting from the offer of the open access tariffs; and (5) all payments received by the governmental owner under the contract (other than the portion allocable to operation and maintenance expenses described in § 1.141–4(c)(2)(C)) are applied as promptly as is reasonably practical to redeem tax-exempt bonds in a manner consistent with § 1.141–12.

Some commentators stated that this exception contains overly restrictive requirements that significantly limit its usefulness. These commentators recommended that the exception be expanded to apply to: (1) Sales in anticipation of open access or retail competition; (2) sales to native load customers if open access is in effect or reasonably expected to commence within a reasonable time period; and (3) contracts with terms in excess of three

years. These commentators also requested clarification regarding the requirement to redeem bonds, the extent to which the rules in § 1.141–12 apply, and the limitations on tax-exempt financing during the contract term.

These suggested changes raise a number of administrability issues. For example, in many cases it may be difficult to predict the nature and extent of an issuer's future participation in open access or to determine whether a particular sale is made in anticipation of open access. In light of these administrability concerns and the expansion of the short-term contract exception to three years as described above, the final regulations delete the special exception for excess capacity-related sales.

9. Special Rules for Electric Output Facilities Used To Provide Open Access

Under the temporary regulations, the use of electric generation, transmission or distribution facilities by a nongovernmental person may result in private business use under the benefits and burdens test. In addition, the use of electric facilities under arrangements other than output contracts may constitute private business use under the general rules of § 1.141–3.

The temporary regulations do not contain specific provisions for determining whether the use of electric output facilities by a regional transmission organization (RTO), independent system operator (ISO) or other independent transmission operator results in private business use. However, the preamble to the temporary regulations states that the rules for management contracts under section 141, including Revenue Procedure 97–13 (1997–1 C.B. 632), apply in this regard.

Commentators stated that the management contract guidelines in Revenue Procedure 97–13 are not well-tailored to address the use of electric facilities by an RTO or an ISO. They requested additional guidance concerning the circumstances in which an RTO or an ISO will not be treated as a private business user. The final regulations provide that a contract for the operation of an electric transmission facility by an independent entity, such as an RTO or an ISO (*independent transmission operator*), does not result in private business use of the facility if: (1) The facility is owned by a governmental person; (2) the operation of the facility by the independent transmission operator is approved by the Federal Energy Regulatory Commission (FERC) under provisions of the Federal Power Act (16 U.S.C. 791a through 821c) (or by a state authority under comparable provisions of state law); (3) the independent transmission operator's compensation is not based on a share of net profits from the facility; and (4) the independent transmission operator does not bear risk of loss of the facility.

The temporary regulations contain two special exceptions under which certain actions involving electric transmission or distribution facilities are not treated as deliberate actions under § 1.141–2(d). The first exception applies to certain contracts entered into in response to, or in anticipation of, an order by the FERC to wheel power under the Federal Power Act, or by a state authority under comparable state law. The second exception applies to certain actions to implement the offering of non-discriminatory, open access tariffs in a manner consistent with certain FERC rules under the Federal Power Act or comparable state law. The final regulations retain these special exceptions.

Commentators requested additional guidance regarding the circumstances in which electric transmission and distribution facilities that are available for use on a non-discriminatory, open access basis will not be used for a private business use. The final regulations provide that the use of an electric transmission or distribution facility by a nongovernmental person pursuant to an output contract does not result in private business use if: (1) The facility is owned by a governmental person; (2) the facility is available for use on a nondiscriminatory, open access basis (a transmission facility meets this requirement if it is operated by a qualifying independent transmission operator); and (3) the facility is not financed for a principal purpose of serving that nongovernmental person.

B. § 1.141–8 $15 Million Limitation for Output Facilities

The temporary regulations provide guidance on the special $15 million limitation on output facilities of section 141(b)(4). In general, this limitation is based on the nonqualified amount of an issue or issues that finance a single project.

The temporary regulations provide that facilities having different purposes or serving different customer bases are not ordinarily part of the same project. For example, a peaking unit and a baseload unit generally are not part of the same project.

The temporary regulations also provide that, in the case of generation and related facilities, project means property located at the same site. However, separate generating units are not part of the same project if one unit is reasonably expected, on the issue date of each issue that finances the facilities, to be placed in service more than three years before the other.

Some commentators noted that there is an ambiguity in the temporary regulations regarding whether a peaking unit and a baseload unit that are located at the same site and placed in service within the same three-year period are part of the same project. The final regulations clarify that a peaking unit and a baseload unit generally are not part of the same project, even if they are located at the same site and placed in service within the same three-year period.

C. Need for Final Regulations

Congress passed the Energy Policy Act of 1992, Public Law 102–486 (106 Stat. 2776), to encourage restructuring of the electric power industry. Since that time, the FERC and many states have adopted policies to provide open access to transmission and distribution facilities. Treasury and the IRS are aware that these initiatives have caused many changes in the electric power industry, and that restructuring efforts are ongoing. The temporary regulations were published in order to provide immediate guidance under section 141 regarding the effect on the tax-exempt status of bonds of certain restructuring transactions necessary for utilities to participate in a restructured electric utility industry.

Commentators stated that the lack of final regulations addressing these issues has hindered public power systems in undertaking long-term planning. Commentators also stated that uncertainty regarding the characterization under the private business tests of certain open access transactions has hampered participation by public power systems in open access plans. The final regulations are being issued at this time in order to address these concerns, notwithstanding that restructuring initiatives continue to evolve. It is anticipated that the special rules in the final regulations for open access transactions will not result in a significant increase in the volume of tax-exempt bonds for output facilities. In the event that such an increase does occur, Treasury and the IRS may reconsider relevant aspects of the regulations and propose additional limitations on the use of tax-exempt financing for such facilities.

Effective Dates

The final regulations apply to bonds sold on or after November 22, 2002.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the rule does not impose a collection of information on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal authors of these regulations are Bruce M. Serchuk and Rose M. Weber, Office of Chief Counsel (Tax-exempt and Government Entities), Internal Revenue Service, and Stephen J. Watson, Office of Tax Legislative Counsel, Department of the Treasury. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.141–0 is amended by removing the entries for §§ 1.141–7T, 1.141–8T and 1.141–15T and adding entries to the table in numerical order for §§ 1.141–7, 1.141–8 and 1.141–15(f) through (i) to read as follows:

§ 1.141–0 Table of contents.

* * * * *

§ 1.141–7 Special rules for output facilities.

(a) Overview.
(b) Definitions.
(1) Available output.
(2) Measurement period.
(3) Sale at wholesale.
(4) Take contract and take or pay contract.
(5) Requirements contract.
(6) Nonqualified amount.
(c) Output contracts.
(1) General rule.
(2) Take contract or take or pay contract.
(3) Requirements contract.
(4) Output contract properly characterized as a lease.
(d) Measurement of private business use.
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(f) Exceptions for certain contracts.
(1) Small purchases of output.
(2) Swapping and pooling arrangements.
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(1) Operation of transmission facilities by nongovernmental persons.
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(4) Exceptions to deliberate action rules.
(5) Additional transactions as permitted by the Commissioner.
(h) Allocations of output facilities and systems.
(1) Facts and circumstances analysis.
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(3) Transmission and distribution contracts.
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(i) Examples.

§ 1.141–8 $15 million limitation for output facilities.

(a) In general.
(1) General rule.
(2) Reduction in $15 million output limitation for outstanding issues.
(3) Benefits and burdens test applicable.
(b) Definition of project.
(1) General rule.
(2) Separate ownership.
(3) Generating property.
(4) Transmission and distribution.
(5) Subsequent improvements.
(6) Replacement property.
(c) Examples.

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§ 1.141–15 Effective dates.

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(f) Effective dates for certain regulations relating to output facilities.
(1) General rule.
(2) Transition rule for requirements contracts.
(g) Refunding bonds for output facilities.
(h) Permissive retroactive application.
(i) Permissive application of certain regulations relating to output facilities.

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Par. 3. Section 1.141–2 is amended by revising the last sentence of paragraph (d)(3)(ii)(B) to read as follows:

§ 1.141–2 Private activity bond tests.

* * * * *

(d) * * *
(3) * * *
(ii) * * *
(B) * * * See § 1.141–7(g)(4).

* * * * *

Par. 4. Section 1.141–7 is added to read as follows:

§ 1.141–7 Special rules for output facilities.

(a) *Overview.* This section provides special rules to determine whether arrangements for the purchase of output from an output facility cause an issue of bonds to meet the private business tests. For this purpose, unless otherwise stated, water facilities are treated as output facilities. Sections 1.141–3 and 1.141–4 generally apply to determine whether other types of arrangements for use of an output facility cause an issue to meet the private business tests.

(b) *Definitions.* For purposes of this section and § 1.141–8, the following definitions and rules apply:

(1) *Available output.* The available output of a facility financed by an issue is determined by multiplying the number of units produced or to be produced by the facility in one year by the number of years in the measurement period of that facility for that issue.

(i) *Generating facilities.* The number of units produced or to be produced by a generating facility in one year is determined by reference to its nameplate capacity or the equivalent (or where there is no nameplate capacity or the equivalent, its maximum capacity), which is not reduced for reserves, maintenance or other unutilized capacity.

(ii) *Transmission and other output facilities*—(A) *In general.* For transmission, distribution, cogeneration, and other output facilities, available output must be measured in a reasonable manner to reflect capacity.

(B) *Electric transmission facilities.* Measurement of the available output of all or a portion of electric transmission facilities may be determined in a manner consistent with the reporting rules and requirements for transmission networks promulgated by the Federal Energy Regulatory Commission (FERC). For example, for a transmission network, the use of aggregate load and load share ratios in a manner consistent with the requirements of the FERC may be reasonable. In addition, depending on the facts and circumstances, measurement of the available output of transmission facilities using thermal capacity or transfer capacity may be reasonable.

(iii) *Special rule for facilities with significant unutilized capacity.* If an issuer reasonably expects on the issue

date that persons that are treated as private business users will purchase more than 30 percent of the actual output of the facility financed with the issue, the Commissioner may determine the number of units produced or to be produced by the facility in one year on a reasonable basis other than by reference to nameplate or other capacity, such as the average expected annual output of the facility. For example, the Commissioner may determine the available output of a financed peaking electric generating unit by reference to the reasonably expected annual output of that unit if the issuer reasonably expects, on the issue date of bonds that finance the unit, that an investor-owned utility will purchase more than 30 percent of the actual output of the facility during the measurement period under a take or pay contract, even if the amount of output purchased is less than 10 percent of the available output determined by reference to nameplate capacity. The reasonably expected annual output of the generating facility must be consistent with the capacity reported for prudent reliability purposes.

(iv) *Special rule for facilities with a limited source of supply.* If a limited source of supply constrains the output of an output facility, the number of units produced or to be produced by the facility must be determined by reasonably taking into account those constraints. For this purpose, a limited source of supply shall include a physical limitation (for example, flow of water), but not an economic limitation (for example, cost of coal or gas). For example, the available output of a hydroelectric unit must be determined by reference to the reasonably expected annual flow of water through the unit.

(2) *Measurement period.* The measurement period of an output facility financed by an issue is determined under § 1.141–3(g).

(3) *Sale at wholesale.* A sale at wholesale means a sale of output to any person for resale.

(4) *Take contract and take or pay contract.* A *take contract* is an output contract under which a purchaser agrees to pay for the output under the contract if the output facility is capable of providing the output. A *take or pay contract* is an output contract under which a purchaser agrees to pay for the output under the contract, whether or not the output facility is capable of providing the output.

(5) *Requirements contract.* A *requirements contract* is an output contract, other than a take contract or a take or pay contract, under which a nongovernmental person agrees to purchase all or part of its output requirements.

(6) *Nonqualified amount.* The nonqualified amount with respect to an issue is determined under section 141(b)(8).

(c) *Output contracts*—(1) *General rule.* The purchase pursuant to a contract by a nongovernmental person of available output of an output facility (output contract) financed with proceeds of an issue is taken into account under the private business tests if the purchase has the effect of transferring the benefits of owning the facility and the burdens of paying the debt service on bonds used (directly or indirectly) to finance the facility (the benefits and burdens test). See paragraph (c)(4) of this section for the treatment of an output contract that is properly characterized as a lease for Federal income tax purposes. See paragraphs (d) and (e) of this section for rules regarding measuring the use of, and payments of debt service for, an output facility for determining whether the private business tests are met. See also § 1.141–8 for rules for when an issue that finances an output facility (other than a water facility) meets the private business tests because the nonqualified amount of the issue exceeds $15 million.

(2) *Take contract or take or pay contract.* The benefits and burdens test is met if a nongovernmental person agrees pursuant to a take contract or a take or pay contract to purchase available output of a facility.

(3) *Requirements contract*—(i) *In general.* A requirements contract may satisfy the benefits and burdens test under paragraph (c)(3)(ii) or (iii) of this section. See § 1.141–15(f)(2) for special effective dates for the application of this paragraph (c)(3) to issues financing facilities subject to requirements contracts.

(ii) *Requirements contract similar to take contract or take or pay contract.* A requirements contract generally meets the benefits and burdens test to the extent that it contains contractual terms that obligate the purchaser to make payments that are not contingent on the output requirements of the purchaser or that obligate the purchaser to have output requirements. For example, a requirements contract with an industrial purchaser meets the benefits and burdens test if the purchaser enters into additional contractual obligations with the issuer or another governmental unit not to cease operations. A requirements contract does not meet the benefits and burdens test, however, by reason of a provision that requires the purchaser to pay reasonable and customary damages (including liquidated damages) in the event of a default, or a provision that permits the purchaser to pay a specified amount to terminate the contract while the purchaser has requirements, in each case if the amount of the payment is reasonably related to the purchaser's obligation to buy requirements that is discharged by the payment.

(iii) *Wholesale requirements contract*—(A) *In general.* A requirements contract that is a sale at wholesale (a *wholesale requirements contract*) may satisfy the benefits and burdens test, depending on all the facts and circumstances.

(B) *Significant factors.* Significant factors that tend to establish that a wholesale requirements contract meets the benefits and burdens test include, but are not limited to—

(1) The term of the contract is substantial relative to the term of the issue or issues that finance the facility; and

(2) The amount of output to be purchased under the contract represents a substantial portion of the available output of the facility.

(C) *Safe harbors.* A wholesale requirements contract does not meet the benefits and burdens test if—

(1) The term of the contract, including all renewal options, does not exceed the lesser of 5 years or 30 percent of the term of the issue; or

(2) The amount of output to be purchased under the contract (and any other requirements contract with the same purchaser or a related party with respect to the facility) does not exceed 5 percent of the available output of the facility.

(iv) *Retail requirements contract.* Except as otherwise provided in this paragraph (c)(3), a requirements contract that is not a sale at wholesale does not meet the benefits and burdens test.

(4) *Output contract properly characterized as a lease.* Notwithstanding any other provision of this section, an output contract that is properly characterized as a lease for Federal income tax purposes shall be tested under the rules contained in §§ 1.141–3 and 1.141–4 to determine whether it is taken into account under the private business tests.

(d) *Measurement of private business use.* If an output contract results in private business use under this section, the amount of private business use generally is the amount of output purchased under the contract.

(e) *Measurement of private security or payment.* The measurement of payments made or to be made by nongovernmental persons under output contracts as a percent of the debt service

of an issue is determined under the rules provided in § 1.141–4.

(f) *Exceptions for certain contracts*—(1) *Small purchases of output.* An output contract for the use of a facility is not taken into account under the private business tests if the average annual payments to be made under the contract do not exceed 1 percent of the average annual debt service on all outstanding tax-exempt bonds issued to finance the facility, determined as of the effective date of the contract.

(2) *Swapping and pooling arrangements.* An agreement that provides for swapping or pooling of output by one or more governmental persons and one or more nongovernmental persons does not result in private business use of the output facility owned by the governmental person to the extent that—

(i) The swapped output is reasonably expected to be approximately equal in value (determined over periods of three years or less); and

(ii) The purpose of the agreement is to enable each of the parties to satisfy different peak load demands, to accommodate temporary outages, to diversify supply, or to enhance reliability in accordance with prudent reliability standards.

(3) *Short-term output contracts.* An output contract with a nongovernmental person is not taken into account under the private business tests if—

(i) The term of the contract, including all renewal options, is not longer than 3 years;

(ii) The contract either is a negotiated, arm's-length arrangement that provides for compensation at fair market value, or is based on generally applicable and uniformly applied rates; and

(iii) The output facility is not financed for a principal purpose of providing that facility for use by that nongovernmental person.

(4) *Certain conduit parties disregarded.* A nongovernmental person acting solely as a conduit for the exchange of output among governmentally owned and operated utilities is disregarded in determining whether the private business tests are met with respect to financed facilities owned by a governmental person.

(g) *Special rules for electric output facilities used to provide open access*—(1) *Operation of transmission facilities by nongovernmental persons*—(i) *In general.* The operation of an electric transmission facility by a nongovernmental person may result in private business use of the facility under § 1.141–3 and this section based on all the facts and circumstances. For example, a transmission facility is generally used for a private business use if a nongovernmental person enters into a contract to operate the facility and receives compensation based, in whole or in part, on a share of net profits from the operation of the facility.

(ii) *Certain use by independent transmission operators.* A contract for the operation of an electric transmission facility by an independent entity, such as a regional transmission organization or an independent system operator (*independent transmission operator*), does not constitute private business use of the facility if—

(A) The facility is owned by a governmental person;

(B) The operation of the facility by the independent transmission operator is approved by the FERC under one or more provisions of the Federal Power Act (16 U.S.C. 791a through 821c) (or by a state authority under comparable provisions of state law);

(C) No portion of the compensation of the independent transmission operator is based on a share of net profits from the operation of the facility; and

(D) The independent transmission operator does not bear risk of loss of the facility.

(2) *Certain use by nongovernmental persons under output contracts*—(i) *Transmission facilities.* The use of an electric transmission facility by a nongovernmental person pursuant to an output contract does not constitute private business use of the facility if—

(A) The facility is owned by a governmental person;

(B) The facility is operated by an independent transmission operator in a manner that satisfies paragraph (g)(1)(ii) of this section; and

(C) The facility is not financed for a principal purpose of providing that facility for use by that nongovernmental person.

(ii) *Distribution facilities.* The use of an electric distribution facility by a nongovernmental person pursuant to an output contract does not constitute private business use of the facility if—

(A) The facility is owned by a governmental person;

(B) The facility is available for use on a nondiscriminatory, open access basis by buyers and sellers of electricity in accordance with rates that are generally applicable and uniformly applied within the meaning of § 1.141–3(c)(2); and

(C) The facility is not financed for a principal purpose of providing that facility for use by that nongovernmental person (other than a retail end-user).

(3) *Ancillary services.* The use of an electric output facility to provide ancillary services required to be offered as part of an open access transmission tariff under rules promulgated by the FERC under the Federal Power Act (16 U.S.C. 791a through 821c) does not result in private business use.

(4) *Exceptions to deliberate action rules*—(i) *Mandated wheeling.* Entering into a contract for the use of electric transmission or distribution facilities is not treated as a deliberate action under § 1.141–2(d) if—

(A) The contract is entered into in response to (or in anticipation of) an order by the United States under sections 211 and 212 of the Federal Power Act (16 U.S.C. 824j and 824k) (or a state regulatory authority under comparable provisions of state law); and

(B) The terms of the contract are bona fide and arm's-length, and the consideration paid is consistent with the provisions of section 212(a) of the Federal Power Act.

(ii) *Actions taken to implement non-discriminatory, open access.* An action is not treated as a deliberate action under § 1.141–2(d) if it is taken to implement the offering of non-discriminatory, open access tariffs for the use of electric transmission or distribution facilities in a manner consistent with rules promulgated by the FERC under sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d and 824e) (or comparable provisions of state law). This paragraph (g)(4)(ii) does not apply, however, to the sale, exchange, or other disposition (within the meaning of section 1001(a)) of transmission or distribution facilities to a nongovernmental person.

(iii) *Application of reasonable expectations test to certain current refunding bonds.* An action taken or to be taken with respect to electric transmission or distribution facilities refinanced by an issue is not taken into account under the reasonable expectations test of § 1.141–2(d) if—

(A) The action is described in paragraph (g)(4)(i) or (ii) of this section;

(B) The bonds of the issue are current refunding bonds that refund bonds originally issued before February 23, 1998; and

(C) The weighted average maturity of the refunding bonds is not greater than the remaining weighted average maturity of the prior bonds.

(5) *Additional transactions as permitted by the Commissioner.* The Commissioner may, by published guidance, set forth additional circumstances in which the use of electric output facilities in a restructured electric industry does not constitute private business use.

(h) *Allocations of output facilities and systems*—(1) *Facts and circumstances analysis.* Whether output sold under an output contract is allocated to a particular facility (for example, a generating unit), to the entire system of the seller of that output (net of any uses of that system output allocated to a particular facility), or to a portion of a facility is based on all the facts and circumstances. Significant factors to be considered in determining the allocation of an output contract to financed property are the following:

(i) The extent to which it is physically possible to deliver output to or from a particular facility or system.

(ii) The terms of a contract relating to the delivery of output (such as delivery limitations and options or obligations to deliver power from additional sources).

(iii) Whether a contract is entered into as part of a common plan of financing for a facility.

(iv) The method of pricing output under the contract, such as the use of market rates rather than rates designed to pay debt service of tax-exempt bonds used to finance a particular facility.

(2) *Illustrations.* The following illustrate the factors set forth in paragraph (h)(1) of this section:

(i) *Physical possibility.* Output from a generating unit that is fed directly into a low voltage distribution system of the owner of that unit and that cannot physically leave that distribution system generally must be allocated to those receiving electricity through that distribution system. Output may be allocated without regard to physical limitations, however, if exchange or similar agreements provide output to a purchaser where, but for the exchange agreements, it would not be possible for the seller to provide output to that purchaser.

(ii) *Contract terms relating to performance.* A contract to provide a specified amount of electricity from a system, but only when at least that amount of electricity is being generated by a particular unit, is allocated to that unit. For example, a contract to buy 20 MW of system power with a right to take up to 40 percent of the actual output of a specific 50 MW facility whenever total system output is insufficient to meet all of the seller's obligations generally is allocated to the specific facility rather than to the system.

(iii) *Common plan of financing.* A contract entered into as part of a common plan of financing for a facility generally is allocated to the facility if debt service for the issue of bonds is reasonably expected to be paid, directly or indirectly, from payments under the contract.

(iv) *Pricing method.* Pricing based on the capital and generating costs of a particular turbine tends to indicate that output under the contract is properly allocated to that turbine.

(3) *Transmission and distribution contracts.* Whether use under an output contract for transmission or distribution is allocated to a particular facility or to a transmission or distribution network is based on all the facts and circumstances, in a manner similar to paragraphs (h)(1) and (2) of this section. In general, the method used to determine payments under a contract is a more significant contract term for this purpose than nominal contract path. In general, if reasonable and consistently applied, the determination of use of transmission or distribution facilities under an output contract may be based on a method used by third parties, such as reliability councils.

(4) *Allocation of payments.* Payments for output provided by an output facility financed with two or more sources of funding are generally allocated under the rules in § 1.141–4(c).

(i) *Examples.* The following examples illustrate the application of this section:

Example 1. Joint ownership. Z, an investor-owned electric utility, and City H agree to construct an electric generating facility of a size sufficient to take advantage of the economies of scale. H will issue $50 million of its 24-year bonds, and Z will use $100 million of its funds for construction of a facility they will jointly own as tenants in common. Each of the participants will share in the ownership, output, and operating expenses of the facility in proportion to its contribution to the cost of the facility, that is, one-third by H and two-thirds by Z. H's bonds will be secured by H's ownership interest in the facility and by revenues to be derived from its share of the annual output of the facility. H will need only 50 percent of its share of the annual output of the facility during the first 20 years of operations. It agrees to sell 10 percent of its share of the annual output to Z for a period of 20 years pursuant to a contract under which Z agrees to take that power if available. The facility will begin operation, and Z will begin to receive power, 4 years after the H bonds are issued. The measurement period for the property financed by the issue is 20 years. H also will sell the remaining 40 percent of its share of the annual output to numerous other private utilities under contracts of three years or less that satisfy the exception under paragraph (f)(3) of this section. No other contracts will be executed obligating any person to purchase any specified amount of the power for any specified period of time. No person (other than Z) will make payments that will result in a transfer of the burdens of paying debt service on bonds used directly or indirectly to provide H's share of the facilities. The bonds are not private activity bonds, because H's one-third interest in the facility is not treated as used by the other owners of the facility. Although 10 percent of H's share of the annual output of the facility will be used in the trade or business of Z, a nongovernmental person, under this section, that portion constitutes not more than 10 percent of the available output of H's ownership interest in the facility.

Example 2. Wholesale requirements contract. (i) City J issues 20-year bonds to acquire an electric generating facility having a reasonably expected economic life substantially greater than 20 years and a nameplate capacity of 100 MW. The available output of the facility under paragraph (b)(1) of this section is approximately 17,520,000 MWh (100 MW × 24 hours × 365 days × 20 years). On the issue date, J enters into a contract with T, an investor-owned utility, to provide T with all of its power requirements for a period of 10 years, commencing on the issue date. J reasonably expects that T will actually purchase an average of 30 MW over the 10-year period. The contract is taken into account under the private business tests pursuant to paragraph (c)(3) of this section because the term of the contract is substantial relative to the term of the issue and the amount of output to be purchased is a substantial portion of the available output.

(ii) Under paragraph (d) of this section, the amount of reasonably expected private business use under this contract is approximately 15 percent (30 MW × 24 hours × 365 days × 10 years, or 2,628,000 MWh) of the available output. Accordingly, the issue meets the private business use test. J reasonably expects that the amount to be paid for an average of 30 MW of power (less the operation and maintenance costs directly attributable to generating that 30 MW of power), will be more than 10 percent of debt service on the issue on a present-value basis. Accordingly, the issue meets the private security or payment test because J reasonably expects that payment of more than 10 percent of the debt service will be indirectly derived from payments by T. The bonds are private activity bonds under paragraph (c) of this section. Further, if 15 percent of the sale proceeds of the issue is greater than $15 million and the issue meets the private security or payment test with respect to the $15 million output limitation, the bonds are also private activity bonds under section 141(b)(4). See § 1.141–8.

Example 3. Retail contracts. (i) State Agency M, a political subdivision, issues bonds in 2003 to finance the construction of a generating facility that will be used to furnish electricity to M's retail customers. In 2007, M enters into a 10-year contract with industrial corporation I. Under the contract, M agrees to supply I with all of its power requirements during the contract term, and I agrees to pay for that power at a negotiated price as it is delivered. The contract does not require I to pay for any power except to the extent I has requirements. In addition, the contract requires I to pay reasonable and customary liquidated damages in the event of a default by I, and permits I to terminate the contract while it has requirements by paying M a specified amount that is a reasonable and customary amount for terminating the contract. Any damages or termination payment by I will be reasonably related to I's

obligation to buy requirements that is discharged by the payment. Under paragraph (c)(3) of this section, the contract does not meet the benefits and burdens test. Thus, it is not taken into account under the private business tests.

(ii) The facts are the same as in paragraph (i) of this *Example 3*, except that the contract requires I to make guaranteed minimum payments, regardless of I's requirements, in an amount such that the contract does not meet the exception for small purchases in paragraph (f)(1) of this section. Under paragraph (c)(3)(ii) of this section, the contract meets the benefits and burdens test because it obligates I to make payments that are not contingent on its output requirements. Thus, it is taken into account under the private business tests.

Example 4. Allocation of existing contracts to new facilities. Power Authority K, a political subdivision created by the legislature in State X to own and operate certain power generating facilities, sells all of the power from its existing facilities to four private utility systems under contracts executed in 1999, under which the four systems are required to take or pay for specified portions of the total power output until the year 2029. Existing facilities supply all of the present needs of the four utility systems, but their future power requirements are expected to increase substantially beyond the capacity of K's current generating system. K issues 20-year bonds in 2004 to construct a large generating facility. As part of the financing plan for the bonds, a fifth private utility system contracts with K to take or pay for 15 percent of the available output of the new facility. The balance of the output of the new facility will be available for sale as required, but initially it is not anticipated that there will be any need for that power. The revenues from the contract with the fifth private utility system will be sufficient to pay less than 10 percent of the debt service on the bonds (determined on a present value basis). The balance, which will exceed 10 percent of the debt service on the bonds, will be paid from revenues derived from the contracts with the four systems initially from sale of power produced by the old facilities. The output contracts with all the private utilities are allocated to K's entire generating system. See paragraphs (h)(1) and (2) of this section. Thus, the bonds meet the private business use test because more than 10 percent of the proceeds will be used in the trade or business of a nongovernmental person. In addition, the bonds meet the private security or payment test because payment of more than 10 percent of the debt service, pursuant to underlying arrangements, will be derived from payments in respect of property used for a private business use.

Example 5. Allocation to displaced resource. Municipal utility MU, a political subdivision, purchases all of the electricity required to meet the needs of its customers (1,000 MW) from B, an investor-owned utility that operates its own electric generating facilities, under a 50-year take or pay contract. MU does not anticipate that it will require additional electric resources, and any new resources would produce electricity at a higher cost to MU than its cost under its contract with B. Nevertheless, B encourages MU to construct a new generating plant sufficient to meet MU's requirements. MU issues obligations to construct facilities that will produce 1,000 MW of electricity. MU, B, and I, another investor-owned utility, enter into an agreement under which MU assigns to I its rights under MU's take or pay contract with B. Under this arrangement, I will pay MU, and MU will continue to pay B, for the 1,000 MW. I's payments to MU will at least equal the amounts required to pay debt service on MU's bonds. In addition, under paragraph (h)(1)(iii) of this section, the contract among MU, B, and I is entered into as part of a common plan of financing of the MU facilities. Under all the facts and circumstances, MU's assignment to I of its rights under the original take or pay contract is allocable to MU's new facilities under paragraph (h) of this section. Because I is a nongovernmental person, MU's bonds are private activity bonds.

Example 6. Operation of transmission facilities by regional transmission organization. (i) Public Power Agency D is a political subdivision that owns and operates electric generation, transmission and distribution facilities. In 2003, D transfers operating control of its transmission system to a regional transmission organization (RTO), a nongovernmental person, pursuant to an operating agreement that is approved by the FERC under sections 205 and 206 of the Federal Power Act. D retains ownership of its facilities. No portion of the RTO's compensation is based on a share of net profits from the operation of D's facilities, and the RTO does not bear any risk of loss of those facilities. Under paragraph (g)(1)(ii) of this section, the RTO's use of D's facilities does not constitute a private business use.

(ii) Company A is located in D's service territory. In 2004, Power Supplier E, a nongovernmental person, enters into a 10-year contract with A to supply A's electricity requirements. The electricity supplied by E to A will be transmitted over D's transmission and distribution facilities. D's distribution facilities are available for use on a nondiscriminatory, open access basis by buyers and sellers of electricity in accordance with rates that are generally applicable and uniformly applied within the meaning of § 1.141–3(c)(2). D's facilities are not financed for a principal purpose of providing the facilities for use by E. Under paragraph (g)(2) of this section, the contract between A and E does not result in private business use of D's facilities.

Example 7. Certain actions not treated as deliberate actions. The facts are the same as in *Example 6* of this paragraph (i), except that the RTO's compensation is based on a share of net profits from operating D's facilities. In addition, D had issued bonds in 1994 to finance improvements to its transmission system. At the time D transfers operating control of its transmission system to the RTO, D chooses to apply the private activity bond regulations of §§ 1.141–1 through 1.141–15 to the 1994 bonds. The operation of D's facilities by the RTO results in private business use under § 1.141–3 and paragraph (g)(1)(i) of this section. Under the special exception in paragraph (g)(4)(ii) of this section, however, the transfer of control is not treated as a deliberate action. Accordingly, the transfer of control does not cause the 1994 bonds to meet the private activity bond tests.

Example 8. Current refunding. The facts are the same as in *Example 7* of this paragraph (i), and in addition D issues bonds in 2004 to currently refund the 1994 bonds. The weighted average maturity of the 2004 bonds is not greater than the remaining weighted average maturity of the 1994 bonds. D chooses to apply the private activity bond regulations of §§ 1.141–1 through 1.141–15 to the refunding bonds. In general, reasonable expectations must be separately tested on the date that refunding bonds are issued under § 1.141–2(d). Under the special exception in paragraph (g)(4)(iii) of this section, however, the transfer of the financed facilities to the RTO need not be taken into account in applying the reasonable expectations test to the refunding bonds.

§ 1.141–7T [Removed]

Par. 5. Section 1.141–7T is removed.

Par. 6. Section 1.141–8 is added to read as follows:

§ 1.141–8 $15 million limitation for output facilities.

(a) *In general*—(1) *General rule.* Section 141(b)(4) provides a special private activity bond limitation (the $15 million output limitation) for issues 5 percent or more of the proceeds of which are to be used to finance output facilities (other than a facility for the furnishing of water). Under this rule, an issue consists of private activity bonds under the private business tests of section 141(b)(1) and (2) if the nonqualified amount with respect to output facilities financed by the proceeds of the issue exceeds $15 million. The $15 million output limitation applies in addition to the private business tests of section 141(b)(1) and (2). Under section 141(b)(4) and paragraph (a)(2) of this section, the $15 million output limitation is reduced in certain cases. Specifically, an issue meets the test in section 141(b)(4) if both of the following tests are met:

(i) More than $15 million of the proceeds of the issue to be used with respect to an output facility are to be used for a private business use. Investment proceeds are disregarded for this purpose if they are not allocated disproportionately to the private business use portion of the issue.

(ii) The payment of the principal of, or the interest on, more than $15 million of the sale proceeds of the portion of the issue used with respect to an output facility is (under the terms of the issue or any underlying arrangement) directly or indirectly—

(A) Secured by any interest in an output facility used or to be used for a private business use (or payments in respect of such an output facility); or

(B) To be derived from payments (whether or not to the issuer) in respect of an output facility used or to be used for a private business use.

(2) *Reduction in $15 million output limitation for outstanding issues*—(i) *General rule.* In determining whether an issue 5 percent or more of the proceeds of which are to be used with respect to an output facility consists of private activity bonds under the $15 million output limitation, the $15 million limitation on private business use and private security or payments is applied by taking into account the aggregate nonqualified amounts of any outstanding bonds of other issues 5 percent or more of the proceeds of which are or will be used with respect to that output facility or any other output facility that is part of the same project.

(ii) *Bonds taken into account.* For purposes of this paragraph (a)(2), in applying the $15 million output limitation to an issue (the later issue), a tax-exempt bond of another issue (the earlier issue) is taken into account if—

(A) That bond is outstanding on the issue date of the later issue;

(B) That bond will not be redeemed within 90 days of the issue date of the later issue in connection with the refunding of that bond by the later issue; and

(C) 5 percent or more of the sale proceeds of the earlier issue financed an output facility that is part of the same project as the output facility that is financed by 5 percent or more of the sale proceeds of the later issue.

(3) *Benefits and burdens test applicable*—(i) *In general.* In applying the $15 million output limitation, the benefits and burdens test of § 1.141–7 applies, except that ''$15 million'' is applied in place of ''10 percent'', or ''5 percent'' as appropriate.

(ii) *Earlier issues for the project.* If bonds of an earlier issue are outstanding and must be taken into account under paragraph (a)(2) of this section, the nonqualified amount for that earlier issue is multiplied by a fraction, the numerator of which is the adjusted issue price of the earlier issue as of the issue date of the later issue, and the denominator of which is the issue price of the earlier issue. Pre-issuance accrued interest as defined in § 1.148–1(b) is disregarded for this purpose.

(b) *Definition of project*—(1) *General rule.* For purposes of paragraph (a)(2) of this section, *project* has the meaning provided in this paragraph. Facilities that are functionally related and subordinate to a project are treated as part of that same project. Facilities having different purposes or serving different customer bases are not ordinarily part of the same project. For example, the following are generally not part of the same project—

(i) Generation, transmission and distribution facilities;

(ii) Separate facilities designed to serve wholesale customers and retail customers; and

(iii) A peaking unit and a baseload unit (regardless of the location of the units).

(2) *Separate ownership.* Except as otherwise provided in this paragraph (b)(2), facilities that are not owned by the same person are not part of the same project. If different governmental persons act in concert to finance a project, however (for example as participants in a joint powers authority), their interests are aggregated with respect to that project to determine whether the $15 million output limitation is met. In the case of undivided ownership interests in a single output facility, property that is not owned by different persons is treated as separate projects only if the separate interests are financed—

(i) With bonds of different issuers; and

(ii) Without a principal purpose of avoiding the limitation in this section.

(3) *Generating property*—(i) *Property on same site.* In the case of generation and related facilities, *project* means property located at the same site.

(ii) *Special rule for generating units.* Separate generating units are not part of the same project if one unit is reasonably expected, on the issue date of each issue that finances the units, to be placed in service more than 3 years before the other. Common facilities or property that will be functionally related to more than one generating unit must be allocated on a reasonable basis. If a generating unit already is constructed or is under construction (the first unit) and bonds are to be issued to finance an additional generating unit (the second unit), all costs for any common facilities paid or incurred before the earlier of the issue date of bonds to finance the second unit or the commencement of construction of the second unit are allocated to the first unit. At the time that bonds are issued to finance the second unit (or, if earlier, upon commencement of construction of that unit), any remaining costs of the common facilities may be allocated between the first and second units so that in the aggregate the allocation is reasonable.

(4) *Transmission and distribution.* In the case of transmission or distribution facilities, *project* means functionally related or contiguous property. Separate transmission or distribution facilities are not part of the same project if one facility is reasonably expected, on the issue date of each issue that finances the facilities, to be placed in service more than 2 years before the other.

(5) *Subsequent improvements*—(i) In general. An improvement to generation, transmission or distribution facilities that is not part of the original design of those facilities (the original project) is not part of the same project as the original project if the construction, reconstruction, or acquisition of that improvement commences more than 3 years after the original project was placed in service and the bonds issued to finance that improvement are issued more than 3 years after the original project was placed in service.

(ii) *Special rule for transmission and distribution facilities.* An improvement to transmission or distribution facilities that is not part of the original design of that property is not part of the same project as the original project if the issuer did not reasonably expect the need to make that improvement when it commenced construction of the original project and the construction, reconstruction, or acquisition of that improvement is mandated by the federal government or a state regulatory authority to accommodate requests for wheeling.

(6) *Replacement property.* For purposes of this section, property that replaces existing property of an output facility is treated as part of the same project as the replaced property unless—

(i) The need to replace the property was not reasonably expected on the issue date or the need to replace the property occurred more than 3 years before the issuer reasonably expected (determined on the issue date of the bonds financing the property) that it would need to replace the property; and

(ii) The bonds that finance (and refinance) the output facility have a weighted average maturity that is not greater than 120 percent of the reasonably expected economic life of the facility.

(c) *Example.* The application of the provisions of this section is illustrated by the following example:

Example. (i) Power Authority K, a political subdivision, intends to issue a single issue of tax-exempt bonds at par with a stated principal amount and sale proceeds of $500 million to finance the acquisition of an electric generating facility. No portion of the facility will be used for a private business

use, except that L, an investor-owned utility, will purchase 10 percent of the output of the facility under a take contract and will pay 10 percent of the debt service on the bonds. The nonqualified amount with respect to the bonds is $50 million.

(ii) The maximum amount of tax-exempt bonds that may be issued for the acquisition of an interest in the facility in paragraph (i) of this *Example* is $465 million (that is, $450 million for the 90 percent of the facility that is governmentally owned and used plus a nonqualified amount of $15 million).

§ 1.141–8T [Removed]

Par. 7. Section 1.141–8T is removed.

Par. 8. Section 1.141–15 is amended by revising paragraph (a) and adding paragraphs (f), (g), (h) and (i) to read as follows:

§ 1.141–15 Effective dates.

(a) *Scope.* The effective dates of this section apply for purposes of §§ 1.141–1 through 1.141–6(a), 1.141–7 through 1.141–14, 1.145–1 through 1.145–2, 1.150–1(a)(3) and the definition of bond documents contained in § 1.150–1(b).

* * * * *

(f) *Effective dates for certain regulations relating to output facilities*—(1) *General rule.* Except as otherwise provided in this section, §§ 1.141–7 and 1.141–8 apply to bonds sold on or after November 22, 2002, that are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602).

(2) *Transition rule for requirements contracts.* For bonds otherwise subject to §§ 1.141–7 and 1.141–8, § 1.141–7(c)(3) applies to output contracts entered into on or after September 19, 2002. An output contract is treated as entered into on or after that date if it is amended on or after that date, but only if the amendment results in a change in the parties to the contract or increases the amount of requirements covered by the contract by reason of an extension of the contract term or a change in the method for determining such requirements. For purposes of this paragraph (f)(2)—

(i) The extension of the term of a contract causes the contract to be treated as entered into on the first day of the additional term;

(ii) The exercise by a party of a legally enforceable right that was provided under a contract before September 19, 2002, on terms that were fixed and determinable before such date, is not treated as an amendment of the contract. For example, the exercise by a purchaser after September 19, 2002 of a renewal option that was provided under a contract before that date, on terms identical to the original contract, is not treated as an amendment of the contract; and

(iii) An amendment that increases the amount of requirements covered by the contract by reason of a change in the method for determining such requirements is treated as a separate contract that is entered into as of the effective date of the amendment, but only with respect to the increased output to be provided under the contract.

(g) *Refunding bonds for output facilities.* Except as otherwise provided in paragraph (h) or (i) of this section, §§ 1.141–7 and 1.141–8 do not apply to any bonds sold on or after November 22, 2002, to refund a bond to which §§ 1.141–7 and 1.141–8 do not apply unless—

(1) The refunding bonds are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602); and

(2)(i) The weighted average maturity of the refunding bonds is longer than—

(A) The weighted average maturity of the refunded bonds; or

(B) In the case of a short-term obligation that the issuer reasonably expects to refund with a long-term financing (such as a bond anticipation note), 120 percent of the weighted average reasonably expected economic life of the facilities financed; or

(ii) A principal purpose for the issuance of the refunding bonds is to make one or more new conduit loans.

(h) *Permissive retroactive application.* Except as provided in paragraphs (d), (e) or (i) of this section, §§ 1.141–1 through 1.141–6(a), 1.141–7 through 1.141–14, 1.145–1 through 1.145–2, 1.150–1(a)(3) and the definition of bond documents contained in § 1.150–1(b) may be applied by issuers in whole, but not in part, to—

(1) Outstanding bonds that are sold before November 22, 2002, and subject to section 141; or

(2) Refunding bonds that are sold on or after November 22, 2002, and subject to section 141.

(i) *Permissive application of certain regulations relating to output facilities.* Issuers may apply §§ 1.141–7(f)(3) and 1.141–7(g) to any bonds.

§ 1.141–15T [Removed]

Par. 9. Section 1.141–15T is removed.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: September 17, 2002.

Pamela F. Olson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 02–24137 Filed 9–19–02; 12:39 pm]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–142599–02]

RIN 1545–BB23

Guidance Regarding Mixed Use Output Facilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document describes and illustrates rules the IRS and Treasury Department expect to propose in a notice of proposed rulemaking with respect to the issuance of tax-exempt bonds for the government use portion of an output facility that is used for both a government use and a private business use. This document also invites comments from the public regarding these rules. Issuers may rely on this advance notice of proposed rulemaking for issues sold before the notice of proposed rulemaking is issued.

DATES: Written and electronic comments must be submitted by December 23, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–142599–02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–142599–02), courier's desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, submissions may be made electronically to the IRS Internet site at *http://www.irs.gov/regs.*

FOR FURTHER INFORMATION CONTACT: Concerning submissions, Guy Traynor, (202) 622–7180; concerning the proposals, Rose M. Weber, (202) 622–3980 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

In general, under section 103 of the Internal Revenue Code, gross income does not include the interest on any State or local bond. However, this exclusion generally does not apply to private activity bonds. Section 141(a)(1) defines a private activity bond as any bond issued as part of an issue that meets either (1) the private business use test in section 141(b)(1) and the private security or payment test in section 141(b)(2) (the private business tests) or (2) the private loan financing test in section 141(c).

The private business use test is met if more than 10 percent of the proceeds of an issue are to be used for any private business use. Section 141(b)(6) defines private business use as use directly or indirectly in a trade or business that is carried on by any person other than a governmental unit. Section 141(b)(7) defines government use as any use other than a private business use.

The private security or payment test is met if the payment of the principal of, or the interest on, more than 10 percent of the proceeds of an issue is directly or indirectly (1) secured by an interest in property used or to be used for a private business use, (2) secured by an interest in payments in respect of such property, or (3) to be derived from payments, whether or not to the issuer, in respect of property, or borrowed money, used or to be used for a private business use.

Section 1.141–7 of the Income Tax Regulations provides rules under which the purchase pursuant to a contract by a nongovernmental person of available output of an output facility (output contract) may be taken into account under the private business tests. Section 1.141–1(b) defines *output facility* as electric and gas generation, transmission, distribution, and related facilities, and water collection, storage, and distribution facilities.

Section 141(b)(4) contains a special limitation under which an issue five percent or more of the proceeds of which are to be used with respect to any output facility (other than a facility for the furnishing of water) will be treated as meeting the private business tests if the nonqualified amount for the issue exceeds the excess of $15 million, over the aggregate nonqualified amounts with respect to all prior tax-exempt issues 5 percent or more of the proceeds of which are or will be used with respect to such facility (or any other facility which is part of the same project). Section 141(b)(8) defines *nonqualified amount* as the lesser of (1) the proceeds used for a private business use, or (2) the proceeds with respect to which there are payments, property or borrowed money taken into account under the private security or payment test.

The Conference Committee Report to the Tax Reform Act of 1986, H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II–690 (1986), 1986–3 (Vol. 4) C.B. 686 (the Conference Report), contains an example that illustrates the treatment under section 141(b)(4) of an output facility the output of which is sold for both a government use and a private business use (a mixed use output facility), but the amount of private business use and private payments would cause bonds to be private activity bonds if they financed the entire facility. In the Conference Report example, a single issue of tax-exempt bonds is contemplated to finance the acquisition of a $500 million electric generating facility. Ten percent of the output of the facility will be sold to an investor-owned utility under an output contract that gives rise to private business use. The Conference Report example concludes that $465 million of tax-exempt bonds may be used to acquire the facility, $450 million for the 90 percent of the facility that is used for a government use, plus $15 million for the allowable private business use portion under section 141(b)(4). Section 1.141–8(c) contains an example that is substantially the same as the example contained in the Conference Report.

The IRS and Treasury Department are reviewing the application of section 141 to mixed use output facilities. This Announcement describes and illustrates rules that the IRS and Treasury Department expect to propose in a notice of proposed rulemaking (the proposed regulations) as part of the 2002–2003 Guidance Priority Plan. The proposed regulations will provide guidance regarding the issuance of tax-exempt bonds for the government use portion of a mixed use output facility without the bonds being characterized as private activity bonds.

Explanation of Provisions

Mixed Use Allocations

1. In General

The proposed regulations will provide that tax-exempt bonds may be issued to finance costs attributable to the government use portion of a mixed-use output facility (plus any costs attributable to *de minimis* private business use permitted under section 141) without the bonds being characterized as private activity bonds. For this purpose, the term facility includes an undivided ownership interest in a facility. With respect to arrangements for the purchase of output, the government use portion of an output facility is determined based on the percentage of the available output of the facility that is not used for a private business use (as determined under § 1.141–7).

2. Allocation of Private Business Use and Payments

The proposed regulations will provide that, in the case of a mixed use output facility, output contracts that result in private business use (including any payments thereunder) are allocated first to the portion of the facility that is

financed with equity. For this purpose, equity means any amount other than proceeds of a tax-exempt bond, including funds of the issuer that are not derived from a borrowing and proceeds of taxable bonds, but does not include any amount allocable to a tax-exempt bond that has been retired. With respect to each issue of bonds, the portion of the output facility financed with equity is determined based on expenditures of equity that are made contemporaneously with expenditures of proceeds of the issue as part of the same plan of financing. In order for an output contract to be allocated (in whole or in part) to the equity-financed portion of an output facility as described in this paragraph, it first must be allocable to the facility under the facts and circumstances test contained in § 1.141–7(h). For example, an output contract that is allocable to two output facilities under § 1.141–7(h) may not be allocated in its entirety to the equity-financed portion of one of the facilities.

B. Examples

The provisions of the proposed regulations described above are illustrated by the following examples (although the examples involve only an electric transmission facility, the principles illustrated apply equally to all output facilities):

Example 1. Authority is a governmental person that owns and operates an electric transmission facility. Prior to 2003, Authority incurred capital costs of $500 million for the facility. None of those costs was financed with tax-exempt bonds. In 2003, Authority needs to make repairs, upgrades and improvements to the facility in the amount of $50 million. On April 10, 2003, Authority issues an issue with proceeds of $30 million and uses those proceeds to pay capital costs of the facility. As part of the same plan of financing, Authority also uses $20 million of its own funds which are not derived from a borrowing to pay capital costs of the facility. With respect to the 2003 issue, 46 percent of the available output (as determined under § 1.141–7) of the facility is sold under output contracts that result in private business use. Thus, of the $50 million of new capital costs, $27 million (54 percent) are attributable to government use and $23 million (46 percent) are attributable to private business use. In general, output contracts that result in private business use are allocated first to the portion of the output facility that is financed with equity. Therefore, of the $23 million of costs attributable to private business use, $20 million are allocable to Authority's equity and $3 million are allocable to the 2003 issue. Thus, $27 million (90 percent) of the proceeds of the issue are used for a government use. The issue does not consist of private activity bonds.

Example 2. The facts are the same as in *Example 1,* except that by 2010, only 75 percent of the original principal amount of the 2003 issue remains outstanding. The retirement of a portion of the issue does not affect the amount of private business use of the facility that must occur in order for the issue to consist of private activity bonds.

Request for Comments

Before the notice of proposed rulemaking is issued, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the IRS. All comments will be available for public inspection and copying. In addition to comments regarding allocation and accounting rules for mixed use output facilities, comments are also invited on allocation and accounting rules under section 141 for other facilities that are used for both a government use and a private business use.

Reliance on Announcement

Issuers may rely on the rules described in this Announcement with respect to any issue that is sold before the date the proposed regulations are published in the **Federal Register** (or such later date as may be specified in the proposed regulations or final regulations). Issuers may rely on this Announcement with respect to bonds that are subject to the Internal Revenue Code of 1986 or the Internal Revenue Code of 1954.

Drafting Information

The principal authors of this advance notice of proposed rulemaking are Bruce M. Serchuk and Rose M. Weber, Office of Chief Counsel (Tax-exempt and Government Entities), Internal Revenue Service, and Stephen J. Watson, Office of Tax Legislative Counsel, Department of the Treasury. However, other personnel from the IRS and Treasury Department participated in its development.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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H.R. 223/P.L. 107–211

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)

H.R. 1456/P.L. 107–215

Booker T. Washington National Monument Boundary Adjustment Act of 2002 (Aug. 21, 2002; 116 Stat. 1054)

H.R. 1576/P.L. 107–216

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)

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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:			
§§ 1.0-1–1.60	(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
200–End	(869–048–00097–6)	13.00	Apr. 1, 2002
28 Parts:			
0-42	(869–048–00098–4)	58.00	July 1, 2002
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–044–00100–4)	45.00	July 1, 2001
100–499	(869–048–00101–8)	21.00	July 1, 2002
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–048–00103–4)	35.00	July 1, 2002
1900–1910 (§§ 1900 to 1910.999)	(869–048–00104–2)	58.00	July 1, 2002
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
*1926	(869–048–00107–7)	47.00	July 1, 2002
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
*0–199	(869–048–00112–3)	35.00	July 1, 2002
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–048–00116–6)	47.00	July 1, 2002
*630–699	(869–048–00117–4)	37.00	July 1, 2002
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–044–00119–5)	44.00	July 1, 2001
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–048–00125–5)	59.00	July 1, 2002
35	(869–048–00126–3)	10.00	[6]July 1, 2002
36 Parts			
1–199	(869–048–00127–1)	36.00	July 1, 2002
200–299	(869–048–00128–0)	35.00	July 1, 2002
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–044–00133–1)	40.00	July 1, 2002
40 Parts:			
*1–49	(869–048–00134–4)	57.00	July 1, 2002
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–048–00138–7)	29.00	July 1, 2002
60 (60.1–End)	(869–044–00139–0)	53.00	July 1, 2001
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–048–00141–7)	38.00	July 1, 2002
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
63 (63.1200-End)	(869–044–00144–6)	56.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
81–85	(869–044–00147–1)	45.00	July 1, 2001
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
*100–135	(869–048–00151–4)	42.00	July 1, 2002
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
*260–265	(869–048–00155–7)	47.00	July 1, 2002
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–044–00166–7)	51.00	Oct. 1, 2001
400–429	(869–044–00167–5)	59.00	Oct. 1, 2001
430–End	(869–044–00168–3)	58.00	Oct. 1, 2001
43 Parts:			
1–999	(869–044–00169–1)	45.00	Oct. 1, 2001
1000–end	(869–044–00170–5)	56.00	Oct. 1, 2001
44	(869–044–00171–3)	45.00	Oct. 1, 2001
45 Parts:			
1–199	(869–044–00172–1)	53.00	Oct. 1, 2001
200–499	(869–044–00173–0)	31.00	Oct. 1, 2001
500–1199	(869–044–00174–8)	45.00	Oct. 1, 2001
1200–End	(869–044–00175–6)	55.00	Oct. 1, 2001
46 Parts:			
1–40	(869–044–00176–4)	43.00	Oct. 1, 2001
41–69	(869–044–00177–2)	35.00	Oct. 1, 2001
70–89	(869–044–00178–1)	13.00	Oct. 1, 2001
90–139	(869–044–00179–9)	41.00	Oct. 1, 2001
140–155	(869–044–00180–2)	24.00	Oct. 1, 2001
156–165	(869–044–00181–1)	31.00	Oct. 1, 2001
166–199	(869–044–00182–9)	42.00	Oct. 1, 2001
200–499	(869–044–00183–7)	36.00	Oct. 1, 2001
500–End	(869–044–00184–5)	23.00	Oct. 1, 2001
47 Parts:			
0–19	(869–044–00185–3)	55.00	Oct. 1, 2001
20–39	(869–044–00186–1)	43.00	Oct. 1, 2001
40–69	(869–044–00187–0)	36.00	Oct. 1, 2001
70–79	(869–044–00188–8)	58.00	Oct. 1, 2001
80–End	(869–044–00189–6)	55.00	Oct. 1, 2001
48 Chapters:			
1 (Parts 1–51)	(869–044–00190–0)	60.00	Oct. 1, 2001
1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–044–00192–6)	53.00	Oct. 1, 2001
3–6	(869–044–00193–4)	31.00	Oct. 1, 2001
7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
29–End	(869–044–00196–9)	38.00	Oct. 1, 2001
49 Parts:			
1–99	(869–044–00197–7)	55.00	Oct. 1, 2001
100–185	(869–044–00198–5)	60.00	Oct. 1, 2001
186–199	(869–044–00199–3)	18.00	Oct. 1, 2001
200–399	(869–044–00200–1)	60.00	Oct. 1, 2001
400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–044–00202–7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
1200–End	(869–044–00203–5)	21.00	Oct. 1, 2001
50 Parts:			
1–199	(869–044–00204–3)	63.00	Oct. 1, 2001
200–599	(869–044–00205–1)	36.00	Oct. 1, 2001
600–End	(869–044–00206–0)	55.00	Oct. 1, 2001
CFR Index and Findings Aids	(869–044–00047–0)	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.