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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

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

United States Standards for Milled Rice

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.
ACTION: Direct final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the United States Standards for Milled Rice to establish and add a new level of milling degree, “hard milled,” to the existing milling requirements, and to eliminate reference to “lightly milled” from the milling requirements of U.S. Standards for Milled Rice. These changes are being made to facilitate the marketing of rice by better aligning the standards with current processing and marketing practices.

DATES: This rule is effective December 1, 2002, without further action, unless adverse comment is received by October 31, 2002. If adverse comment is received, GIPSA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Written comments must be submitted to Tess Butler, USDA, GIPSA, Room 1647-S, STOP 3604, 1400 Independence Avenue, SW, Washington, DC 20250-3604; FAX (202) 690-2755; or e-mail: comments.gipsa@usda.gov.

All comments received will be made available for public inspection at the above address during regular business hours (8 a.m.–3:30 p.m.).

FOR FURTHER INFORMATION CONTACT: John Giler, Chief, Policies and Procedures Branch at (202) 720-0252 or e-mail: John.C.Giler@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

GIPSA representatives work closely with the USA Rice Federation (USARF) and Rice Millers' Association (RMA) representatives to examine the effectiveness of the U.S. Standards for Rice in today's marketing environment. Through discussions, it appears that most of the current standards continue to meet consumer/processing needs. However, changing market trends demand that certain changes be made pertaining to the acceptable degrees of milling in milled rice. Accordingly, GIPSA is making the appropriate changes to the standards to include a hard milled milling degree to the standards and removing the lightly milled milling degree from the standards.

The U.S. Standards for Milled Rice currently recognize three degrees of milling: “well-milled”, “reasonably well-milled”, and “lightly milled”. Well-milled is the highest degree (or whitest) of milling degrees addressed by the standards. The degree of milling is based on the extent to which the bran layers are removed from the kernels of rice.

In recent years, the U.S. milled rice market has changed, as domestic and international customers alike demand a higher degree of milling. To satisfy this demand, U.S. rice mills routinely mill their rice to a degree surpassing the USDA well-milled standard. This process or practice, commonly referred to as “hard milled,” efficiently removes any loose bran adhering to the surface of the milled rice and enhances the milled rice's appearance by giving it a brighter, whiter look.

Hard milled, by many accounts, represents the preferred degree of milling by today's customers. To satisfy the growing demand for hard milled rice, GIPSA, in cooperation with the USARF and the RMA, established a visual reference standard representing the minimum degree with which millers must mill their rice in order to receive the hard milled designation.

To provide an immediate and temporary means of recognizing and standardizing the manner in which hard milled is evaluated and documented on a certificate, the parties worked together to permit such an assessment. When requested, lots meeting the visual standard may have affixed in the “Remarks” section of the certificate the

statement “This rice meets or exceeds the minimum requirements for hard milled rice.”

However, the highest degree of milling permitted for certification purposes is well-milled, regardless of the extent of milling. When hard milled is requested, the resulting certificate indicates that the rice is well-milled in the “Factor Information” section, and in the “Remarks” section indicates that the rice meets or exceeds the requirements for hard milled.

To eliminate possible confusion with both designations on one certificate, and at industries' request, GIPSA is amending the standards to include hard milled as another milling degree. The revision only serves to identify hard milled as being another milling option and recognizes it as being a higher degree of milling than well-milled.

The introduction of hard milled will not have any impact on the minimum milling requirements for grades U.S. Nos. 1 and 2, as well-milled will continue to be the minimum milling degree requirement for these grade levels.

Also, through discussions, USARF and RMA revealed that the demand for lesser degrees of milling, specifically lightly milled, is non-existent. U.S. mills do not mill or ship lightly milled rice as there has been no demand for it.

Since it is generally recognized that lightly milled has outlived its usefulness as a meaningful marketing standard, the standards will be revised to remove lightly milled from the list of milling degree requirements. As such, the degree of milling for milled rice will now include hard milled, well-milled, and reasonably well-milled. For grading purposes, any reference to lightly milled with respect to the minimum milling requirements will be replaced by reasonably well-milled. Samples failing to meet the minimum requirement for reasonably well-milled will be considered “Undermilled Milled Rice.”

Action

GIPSA is amending § 800.306 and § 800.315 to add “hard milled” as a milling degree and to remove “lightly milled” from the milling requirements. GIPSA is also amending §§ 800.310, 800.311, 800.312, and 800.313 by replacing “lightly milled” with “reasonably well-milled”. Also, GIPSA is correcting miscellaneous typographical and wording errors in the

milled rice standards, and deleting the reference to the Motomco Moisture Meter in the definition of "moisture." Due to changing technology, the Motomco Moisture Meter may soon be obsolete. Therefore, GIPSA is revising the definition of moisture to a more generic wording which excludes the mention of any specific instrument.

Effective Date

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, on December 1, 2002, unless we receive written adverse comments or written notices of intent to submit adverse comments by October 31, 2002.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notices of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date and publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments by June 30, 2002, this direct final rule will become effective on August 1, 2002.

Executive Order 12866

This rule has been determined to be nonsignificant for the purpose of

Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act Certification

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), it has been determined that this rule will not have a significant economic impact on a substantial number of small entities. Under the provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), it is not mandatory for rice to be officially inspected. GIPSA has determined that most users of the official inspection service and those entities that perform these services do not meet the requirements for small entities. GIPSA estimates there are approximately 45 rice mills within the United States. In addition to GIPSA, there are 2 cooperating States that inspect rice. Even though some users could be considered small entities, this rule should not impose addition costs, but instead further aligns the standards with current market practices. Further, the regulations are applied equally to all entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. This action will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements in Part 868 have been previously approved by OMB No. 0580-0013.

List of Subjects in 7 CFR Part 868

Milling requirements, moisture, and grade charts.

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

For reasons, set out in the preamble, GIPSA amends 7 CFR part 868 as follows:

1. Section 868.306 is revised to read as follows:

§ 868.306 Milling requirements.

The degree of milling for milled rice; *i.e.*, "hard milled," "well-milled," and "reasonably well-milled," shall be equal to, or better than, that of the interpretive line samples for such rice.

2. Section 868.307 is revised to read as follows:

§ 868.307 Moisture.

Water content in milled rice as determined by an FGIS approved device in accordance with procedures prescribed in FGIS instructions.

3. Section 868.310 is revised to read as follows:

§ 868.310 Grades and grade requirements for the classes Long Grain Milled Rice, Medium Grain Milled Rice, Short Grain Milled Rice, and Mixed Milled Rice. (See also § 868.315.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum limits of—										Color requirements ¹	Minimum milling requirements ⁵	
	Seeds, heat damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined) (percent)	Chalky kernels ^{1,2}		Broken kernels				Other types ⁴			
	Total (number in 500 grams)	Heat damaged kernels and objectionable seeds (number in 500 grams)		In long grain rice (percent)	In medium or short grain rice (percent)	Total (percent)	Removed by a 5 plate ³ (percent)	Removed by a 6 plate ³ (percent)	Through a 6 sieve ³ (percent)	Whole kernels (percent)			Whole and broken kernels (percent)
U.S. No. 1.	2	1	0.5	1.0	2.0	4.0	0.04	0.1	0.1	.....	1.0	White or creamy.	Well Milled.
U.S. No. 2.	4	2	1.5	2.0	4.0	7.0	0.06	0.2	0.2	.....	2.0	Slightly gray	Well Milled.
U.S. No. 3.	7	5	2.5	4.0	6.0	15.0	0.1	0.8	0.5	.....	3.0	Light gray	Reasonably well milled.
U.S. No. 4.	20	15	4.0	6.0	8.0	25.0	0.4	1.0	0.7	.....	5.0	Gray or slightly rosy.	Reasonably well milled.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS—Continued

Grade	Maximum limits of—										Color requirements ¹	Minimum milling requirements ⁵	
	Seeds, heat damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined) (percent)	Chalky kernels ^{1,2}		Broken kernels				Other types ⁴			
	Total (number in 500 grams)	Heat damaged kernels and objectionable seeds (number in 500 grams)		In long grain rice (percent)	In medium or short grain rice (percent)	Total (percent)	Removed by a 5 plate ³ (percent)	Removed by a 6 plate ³ (percent)	Through a 6 sieve ³ (percent)	Whole kernels (percent)			Whole and broken kernels (percent)
U.S. No. 5.	30	25	⁵ 6.0	10.0	10.0	35.0	0.7	3.0	1.0	10.0	.....	Dark gray or rosy.	Reasonably well milled.
U.S. No. 6.	75	75	⁶ 15.0	15.0	15.0	50.0	1.0	4.0	2.0	10.0	.....	Dark gray or rosy.	Reasonably well milled.

U.S. Sample grade:

U.S. Sample grade shall be milled rice of any of these classes which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.

¹ For the special grade Parboiled milled rice, see § 868.315(c).

² For the special grade Glutinous milled rice, see § 868.315(e).

³ Plates should be used for southern production rice; and sieves should be used for western production rice, but any device or method which gives equivalent results may be used.

⁴ These limits do not apply to the class Mixed Milled Rice.

⁵ For the special grade Undermilled milled rice, see § 868.315(d).

⁶ Grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

4. Section 868.311 is revised to read as follows:

§ 868.311 Grades and grade requirements for the class Second Head Milled Rice. (See also § 868.305.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum limits of—						Minimum milling requirements ²
	Seeds, heat-damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined) (percent)	Chalky kernels ^{1,3} (percent)	Color requirements ¹		
	Total (number in 500 grams)	Heat-damaged kernels and objectionable seeds (number in 500 grams)					
U.S. No. 1	15	5	1.0	4.0	White or Creamy	Well milled.	
U.S. No. 2	20	10	2.0	6.0	Slightly gray	Well milled.	
U.S. No. 3	35	15	3.0	10.0	Light gray	Reasonably well milled.	
U.S. No. 4	50	25	5.0	15.0	Gray or slightly gray	Reasonably well milled.	
U.S. No. 5	75	40	10.0	20.0	Dark gray or rosy	Reasonably well milled.	

U.S. Sample grade:

U.S. Sample grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent of foreign material; (f) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.

¹ For the special grade Parboiled milled rice, see § 868.315(c).

² For the special grade Undermilled milled rice, see § 868.315(d).

³ For the special grade Glutinous milled rice, see § 868.315(e).

5. Section 868.312 is revised to read as follows:

§ 868.312 Grades and grade requirements for the class Brewers Milled Rice. (See also § 868.315.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum limits of—				
	Paddy kernels and seeds		Chalky kernels ^{1 3} (percent)	Color requirements ¹	Minimum milling requirements ²
	Total (number in 500 grams)	Objectionable seeds (number in 500 grams)			
U.S. No. 1 ^{4 5}	30	20	5.0	White or Creamy	Well milled.
U.S. No. 2 ^{4 5}	75	50	8.0	Slightly gray	Well milled.
U.S. No. 3 ^{4 5}	125	90	12.0	Light gray or slightly rosy ...	Reasonably well milled.
U.S. No. 4 ^{4 5}	175	140	20.0	Gray or rosy	Reasonably well milled.
U.S. No. 5	250	200	30.0	Dark gray or very rosy	Reasonably well milled.

U.S. Sample grade:

U.S. Sample grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance (f) contains more than 0.1 percent of foreign material; (g) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (h) is otherwise of distinctly low quality.

¹ For the special grade Parboiled milled rice, see § 868.315(c).

² For the special grade Undermilled milled rice, see § 868.315(d).

³ For the special grade Glutinous milled rice, see § 868.315(e).

⁴ Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.

⁵ Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve.

6. Section 868.313 is revised to read as follows:

§ 868.313 Grades and grade requirements for the class Brewers Milled Rice. (See also § 868.315.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum limits of— paddy kernels and seeds		Color requirements ¹	Minimum milling requirements ²
	Total (singly or combined) (percent)	Objectionable seeds (percent)		
U.S. No. 1 ^{3 4}	0.5	0.05	White or Creamy	Well milled.
U.S. No. 2 ^{3 4}	1.0	0.1	Slightly gray	Well milled.
U.S. No. 3 ^{3 4}	1.5	0.2	Light gray or slightly rosy	Reasonably well milled.
U.S. No. 4 ^{3 4}	3.0	0.4	Gray or rosy	Reasonably well milled.
U.S. No. 5	5.0	1.5	Dark gray or very rosy	Reasonably well milled.

U.S. Sample grade:

U.S. Sample grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance; (f) contains more than 0.1 percent of foreign material; (g) contains more than 15.0 percent of broken kernels that will pass through a 2½ sieve; (h) contains two or more live or dead weevils or other insects, insect webbing, or insect refuse; or (h) is otherwise of distinctly low quality.

¹ For the special grade Parboiled milled rice, see § 868.315(c).

² For the special grade Undermilled milled rice, see § 868.315(d).

³ Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.

⁴ Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve. This limit does not apply to the special grade Granulated brewers milled rice.

7. Section 868.315(d) is revised to read as follows:

§ 868.315 Special grades and special grade requirements.

* * * * *

(d) *Undermilled milled rice.*
Undermilled milled rice shall be milled rice which is not equal to the milling requirements for “hard milled,” “well milled,” and “reasonably well milled”

rice (see § 868.306). Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 2.0 percent, grades U.S. No. 3 and U.S. No. 4 not more than 5.0 percent, grade U.S. No. 5 not more than 10.0 percent, and grade U.S. No. 6 not more than 15.0 percent of well-milled kernels. Grade U.S. No. 5 shall contain not more than 10.0 percent of red rice and damaged kernels (singly or combined)

and in no case more than 6.0 percent of damaged kernels.

* * * * *

Dated: September 24, 2002.

Donna Reifschneider,
Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 02–24750 Filed 9–27–02; 8:45 am]

BILLING CODE 3410-EN-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2002-NM-249-AD; Amendment 39-12900; AD 2002-19-52]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes; Model 747 Series Airplanes; and Model 757 Series Airplanes**AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 737-600, -700, -700C, -800, and -900 series airplanes; Model 747 series airplanes; and Model 757 series airplanes, that currently requires revision of the FAA-approved airplane flight manual (AFM) to advise the flight crew of certain operating restrictions for maintaining minimum fuel levels; prohibits use of the horizontal stabilizer tank on certain airplanes, and prohibits the installation of certain fuel pumps. This amendment requires concurrent removal of the currently required AFM revisions and insertion of new AFM revisions; requires installation of placards to alert the flightcrew to the operating restrictions; and prohibits installation of any uninspected pumps. This amendment permits the AFM revision and placard to be removed under certain conditions. The actions specified in this AD are intended to prevent fuel vapors from coming into contact with an ignition source in the center wing fuel tank, horizontal stabilizer fuel tank, center auxiliary fuel tank (body tank), or auxiliary fuel tanks 1 and 4, which could result in fire/explosion.

DATES: Effective September 30, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 30, 2002.

Comments for inclusion in the Rules Docket must be received on or before November 29, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-249-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this

location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2002-NM-249-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 this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Doug Pegors, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1446; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: On August 30, 2002, the FAA issued emergency AD 2002-18-52, applicable to all Boeing Model 737-600, -700, -700C, -800, and -900 series airplanes; Model 747 series airplanes; and Model 757 series airplanes. That AD requires revision of the FAA-approved airplane flight manual (AFM) to advise the flight crew of certain minimum fuel levels that must be maintained in the center fuel tanks, and to prohibit use of the horizontal stabilizer tank, if installed, on Model 747-400 series airplanes. That AD also prohibits the installation of certain spare fuel pumps (those having part numbers with the suffix "-4"). That AD permits the AFM revision and placard to be removed if all fuel pumps have been inspected to ensure that the wire bundle is properly routed in the pump.

That action was prompted by reports indicating that fuel pumps on certain Boeing Model 737, 747, and 757 series airplanes have failed as a result of chafing of the stator lead wire bundle, which occurred when the stator lead wire bundle came into contact with the rotor in the pump motor. The pumps eventually failed when the pump power was short-circuited to the rotor and the circuit protection device tripped. Examination of failed pumps showed that arcing had occurred in the pump bearings both inside and outside of the explosion-proof cavity of the pump.

Such arcing could result in an ignition source in the fuel tank. It is not known how long the pumps operated with arcing occurring before the circuit-protection device tripped. The fuel pump failures have been attributed to the manufacturing assembly process during which the stator lead wire bundle was improperly installed and positioned in the motor-impeller housing. The actions required by that AD are intended to ensure that the center wing tank pump inlets will be covered with fuel during pump operation, which will prevent fuel vapors from coming into contact with any ignition source resulting from arcing to the pump rotor. The other main wing tank fuel pump inlets are not normally uncovered during operation. The actions of that AD are intended to prevent fire/explosion in the center fuel tank.

Actions Since Issuance of Previous Rule

Since the issuance of AD 2002-18-52, the FAA has learned of additional cases of lead wire chafing in Hydro-Aire pumps of designs other than those identified in that AD. A review of records revealed additional cases of lead wire chafing and improper lead wire bundle installation. One of those pumps had lead wire chafing after only a 45-minute period of acceptance test running. In addition, one pump failed in recent Model 747 flight testing due to stator lead wire chafing. Examination of the pump from that airplane revealed arcing to the rotor. In addition, the manufacturer reported that pumps had been inspected at the vendor's overhaul facility; of 16 pumps inspected, 25% were found improperly assembled. All of the above failures were found on pumps that were not identified in AD 2002-18-52 (which identified only those part numbers having the suffix "-4"). Evidence of stator lead wire splicing discovered on pumps overhauled by repair facilities suggests there may have been similar chafing damage.

The reported failures on all the pumps have been determined to be caused by improper assembly of the pumps at Hydro-Aire or repair facilities, and by a design that allows improper assembly to occur. Improper assembly allows the wires to be pinched or trapped where they are worn by the pump rotor when it operates. The combination of pinched/trapped wires in a fuel pump with arcing/shorting when the pump inlet is not covered by tank fuel may result in ignited tank vapors.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following Boeing alert service bulletins, all dated September 23, 2002:

Boeing alert service bulletin	Affected airplanes
737-28A1197 ..	Model 737 series airplanes.
747-28A2248 ..	Model 747 series airplanes.
757-28A0070 ..	Model 757-200, -200PF, -200CB series airplanes
757-28A0071 ..	Model 757-300 series airplanes.

The service bulletins describe procedures for inspecting the fuel pumps of the center wing tank, horizontal stabilizer tank, center auxiliary tank (or body tank, located in the aft end of the forward cargo compartment), and auxiliary fuel tanks 1 and 4, using X-ray methods to determine whether the wire bundle is properly routed in the pump.

The FAA also approved Crane Hydro-Aire Service Bulletin Crane Hydro-Aire Motor-Impeller-28-01, dated September 17, 2002, which describes detailed procedures for the X-ray inspection.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this airworthiness directive supersedes AD 2002-18-52 to concurrently require removal of the currently required AFM revisions (advising the flightcrew of certain minimum fuel levels that must be maintained in the center fuel tanks) and insertion of revised versions of the corresponding AFM sections. This AD also requires installation of placard(s) to alert the flightcrew to the operating restrictions; and prohibits installation of fuel pumps unless they have been inspected using X-ray methods to ensure that the wire bundle is properly routed in the pump. In addition, if all fuel pumps for the center wing, horizontal stabilizer, center auxiliary tanks, and auxiliary fuel tanks 1 and 4 on an airplane have been inspected to ensure that the wire bundle is properly routed in the pump since the most recent assembly of the end cap and motor-impeller housing—whether in manufacturing, after maintenance or inspection, or after overhaul—the applicable AFM revision and placard may be removed. The AD also includes a provision for separate relief from the prohibition against operation of the horizontal stabilizer tank.

Explanation of Changes to Existing AD

This AD identifies the unsafe condition as fuel vapors potentially coming into contact with an ignition source in the center wing fuel tank, horizontal stabilizer fuel tank, center auxiliary fuel tank, or auxiliary fuel tanks 1 and 4, which could result in fire/explosion. AD 2002-18-52 did not identify the center auxiliary fuel tank or auxiliary fuel tanks 1 and 4, because no “-4” pump is installed in any of those tanks.

The AFM language required by AD 2002-18-52 has been revised to remove certain wording as a means to provide clarification regarding the requirement to shut off the fuel pumps and to add procedures to address fuel pump failures.

Explanation of Compliance Time

The compliance time for revising the AFM to include the operational restrictions is 14 days, whereas the compliance time for the corresponding action of AD 2002-18-52 was 4 days. The unsafe condition is the same as that for AD 2002-18-52, and is considered by the FAA to require urgent action. However, because of the significant amount of service experience on the affected fuel pumps in this case, and because of the relatively small number of known events of chafing, the FAA has determined that the 14-day compliance time will allow operators sufficient time to perform X-ray inspections on airplanes used on routes that require maximum fuel capacity, without compromising safety.

Differences Between This AD and the Service Bulletins

The service bulletins recommend inspecting all fuel pumps; however, this AD requires that the pumps be inspected only prior to pump installation or to provide relief from the required operating restrictions regarding fuel pump operation.

The effectivity of the Boeing service bulletins includes only certain line numbers for each airplane model. However, the applicability of this AD includes all airplanes of the affected models. Although the manufacturer has addressed the unsafe condition for airplanes in production, the FAA has determined that it is possible that an airworthy airplane may later have a suspect part installed, rendering the airplane no longer airworthy; therefore, this AD is applicable to all airplanes.

Whereas the service bulletins refer to the “body tank,” this AD identifies that part as the “center auxiliary fuel tank.”

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule’s Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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 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 rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket Number 2002-NM-249-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD), amendment 39-12900, to read as follows:

2002-19-52 Boeing: Amendment 39-12900. Docket 2002-NM-249-AD. Supersedes Emergency AD 2002-18-52.

Applicability: All Model 737-600, -700, -700C, "800, and -900; 747; and 757 series airplanes; 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 (l)(1) 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 fuel vapors from coming into contact with an ignition source in the center wing fuel tank, horizontal stabilizer fuel tank, center auxiliary fuel tank, or auxiliary fuel tanks 1 and 4, which could result in fire/explosion, accomplish the following:

Revision of Airplane Flight Manual (AFM): Model 737-600, -700, -700C, "800, and -900

(a) For Model 737-600, -700, -700C, "800, and -900 series airplanes: Within 14 days after the effective date of this AD, concurrently perform the actions required by paragraphs (a)(1) and (a)(2) of this AD:

(1) Remove the AFM revision required by paragraph (a) of emergency AD 2002-18-52; and

(2) Revise the Limitations section of the FAA-approved AFM to include the following (this may be accomplished by inserting a copy of this AD into the AFM):

"Certificate Limitations

The center tank fuel pumps must be OFF for takeoff if center tank fuel is less than 5,000 pounds (2,300 kilograms) with the airplane readied for initial taxi.

Both center tank fuel pump switches must be selected OFF when center tank fuel quantity reaches approximately 1,000 pounds (500 kilograms) during climb and cruise or 3,000 pounds (1,400 kilograms) during descent and landing. The fuel pumps must be positioned OFF at the first indication of fuel pump low pressure.

The CWT fuel quantity indication system must be operative to dispatch with CWT mission fuel.

Note

The CONFIG indicator will annunciate when center tank fuel exceeds 1,600 pounds (800 kilograms) and the center tank fuel pump switches are OFF. Do not accomplish the CONFIG non-normal procedure prior to or during takeoff with less than 5,000 pounds (2,300 kilograms) of center tank fuel or during descent and landing with less than 3,000 pounds (1,400 kilograms) of center tank fuel.

Note

In a low fuel situation, both center tank pumps may be selected ON and all center tank fuel may be used.

If the main tanks are not full, the zero fuel gross weight of the airplane plus the weight of center tank fuel may exceed the maximum

zero fuel gross weight by up to 5,000 pounds (2,300 kilograms) for takeoff, climb and cruise and up to 3,000 pounds (1,400 kilograms) for descent and landing, provided that the effects of balance (CG) have been considered.

If a center tank fuel pump fails with fuel in the center tank, accomplish the FUEL PUMP LOW PRESSURE non-normal procedure.

When defueling center or main wing tanks, the Fuel Pump Low Pressure indication lights must be monitored and the fuel pumps positioned to OFF at the first indication of fuel pump low pressure. Defueling with passengers on board is prohibited.

The limitations contained in this AD supersede any conflicting basic airplane flight manual limitations."

AFM Revision: Model 747-100, -200B, -200F, -200C, -300, -100B SUD, 747SR, and 747SP

(b) For Model 747-100, -200B, -200F, -200C, -100B, -300, -100B SUD, 747SR, and 747SP series airplanes: Within 14 days after the effective date of this AD, concurrently perform the actions required by paragraphs (b)(1) and (b)(2) of this AD:

(1) Remove the AFM revision required by paragraph (b) of emergency AD 2002-18-52; and

(2) Revise the Limitations section of the FAA-approved AFM to include the following (this may be accomplished by inserting a copy of the AD into this AFM):

"Certificate Limitations

Fueling and use of the center auxiliary fuel tank and auxiliary fuel tanks 1 and 4 (if installed) is prohibited.

The center wing tank (CWT) must contain a minimum of 17,000 pounds (7,700 kilograms) of fuel prior to engine start, if the CWT override/jettison pumps are to be selected ON during flight.

The CWT fuel quantity indication system must be operative to dispatch with CWT mission fuel.

Both CWT override/jettison pump switches must be selected OFF at or before the CWT fuel quantity reaches 7,000 pounds (3,200 kilograms), if the CWT fuel quantity is less than 50,000 pounds (22,700 kilograms) prior to engine start. The CWT override pumps may be selected ON during stabilized cruise conditions. Both CWT override/jettison pump switches must be selected OFF at or before the CWT fuel quantity reaches 3,000 pounds (1,400 kilograms).

Both CWT override/jettison pump switches must be selected OFF at or before the CWT fuel quantity reaches 3,000 pounds (1,400 kilograms), if the CWT fuel quantity is greater than or equal to 50,000 pounds (22,700 kilograms) prior to engine start.

Both CWT override/jettison pumps must be selected OFF when either CWT override/jettison fuel pump low pressure light illuminates.

Warning

Do not reset a tripped fuel pump circuit breaker.

Warning

Do not cycle the CWT pump switches from ON to OFF to ON with any continuous low pressure indication present.

Note

The CWT may be emptied normally in an emergency fuel jettison.

Note

In a low fuel situation, both CWT override/jettison pumps may be selected ON and all CWT fuel may be used.

If a center wing tank pump fails with fuel in the center tank, shut off the affected fuel pump.

If the main tanks are not full, the zero fuel gross weight of the airplane plus the weight of CWT tank fuel may exceed the maximum zero fuel gross weight by up to 7,000 pounds (3,200 kilograms) for takeoff, climb, cruise, descent, and landing, provided that the effects of balance (CG) have been considered.

When defueling center or main wing tanks, the Fuel Pump Low Pressure indication lights must be monitored and the fuel pumps positioned to OFF at the first indication of fuel pump low pressure. Defueling with passengers on board is prohibited.

The limitations contained in this AD supersede any conflicting basic airplane flight manual limitations."

AFM Revision: Model 747-400, -400D, and -400F

(c) For Model 747-400, -400D, and -400F series airplanes: Within 14 days after the effective date of this AD, concurrently perform the actions required by paragraphs (c)(1) and (c)(2) of this AD:

(1) Remove the AFM revision required by paragraph (c) of emergency AD 2002-18-52; and

(2) Revise the Limitations section of the FAA-approved AFM to include the following (this may be accomplished by inserting a copy of the AD into this AFM):

"Certificate Limitations

Fueling and use of the horizontal stabilizer tank (if installed) is prohibited if a placard prohibiting its use is installed.

The center wing tank (CWT) must contain a minimum of 17,000 pounds (7,700 kilograms) prior to engine start, if the CWT override/jettison pumps are to be selected ON during flight.

The CWT fuel quantity indication system must be operative to dispatch with CWT mission fuel.

Both CWT override/jettison pump switches must be selected OFF at or before CWT fuel quantity reaches 7,000 pounds (3,200 kilograms), if CWT fuel quantity is less than 50,000 pounds (22,700 kilograms) prior to engine start. The CWT override pumps may be selected ON during stabilized cruise conditions. Both CWT override/jettison pump switches must be selected OFF at or before the CWT fuel quantity reaches 3,000 pounds (1,400 kilograms).

Note

With CWT override/jettison pumps selected OFF and CWT fuel quantity greater than 6,000 pounds (2,800 kilograms), the FUEL OVRD CTR L & R EICAS messages will

be displayed. Do not accomplish the associated non-normal procedure.

Both CWT override/jettison pump switches must be selected OFF at or before CWT fuel quantity reaches 3,000 pounds (1,400 kilograms), if CWT fuel quantity is greater than or equal to 50,000 pounds (22,700 kilograms) prior to engine start.

Both CWT override/jettison pumps must be selected OFF when either CWT override/jettison fuel pump low pressure light illuminates.

Warning

Do not reset a tripped fuel pump circuit breaker.

Warning

Do not cycle CWT override/jettison pump switches from ON to OFF to ON with any continuous low pressure indication present.

Note

The center wing tank may be emptied normally during an emergency fuel jettison.

Note

In a low fuel situation, both CWT override/jettison pumps may be selected ON and all CWT fuel may be used.

If a center wing tank pump fails with fuel in the center tank, accomplish the FUEL OVRD CTR L, R non-normal procedure.

If the main tanks are not full, the zero fuel gross weight of the airplane plus the weight of CWT tank fuel may exceed the maximum zero fuel gross weight by up to 7,000 pounds (3,200 kilograms) for takeoff, climb, cruise, descent, and landing, provided that the effects of balance (CG) have been considered.

When defueling any fuel tanks, the Fuel Pump Low Pressure indication lights must be monitored and the fuel pumps positioned to OFF at the first indication of fuel pump low pressure. Defueling with passengers on board is prohibited.

The limitations contained in this AD supersede any conflicting basic airplane flight manual limitations."

AFM Revision: Model 757

(d) For Model 757 series airplanes: Within 14 days after the effective date of this AD, concurrently perform the actions required by paragraphs (d)(1) and (d)(2) of this AD:

(1) Remove the AFM revision required by paragraph (d) of emergency AD 2002-18-52; and

(2) Revise the Limitations section of the FAA-approved AFM to include the following (this may be accomplished by inserting a copy of the AD into this AFM):

"Certificate Limitations

The center tank fuel pumps must be OFF for takeoff if center tank fuel is less than 5,000 pounds (2,300 kilograms) with the airplane readied for initial taxi.

Both center tank fuel pump switches must be selected OFF when center tank fuel quantity reaches approximately 1,000 pounds (500 kilograms) during climb, cruise, or descent. The center tank fuel pumps must be positioned OFF at the first indication of fuel pump low pressure.

The CWT fuel quantity indication system must be operative to dispatch with CWT mission fuel.

Warning

Do not reset a tripped fuel pump circuit breaker.

Note

The FUEL CONFIG light will illuminate when there is fuel in the center tank that exceeds 1,200 pounds (600 kilograms) and the center tank fuel pump switches are OFF. Do not accomplish the associated non-normal procedure prior to or during takeoff with less than 5,000 pounds (2,300 kilograms) of center tank fuel, unless there is an imbalance between main tanks or fuel is low in either main tank. After canceling the FUEL CONFIG light, monitor fuel quantity indications and accomplish the appropriate non-normal procedure if a main tank imbalance or main tank low fuel quantity occurs.

Note

In a low fuel situation, both center tank pumps may be selected ON and all center tank fuel may be used.

If the main tanks are not full, the zero fuel gross weight of the airplane plus the weight of center tank fuel may exceed the maximum zero fuel gross weight by up to 5,000 pounds (2,300 kilograms) for takeoff, climb, cruise, descent, and landing, provided that the effects of balance (CG) have been considered.

If a center tank fuel pump fails or indicates low pressure with fuel in the center tank, accomplish the FUEL PUMP non-normal procedure.

When defueling center or main wing tanks, the Fuel Pump Low Pressure indication lights must be monitored and the fuel pumps positioned to OFF at the first indication of fuel pump low pressure. Defueling with passengers on board is prohibited.

The limitations contained in this AD supersede any conflicting basic airplane flight manual limitations."

Placard Installation

(e) For all airplanes: Within 14 days after the effective date of this AD, install a placard that reads as follows (alternative placard wording may be used if approved by an appropriate FAA Principal Operations Inspector):

"AD 2002-19-52 fuel usage restrictions required."

(1) For Model 747-100, -200B, -200F, -200C, -100B, -300, -100B SUD, 747SR, and 747SP series airplanes: Install the placard on or adjacent to the flight engineer's fuel control panel.

(2) For all other airplanes: Install the placard adjacent to each pilot's primary flight display.

(f) For Model 747-400, -400D, and -400F series airplanes on which a horizontal stabilizer tank is installed: Within 14 days after the effective date of this AD, install a placard adjacent to each pilot's primary flight display that reads as follows (alternative placard wording may be used if approved by an appropriate FAA Principal Operations Inspector):

"Use of horizontal stabilizer tank is prohibited."

Terminating Actions

(g) For all airplanes: If all fuel pumps for the center wing tank, horizontal stabilizer

tank, center auxiliary tanks, and auxiliary fuel tanks 1 and 4 on an airplane have been inspected using X-ray methods, and the wire bundle is properly routed in the pump since the most recent assembly of the end cap and

motor-impeller housing—whether in manufacturing, after maintenance or inspection, or after overhaul—in accordance with the applicable service bulletin identified in Table 1 of this AD, the

applicable AFM revision and placard required by paragraphs (a), (b), (c), (d), and (e) of this AD may be removed. Table 1 follows:

TABLE 1.—SERVICE BULLETINS

For—	Use the following service bulletin—
Model 737 series airplanes	Boeing Alert Service Bulletin 737–28A1197, dated September 23, 2002.
Model 747 series airplanes	Boeing Alert Service Bulletin 747–28A2248, dated September 23, 2002.
Model 757–200, –200PF, –200CB series airplanes.	Boeing Alert Service Bulletin 757–28A0070, dated September 23, 2002.
Model 757–300 series airplanes	Boeing Alert Service Bulletin 757–28A0071, dated September 23, 2002.
All airplanes	Crane Hydro-Aire Service Bulletin Crane Hydro-Aire Motor-Impeller-28–01, including Appendix A, dated September 17, 2002.

(h) For Model 747–400, –400D, –400F series airplanes: If both horizontal stabilizer tank pumps have been inspected using X-ray methods to ensure that the wire bundle is properly routed in the pump since the most recent assembly of the end cap and motor-impeller housing—whether in manufacturing, after maintenance or inspection, or after overhaul—in accordance with Boeing Alert Service Bulletin 747–

28A2248, dated September 23, 2002, and Crane Hydro-Aire Service Bulletin Crane Hydro-Aire Motor-Impeller-28–01, including Appendix A, dated September 17, 2002, the placard required by paragraph (f) of this AD is not required.

Part Installation

(i) Within 4 days after receipt of emergency AD 2002–18–52, no person may install on any airplane a fuel pump having a part

number contained in Table 2 of this AD, unless the pump has been inspected to ensure that the wire bundle is properly routed in the pump since the most recent assembly of the end cap and motor-impeller housing—whether in manufacturing, after maintenance or inspection, or after overhaul—in accordance with the applicable service bulletin identified in Table 1 of this AD. Table 2 follows:

TABLE 2.—FLEETS AND PART NUMBERS FOR DISCREPANT FUEL PUMPS

Airplane	Hydro-Aire Part No.	Boeing Part No.
Model 737–600, –700, –700C, –800, and –900 series airplanes	60–989100–4 60–755100–4	60B89004–14 60B92404–8
Model 747–100, –200B, –200F, –200C, SR, SP, –100B, –300, –100B SUD, 747SR, and 747SP series airplanes.	60–72301–4 60–75501–4 60–75503–4 60–755100–4 60–72101–4 60–98976–4	60B92603–418 60B92404–403 60B92404–404 60B92404–8 60B92603–26 60B89004–15
Model 747–400, –400D, and –400F series airplanes	60–98976–4 60–72101–4	60B89004–15 60B92603–26
Model 757 series airplanes	60–989100–4 60–755100–4	60B89004–14 60B92404–8

(j) As of 14 days after the effective date of this AD, no person may install on any airplane, in any pump position, a fuel pump motor-impeller assembly having any part number unless the assembly has been inspected since the most recent assembly of the end cap motor-impeller housing—whether in manufacturing, after maintenance or inspection, or after overhaul—using X-ray methods to ensure that the wire bundle is properly routed in the pump in accordance with the applicable service bulletin listed in Table 1 of this AD.

(k) Inspection of a pump by Crane Hydro-Aire before the effective date of this AD is considered equivalent to an inspection performed in accordance with Crane Hydro-Aire Service Bulletin Crane Hydro-Aire Motor-Impeller-28–01, including Appendix A, dated September 17, 2002.

Alternative Methods of Compliance

(l)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance and/or Operations Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 2002–18–52 are approved as alternative methods of compliance with paragraphs (a), (b), (c), and (d) of this AD.

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

Special Flight Permits

(m) 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.

Incorporation by Reference

(n) Unless otherwise provided by this AD, the actions shall be done per Boeing Alert Service Bulletin 737–28A1197, dated September 23, 2002; Boeing Alert Service Bulletin 747–28A2248, dated September 23, 2002; Boeing Alert Service Bulletin 757–28A0070, dated September 23, 2002; Boeing Alert Service Bulletin 757–28A0071, dated September 23, 2002; and Crane Hydro-Aire Service Bulletin Crane Hydro-Aire Motor-Impeller-28–01, including Appendix A, dated September 17, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(o) This amendment becomes effective on September 30, 2002.

Issued in Renton, Washington, on September 24, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-24810 Filed 9-26-02; 10:46 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. 29334; Amendment No. 71-34]

Airspace Designations; Incorporation by Reference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the FAA regulations relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9K Airspace Designations and Reporting Points. This action also explains the procedures the FAA will use to amend the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points incorporated by reference.

DATES: These regulations are effective September 16, 2002. The incorporation by reference of FAA Order 7400.9K is approved by the Director of the Federal Register as of September 16, 2002, through September 15, 2003.

FOR FURTHER INFORMATION CONTACT: Brenda Brown, Janet Glivings, or Christine Graves, Airspace and Rules Division (ATA-400), Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:**History**

FAA Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, listed Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points. Due to the length of these descriptions, the FAA requested approval from the Office of the Federal Register to incorporate the material by reference in the Federal Aviation Regulations § 71.1 (14 CFR 71.1). The Director of the Federal

Register approved the incorporation by reference of FAA Order 7400.9J in § 71.1, effective September 16, 2001, through September 15, 2002. During the incorporation by reference period, the FAA processed all proposed changes of the airspace listings in FAA Order 7400.9J in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings were published in full text as final rules in the **Federal Register**. This rule reflects the periodic integration of these final rule amendments into a revised edition of Airspace Designations and Reporting Points, Order 7400.9K. The Director of the Federal Register has approved the incorporation by reference of FAA Order 7400.9K in § 71.1, as of September 16, 2002, through September 15, 2003. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71. Sections 71.5, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, 71.79, and 71.901 are also updated to reflect the incorporation by reference of FAA Order 7400.9K.

The Rule

This action amends part 71 of the Federal Aviation Regulations (14 CFR part 71) to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9K, effective September 16, 2002, through September 15, 2003. During the incorporation by reference period, the FAA will continue to process all proposed changes of the airspace listings in FAA Order 7400.9K in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register**. The FAA will periodically integrate all final rule amendments into a revised edition of the Order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in § 71.1.

The FAA has determined that this action: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operating requirements of the airspace listings incorporated by reference in part 71. Consequently, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Because this action will

continue to update the changes to the airspace designations, which are depicted on aeronautical charts, and to avoid any unnecessary pilot confusion, I find that good cause exists, under 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

2. Section 71.1 is revised to read as follows:

§ 71.1 Applicability.

The complete listing for all Class A, Class B, Class C, Class D, and Class E airspace areas and for all reporting points can be found in FAA Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9K is effective September 16, 2002, through September 15, 2003. During the incorporation by reference period, proposed changes to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as proposed rule documents in the **Federal Register**. Amendments to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9K may be obtained from the Airspace and Rules Division, ATA-400, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267-8783. Copies of FAA Order

7400.9K may be inspected in Docket No. 29334 at the Federal Aviation Administration, Office of the Chief Counsel, AGC-200, Room 915G, 800 Independence Avenue, SW., Washington, DC, weekdays between 8:30 a.m. and 5 p.m., or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This section is applicable September 16, 2002, through September 15, 2003.

§ 71.5 [Amended]

3. Section 71.5 is amended by removing the words "FAA Order 7400.9J" and adding, in their place, the words "FAA Order 7400.9K".

§ 71.31 [Amended]

4. Section 71.31 is amended by removing the words "FAA Order 7400.9J" and adding, in their place, the words "FAA Order 7400.9K".

§ 71.33 [Amended]

5. Paragraph (c) of § 71.33 is amended by removing the words "FAA Order 7400.9J" and adding, in their place, the words "FAA Order 7400.9K".

§ 71.41 [Amended]

6. Section 71.41 is amended by removing the words "FAA Order 7400.9J" and adding, in their place, the words "FAA Order 7400.9K".

§ 71.51 [Amended]

7. Section 71.51 is amended by removing the words "FAA Order 7400.9J" and adding, in their place, the words "FAA Order 7400.9K".

§ 71.61 [Amended]

8. Section 71.61 is amended by removing the words "FAA Order 7400.9J" and adding, in their place, the words "FAA Order 7400.9K".

§ 71.71 [Amended]

9. Paragraphs (b), (c), (d), (e), and (f) of § 71.71 are amended by removing the words "FAA Order 7400.9J" and adding, in their place, the words "FAA Order 7400.9K".

§ 71.79 [Amended]

10. Section 71.79 is amended by removing the words "FAA Order 7400.9J" and adding, in their place, the words "FAA Order 7400.9K".

§ 71.901 [Amended]

11. Paragraph (a) of § 71.901 is amended by removing the words "FAA Order 7400.9J" and adding, in their place, the words "FAA Order 7400.9K".

Issued in Washington, DC, September 13, 2002.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 02-23824 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 02-56]

RIN 1515-AD17

Extension of Import Restrictions Imposed on Archaeological Material From Guatemala

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: In T.D. 97-81, the Customs Regulations were amended to reflect the imposition of import restrictions on certain archaeological material from Guatemala. These restrictions were imposed pursuant to a Memorandum of Understanding between the United States and Guatemala (the MOU) that was entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Recently, the United States Department of State determined that conditions continue to warrant the imposition of these import restrictions for a period not to exceed 5 years. The Governments of the United States and Mali exchanged diplomatic notes agreeing to extend the MOU. Thus, this document amends the Customs Regulations to reflect that the import restrictions currently in place continue, without interruption, for a period not to exceed five years from September 29, 2002. T.D. 97-81 contains the List of Designated Archaeological Material from Guatemala that describes the articles to which the restrictions and this extension of restrictions apply.

EFFECTIVE DATE: This regulation and the extension of import restrictions reflected in this regulation become effective on September 29, 2002.

FOR FURTHER INFORMATION CONTACT: (Regulatory Aspects) Joseph Howard, Intellectual Property Rights Branch (202) 572-8701; (Operational Aspects) Al Morawski, Trade Operations (202) 927-0402.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 UNESCO Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Public Law 97-446, 19 U.S.C. 2601 et seq)(the Act), the United States entered into a bilateral agreement with Guatemala on September 29, 1997 (Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Guatemala Concerning the Imposition of Import Restrictions on Archaeological Objects and Materials from the Pre-Columbian Cultures of Guatemala) (the MOU), concerning the imposition of import restrictions on certain archaeological material from Guatemala. The U.S. Customs Service issued T.D. 97-81 (62 FR 51771, October 3, 1997) amending § 12.104g(a) of the Customs Regulations (19 CFR 12.104g(a)) to reflect the imposition of these restrictions for a period not to exceed five years. The restrictions cover Maya material from the Peten Lowlands and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala. The restrictions became effective on October 3, 1997.

Prior to the issuance of T.D. 97-81, Customs issued T.D. 91-34 (56 FR 15181, April 15, 1991) that imposed emergency import restrictions on certain archaeological material from the Peten Region of Guatemala. Under T.D. 91-34, § 12.104g(b) (19 CFR 12.104g(b)) of the regulations pertaining to emergency restrictions was amended accordingly. These emergency restrictions were extended for a period of three years under T.D. 94-84 (59 FR 55528, November 7, 1994). Subsequently, the same archaeological material covered by T.D. 91-34 (and the extension of T.D. 94-84) was subsumed in T.D. 97-81 when it was published in 1997, at which time the emergency restrictions of T.D. 91-34 (and T.D. 94-84) were removed from § 12.104g(b).

On August 18, 2002, the Assistant Secretary of Educational and Cultural Affairs, Department of State, concluded, among other things, that the cultural patrimony of Guatemala continues to be in jeopardy from pillage of irreplaceable materials representing its Pre-Columbian heritage and made the necessary determinations under 19 U.S.C. 2602(e) and 2602(a) to extend the import restrictions for a period not to exceed five years (in the Determination to Extend the MOU). The Government of the United States and the Government of the Republic of Mali exchanged diplomatic notes on September 20,

2002, agreeing to extend the MOU effective September 29, 2002. Accordingly, Customs is amending § 12.104g(a) to reflect the extension of the import restrictions.

The List of Designated Archaeological Material from Guatemala describing the materials covered by these import restrictions is set forth in T.D. 97-81. The list and accompanying image database may also be found at the following internet Web site address: <http://exchanges.state.gov/culprop>.

The restrictions on the importation of these archaeological materials from Guatemala are to continue in effect for five years from September 29, 2002. Importation of these materials continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document extends import restrictions already imposed on the above-listed cultural property of Guatemala by the terms of a bilateral agreement entered into in furtherance of a foreign affairs function of the United States, pursuant to the Administrative Procedure Act (5 U.S.C. 553(a)(1)), notice of proposed rule-making, public procedure, and a delayed effective date are not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in Executive Order 12866.

Drafting Information

The principal author of this document was Bill Conrad, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspections, Imports.

Amendment to the Regulations

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citations for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *
 Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;
 * * * * *

§ 12.104g [Amended]

2. In § 12.104g(a), the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Guatemala by adding "extended by T.D. 02-56" immediately after "T.D. 97-81" in the column headed "T.D. No."

Robert C. Bonner,
Commissioner of Customs.
Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 02-24895 Filed 9-26-02; 12:54 pm]
BILLING CODE 4820-02-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA-61-3-7565a; FRL-7384-7]

Approval of Revisions to the Louisiana Department of Environmental Quality Title 33 Environmental Quality Part III; Air Chapter 5; Permit Procedures, 504; Nonattainment New Source Review Procedures

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: The EPA is approving revisions to the State of Louisiana's State Implementation Plan (SIP). The revisions concern the nonattainment New Source Review (NSR) procedures for the five-parish Baton Rouge ozone nonattainment area. The revisions include increases to the minimum offset ratios for new major stationary sources and major modifications at major stationary sources in nonattainment areas. The minimum offset ratios were increased for classifications of serious and severe ozone nonattainment. The revisions also allow an increase in volatile organic compound (VOC) emissions to be offset by a decrease in emissions of nitrogen oxides (NO_x) if the net result is a decrease in ozone levels. The revisions require that if NO_x

emissions decreases are used for VOC emissions increases, the permit for which the offsets are required must have been issued on or before November 15, 2005, and must meet additional requirements to ensure a net air quality benefit.

Major stationary sources that plan to build or modify in a nonattainment area must obtain these emissions offsets as a condition of permit approval. Emissions offsets are reductions in actual emissions from existing sources in the vicinity of the proposed new source. The EPA proposed approval of these SIP revisions on July 23, 2002 (67 FR 48090). The EPA approves the use of these revisions as a component of the Louisiana plan to bring the Baton Rouge nonattainment area into compliance with the Clean Air Act (CAA or the Act). Pursuant to section 553(d) of the Administrative Procedure Act, EPA finds good cause to make this action effective immediately.

EFFECTIVE DATE: This rule will be effective on September 30, 2002.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Permits Section (6PD-R), 1445 Ross Avenue, Dallas, Texas 75202-2733.
 Louisiana Department of Environmental Quality, Air Quality Division, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Ms. Laura Stankosky of the EPA Region 6 Air Permits Section at (214) 665-7525.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we", "us," or "our" is used, we mean the EPA. Throughout this document, whenever "Baton Rouge Area" or "Baton Rouge Ozone Nonattainment Area" is used, we mean the area which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge in the State of Louisiana. See 40 CFR 81.319.

- I. What Action Is the EPA Taking?
- II. Why Is This Action Necessary?
- III. What Does This Action Do?
- IV. Whom Does This Action Affect?
- V. How Does the State's NSR Regulation in Chapter 5 Interact With the NO_x Control Regulation in Chapter 22 and the Revised Banking Regulation in Chapter 6?
- VI. What Comments Were Received on the Proposed Nonattainment NSR Rule, and How Has the EPA Responded?

VII. What Is the Scope of the EPA's Final Action?

VIII. Administrative Requirements

I. What Action Is the EPA Taking?

The EPA is approving changes to the State of Louisiana's nonattainment NSR procedures for the five-parish Baton Rouge ozone nonattainment area. These revisions to the nonattainment NSR procedures are part of the changes the state is making to the SIP to address the CAA pollution control requirements for ozone nonattainment areas. These changes revise the Louisiana Administrative Code (LAC) at Part III, Section 504, which was previously approved by the EPA on May 31, 2001 (66 FR 29491). NSR is a permitting program that regulates the construction of new major stationary sources of air pollution and major modifications to existing major sources. These sources are required by the CAA to obtain an air pollution permit before beginning construction.

The revisions include increases to the minimum offset ratios for new major stationary sources and major modifications at major stationary sources in nonattainment areas. The minimum offset ratios were increased for classifications of serious and severe ozone nonattainment. The revisions will also allow an increase in VOC emissions to be offset by a decrease in emissions of NO_x. Further, if NO_x emissions decreases are used for VOC emissions increases, the permit for which the offsets are required must have been issued on or before November 15, 2005.

Major stationary sources that plan to build or modify in a nonattainment area must obtain these emissions offsets as a condition of permit approval. Emissions offsets are reductions in actual emissions from existing sources in the vicinity of the proposed new source.

Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. If, however, an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because this rule is related

to the Baton Rouge 1-hour ozone Attainment Plan and Transport State Implementation Plan, on which the EPA intends to take imminent action (see 67 FR 50391, August 2, 2002). In conjunction with its August 2, 2002, proposed approval of the attainment demonstration, EPA proposed to extend the ozone attainment date for the Baton Rouge area to November 15, 2005, while retaining the area's current classification as a serious ozone nonattainment area and to withdraw EPA's June 24, 2002, rulemaking determining nonattainment and reclassification of the BR area (67 FR 42687). The effective date of EPA's June 24, 2002, nonattainment determination and reclassification is imminent. Furthermore, making this action effective immediately does not impose any additional requirements, because the underlying regulations are already effective under state law.

II. Why Is This Action Necessary?

The Baton Rouge area has been classified as a serious ozone nonattainment area (40 CFR 81.319). We received the Louisiana rule that we are approving in this final action on December 31, 2001, as a component of the Attainment Plan and Transport Demonstration (hereinafter, the Attainment Plan/Transport SIP) for the Baton Rouge area submitted by the Louisiana Department of Environmental Quality (LDEQ). This revision to the Attainment Plan/Transport SIP specifies emission reduction strategies designed to bring the Baton Rouge area into compliance with the ozone National Ambient Air Quality Standard (NAAQS). One component of the Attainment Plan/Transport SIP is the revised nonattainment NSR rule that has been enacted at LAC 33:III.504. This action is necessary to take final action on the revised rule as an approvable component of the Attainment Plan/Transport SIP.

III. What Does This Action Do?

In this action, we are approving revisions to the Louisiana SIP that have been enacted at LAC 33:III.504, which contains the rules for NSR procedures that apply to nonattainment areas designated pursuant to Section 107 of the CAA. The LAC revisions include

increases to the minimum offset ratios for new major stationary sources and major modifications to major stationary sources in the Baton Rouge area. The revisions also add minimum offset ratios for NO_x. For a nonattainment area with a classification of serious for ozone, the new minimum offset ratio for VOCs and for NO_x is 1.20 to 1 if Lowest Achievable Emission Rate (LAER) technology is implemented, or 1.40 to 1 using internal offsets if LAER is not used. For a nonattainment area classified severe for ozone, the new minimum offset ratio for VOCs and for NO_x is 1.30 to 1 with LAER, or 1.50 to 1 using internal offsets without LAER. As defined by section 171 of the CAA, the term LAER refers to either the most stringent emission limit contained in the state plan of any state for the applicable category of sources, or the most stringent emission limitation achieved in practice within an industrial category.

The revisions also allow an increase in VOC emissions to be offset by a decrease in emissions of NO_x. The EPA defines this type of "offset," the trading of emission reductions of one pollutant's precursors for emission reductions of a different precursor for that pollutant, as inter-precursor trading (IPT). See "Improving Air Quality with Economic Incentive Programs," EPA-452/R-01-011 (EPA Office of Air and Radiation, January 2001) (hereinafter, the EIP Guidance). Under the revised rule, all emission reductions claimed as offset credit for significant net NO_x increases shall be from decreases of NO_x. NO_x credits will be allowed to offset VOC increases, but not vice versa. All emission reductions claimed as offset credit for significant net VOC increases shall be from decreases of either NO_x or VOCs, or any combination of NO_x and VOC decreases. If NO_x decreases are used for VOC increases, the permit for which the offsets are required shall have been issued on or before November 15, 2005. The LDEQ has identified November 15, 2005, as a "sunset date" after which no permits will be issued or modified allowing NO_x credits to offset VOC increases. Revisions to the required offset credit ratio are listed in Table 1.

TABLE 1.—MINIMUM OFFSET RATIOS FOR NEW AND MODIFIED MAJOR STATIONARY SOURCES IN OZONE NONATTAINMENT AREAS

[Major Stationary Source/Major Modification Threshold for Emissions of VOC or NO_x]

Ozone non-attainment status of area	Major stationary source threshold values (tons/year)	Major modification significant Net increase (tons/year)	Offset ratio minimum
Marginal ¹	100	40 (40) ²	1.10 to 1
Moderate	100	40 (40) ²	1.15 to 1
Serious	50	25 ³ (5) ⁴	1.20 to 1 w/ LAER or 1.4 to 1 internal w/o LAER.
Severe	25	25 ³ (5) ⁴	1.30 to 1 w/ LAER or 1.5 to 1 internal w/o LAER.

¹ For those parishes which are designated incomplete data or transitional nonattainment for ozone, the New Source Review rules for a marginal classification apply.

² Consideration of the net emissions increase will be triggered for any project which would increase emissions by 40 tons or more per year, without regard to any project decreases.

³ For serious and severe ozone nonattainment areas, the increase in emissions of VOC or NO_x resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons per year of VOC or NO_x.

⁴ Consideration of the net emissions increase will be triggered for any project that would increase VOC or NO_x emissions by five tons or more per year, without regard to any project decreases, or for any project that would result in a 25 ton or more per year cumulative increase in emissions of VOC within the contemporaneous period or of NO_x for a period of five years after the effective date of the rescission of the NO_x waiver, and within the contemporaneous period thereafter.

The Attainment Plan/Transport SIP submitted by Louisiana includes an enforceable commitment to perform and submit a mid-course review by May 1, 2004. This mid-course review would include, among other things, a re-evaluation of the ratio of NO_x to VOC emissions reductions needed for attainment.

IV. Whom Does This Action Affect?

This action applies to the construction of any new major stationary source or to any major modification at a major stationary source within the Baton Rouge area. Section 182 of the CAA defines “major source” with respect to each category of ozone nonattainment classification area,

as shown in Table 2. Any source that emits or has the potential to emit 50 tons or more of VOC or NO_x and is located in an area classified as serious is considered a major source. Any source that emits or has the potential to emit 25 tons or more of VOC or NO_x and is in an area classified as severe is considered a major source.

TABLE 2.—DEFINITIONS OF MAJOR STATIONARY SOURCES

Attainment status of area where source is located	Potential to emit (tons/year)	
	Nitrogen oxides (NO _x)	Volatile organic compounds (VOC)
Attainment Areas	100	100
Nonattainment Areas:		
Marginal	100	100
Moderate	100	100
Serious	50	50
Severe	25	25
Extreme	10	10

The requirements of the revised rule do not apply to NO_x increases for any applications deemed administratively complete before December 20, 2001. Additionally, under the revised rule the 1.40 to 1 VOC internal offset ratio (without LAER) for serious ozone nonattainment areas shall not apply to such applications. Instead, a 1.30 to 1 internal offset ratio shall apply to VOC if LAER is not utilized. (With LAER, the applicable ratio is 1.20 to 1, regardless of application date.) Further, sources exempt from nonattainment NSR

requirements for NO_x increases will still be subject to the construction schedule and other provisions of the EPA’s Supplemental Transitional Guidance. See memorandum from John Seitz, “New Source Review (NSR) Program Supplemental Transitional Guidance on Applicability of New Part D NSR Permit Requirements” (September 3, 1992).

V. How Does the State’s NSR Regulation in Chapter 5 Interact With the NO_x Control Regulation in Chapter 22 and the Revised Banking Regulation in Chapter 6?

The State has recently promulgated and revised the NO_x control regulation in Chapter 22. This NO_x Reasonably Available Control Technology (RACT) rule requires stationary sources to comply with a more strict emission limitation during the State’s five month ozone season. Typically a stationary

source reduces emissions below the baseline to generate surplus emission reduction credits. Due to the revised NO_x rule, the allowable emission limitation for a stationary source could potentially have two values, one for the five month ozone season and another for the seven month non-ozone season. For more information about the area's ozone seasons, see LAC III:33 Chapter 22, and the separate EPA rule-making to be issued regarding that chapter.

Thus, the baseline emissions for the stationary source, which are used to determine surplus emission reduction credits for offset permitting purposes, could have two different values. In order to accurately determine the surplus emission reduction credits (ERCs) to be used in the nonattainment NSR permitting, the baseline emissions and surplus ERCs must be determined for the two time periods. The NO_x ERCs for any annual time period will consist of the ERCs for the five month ozone season and the ERCs from the seven month non-ozone season. Offset requirements for new sources derive from Section 173(a)(1)(A) of the Act, which concerns "total" emissions and does not address the use of emission offsets for nonattainment permitting over periods of less than one year. Therefore, the NO_x ERCs to be used in all nonattainment NSR permitting under Chapter 5 must be determined by adding the ERCs from the ozone season and the non-ozone season.

With respect to all offsets under Chapter 5 and all ERCs under Chapter 6, the total NO_x emission increases during the ozone season must be offset by NO_x ERCs from the ozone season. Non-ozone season NO_x increases may be met by either ozone or non-ozone NO_x ERCs. The annual NO_x increase must be offset by the total combination of ozone and non-ozone season surplus NO_x emission reduction credits.

The stated purpose of the revised emissions banking rule in Chapter 6 is to enable stationary sources to identify and acquire emission reductions for NSR purposes. The Chapter 6 rule does not establish a "bank" requiring tracking by the State of sources' claimed ERCs. The Chapter 6 rule only establishes a bulletin board for use by source owners and operators. The LDEQ makes the determination whether a source's claimed ERCs are surplus through the Chapter 5 nonattainment NSR rules. The identification, certification, acquisition, recordkeeping and determination of "Surplus When Used" emission reduction credits must be for the ozone season and the non-ozone season time periods. The State indicated by letter from Mr. Dale Givens

to EPA dated May 3, 2002, that the State would implement the rule by operating the Chapter 6 emissions reduction credits bulletin board in such a manner. EPA has received information from the State supplementing its May 3, 2002, letter and further supporting the State's intention to implement the Chapter 5 nonattainment NSR rule in a manner that provides for separate identification, certification, acquisition, recordkeeping and determination of "Surplus When Used" emission reduction credits for the ozone season and for the non-ozone season time periods.

The emission offset provisions contained in the Chapter 5 nonattainment NSR rules indicate that until November 15, 2005, offsets of VOC emissions may be met by surplus NO_x emission reductions. If a VOC emission offset requirement is met by surplus NO_x emission reductions, the reductions must be for an annual period (both the ozone season and non-ozone season). VOC emission increases during the ozone season must be offset by NO_x emission reductions from the same ozone season. Non-ozone season VOC increases may be met by either ozone or non-ozone NO_x ERCs (and/or by VOC ERCs). The annual VOC increase must be offset by the annual (total combination ozone and non-ozone season) surplus NO_x ERCs (and VOC ERCs).

VI. What Comments Were Received on the Proposed Nonattainment NSR Rule, and How Has the EPA Responded?

We received written comments on the proposed rulemaking from seven parties during the public notice period that closed on August 22, 2002. The comments of four of the parties, the Steering Committee of the Baton Rouge Ozone Task Force, Louisiana Mid-Continent Oil and Gas Association, Louisiana Chemical Association, and the Leadership Team of the Baton Rouge Clean Air Coalition, support our July 23, 2002 proposed approval of the nonattainment NSR regulation. The LDEQ strongly supports the proposed EPA approval and supplied three wording clarifications. Louisiana Generating LLC and the Tulane Environmental Law Clinic (TELC) on behalf of the Louisiana Environmental Action Network (LEAN) submitted comments opposing the approval of the nonattainment NSR rule.

Comment 1: Four commenters supported approval of the nonattainment NSR rule.

Response 1: The EPA agrees. We have determined that these changes to the minimum offset ratios for new major stationary sources and major

modifications at major stationary sources in the Baton Rouge Area are approvable. The revisions that allow an increase in VOC emissions to be offset by a decrease in emissions of NO_x are also approvable.

Comment 2: The LDEQ noted that the offset ratio for moderate nonattainment areas in Section III, Table I: Minimum Offset Ratios for New and Modified Major Stationary Sources, should be 1.15 to 1, not 1.10 to 1.

Response 2: We agree, and have corrected Table I in this final rule to reflect the correct offset ratio for moderate nonattainment areas. For additional clarity we have also added the footnotes contained in the LDEQ nonattainment NSR rule, Minimum Offset Ratios table to our Table 1 in this action.

Comment 3: The LDEQ questions the inclusion of the reference to the memoranda from John Seitz, dated March 11, 1991, "New Source Review (NSR) Program Transitional Guidance," and September 3, 1992, "New Source Review (NSR) Program Supplemental Transitional Guidance on Applicability of New Part D NSR Permit Requirements." The commenter notes that since Louisiana has a program that complies with all Part D NSR provisions of the CAA amendments of 1990, as approved by the EPA on October 10, 1997 (62 FR 52951) and revisions to the section on January 5, 1999 (64 FR 415 and May 31, 2001 (66 FR 29491), the EPA "Transitional Guidance" documents would not be relevant.

Response 3: The EPA agrees that Louisiana has a program that complies with all Part D NSR provisions of the CAA amendments of 1990. The relevance of the Seitz memoranda arises from the statement in the 1992 Transitional Guidance that "for purposes of determining the approvability of revised NSR SIP's," sources with applications complete before the date in question will be covered by the NSR rules in effect as of the application, provided certain conditions are met. See Supplemental Transitional Guidance, p. 2. (The March 11, 1991, Seitz Transitional Guidance memorandum is relevant to this rule only as it informs the 1992 memorandum; accordingly, we have removed it from the discussion in Part IV, above.) We included this provision to apply to applications deemed administratively complete prior to the December 20, 2001, promulgation of the LDEQ's nonattainment NSR rule. Sources that submitted complete permit applications prior to the promulgation date of the new NSR permit requirements may receive final permits

under the previous State NSR rules, provided that the following conditions are met: (1) The State and the source move expeditiously towards final permit issuance; (2) construction begins no later than 18 months from the date of permit issuance unless an earlier time is required under the applicable SIP; (3) construction is not discontinued for a period of 18 months or more; and (4) construction is completed within a reasonable time. States may not grant permit extensions beyond these time periods unless the permittee is required in a federally-enforceable manner to meet the new Part D NSR provisions.

Comment 4: The LDEQ requests that a statement in Section VIII (How does the State's NSR regulation in Chapter 5 interact with the NO_x control regulation in Chapter 22 and the revised banking regulation in Chapter 6?) be changed from "The State has recently revised the NO_x control regulation in Chapter 22." to read: "The State has recently promulgated and revised the NO_x control regulation in Chapter 22."

Response 4: The EPA agrees and so notes this comment.

Comment 5: The TELC requested an extension to the public comment period of 30 days.

Response 5: The EPA is under no obligation to extend the comment period or to accept late comments. We decided to accept comments which were received by our office by close-of-business on August 26, 2002. This time frame corresponds to the estimated travel time for first class mail for a letter mailed and postmarked on the last day of the comment period, August 22, 2002.

Comment 6: The TELC has concerns with the emission reductions generated by facilities which are required to comply with NO_x Emission Reasonably Available Control Technology (RACT) requirements in Louisiana's revised NO_x rule, which EPA proposed to approve on July 23, 2002 (67 FR 48095). The commenter is concerned that facilities which elect to implement RACT before the compliance date required by the rule, May 1, 2005, could be considered to be doing so voluntarily. And as voluntary reductions, *i.e.*, not required by federal or state law, these NO_x reductions could be deemed surplus, and therefore, eligible for use as emission offsets, including offsets of VOCs.

Response 6: The EPA disagrees with the commenter's interpretation that facilities which elect to implement RACT before the compliance date required by the rule, May 1, 2005, would generate reductions eligible for use as emission offsets.

Louisiana promulgated its revised NO_x rules on February 20, 2002 (Louisiana Register, Vol. 28, No. 2). On February 27, 2002, the State submitted to EPA the revised NO_x rules for the Baton Rouge area and its Region of Influence. The revised NO_x rule requires certain affected categories of NO_x-generating facilities to achieve RACT "as expeditiously as possible, but no later than May 1, 2005." This date takes into consideration the time affected categories of NO_x-generating facilities may need to procure, calibrate and implement RACT. On July 23, 2002, the EPA proposed approval of the SIP revisions to regulate emissions of NO_x to meet requirements of the CAA (67 FR 48095). Section 173(c)(2) of the Act states that reductions otherwise required by the Act are not creditable as offsets. Although the rule permits affected categories of NO_x-generating facilities to achieve compliance with NO_x RACT no later than May 1, 2005, the rule became effective when promulgated. Therefore, facilities achieving NO_x RACT compliance before May 1, 2005, are creating emission reductions as required by law. Therefore, such facilities will not obtain ERCs and cannot offset VOC emissions by early RACT implementation. Furthermore, emissions decreased by a voluntary action must be permanent in order to meet the surplus ERC criteria. Because the rule provides for compliance no later than May 1, 2005, reductions made before that date could not be considered permanent, and therefore could not be surplus.

For the above reasons, the comment does not indicate that any change to the rule is required.

Comment 7: The TELC is concerned that facilities will now be able to install LAER technology to control NO_x emissions, "count the NO_x reductions as surplus, and use them to offset net increases in VOCs so that those new modifications can . . . escape New Source Review." The commenter is further concerned that this procedure will allow industry to emit greater quantities of VOCs into the air than currently allowed, with harmful effects on the Baton Rouge area.

Response 7: The EPA agrees that sources that were not required to meet nonattainment NSR for new NO_x sources during the NO_x waiver would now be able to install LAER technology and count the reductions (from the level set by the new NO_x RACT rule) as surplus and available for use as emissions offsets for a current new source. Such current new major stationary sources and major modifications at major stationary

sources in the Baton Rouge area would be required to obtain emissions offsets at the ratios specified in Table 1 of this rulemaking. Under the CAA and the revised Louisiana rule, however, emissions offsets do not serve to allow a facility to avoid new source review. Instead, a facility that will exceed the emission thresholds in the relevant attainment category (see Table 1) must obtain offsets as a condition of receiving a new source review permit. The generation and use of such emissions credits must be consistent with the definition of "Surplus Emission Reductions" in LAC 33:III.605. The LDEQ's nonattainment NSR procedures also require that emission reductions claimed as offset credit shall be sufficient to ensure "Reasonable Further Progress" toward attainment, that emission offsets provide a net air quality benefit, and that the offsets must be federally enforceable, before commencement of construction of the proposed new source or major modification. Offsets thus are a vital part of the mechanism that ensures that new projects and modifications will not harm the attainment status of the area in question.

The effect of each of the above scenarios would be a reduction in overall emissions for the Baton Rouge area, because the new sources would have to seek minimum offsets in excess of what the new source is expected to release as emissions.

Finally, the commenter may have intended, with the reference to offsets used to avoid NSR, to refer to the "netting" analysis conducted under Part 504(A)(4) of the proposed rule. In this analysis, the net emissions increase from the construction of a new major stationary source or any major modification at a stationary source is compared to the values in Table 1 to determine whether a new source review must be performed. The inter-precursor trading provision of the revised rule, however, applies only to the use of emission offsets, not to the netting analysis. See LAC 33:III.504.G. (definition of major modification, providing that "VOC and NO_x emissions shall not be aggregated for the purpose of determining significant net emissions increase."). LDEQ has confirmed to the EPA that this interpretation of the rule is correct. Accordingly, the potential harm the commenter cites—*i.e.*, the use of NO_x emission reductions to avoid new source review for new VOC emissions—cannot occur as a result of the revised rule.

For the above reasons, the comment does not indicate that any change to the rule is required.

Comment 8: The TELC charges that LDEQ has taken inconsistent positions regarding modeling and the effects of NO_x reduction on attainment of the ozone NAAQS. The commenter points out that on January 26, 1996 (61 FR 2438), the EPA granted an exemption from the RACT and NSR requirements for major stationary sources of NO_x, pursuant to section 182(f) of the CAA. This exemption was based on modeling submitted by LDEQ in a 1994 petition that demonstrated that additional NO_x emission controls within the Baton Rouge area will not contribute to attainment of the ozone NAAQS for the area. On May 7, 2002 (67 FR 30638), the EPA rescinded that exemption based on more recent modeling conducted for the Baton Rouge area, submitted by LDEQ September 24, 2001, that indicates that control of NO_x sources will help the area attain the ozone NAAQS. According to the commenter, this change in approach to NO_x regulation has the effect of creating “loopholes in the law.”

Response 8: The “loopholes” that the commenter complains of are addressed elsewhere in this document (see comments and responses 6 and 7). This response addresses only the commenter’s apparent assertion that Louisiana’s scientific approach to NO_x regulation is unfounded. The EPA disagrees with this argument. In granting the NO_x exemptions January 26, 1996 (61 FR 2438), the EPA reserved the right to reverse the approval of the exemptions if subsequent modeling data demonstrated an ozone attainment benefit from NO_x emission controls. Photochemical grid modeling recently conducted for the Baton Rouge area SIP indicates control of NO_x sources will help the area attain the ozone NAAQS. The State of Louisiana therefore requested that the EPA rescind the NO_x exemption based on this new modeling on September 24, 2001. In our proposed approval of the rescission of the NO_x waiver May 7, 2002 (67 FR 30638), we stated that we believed that the State had adequately demonstrated that additional NO_x reductions would contribute to attainment of ozone NAAQS. The State of Louisiana is not the only state that has requested that the EPA rescind its NO_x waiver based on updated photochemical grid modeling information. Seven years elapsed between the LDEQ’s previous modeling demonstration that additional NO_x reductions would not contribute to area attainment, and the most recent modeling events demonstrating the

Baton Rouge area to be NO_x limited. Pollution control technology, including air modeling, is a dynamic and evolving field. The model used by LDEQ to support its request for approval of the NO_x waiver was Urban Airshed Model (UAM) IV, which is an EPA-approved photochemical grid model. The model used by LDEQ to support its request for rescission of the NO_x waiver was UAM V. This represents a significant refinement in modeling technology. Additionally, emission inventory tools have been improved during this seven year period from when the State initially requested the NO_x waiver.

Comment 9: The TELC states that “inter-pollutant trading,” eliminated from the revised emission reduction credits banking rule, and “inter-precursor trading,” allowed by the revised nonattainment NSR rule, refer to the same concept.

Response 9: In this rulemaking, the EPA does not intend that “inter-pollutant trading” and “inter-precursor trading” refer to the same concept. “Inter-pollutant trading” refers to the trading of NAAQS criteria pollutants, *i.e.*, carbon monoxide, sulphur dioxides, particulate matter (less than 10 microns in diameter), and ozone. “Inter-precursor trading” refers to the trading of precursor components of a NAAQS pollutant—in this case ozone, with precursors being VOCs and NO_x.

Comment 10: The TELC states that the provisions in the revised nonattainment NSR rule allowing IPT are illegal. The commenter disagrees with the EPA’s position on IPT in our proposed nonattainment NSR notice. The commenter cites several provisions as follows to support their assertion.

(1) The commenter states that section 173(c)(1) of the CAA requires that new or modified stationary sources offset emission increases of a given pollutant with reduction of the same pollutant. In addition, the commenter states that “the substitution mentioned in [CAA Section] 182(c)(2)(C) does not refer to substituting emission reductions of one precursor for another, but to substituting one control plan for another. Even then states can only substitute in accordance with EPA guidance required by that section.”

(2) The commenter references the NO_x Substitution Guidance (EPA, December 1993), stating that it makes no mention of allowing inter-precursor trading.

(3) The commenter notes that the EIP Guidance, used a basis for the EPA’s proposed approval of the nonattainment NSR rule, is not the guidance Congress required in section 183 of the CAA.

(4) The commenter quotes from the February 2, 2000 (65 FR 4887), final rulemaking on the California SIP revision for the El Dorado County Air Pollution Control District, stating, “As recently as February 2, 2000, EPA recognized that “the CAA doesn’t explicitly authorize inter-precursor,” and that “a strict interpretation of the Act would prohibit air districts from allowing this practice at all in NSR rules.”

Response 10: We disagree. The inter-precursor trading provision in the nonattainment NSR rule, which allows an increase in VOC emissions to be offset by a decrease in emissions of NO_x, is approvable.

CAA Section 173(c)(1)—The EPA agrees that section 173(c)(1) is silent on the concept of inter-precursor trading (IPT). Nonetheless, while we do not have specific requirements for IPT that apply to all circumstances, we have recognized that IPT can be allowed under limited circumstances. Our position on IPT can be found at Appendix 16.9 in the EIP guidance. An economic incentive program (EIP) is a regulatory program that achieves an air quality objective by providing market-based incentives or information to emission sources. For example, a uniform emission reduction requirement, based for instance on installation of a required emission control technology, does not take account of variations in processes, operations, and control costs across sources even of the same type, such as electric utilities, or petroleum refiners. An EIP empowers sources to find the means that are most suitable and most cost-effective for their particular circumstances, by providing flexibility in how sources meet an emission reduction target.

CAA Section 182(c)(2)(B)—The relevance of Section 182(c)(2)(C) of the CAA is its recognition that both VOCs and NO_x emissions combine in the atmosphere to create ozone, and that a reduction in the levels of NO_x as well as VOCs can lower ozone levels more effectively than a reduction in the levels of VOCs alone under Section 182(c)(2)(B). Although Section 182(c)(2)(C) is silent on the concept of IPT, it does allow a combination of NO_x emission reductions for VOC emission reductions, stating that the resulting reduction “in ozone concentrations” must be “at least equivalent” to that which would result from 3% VOC reductions required as a demonstration of Reasonable Further Progress (RFP) under Section 182(c)(2)(B). This 3% requirement can be lessened if the SIP includes the measures that are achieved

in practice by sources in the same source category in nonattainment areas of the next higher ozone classification area. The LDEQ rule does satisfy this provision, as it requires new stationary sources to obtain emission offsets at the next higher ozone classification ratio.

NO_x Substitution Guidance—While we agree that the NO_x Substitution Guidance (EPA, December 1993) is also silent on the issue of IPT, it does provide that the RFP reductions should be consistent with those needed for attainment. Further, it provides that the Attainment and RFP Plans should show that reductions of NO_x consistent with those needed for attainment can be accepted as equivalent to what would be required for a VOC-only attainment. The LDEQ's current nonattainment NSR procedures also require that emission reduction claimed as offset credit shall be sufficient to ensure RFP toward attainment.

EIP Guidance—Because this revision to the nonattainment NSR rule is not itself a market-based program for achieving air quality improvements (and is therefore not an EIP as defined by the EPA), we did not evaluate LAC 33:III.504 as a whole with respect to Appendix 16.9 of the EIP Guidance. However, because the IPT guidance provided in the EIP document applies generally to NSR offsets, we did consider the LDEQ rule in light of the IPT provisions in the EIP Guidance, and determined that the rule is consistent with those provisions. In particular, Appendix 16.9 of the EIP Guidance requires that a suitable EIP inter-precursor trade must either reduce emissions or not increase emissions, and outlines six criteria for showing that IPT is appropriate. (Alternatively, instead of using these six criteria, it is permissible to conduct air quality modeling for individual ozone inter-precursor trades to demonstrate that anticipated trades will either reduce emissions or not increase emissions.)

The IPT conditions in the LDEQ rule are consistent with the criteria in the EIP Guidance: (1) The LDEQ has conducted an approvable attainment demonstration meeting the requirements of Section 110 of the CAA; (2) the technical justification for use of IPT is consistent with the approvable attainment demonstration; (3) the geographic area is restricted to the Baton Rouge area; (4) IPT is compliant with hazardous air pollutant requirements as discussed in Response 11; (5) sources are required to offset an increase in VOC emissions with a greater amount of NO_x emissions; and (6) trades will not be approved where there will not be progress toward ozone attainment. The

attainment demonstration modeling also supports the use of the ratio required by the LDEQ's rule and demonstrates that any emission offset allowed by the rule will have no adverse effect. Further, the Attainment Plan/Transport SIP includes an enforceable commitment to perform and submit a mid-course review by May 1, 2004. This mid-course review would include, among other things, a re-evaluation of the ratio of NO_x to VOC emissions reductions needed for attainment.

The EPA does agree that the EIP guidance is not the guidance Congress required in section 183 of the CAA. It is the guidance for implementation of sections 182(g)(4)(A), 187(d), and 187(g) of the CAA. The guidance required in section 183 of the Act is the NO_x Substitution Guidance (EPA, December 1993), which is discussed above.

Final Rulemaking on the California SIP Revision for the El Dorado County Air Pollution Control District—IPT has received limited proposed approval from the EPA in the State of New Hampshire (66 FR 9278). It has also received limited approval in several air quality districts in California (Bay Area, 65 FR 56284; El Dorado, 65 FR 4887; Sacramento Metropolitan area; San Diego County, 64 FR 42892; San Joaquin Valley, 65 FR 58252), and is being considered for two more (the South Coast area, and the Mojave Desert area). The commenter quotes from the **Federal Register** notice for the final rulemaking on the California SIP revision for the El Dorado County Air Pollution Control District (February 2, 2000 (65 FR 4887)) in support of the argument that the CAA does not explicitly allow IPT. The EPA agrees that the cited **Federal Register** notice contains the language quoted by the commenter. It is helpful, however, to include the context of the statement: "Section 173(c)(1) of the CAA requires that new or modified stationary sources offset emission increases of a given pollutant with reductions of the same pollutant. Since the CAA doesn't explicitly authorize interprecursor trading, a strict interpretation of the Act would prohibit air districts from allowing this practice at all in NSR rules. Recent EPA policy has allowed interprecursor trading, particularly among ozone precursors in ozone nonattainment areas, if certain criteria are met. Consistent with this policy, the District has two possible ways to address this limited disapproval issue when it revises Rule 523. One way is to include rule language requiring written EPA concurrence for each proposed interprecursor trade. Alternatively, the District could produce a technical justification for various interprecursor

offset ratios, and then revise Rule 523 to include those ratios. In this scenario, rule language requiring case-by-case EPA concurrence would not be necessary. Since the CAA does not explicitly authorize interprecursor trading, EPA's policy is to require Agency concurrence for such trades, either on a case-by-case or one time only basis if appropriate ratios are established by rule. With respect to the amount of time required for EPA to concur on a specific trade in the case-by-case scenario, EPA would have to make its determination during the comment period provided for the draft permit. This would not delay the permit issuance process."

The February 2, 2000, response thus notes two possible ways to address the approval of IPT: (1) Requiring written EPA concurrence for each proposed IPT case; and (2) produce a technical justification for various IPT ratios and revise the rule to include those ratios. Here, the state has included ratios in their revised nonattainment NSR rule and has submitted the technical justification for use of those ratios to us.

For the above reasons, EPA finds that the use of IPT in the revised Louisiana rule is approvable.

Comment 11: The TELC is concerned that approval of the use of IPT will overburden African American communities along the Baton Rouge corridor. The increase in VOC emissions from reductions in NO_x would have severe and disparate impact on minority communities living close to fence line of industries involved in such trades. The commenter states that many VOCs are also considered hazardous air pollutants (HAP). The commenter cites as basis that Appendix 16.9 of the EIP Guidance requires trades that involve VOCs to comply with the HAP framework in section 16.2 of the EIP Guidance. The commenter is also concerned that public must have sufficient access to information to ensure a meaningful opportunity for public review and participation.

Response 11: EPA believes the revised NSR rule will improve air quality for all of the Baton Rouge area. We do not agree that the use of IPT will overburden African American communities along the Baton Rouge corridor. The Attainment Plan/Transport SIP revisions change only specific portions of the LDEQ regulations. The current regulations found at LAC 33:III.504 continue to require that emission offsets provide a net air quality benefit, and that the offsets must be federally enforceable before commencement of construction of the proposed new source or major

modification. The emission offsets must meet all applicable state requirements, any applicable new source performance standard in 40 CFR part 60, and any national emission standard for HAPs in 40 CFR part 61 or part 63.

Additionally, Chapter 51 of the LAC outlines ambient toxic air standards. Toxic air pollutants (TAPs) are a group of state-regulated chemicals consisting mainly of volatile organic compounds. The majority of TAPs are also HAPs. Major sources of TAPs are regulated under LAC 33:III. Chapter 51, Louisiana's comprehensive toxic air pollutant emission control program. TAPs are categorized into three groups (Class I, II, or III) based on their relative toxicities. If emissions of a Class I or II TAP increase by an amount greater than its minimum emission rate, a *de minimis* level established for each TAP in LAC 33:III.5112, sources of such compounds require maximum achievable control technology (MACT). Additionally, the impact of all TAP emissions must be below their respective health-based ambient air standards, which are also set forth in Section 5112. In this way, any increase in HAP emissions will be minimized and therefore, any impact on minority communities living close to fenceline of industries involved in trades of VOC increase for NO_x reductions would also be minimized.

The effect of IPT in minority communities is most appropriately taken into account during the proceedings on a particular proposed NNSR permit. Under Section 173(a)(5) of the Act, an "alternative sites" analysis must be conducted for each NNSR permit, which requires consideration of, *inter alia*, the "social costs" of the construction or modification, *e.g.*, the disparate impact on minority communities. The Louisiana regulation implementing this requirement, LAC 33:III.504.D.7, contains the same requirement:

As a condition for issuing a permit to construct a major stationary source or major modification in a nonattainment area, the public record must contain an analysis * * * of alternate sites, sizes, production processes, and environmental control techniques and demonstrate that the benefits of locating the source in a nonattainment area significantly outweigh the environmental and *social costs* imposed.

(Emphasis added.) We believe the disparate impacts alleged by TELC will be addressed in individual permit proceedings, at which time factual information regarding the scope of the impact and the affected community will be available. EPA is entitled to review each Title V permit, and thus can object

even in the absence of a citizen petition. We are committed to ensuring through the permit review process, the states standard for TAPS, which we believe are protective of human health and the environment.

The EPA takes public participation in environmental protection issues very seriously. Regarding public participation, because any trade would be linked to a nonattainment new source review permit, public notice and the opportunity to request a public hearing on the proposed project would be mandatory. Further, the information in the LDEQ banking database, defined at LAC 33:III.605, will be available to the public upon request. We agree that access to information is a necessary prerequisite to meaningful public participation. We have discussed the records access issue with LDEQ. Under past practices, some citizens have had a problem finding all of the information regarding air permits. LDEQ has instituted new procedures intended to improve public access to records. We will continue to oversee the Louisiana Title V Operating Permit Program to ensure the revised public participation procedures are being effectively implemented according to the intent of the regulatory requirements, and will recommend further changes to the LDEQ if needed.

Comment 12: The TELC lists three points from the EPA's July 9, 2001, comments to LDEQ on the State's proposed nonattainment NSR revisions (Louisiana Register May 20, 2001). The commenter states that the rule does not adequately address these EPA comments to the state: (1) EPA noted that LDEQ had not provided the required technical basis, based on modeling of current emission sources, to support its NO_x/VOC trading plan. The modeling must demonstrate that the program will actually reduce ambient ozone. Modeling must establish a trading ratio. Nothing in the public record suggests that LDEQ has done any of the required modeling. (2) EPA required that there be an "approvable and replicable procedure" by which these trading ratios will be calculated in the future. LDEQ has not provided any such procedure. (3) EPA required that "the program should make sure that any trading that occurs is consistent with the attainment demonstration." LDEQ has provided no procedures by which the consistency of trading with the attainment demonstration will be monitored, nor has it even committed to doing such monitoring. The commenter is concerned that the EPA proposed to approve the same regulation even

though the rule was not revised to reflect any of its concerns.

Response 12: The EPA disagrees with these assertions. Extensive urban airshed modeling has been conducted in support of Louisiana's revised SIP. The UAM provides the technical basis to support NO_x emission credits used to offset VOC increases. The LDEQ conducted approximately 100 UAM V simulations to determine the emission control strategy direction, emission control strategy level, and emission control region required to demonstrate attainment. The UAM clearly demonstrated that NO_x reductions are more effective than VOC reductions at reducing ambient ozone concentrations in the Baton Rouge area. UAM sensitivity simulations indicate that a 30% "across the board" reduction in VOC emission yielded less than a 1 part per billion decrease in the ozone peak for the three ozone episodes modeled. Accordingly, a reduction in one ton of NO_x emissions was more beneficial than an equivalent reduction in VOC emissions. It was also for these reasons that VOC emission credits should not be allowed to offset NO_x increases. Even though an ozone attainment benefit was shown with a one ton increase in VOC emissions for a one ton offset of NO_x emissions, the LDEQ rule requires that the ratios specified in Table 1 (Section 504 of Chapter 5 of the State rule) be employed if NO_x emission credits are used to offset VOC increases.

We disagree that our comment in our July 9, 2001, letter to the LDEQ required that the State provide an approvable and replicable procedure by which these trading ratios will be calculated "in the future." That is, the purpose of that comment was not to request procedures to calculate future trading ratios. Instead, our point was that Louisiana's proposed nonattainment NSR revisions did not make clear that the ratios in Table 1 would apply to IPT trades. The State's final rule published on December 20, 2001, did clarify that point. The urban airshed modeling conducted by the State does provide a basis for the use of the trading ratios in Table 1 for use in IPT trades and the modeling is approvable and replicable. However, the EPA does acknowledge that environmental conditions change over time and, therefore, periodic reevaluations are necessary to maintain compliance with the ozone NAAQS. The LDEQ also recognizes that over extended periods of time, the relative effectiveness of NO_x and VOC decreases at reducing ozone levels may change. It was for that reason that the state established November 15, 2005, as a "sunset date" after which no permits

will be issued or modified allowing NO_x credits to offset VOC increases. Further, the Attainment Plan/Transport SIP includes an enforceable commitment to perform and submit a mid-course review by May 1, 2004. This mid-course review would include, among other things, a re-evaluation of the ratio of NO_x to VOC emissions reductions needed for attainment.

The EPA also believes that IPT is consistent with the attainment demonstration. As noted above LDEQ conducted approximately 100 UAM V simulations to determine the emission control strategy direction, emission control strategy level, and emission control region required to demonstrate attainment. The UAM did demonstrate that NO_x reductions are currently more effective than VOC reductions at reducing ambient ozone concentrations in the Baton Rouge area. Additionally, an increase in VOC emissions offset by a decrease in emissions of NO_x should be analyzed for the extent of impact from each pollutant involved. The LDEQ has agreed in implementing this provision to evaluate such trades on a case-by-case basis. See letter from Dale Givens, Secretary of LDEQ to Gregg Cooke, Regional Administrator, U.S. EPA, Region 6 (May 3, 2002). Additionally, in response to a comment sent by us on the proposed SIP revisions, LDEQ confirmed that further Urban Airshed Modeling would be required on a case-by-case basis if new data or evidence comes to light that indicates a NO_x for VOC trade will not be beneficial to the environment.

Comment 13: Louisiana Generating LLC (LaGen) commented that LDEQ's proposed Attainment Plan/Transport SIP revisions contain a proposed Control Strategy Element, Section 4.2.1 Permitting NO_x Sources, that could result in the imposition of the equivalent of the nonattainment rules in an attainment area without authority of law. LaGen stated that the revised nonattainment NSR regulation is not approvable to the extent that any of the provisions of the regulation could be implemented to support requiring offsets of new facilities or major modifications in attainment parishes.

Response 13: We disagree. As noted in its plain language, Section 4.2.1 is not intended as new policy or guidance. We disagree with the commenter's interpretation that Section 4.2.1 of Louisiana's SIP imposes nonattainment rules in an attainment area. Section 4.2.1 provides the State's acknowledgment of the requirements of sections 110(j) and 165(a)(3) of the Act, which prohibit the permitting of emissions from the construction or

operation of sources that will cause, or contribute to, air pollution in excess of any national ambient air quality standard in any air quality control region, or any other applicable emission standard or standard of performance under the Act. EPA has proposed approval of Louisiana's 1-hour ozone attainment demonstration SIP in a separate rulemaking, 67 FR 50391, (August 2, 2002), and will address LaGen's comment regarding the approvability of the SIP when we taken final action on that rulemaking.

The stated applicability of the LDEQ nonattainment NSR revised rule in section 504(A) is for the construction of any new major stationary source or to any major modification at a major stationary source, provided such source or modification will be located within a nonattainment area, so designated pursuant to section 107 of the CAA, and will emit a regulated pollutant for which it is major and for which the area is designated nonattainment.

VII. What Is the Scope of the EPA's Final Action?

The EPA is approving changes to the minimum offset ratios for new major stationary sources and major modifications at major stationary sources in the Baton Rouge Area. These approved revisions also allow an increase in VOC emissions to be offset by a decrease in emissions of NO_x. These changes revise LAC 33:III.504, previously approved by the EPA on May 31, 2001 (66 FR 29491).

VIII. Administrative Requirements

A. Executive Order 12866

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

significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

B. Executive Order 13045

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

C. Executive Order 13175

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

D. Executive Order 12898

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The EPA believes that this rule should not raise environmental justice issues. The overall result of the program is regional reductions in ozone. Because this program will likely reduce local ozone levels in the air, and because there are additional provisions under the CAA to ensure that ozone levels are brought into compliance with national ambient air quality standards, it appears unlikely that this program would permit adverse effects on local populations.

E. 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.

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

Pursuant to 5 U.S.C. 605(b), I certify that today's rule would not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

F. Unfunded Mandates Reform Act

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

EPA believes, as discussed above, that because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty, it does not constitute a Federal mandate, as defined in section 101 of the UMRA.

G. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This action merely approves a state rule implementing a Federal standard, and does not alter the relationship of the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this final action.

H. National Technology Transfer and Advancement Act

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

I. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 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 before publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Nitrogen oxides, Volatile organic compounds, Reporting and recordkeeping requirements.

Dated: September 20, 2002.
Larry Starfield,
Acting Regional Administrator, Region 6.

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 T—Louisiana

2. In § 52.970 the table in paragraph (c) is amended by revising the entry for

Section 504 under chapter 5 to read as follows:
§ 52.970 Identification of plan.
 * * * * *
 (c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Comments
* * * * *				
Chapter 5—Permit Procedures				
* * * * *				
Section 504	Nonattainment New Source Review Procedures	Dec. 2001, LR 27:2225	Sept. 30, 2002 and [FR Cite].	
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 [FR Doc. 02-24637 Filed 9-27-02; 8:45 am]
BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62
[OH153-1a; FRL-7386-9]

Approval and Promulgation of State Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).
ACTION: Direct final rule.

SUMMARY: The EPA is approving a negative declaration submitted by the State of Ohio which indicates that the State does not need regulations covering existing Small Municipal Waste Combustors (MWC) units. Ohio submitted its negative declaration regarding this category of sources in a letter dated June 25, 2002. The declaration was based on a systematic search of the State's internal databases and follow-up discussions with local air offices, which resulted in the determination that there are no affected small MWC units in Ohio.

DATES: This direct final rule is effective on November 29, 2002, without further notice unless EPA receives adverse written comments by October 30, 2002. If adverse comment is received, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the negative declaration is available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone John Paskevicz at (312) 886-6084 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), EPA, Region 5, Chicago, Illinois 60604, (312) 886-6084.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used we mean EPA.

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- II. Negative declarations and their justification.
- III. EPA review of Ohio's negative declaration.
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I. What Is the Background for This Action?

On December 6, 2000, the EPA finalized a rule for small MWC units. EPA promulgated this rule based on sections 111(d) and 129 of the Clean Air Act (Act) Amendments of 1990. The federal rule includes emission

guidelines for existing units and standards of performance for new, modified or reconstructed sources. EPA published the rule for existing small MWC units in the **Federal Register** on December 6, 2000, (65 FR 76378), to be codified at 40 CFR part 60, subpart BBBB (Emission Guidelines for Small Municipal Waste Combustion Units.) EPA published rules for new, modified and reconstructed small MWC units in the **Federal Register** on December 6, 2000, (65 FR 76350), to be codified at 40 CFR part 60, subpart AAAA (New Source Performance Standards for New Small Municipal Waste Combustion Units). The regulatory text and other background information for these final rulemakings can be accessed electronically from the EPA Technology Transfer Network website. For small MWC the Web site address is: <http://www.epa.gov/ttn/atw/129/mwc/rinwmc2.html>.

Sections 111(d) and 129 of the Act require States in which a designated existing facility is operating one or more small MWC units to submit to EPA a plan to implement and enforce the emission guidelines. If, however, there are no small MWC units and the State therefore chooses not to develop and submit such a plan, it must submit a negative declaration letter. (40 CFR 60.1510, 62.06.) Section 129 of the Act requires that the State plan be at least as protective as the emission guidelines and must provide for compliance by the affected facilities no later than 3 years after EPA approves the State plan, but no later than 5 years after EPA

promulgates the emission guidelines. Sections 111(d) and 129 of the Act also require EPA to develop, implement and enforce a Federal Implementation Plan if a State fails to submit an approvable State plan. The small MWC plan must address regulatory applicability, increments of progress for retrofit, operator training and certification, operating practices, emission limits, continuous emission monitoring, stack testing, record keeping, and reporting, and requirements for air curtain combustors. States are required to follow the requirements of 40 CFR part 60, subpart B, and 40 CFR part 62, regarding the adoption and submittal of State plans for designated facilities.

In addition to the publication of the emission guidelines document, EPA notified each of the States of the requirements listed in the rule. On February 23, 2001, EPA, Region 5 asked Ohio to provide information so we could determine if the State was required to develop and submit the required plan. The State began a detailed review of its internal databases to ascertain the status of small MWC facilities. This effort resulted in a determination there were no small MWC units and culminated in the State's request for a negative declaration.

II. Negative Declarations and Their Justification

The EPA does not require States to develop plans or regulations to control emissions from sources for which there are none present in the State (40 CFR 62.06). If the State thinks that there may be some small MWC units in operation, it should examine available records on these sources before initiating the planning and regulation development process. If after a careful examination of available information, the State finds no sources for this source category, then it may prepare and submit to us a negative declaration stating there are no sources in the State which match this source category. This is done in lieu of submitting a control strategy.

On June 25, 2002, the State of Ohio submitted to EPA a negative declaration regarding the need for a regulation covering small MWC units. The Ohio EPA searched for potentially affected sources in its air source Permit to Operate (PTO) databases. A scan of those files disclosed that from over 10,000 sources, a total of 2,478 units were revealed bearing the "N" source code, denoting an incinerator. This number included units placed on registration status as well as those issued PTOs, and includes many units shut down years and even decades ago.

The state reviewed the equipment description on each "N" record which showed that very few of the units have the potential to approach the 35 ton per day threshold for small MWCs. Using this review approach, Ohio found that seven units needed to be studied more closely. Ohio EPA then mailed questionnaires to the facilities and contacted local air offices to discuss the potentially affected units. Following this effort the State concluded there are no existing small MWCs in Ohio either operating or shut down but capable of restarting.

This conclusion is consistent with an inventory review conducted in May 1998 by EPA Regional Offices and State air pollution control agencies. Those agencies did not find any small MWC units in Ohio.

III. EPA Review of Ohio's Negative Declaration

EPA has examined the State's negative declaration regarding the lack of need for a regulation controlling emissions from small MWC units. We agree that, at this time, there appear to be no unregulated small incinerators in Ohio which would require the adoption of rules to control this source category. If a new source chooses to construct in the State, it would be required to comply with new source performance standard requirements published for small MWC units on December 6, 2000 (65 FR 76350). If, at a later date, an existing small MWC unit is identified in the State, the Federal plan implementing the emission guidelines contained in Subpart BBBB will automatically apply to that MWC unit until the State develops a plan and EPA approves it. 40 CFR 60.1530.

EPA is publishing this action without prior proposal because we view this as a noncontroversial revision and we anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the State's negative declaration should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by October 30, 2002. Should EPA receive such comments, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no comments are received, the public is advised that this action will be effective on November 29, 2002.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves Ohio's declaration that there are no small MWC's located in Ohio which would be subject to an MWC regulation if one were adopted. Therefore, the State does not need to adopt a MWC regulation. Any new MWC's built in Ohio will be subject to New Source Performance Standards. Because this rule approves state negative declarations and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have 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), because it merely approves a state declaration that a rule implementing a federal standard, is unnecessary and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission,

to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 29, 2002, unless EPA receives adverse written comments by October 30, 2002.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 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 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 18, 2002.

Steve Rothblatt,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 62, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

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

Subpart KK—Ohio

2. A new center heading and § 62.8855 are added to read as follows:

Emissions From Small Municipal Waste Combustion Units With the Capacity To Combust at Least 35 Tons Per Day of Municipal Solid Waste But No More Than 250 Tons Per Day of Municipal Solid Waste and Commenced Construction on or Before August 30, 1999

§ 62.8855 Identification of plan—negative declaration.

On July 25, 2002, the State of Ohio certified to the satisfaction of the United States Environmental Protection Agency that no sources categorized as small Municipal Waste Combustors are located in the State of Ohio.

[FR Doc. 02-24767 Filed 9-27-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7384-3]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Standard Steel and Metals Salvage Yard Site from the National Priorities List.

SUMMARY: The U.S. Environmental Protection Agency (EPA), Region 10, announces the deletion of the Standard Steel and Metals Salvage Yard Site which is located in Anchorage, Alaska, from the National Priorities List (NPL). The NPL is 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 of 1980 (CERCLA), as amended. EPA and the State of Alaska have determined that the Site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT:

Beverly Gaines, EPA Point of Contact, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop ECL-110, Seattle, WA 98101, (206) 553-1066.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Standard Steel and Metals Salvage Yard Site, Anchorage, Alaska.

A Notice of Intent to Delete for this site was published in the **Federal Register** on August 14, 2002 (67 FR 52918). The closing date for comments on the Notice of Intent to Delete was September 15, 2002. A comment letter was received after the comment period closed. The commentor opposes EPA's remedy and proposes an alternative remedy using peroxidative treatment. EPA selected its remedy after holding a public comment period between March 18 and April 17, 1996. Pursuant to the National Contingency Plan, EPA selected a stabilization/solidification and containment remedy which is protective of human health and the environment. Because hazardous substances will remain at the site above levels that allow unlimited use and unrestricted exposure, the site will undergo five-year reviews.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping

requirements, Superfund, Water pollution control, Water supply.

Dated: September 20, 2002.

L. John Iani,

Regional Administrator, Region 10.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 2 of appendix B to part 300 is amended by removing the entry for “Standard Steel & Metals Salvage Yard (USDOT), Anchorage, AK.”

[FR Doc. 02–24640 Filed 9–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7387–6]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Gould Site from the National Priorities List.

SUMMARY: The U.S. Environmental Protection Agency (EPA), Region 10, announces the deletion of the Gould Site which is located in Portland, Oregon, from the National Priorities List (NPL). The NPL is 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 of 1980 (CERCLA), as amended. EPA and the State of Oregon have determined that the Site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Beverly Gaines, EPA Point of Contact, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop ECL–110, Seattle, WA 98101, (206) 553–1066.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Gould Site, Portland, Oregon.

A Notice of Intent to Delete for this site was published in the **Federal Register** on August 23, 2002 (67 FR 54602). The closing date for comments on the Notice of Intent to Delete was September 23, 2002. EPA received one comment letter. The comment letter received by EPA asked about dioxin contaminants that were injected into the dry wells at the Chipman site adjacent to the Gould Site. The Oregon Department of Environmental Quality (DEQ) is currently conducting an Remedial Investigation/Feasibility Study (RI/FS) at the Rhone Poulenc (formerly Chipman Chemical) site. Contaminant sources, such as dry wells, sumps and drainage pathways were characterized during two large soil sampling events completed in December 2000 and December 2001. DEQ is currently working with Rhone Poulenc to evaluate the risks to human health and the environment from contaminants (including 2,3,7,8-tetrachloro-dibenzo-p-dioxin (dioxin)) released to soil and groundwater. This information will be used to evaluate, design, and implement cleanup activities at the site.

For more information on the status of the Rhone Poulenc investigation, consult the DEQ Web site (<http://www.deq.state.or.us/wmc/psrasp/ActiveSites.htm>) and query Rhone Poulenc or contact the DEQ project manager, Eric Blischke at (503) 229–5648.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, and Water supply.

Dated: September 24, 2002.

Randall F. Smith,

Acting Regional Administrator, Region 10.

1. For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the entry for the “Gould, Inc., Portland, OR.”

[FR Doc. 02–24765 Filed 9–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7385–1]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Deletion of the Pinette’s Salvage Yard Superfund Site from the National Priorities List.

SUMMARY: EPA—New England announces the deletion of the Pinette’s Salvage Yard Superfund Site located in Washburn, Aroostook County, Maine from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), is found at Appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State of Maine, through the Department of Environmental Protection, have determined that all appropriate response actions under CERCLA have been completed and the site poses no significant threat to human health or the environment. However, this deletion does not preclude future actions under Superfund.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Almerinda Silva, Remedial Project Manager, U.S. EPA, One Congress Street, Suite 1100, (HBT), Boston, Massachusetts 02114–2023, (617) 918–

1246 or 1-800-252-3402 x-81246-toll-free.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is the Pinette's Salvage Yard Superfund Site in Washburn, Aroostook County, Maine.

A Notice of Intent to Delete for this site was published in the **Federal Register** on Wednesday August 28, 2002 (67 FR 55187). The closing date for comments on the Notice of Intent to Delete is Friday, September 27, 2002. EPA does not expect to receive any comments, therefore, a Responsiveness Summary has not been prepared. If any substantive comments are received EPA will publish a document in the **Federal Register** addressing those comments and, if necessary, withdrawing the site deletion.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Robert W. Varney,

Regional Administrator, U.S. EPA—New England.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the entry for Pinette's Salvage Yard, Washburn, ME.

[FR Doc. 02-24639 Filed 9-27-02; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2880

[WO-350-1430-PE-24-1A]

RIN 1004-AD55

Rights-of-Way Under the Mineral Leasing Act; Timing of Approvals

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is issuing a rule which allows BLM to approve right-of-way grants for pipelines 24 inches or more in diameter as soon as it notifies the appropriate congressional committees. This final rule avoids the possibility that BLM will issue a right-of-way grant in a way that violates our own rules.

EFFECTIVE DATE: This final rule is effective November 29, 2002.

FOR FURTHER INFORMATION CONTACT:

Michael H. Schwartz, Manager, Regulatory Affairs Group at (202) 452-5198. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-800-877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

- I. Background and Purpose
- II. Final Rule as Adopted and Response to Comment
- III. Procedural Matters

I. Background and Purpose

Why Is BLM Implementing This Rule?

In 1979 the BLM issued rules regarding applying for and processing a right-of-way authorized by the Mineral Leasing Act of 1920, as amended. Since 1979 we have amended the various sections within part 2880 on several occasions, the last being in 1989. On October 30, 1990, the President signed Public Law 101-475. This law amends section 28(w)(2) of the Mineral Leasing Act (30 U.S.C. 185 (w)(2)) by allowing the Secretary of the Interior to issue a right-of-way for a pipeline 24 inches or more in diameter as soon as the Secretary notifies the appropriate committees of the Congress. The previous law required the Secretary to allow 60 days to pass after notifying Congress before issuing the right-of-way. The current regulations reflect the 60-day requirement, thereby imposing a waiting period for issuing a right-of-way that is no longer required by statute.

On June 15, 1999 (64 FR 32106) we proposed a major revision to part 2880

of our regulations and intend to publish the final rule within the year. The pertinent part of proposed section 2884.23 included the following language (see 64 FR 32141):

§ 2884.23 When will BLM issue the grant or permit?

If the grant involves:

- (a) A pipeline 24 inches or more in diameter, BLM will not issue or renew the grant until after we notify the Congress;

The purpose of today's rulemaking is to ensure that BLM may issue grants for pipelines 24 inches or more in diameter as soon as we notify the Congress without being in violation of our own regulations. This final rule avoids the possibility that BLM will issue a right-of-way grant in a way that violates our own rules. At the same time, the rule follows explicit statutory direction.

Although we expect to issue comprehensive right-of-way rules before the end of the year, it is not certain we will. This section applies to all Federal right-of-way grants for pipelines 24 inches or more in diameter, including the Trans Alaska Pipeline (TAP) right-of-way grant renewal. It is important that today's change is in effect no later than January 22, 2004. At that time the original Federal TAP right-of-way grant will expire.

While we will complete processing the application for renewing the TAP right-of-way grant before the original right-of-way grant expires, it is possible that we will be unable to do so and notify Congress 60 days prior to the expiration of the original grant. If this were to occur, the current regulations would require us to shut the pipeline or issue a temporary use permit. The former is not realistic; the latter an unnecessary burden on both the pipeline company and ourselves. Therefore, we are choosing to expedite issuance of this provision of the comprehensive rule we proposed in 1999.

How Does This Rule Change Requirements for Processing Right-of-Way Applications?

The only change this rule makes to current practice is that it allows BLM to issue a right-of-way grant for pipelines 24 inches or more in diameter immediately after notifying the appropriate committees of the Congress. After the effective date of this final rule, we will no longer have to wait 60 days after notifying Congress before we issue a right-of-way grant for a pipeline 24 inches or more in diameter.

II. Final Rule as Adopted and Response to Comment

The final rule differs from the proposed rule in that we change the wording from “notify the Congress” to “notify the appropriate committees of Congress in accordance with 30 U.S.C. 185(w).” This change is intended to be more consistent with the intent of Congress which named the House Committee on Interior and Insular Affairs and the Senate committee on Energy and Natural Resources as the places where BLM should send notification. In fact, the House Committee on Interior and Insular Affairs is now named the House Resources Committee. Because committee names and functions change, we believe it prudent to substitute the term “appropriate committees” for the names of specific committees. This does not sacrifice clarity because the committee with jurisdiction is readily understood by those with a continuous interest in these issues and individuals having a unique or occasional interest in pipeline issues may easily obtain the information. Moreover, the phrase “in accordance with 30 U.S.C. 185(w)” better conveys the notion that BLM’s notice to Congress will be accompanied by the Secretary’s or agency head’s detailed findings as to the terms and conditions to be proposed, as required by 30 U.S.C. 185(w).

We also renumbered the final rule to fit into BLM’s existing regulatory structure in our part 2880 right-of-way regulations.

We received a single comment on proposed section 2884.23, which asked why BLM would “refer” the application to the Committee and noted that the word “notify” has a meaning distinct from “refer.” The commenter is correct and the change we are making today reflects that concern.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This rule is not a significant regulatory action and was not reviewed by the Office of Management and Budget under Executive Order 12866. The rule will not have an annual effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This regulation will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The regulation does not materially alter the

budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor does it raise novel legal or policy issues. The regulation merely follows existing law which allows BLM to issue certain grants 60 days sooner than current regulations allow.

Executive Order 12866, Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to such questions as the following:

1. Are the requirements in the rule clearly stated?
2. Does the rule contain technical language or jargon that interferes with its clarity?
3. Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
4. Would the rule be easier to understand if it were divided into more (but shorter) sections?
5. Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the rule? How could this description be more helpful in making the regulation easier to understand?

Send a copy of any comments that say how we could make this rule easier to understand to: Director (630), Bureau of Land Management, Administrative Record, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1004-AD55.

National Environmental Policy Act

BLM has determined that this rule is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, under 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10, and has concluded that the rule does not meet any of the ten exceptions to the categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Under 516 DM, Chapter 2, Appendix 1, § 1.10, this rule qualifies as a categorical exclusion because it is a regulation of an administrative, legal, or procedural nature. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term “categorical exclusion” means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures

adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended (5 U.S.C. 601–612) (RFA), to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities.

The regulation merely allows BLM to issue certain grants 60 days sooner than current regulations allow and therefore will not have a significant economic impact on a substantial number of small entities.

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 or more.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule would not affect costs or prices for consumers since the actions associated with the rule would have minimal economic impact on the industry.
- 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.

The rule is strictly administrative in nature and will not have an economic impact on any of the above.

Unfunded Mandates Reform Act

The regulation does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year; nor does the regulation have a significant or unique effect on State, local, or tribal governments or the private sector. The regulation merely allows BLM to issue certain grants 60 days sooner than previous regulations allowed. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Government Action and Interference With Constitutionally Protected Property Rights (Takings)

The rule does not represent a government action capable of interfering with constitutionally protected property rights. The rule merely allows BLM to issue certain grants 60 days sooner than current regulations allow. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The rule is strictly administrative in nature. Therefore, in accordance with Executive Order 13132, BLM has determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, BLM finds that this rule does not include policies that have tribal implications.

Any consultations with tribes that are necessary for approving a right-of-way grant under our regulations will occur before we notify Congress.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, BLM has determined that this rule will not have substantial direct effects on the energy supply, distribution or use, including a shortfall in supply or price increase. The rule would merely remove the requirement that BLM withhold approval of a right-of-way grant for a pipeline 24 inches or more in diameter for 60 days. This previous requirement could have had an adverse impact on distribution of energy

supplies because it could have delayed approval of pipeline right-of-way grants. The rule would therefore improve the timing of distribution of energy supplies.

Paperwork Reduction Act

These regulations do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Authors

The principal authors of this rule are Ian Senio and Michael H. Schwartz of the Regulatory Affairs Group, Washington Office, Bureau of Land Management. The Office of the Solicitor assisted.

List of Subjects for 43 CFR Part 2880

Administrative practice and procedures, Common carriers, Pipelines, Public lands rights-of-way, and Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, and under the authorities cited below, amend Title 43 of the Code of Federal Regulations, Group 2800, part 2880 as set forth below:

Dated: September 13, 2002.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

1. Revise the authority citation for part 2880 to read as follows:

Authority: 30 U.S.C. 185.

2. In § 2882.3, revise paragraph (a) to read as follows:

§ 2882.3 Application processing.

(a) If the grant involves a pipeline 24 inches or more in diameter, BLM will not issue or renew the grant until after we notify the appropriate committees of Congress in accordance with 30 U.S.C. 185(w).

* * * * *

[FR Doc. 02-24610 Filed 9-27-02; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10, 12, 14, 28, 54, 56, 62, 63, 67, 68, 108, 116, 120, 125, 183, 189, and 401

[USCG-2002-13058]

RIN 2115-AG48

Shipping—Technical and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule makes editorial and technical changes throughout Title 46 of the Code of Federal Regulations to update the title before it is recodified on October 1, 2002. It corrects addresses, updates cross-references, makes conforming amendments, and makes other technical corrections. This rule will have no substantive effect on the regulated public.

DATES: This final rule is effective September 30, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, [USCG-2002-13058], U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Robert Spears, Project Manager, Standards Evaluation and Development Division (G-MSR-2), Coast Guard, telephone 202-267-1099. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:

Discussion of the Rule

Each year, title 46 of the Code of Federal Regulations (CFR) is recodified on October 1. This rule makes editorial changes throughout the title, corrects addresses, updates cross-references, and makes other technical and editorial corrections to be included in the recodification. Also, we have made changes to 46 CFR part 401 to make it gender neutral. This rule does not change any substantive requirements of existing regulations.

When the Rule Is Being Made Effective

We did not publish a notice of proposed rulemaking (NPRM) for this

regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule consists only of corrections, editorial changes, and conforming amendments to 46 CFR, chapters I and III. These changes will have no substantive effect on the public so publishing an NPRM and providing an opportunity for public comment is unnecessary. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not effect a taking of private property or otherwise have

taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or 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, paragraphs (34)(a) and (b) of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. The changes in this rule correct addresses, update cross-references, make conforming amendments, and make other technical corrections. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 10

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 14

Oceanographic research vessels, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 28

Alaska, Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 54

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 56

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 62

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 63

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 67

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 68

Oil pollution, Vessels.

46 CFR Part 108

Fire prevention, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 116

Fire prevention, Marine safety, Passenger vessels, Seamen.

46 CFR Part 120

Marine safety, Passenger vessels.

46 CFR Part 125

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Seaman.

46 CFR Part 183

Marine safety, Passenger vessels.

46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 10, 12, 14, 28, 54, 56, 62, 63, 67, 68, 108, 116, 120, 125, 183, 189 and 401 as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

1. The authority citation for part 10 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, and 7701; Pub. L. 103–206, 107 Stat. 2439; 49 CFR 1.45, 1.46. Sec. 10.107 also issued under the authority of 44 U.S.C. 3507.

§ 10.105 [Amended]

2. In § 10.105, remove the words “San Francisco, CA” and add, in their place, the words “Alameda, CA”.

PART 12—CERTIFICATION OF SEAMEN

3. The authority citation for part 12 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701; 49 CFR 1.46.

§ 12.05–9 [Amended]

4. In § 12.05–9(c), remove the word “shall demonstrate” and add, in its place, the words “shall demonstrate”.

§ 12.25–10 [Amended]

5. Amend § 12.25–10 as follows:
 a. In paragraph (a), remove the words “steward’s document” and add, in its place, the words “steward’s department”; and
 b. In paragraph (b), remove the word “indorsement” and add, in its place, the word “endorsement”.

PART 14—SHIPMENT AND DISCHARGE OF MERCHANT MARINERS

6. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 552; 46 U.S.C. Chapters 103 and 104.

7. In § 14.103 revise paragraph (a), and in paragraph (b) remove the number “703–235–1062” and add in its place the number “202–493–1055”, to read as follows:

§ 14.103 Addresses of Coast Guard.

(a) By mail: U.S. Coast Guard National Maritime Center (NMC–4A), 4200

Wilson Boulevard, Suite 630, Arlington, VA 22203–1803.

* * * * *

§ 14.307 [Amended]

8. In § 14.307(a), remove the words “form CG–719A (Rev. 8–80)” and in their place add the words “form CG–718A (Rev. 3–85)”.

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

9. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; 49 CFR 1.46.

§ 28.120 [Amended]

10. Amend § 28.120 as follows:

a. In the third column of Table 28.120(a) to the section remove the word “Byoyant” and add, in its place, the word “Buoyant”; and
 b. In the third column of Table 28.120(c) to the section remove the word “Solus” and add, in its place, the word “SOLAS”.

§ 28.270 [Amended]

11. In § 28.270(a)(4), remove the word “affects” and add, in its place, the word “effects”.

PART 54—PRESSURE VESSELS

12. The authority citation for part 54 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.,

§ 54.01–1 [Amended]

13. In § 54.01–1(b), under the entry for Manufacturers Standardization Society (MSS), remove the word “Marketing” and add, in its place, the word “Marking”.

PART 56—PIPING SYSTEMS AND APPURTENANCES

14. The authority citation for part 56 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 56.25–5 [Amended]

15. In § 56.25–5, immediately before the words “Appendix 2”, remove the word “of” and add, in its place, the word “or”.

§ 56.50–30 [Amended]

16. In § 56.50–30(b)(1), remove the word “economized” and add, in its place, the word “economizer”.

§ 56.50–70 [Amended]

17. In § 56.50–70(b)(2), remove the citation “56.60–25(c)” and add, in its place, the citation “56.60–25(b)”.

§ 56.60–25 [Amended]

18. Amend § 56.60–25 as follows:
 a. In paragraph (b)(2), immediately after the words “paragraphs (a)(1) through”, remove “(6)” and add, in its place, “(4)”; and, immediately after the words “in accordance with paragraph”, remove “(b)” and add, in its place, “(a)”; and
 b. In paragraph (b)(3), immediately after the words “paragraphs (a)(1) through”, remove “(6)” and add, in its place, “(4)”.

§ 56.70–5 [Amended]

19. In § 56.70–5(a), remove “57.02–4” and add, in its place, “57.02–5”.

PART 62—VITAL SYSTEM AUTOMATION

20. The authority citation for part 62 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 62.35–20 [Amended]

21. In § 62.35–20, remove the note immediately following paragraph (a)(6).

PART 63—AUTOMATIC AUXILIARY BOILERS

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

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 63.01–3 [Amended]

23. In § 63.01–3(a)(2), remove “(20 gph)” from the end of the sentence.

PART 67—DOCUMENTATION OF VESSELS

24. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110; 46 U.S.C. app. 841a, 876; 49 CFR 1.45, 1.46.

§ 67.19 [Amended]

25. Amend § 67.19 as follows:
 a. In paragraph (e)(1), remove “(b)” and add, in its place, “(c)”; and
 b. In paragraph (e)(2), immediately after the words “requirements of § 67.35(a)”, remove “(2)”.

PART 68—DOCUMENTATION OF VESSELS PURSUANT TO EXTRAORDINARY LEGISLATIVE GRANTS

26. The authority citation for part 68 continues to read as follows:

Authority: 46 U.S.C. 2103; 49 CFR 1.46. Subpart 68.01 also issued under 46 U.S.C. App. 876; subpart 68.05 also issued under 46 U.S.C. 12106(d).

§ 68.01–5 [Amended]

27. In § 68.01–5(b), remove the word “Commandant” and add, in its place, the words “Director, National Vessel Documentation Center”.

§ 68.01–7 [Amended]

28. In § 68.01–7(c), remove the word “Commandant” and add, in its place, the words “Director, National Vessel Documentation Center”.

§ 68.01–13 [Amended]

29. In § 68.01–13(a), remove the words “§ 67.01–7” and add, in their place, the words “§ 67.9”.

Appendix A to Subpart 68.01—Oath for Qualification of Corporation as a Citizen of the United States Under the Act of September 2, 1958 (46 U.S.C. 883–1)

30. In Appendix A to Subpart 68.01, remove the words “§ 67.03–9(b)” and add, in their place, the words “§ 67.39(c)”.

PART 108—DESIGN AND EQUIPMENT

31. The authority citation for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306; 49 CFR 1.46.

§ 108.160 [Amended]

32. In § 108.160(c), remove “§ 108.525(e)” and add, in its place, “§ 108.540(h)(3)(ii)”.

PART 116—CONSTRUCTION AND ARRANGEMENT

33. The authority citation for part 116 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 116.438 [Amended]

34. In § 116.438(l), immediately after the words “required by paragraph”, remove “(j)” and add, in its place, “(k)”.

§ 116.730 [Amended]

35. In § 116.730, remove “§§ 72.20–10(a), (b), (d), and (e)” and add, in their place, “§§ 72.20–10”.

PART 120—ELECTRICAL INSTALLATION

36. The authority citation for part 120 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 120.380 [Amended]

37. In § 120.380(f), remove the words “paragraphs (a) and (b) of § 111.93–11 in subchapter J” and add, in their place, the words “§ 58.25–55 in subchapter F”.

PART 125—GENERAL

38. The authority citation for part 125 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307; 49 U.S.C. App. 1804; 49 CFR 1.46.

§ 125.110 [Amended]

39. In § 125.110(a), remove “(G–MSE)” and add, in its place, “(G–MSO)”.

PART 183—ELECTRICAL INSTALLATION

40. The authority citation for part 183 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 183.380 [Amended]

41. In § 183.380(f), remove the words “paragraphs (a) and (b) of § 111.93–11 in subchapter J” and add, in their place, the words “§ 58.25–55 in subchapter F”.

PART 189—INSPECTION AND CERTIFICATION

42. The authority citation for part 189 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306, 3307; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 189.55–15 [Amended]

43. In § 189.55–15, in paragraph (a)(2), remove the first sentence and add “The plans may be submitted directly to the Commanding Officer, Marine Safety Center, 400 Seventh Street SW., Washington, DC 20590–0001.” in its place; remove paragraph (a)(3); and redesignate paragraph (a)(4) as paragraph (a)(3).

PART 401—GREAT LAKES PILOTAGE REGULATIONS

44. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.46(mmm); 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

45. In § 401.110 revise paragraph (a)(9) to read as follows:

§ 401.110 Definitions.

(a) * * *

(9) *Director* means Director, Great Lakes Pilotage. Communications with the Director may be sent to the following address: Commandant (G–MW–1), 2100 Second Street SW., Washington, DC 20593–0001, Attn: Director, Great Lakes Pilotage.

* * * * *

§ 401.210 [Amended]

46. Amend § 401.210 as follows:

a. In paragraphs (a)(2), (3), (4), (6), (8), and (9), wherever the word “He” appears, remove it and add, in its place, the word “The individual”;

b. In paragraph (a)(7), remove the words “He agrees that he will” and replace them with the words, “The individual agrees to”; and

c. In paragraph (b), immediately following the words “of his” add the words “or her”.

§ 401.211 [Amended]

47. In § 401.211(a), wherever the word “He” appears, remove it, and add, in its place, the words “The individual”.

§ 401.230 [Amended]

48. Amend § 401.230 as follows:

a. In paragraph (a), immediately following the word “his” add the words “or her”; and

b. In paragraph (b), immediately following the word “he” add the words “or she”.

§ 401.250 [Amended]

49. In § 401.250(d), immediately following the words “deliver his”, add the words “or her”.

§ 401.260 [Amended]

50. In § 401.260, (b) and (c), immediately following the word “his” add the words “or her” wherever it appears in these paragraphs.

§ 401.600 [Amended]

51. In § 401.600, immediately following the word “he” wherever it appears, add the words “or she”, and immediately following the word “his” wherever it appears, add the words “or her”.

Dated: September 20, 2002.

Joseph J. Angelo,

Acting Assistant Commandant, Marine Safety, Security and Environmental Protection.

[FR Doc. 02-24622 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 298

[Docket No. MARAD-2002-12425]

RIN 2133-AB47

Amendment of MARAD's Regulations Establishing and Administering Deposit Funds Authorized by Section 1109 of the Merchant Marine Act, 1936, as Amended

AGENCY: Maritime Administration, Transportation.

ACTION: Final rule.

SUMMARY: Recent legislation modified the Merchant Marine Act, 1936, as amended, by adding a new Section 1109, which authorizes the Secretary of Transportation to hold funds from Title XI obligors as collateral by depositing them with the United States Treasury and investing them in Treasury obligations. As a consequence, these funds need no longer be deposited in private banks. This final rule changes existing procedures to simplify, reduce costs of, and expedite Title XI closings.

DATES: The effective date of this final rule is October 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Lorr, Assistant Chief Counsel for Ship Financing, at (202) 366-5882. You may send mail to Mr. Lorr at Maritime Administration, Office of Chief Counsel, Room 7228, 400 Seventh Street, SW., Washington, DC 20590. You may also e-mail Mr. Lorr at richard.lorr@marad.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 12, 2002, we published a notice of proposed rulemaking (NPRM) at 67 FR 40260 soliciting public comment on proposed changes to administering Title XI deposit funds. In the NPRM, we explained the Title XI program deposit funds and the need for the amendments. We received one public comment regarding our proposal. We will address the public comment under the section heading "Response to Public Comment."

The Title XI Program is a loan guarantee program which was

established under Title XI of the Merchant Marine Act, 1936, as amended (the "Act"). The Secretary of Transportation (Secretary) acting by and through the Maritime Administrator administers the Title XI Program.

Title XI provides for the full faith and credit of the United States for the payment of debt obligations for: (1) U.S. or foreign shipowners for the purpose of financing or refinancing either U.S. flag vessels or eligible export vessels constructed, reconstructed, or reconditioned in U.S. shipyards and (2) U.S. shipyards for the purpose of financing advanced shipbuilding technology and modern shipbuilding technology of a privately owned general shipyard facility located in the U.S.

The guaranteed obligations (*i.e.*, notes and bonds) are sold in the private sector. The main purchasers of the obligations include banks, pension funds, life insurance companies, and the general public.

In those instances where the Secretary guarantees obligations under Title XI and where the proceeds of the sale of the obligations are to be used for the construction, reconstruction, or reconditioning of a vessel or for a shipyard improvement, all such proceeds constitute security for the Secretary's risks in extending the guarantees, and are to be under the control of the Secretary as governed by applicable agreements between the Secretary and the Title XI debtor. In addition, the documentation of a Title XI transaction requires the Title XI debtor, under certain circumstances, to make deposits into the Title XI Reserve Fund as additional security for the Secretary.

Prior to the enactment of Section 1109, section 1108 authorized the Secretary to hold only a percentage of obligation proceeds in an escrow account (the "Escrow Fund") with the Treasury. The remaining percentage was deposited with a commercial bank in what has become to be known as the "Construction Fund." In addition, the Secretary had no authority under the Act to accept or hold Title XI Reserve Fund deposits. Currently, such deposits, like the Construction Fund, are placed with and held by a commercial bank. The Depository Agreement among the Title XI debtor, the Secretary, and the commercial bank sets forth the terms and conditions under which the funds may be invested, withdrawn, or otherwise paid to the Secretary or the Title XI debtor. The Title XI debtor granted to the Secretary security interests in these accounts and their contents (the "Collateral"), and provided the Secretary an opinion of

counsel on the perfection and first priority of these security interests.

The Uniform Commercial Code (the "UCC") of the various states, for the most part, governs the perfection and priority of the Secretary's security interests in the Collateral. At its financial closings, MARAD's experience has been that, given the provisions of the UCC and especially the recent changes to the UCC, even the most knowledgeable of legal counsel have had difficulty drafting clean legal opinions about the perfection and enforceability of MARAD's security interest in the Collateral held by commercial depositories. As a result of these factors, opinions of counsel have, over time, become increasingly time consuming and costly. On the other hand, there has never been any question about the perfection and enforceability of MARAD's security interest in funds held in the Escrow Fund by the Treasury under MARAD's normal security agreements.

In an effort to ameliorate the situation and to streamline the Title XI closing process, the Secretary determined that an alternate means for holding and investing the proceeds of the obligations was necessary. Since the Escrow Fund was already in place, it seemed only logical to use it for not just a percentage of the proceeds, but for all the proceeds. Accordingly, the Secretary sought the enabling legislation, and section 1109 is the result. The Secretary believes this authority will reduce the cost of obtaining Title XI benefits by simplifying the opinions of counsel and eliminating the costs of engaging commercial banks to hold and invest the proceeds. In addition, it is anticipated that closing documentation will be reduced or simplified.

Response to Public Comment

One comment was received concerning the NPRM. The commenter states that, in his opinion, Section 1109 of the Act "was intended to solve certain technical problems of the Construction Fund arrangements and legal opinions concerning those arrangements." It is true that one of the purposes of Section 1109 is to permit the agency to abolish the Construction Fund. However, the enactment of Section 1109 was not merely intended to solve problems related to that fund. Section 1109 also permits the Secretary to hold in a Treasury account money in the Title XI Reserve Funds of obligors (which are established for the purpose of holding a portion of an obligor's net operating income in a secured account for the benefit of the Secretary) as well as any other liquid assets that are

pledged to the Secretary as collateral for a guarantee. In addition, the same commenter makes three requests concerning the proposed regulations. First, the commenter requests that drafts of any agreements that the Secretary intends to use to administer the provisions of Section 1109 be made available to commenters for their comments before the final regulation is promulgated. Second, the commenter expresses a concern that nothing in the NPRM requires the Secretary to pay the obligor interest on cash balances of the deposit fund as required by Sections 1109(c) and 1109(d)(2) and that if the final rule does not address the issues the agency's agreements should be amended to do so. Finally, the commenter states that the Secretary's authority to retain and offset amounts in the Treasury account does not arise until the obligor has defaulted on the obligations. The commenter believes that the regulations should not extend retention and offset to pre-default circumstances contrary to Section 1109(d)(3).

It is well established that MARAD does not publish the forms of its Title XI documents for review under the Administrative Procedure Act. MARAD's forms are traditionally provided to shipowning companies and to attorneys who practice ship finance law. Copies of the documents are on the agency's Web site, <http://www.marad.dot.gov>. A copy of the Depository Agreement, modified to reflect the provisions of Section 1109, is already publicly available and has been used in recent transactions, although it is not yet on the agency's Web site. Commenters may provide the agency with their views on these agreements at any time. Moreover, these documents are negotiated on a case-by-case basis to the extent warranted by the particularities of each transaction and the questions that are raised concerning the agency's policies by the parties to a closing. Accordingly, there is no reason for MARAD to postpone the effective date of this rule.

With respect to the commenter's second specific concern, that the NPRM does not address the payment of interest on cash balances of the deposit fund, we direct the commenter to the provisions of 46 CFR 298.33(c), (d) and (e) of the agency's regulations, which provisions will apply to the deposit fund, upon adoption of the final rule, and which adequately address the commenter's concerns. These issues are also addressed by Sections 5.04, 5.05, and 5.06 of the General Provisions of the Security Agreement and Section 2 of the Depository Agreement. As to the commenter's third point, neither

MARAD's regulations nor its agreements have extended retention and offset to pre-default circumstances. The pertinent regulations and documentation state that the right arises upon the occurrence of an obligor's default.

With one addition, the rule will be adopted in the form proposed. The NPRM deleted the reference to Construction Fund in 46 CFR 298.33(b)(2)(i), but inadvertently neglected to delete § 298.34, entitled Construction Fund. Hence, the final rule will abolish the provisions of § 298.34 and substitute the words "Removed and Reserved."

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have reviewed this final rule under Executive Order 12866 and have determined that it is not a significant regulatory action under section 3(f). It is also not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Due to the limited economic impact of this final rule, no further analysis is necessary. This final rule is intended only to change the location of the Secretary's collateral, previously deposited in commercial banks to an account held at the Treasury. The intended effect is to encourage the construction of ships in U.S. shipyards both for the domestic and the Eligible Export Vessel programs and the modernization and improvement of U.S. general shipyard facilities by improving Title XI program administration.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires MARAD to determine whether this final rule will have a significant economic impact on a substantial number of small entities. Although a substantial number of Title XI applicants may meet the United States Small Business Administration's criteria for small entity, this final rule will not have a significant economic impact because it merely authorizes a change in the location of the Secretary's collateral, previously deposited in commercial banks, which charge depository fees, to an account held at the Treasury. Section 1279b of 46 App. U.S.C. authorizes the deposit of these funds. By changing the location of the account to the Treasury, this final rule will eliminate depository fees. We do not believe that this final rule will have a significant economic impact on a substantial number of small entities.

Executive Order 13132

We have analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism") and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. These regulations will have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Therefore, consultation with State and local officials was not necessary.

Executive Order 13175

We do not believe that this final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Therefore, the funding and consultation requirements of this Executive Order would not apply.

Paperwork Reduction Act

This rulemaking contains requirements that have been approved previously by the Office of Management and Budget (Approval No. 2133-0018).

Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

Regulation Identifier Number (RIN)

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

List of Subjects in 46 CFR Part 298

Loan programs—transportation, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, we amend 46 CFR part 298 as follows:

PART 298—OBLIGATION GUARANTEES

1. The authority citation for part 298 continues to read as follows:

Authority: 46 App. U.S.C. 1114(b), 1271 *et seq.*; 49 CFR 1.66.

§ 298.2 [Amended]

2. In § 298.2, the definition of Depository is amended by removing all words after “Depository means” and adding in their place “the U.S. Department of Treasury, acting in its capacity under Section 1109 of the Act.”

§ 298.21 [Amended]

3. In § 298.21 revise paragraph (f)(2) to read as follows:

§ 298.21 Limits.

* * * * *

(f) * * *

(2) As long as we have not paid the Guarantees, you or other recipient shall promptly deposit these moneys with us to be held by the Depository in accordance with the Depository Agreement.

* * * * *

§ 298.22 [Amended]

4. In § 298.22 revise paragraph (b)(2) to read as follows:

§ 298.22 Amortization of Obligations.

* * * * *

(b) * * *

(2) You establish a fund with the Depository in which you deposit an equal annual amount necessary to redeem the outstanding Obligations at maturity; or

* * * * *

§ 298.33 [Amended]

5. Section 298.33 is amended as follows:

a. In paragraph (a), by removing the word “us” and adding the words “the Depository” in its place.

b. By removing paragraph (b)(2)(i) and redesignating paragraphs (b)(2) (ii) through (iv) as paragraphs (b)(2) (i) through (iii).

§ 298.34 [Removed and Reserved]

§ 298.35 [Amended]

6. Section 298.35(d) introductory text is revised to read as follows:

§ 298.35 Title XI Reserve Fund and Financial Agreement.

* * * * *

(d) *Deposits.* Unless the Company, as of the close of its accounting year, was subject to and in compliance with the financial requirements set forth in

paragraph (b)(2) of this section, the Company shall make one or more deposits to us to be held by the Depository (the Title XI Reserve Fund), as further provided for in the Depository Agreement. The amount of deposit as to any year, or period less than a full year, where applicable, will be determined as follows:

* * * * *

Dated: September 24, 2002.

By Order of the Maritime Administrator.

Murray A. Bloom,

Acting Secretary, Maritime Administration.

[FR Doc. 02-24695 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-81-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 98-147; FCC 02-234]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document addresses a petition for clarification or partial reconsideration of the *Collocation Remand Order* (66 FR 43516, August 20, 2001). The document makes clear that nothing in the *Collocation Remand Order* disavows any federal jurisdiction the Commission otherwise has to resolve cross-connect disputes. It also concludes that, under section 201(a) of the Communications Act of 1934, as amended (Communications Act or Act), incumbent LECs must include cross-connect offerings made under section 201 in federal tariffs. This document further concludes that in certain limited circumstances incumbent local exchange carriers (LECs) may rely on individual case basis pricing when establishing rates for cross-connects.

DATES: Effective October 30, 2002, except that the Commission’s actions with regard to federal tariffing of the cross-connect requirement and regarding pricing of cross connects in paragraph three of this document are not effective until approved by the Office of Management and Budget. The Commission will publish a document announcing the effective date of this requirement.

FOR FURTHER INFORMATION CONTACT: John Adams, Attorney-Advisor, Competition Policy Division, Wireline Competition

Bureau, at (202) 418-1580, or via the Internet at jkadams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Order on Reconsideration of Fourth Report and Order (Order on Reconsideration)* in CC Docket No. 98-147, FCC 02-234, adopted August 14, 2002, and released September 4, 2002. The complete text of this *Order on Reconsideration* is available for inspection and copying during normal 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. It is also available on the Commission’s Web site at <http://www.fcc.gov>.

Synopsis of the Order on Reconsideration

1. *Background.* In the *Collocation Remand Order* (66 FR 43516, August 20, 2001) the Commission reevaluated provisions of its collocation rules on remand from the United States Court of Appeals for the District of Columbia Circuit. The Commission addressed, among other matters, whether incumbent LECs are required to provision cross-connects between collocators. The Commission concluded that while an incumbent LEC is not required to allow collocators to install and maintain cross-connects between their collocated equipment themselves, an incumbent LEC must nevertheless provide these cross-connects between two collocators upon reasonable request.

2. *Federal Enforcement of Cross-Connect Requirement.* In the *Collocation Remand Order*, the Commission stated that it anticipated “that cross-connect disputes, like other interconnection related disputes, can be addressed in the first instance at the state level.” In the *Order on Reconsideration*, to avoid any uncertainty, the Commission clarifies that nothing in that statement disavows any federal jurisdiction it otherwise might have under the Act to resolve cross-connect disputes. The Commission states that specific questions would be addressed on a case-by-case basis in the event of a complaint.

3. *Federal Tariffing of Cross-Connect Requirement.* The Commission concludes that incumbent LECs must file tariffs for cross-connect offerings made pursuant to section 201 of the

Communications Act at the federal level. The Commission states that this is a necessary result of Section 203(a)'s mandate that all services subject to the Commission's jurisdiction under section 201 be federally tariffed. In order to minimize any unnecessary regulatory burdens, however, the Commission clarifies that incumbents shall have the flexibility to include the rates, terms, and conditions under which they provide cross-connects in their expanded interconnection tariffs, stand-alone tariffs, or other appropriate federal tariffs.

4. *Pricing of Cross-Connects.* A carrier provides facilities or services on an individual case basis when it provides them to a specific customer under rates, terms, and conditions that must be negotiated upon request of the service. Based on the record before it, the Commission declines to adopt a blanket rule against the use of individual case basis pricing for cross-connects because it was unable to determine the extent to which generally available offerings at standardized rates will be possible.

Paperwork Reduction Act Analysis

5. The actions contained the have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the PRA, and will go into effect upon announcement in the **Federal Register** of OMB approval.

Supplemental Final Regulatory Flexibility Act Analysis

6. As required by the *Regulatory Flexibility Act* (RFA), a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) was incorporated in the *Order on Reconsideration and Second Further Notice of Proposed Rulemaking (Order on Reconsideration and Second Further Notice)* in CC Docket 98-147. The Commission sought written public comment on the proposals in the *Second Further Notice*, including comment on the Supplemental IRFA. The Commission received comments from The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) specifically directed toward the Supplemental IRFA. These comments were previously addressed fully in the Final Regulatory Flexibility Analysis (FRFA) included as part of the

Collocation Remand Order, and are addressed only briefly. The Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) conforms to the RFA.

I. Need for, and Objectives of, the Order on Reconsideration

7. This *Order on Reconsideration* continues the Commission's efforts to facilitate the development of competition in telecommunications services. In the *Advanced Services First Report and Order*, the Commission strengthened its collocation rules to reduce the costs and delays faced by carriers that seek to collocate equipment at the premises of incumbent local exchange carriers (incumbent LECs). In *GTE v. FCC*, the D.C. Circuit vacated several of those rules and remanded the case to the Commission. In the *Collocation Remand Order*, the Commission addressed the remanded issues. Among other actions, the Commission required incumbent local exchange carriers (incumbent LECs) to provide cross-connects between collocated carriers upon reasonable request. In the *Order on Reconsideration*, the Commission addressed a petition for clarification or partial reconsideration of that decision.

II. Summary of Significant Issues Raised by Public Comments in Response to the Supplemental IRFA

8. In the Supplemental IRFA, the Commission stated that any rule changes would impose minimum burdens on small entities, including both telecommunications carriers that request collocation and the incumbent LECs that, under section 251(c)(6) of the Communications Act, must provide collocation to requesting carriers. The Commission also solicited comments on alternatives to the proposed rules that would minimize the impact that any changes to its rules might have on small entities. In their comments, OPASTCO stated that the Supplemental IRFA did not provide "the flexibility necessary to accommodate the needs of small (incumbent LECs) and their customers." OPASTCO also stated that the Supplemental IRFA does not specify the specific requirements that might be imposed on small incumbent LECs or the extent to which those requirements might burden small incumbent LECs. Finally, OPASTCO stated that the Supplemental IRFA failed "to describe the 'significant alternatives' for small (incumbent LECs) that [were] presumptively under consideration" in this rulemaking. As noted, the Commission responded to OPASTCO's

comments in the previous *Collocation Remand Order*.

III. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

8. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of entities that will be affected by the rules. The RFA defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

9. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator* report, which encompasses data compiled from FCC Form 499-A Telecommunications Reporting Worksheets. According to data in the most recent report, there are 5679 service providers. These carriers include, *inter alia*, providers of telephone exchange service, wireline carriers and service providers, LECs, interexchange carriers, competitive access providers, and resellers.

10. The Commission included small incumbent LECs in this present RFA analysis. A "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission therefore included small incumbent LECs in this RFA analysis, although the Commission emphasized that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

11. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (Census Bureau) reports that, at the end of 1992, there

were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." For example, a personal communications service (PCS) provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the rules adopted herein.

12. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange service (LECs). The closest applicable definition under the SBA rules is Wired Telecommunications Carriers. According to the most recent data, there are 2,050 incumbent and other LECs. The Commission does not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, The Commission estimates that fewer than 2,050 providers of local exchange service are small entities or small incumbent LECs that may be affected by the rules adopted herein.

13. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers. According to the most recent data, there are 229 carriers engaged in the provision of interexchange services. Of these 229 carriers, 181 reported that they have 1,500 or fewer employees and 48 reported that alone, or in combination with affiliates, they have more than 1,500 employees. The Commission does not have data specifying the number of

these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are less than 229 small entity IXCs that may be affected by the rules adopted herein.

14. *Wireless Service Providers.* The SBA has developed a definition for small businesses within the two separate categories of Cellular and Other Wireless Telecommunications or Paging. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's most recent Telephone Trends Report data, 1,495 companies reported that they were engaged in the provision of wireless service. Of these 1,495 companies, 989 reported that they have 1,500 or fewer employees and 506 reported that, alone or in combination with affiliates, they have more than 1,500 employees. The Commission does not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireless service providers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are 989 or fewer small wireless service providers that may be affected by the rules.

IV. Description of Projected Reporting, Record Keeping, and Other Compliance Requirements

15. The *Order on Reconsideration* imposes nominal changes in projected reporting, record keeping, and other compliance requirements. These changes affect small and large companies equally.

16. In the *Order on Reconsideration*, in order to comply with a statutory mandate, the Commission requires that an incumbent LEC must include the rates, terms, and conditions under which they provide cross-connects in their federal tariffs. In order to minimize any unnecessary regulatory burdens, however, the Commission makes clear that incumbents shall have the flexibility to include their cross-connect offerings in any appropriate federal tariffs.

17. In the *Order on Reconsideration*, consistent with its existing policy, the Commission allows incumbent LECs the flexibility to use individual case basis (ICB) pricing for cross-connects under specific limited circumstances. The Commission also retains its requirement

that incumbent LECs must amend their tariffs to provide for firm rates when those circumstances change. These tariffing requirements give greater certainty to collocators, many of which are small entities, without imposing undue burdens on any incumbent LEC.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

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

19. In this *Order on Reconsideration*, the Commission clarifies that nothing in its prior order disavows any federal jurisdiction we otherwise have under the Act to resolve cross-connect disputes. The Commission also requires incumbent LECs, including those classified as small entities, to include their cross-connect offerings in their federal tariffs. In order to minimize any unnecessary regulatory burdens, however, the Commission clarifies that incumbents shall have the flexibility to include the rates, terms, and conditions under which they provide cross-connects in any appropriate federal tariffs. In so doing, the Commission implicitly rejects, as unnecessarily burdensome, alternatives such as requiring incumbent LECs to file new, stand-alone tariffs for their cross-connect offerings. The Commission also permits incumbent LECs to use ICB pricing in these tariffs in appropriate circumstances. The Commission rejects as inconsistent its prior policy the alternative of precluding all use of ICB pricing for cross-connects. Rejection of this alternative ensures that incumbent LECs have an additional measure of flexibility in developing their federal cross-connect tariffs.

Ordering Clauses

20. Pursuant to sections 1-4, 201-03, 251-54, 256, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151-54, 201-03, 251-54, 256, and 303(r), that the Petition for Reconsideration or Clarification jointly filed by Association

for Local Telecommunications Services, e.spire Communications, Inc., KMC Telecom, Inc., McLeodUSA Telecommunications Services, Inc., and NuVox, Inc. September 19, 2001, *Is granted* to the extent set forth in the document.

21. The *Order on Reconsideration Shall become effective* October 30, 2002. The collections of information contained in this *Order on Reconsideration Are contingent* upon approval of the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing the effective date of this requirement.

22. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *Order on Reconsideration*, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 51

Interconnection, Telecommunications Carriers.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 02-24720 Filed 9-27-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 98-147; FCC 02-234]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document finds that federally mandated limits on the time period for which incumbent local exchange carriers (LECs) and competitive LECs may reserve potential collocation space for future use are not warranted. It further concludes that disputes regarding the conversion of virtual collocation arrangements to physical collocation arrangements should be addressed on a case-by-case basis. Finally, it determines that, although point-of-termination bays (POT bays) constitute a technically feasible point of interconnection, an incumbent LEC may not compel collocators to interconnect through them.

DATES: Effective October 30, 2002.

FOR FURTHER INFORMATION CONTACT: John Adams, Attorney-Advisor, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1580, or via the Internet at jkadams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Fifth Report and Order* in CC Docket No. 98-147, FCC 02-234, adopted August 14, 2002, and released September 4, 2002. The complete text of this *Report and Order* is available for inspection and copying during normal 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. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Synopsis of the Fifth Report and Order

1. *Background.* In the *Second Further Notice* (65 FR 54527, September 8, 2000), the Commission sought comment on several collocation-related issues that the Commission has not yet addressed. These issues included whether the Commission should adopt a national policy limiting the period for which potential collocation space can be reserved for future use. Parties to this proceeding asked that the Commission clarify its policies regarding the conversion of virtual collocation arrangements to physical arrangements and regarding the use of POT bays with physical collocation arrangements.

2. *Space Reservation Policies.* In the *Second Further Notice*, the Commission stated that the primary responsibility for resolving space reservation disputes lay with the states and therefore declined to adopt specific space reservation period at that time. The Commission, however, requested comment as to whether it should adopt a national space reservation policy that would apply where a state does not set its own standard. Based on the record, the Commission is not convinced that national space reservation policy is needed at this time to ensure that requesting carriers obtain reasonable and nondiscriminatory access to potential collocation space. The Commission states that, because a variety of factors can impact the availability of central office space, the states continue to be in the best position to monitor this situation and adopt policies that best address the particular

space reservation issues in that state. The Commission also states that to the extent the state commissions have not adopted specific periods for space reservations, space reservation disputes should be resolved on a case-by-case basis.

3. *Conversion of Virtual Arrangements to Physical Arrangements.* The Commission states that it would not require, as a general matter, that incumbent local exchange carriers (incumbent LECs) permit in-place conversions of virtual collocation arrangements to physical collocation arrangements. The Commission concludes that a blanket rule might result in some physical arrangements occupying space that would otherwise be unsuited for physical collocation. At the same time, the Commission recognizes that, under section 251(c)(6) of the Communications Act, an incumbent LEC must provide for physical collocation on terms and conditions that are just, reasonable, and nondiscriminatory. The Commission determines that any disputes regarding whether an incumbent LEC complies with this standard in evaluating requests to move a virtual arrangement to part of the incumbent LEC's premises where physical collocation is allowed should be addressed on a case-by-case basis.

4. *POT Bays.* In the *Advanced Services First Report and Order* (63 FR 4420, August 18, 1998), the Commission adopted §51.323(k)(2) of the Commission's rules, which provides that "[a]n incumbent LEC may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible." In the *Fifth Report and Order*, the Commission states that, by definition, a POT bay is not an "intermediate interconnection arrangement," but rather simply a convenient demarcation point between the incumbent LEC's facilities and those of the collocator. The Commission therefore concludes that the prohibition against intermediate interconnection arrangements in §51.323(k)(2) does not apply to POT bays. The Commission notes, however, that the Communications Act mandates that incumbent LECs allow competitive LECs to interconnect at "any technically feasible point." The Commission therefore concludes that while incumbent LECs may offer interconnection through POT bays as one technically feasible method of interconnection with a collocated competitive LEC, they may not unilaterally require competitive LECs to

interconnect through such an arrangement where other technically feasible points of interconnection are available. The Commission notes, however, that although an incumbent LEC cannot unilaterally dictate the point of interconnection, this does not mean that a competitive LEC can dictate how the interconnection is implemented. The Commission states that these matters are typically subject to negotiations between the parties.

Supplemental Final Regulatory Flexibility Act Analysis

5. As required by the *Regulatory Flexibility Act* (RFA), a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) was incorporated in the *Order on Reconsideration and Second Further Notice of Proposed Rulemaking (Order on Reconsideration and Second Further Notice)* in CC Docket 98-147. The Commission sought written public comment on the proposals in the *Second Further Notice*, including comment on the Supplemental IRFA. The Commission received comments from The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) specifically directed toward the Supplemental IRFA. These comments were previously addressed fully in the Final Regulatory Flexibility Analysis (FRFA) included as part of the *Collocation Remand Order* (66 FR 43516, August 20, 2001), and are addressed only briefly in The Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) conforms to the RFA.

I. Need for, and Objectives of, the Fifth Report and Order

6. This *Fifth Report and Order* continues the Commission's efforts to facilitate the development of competition in telecommunications services. In the *Advanced Services First Report and Order*, the Commission strengthened its collocation rules to reduce the costs and delays faced by carriers that seek to collocate equipment at the premises of incumbent LECs. In *GTE v. FCC*, the D.C. Circuit vacated several of those rules and remanded the case to the Commission. In the *Collocation Remand Order*, the Commission addressed the remanded issues. Among other actions, the Commission required incumbent local exchange carriers (incumbent LECs) to provide cross-connects between collocated carriers upon reasonable request. In the *Fifth Report and Order*, the Commission addressed a collocation

Further Notice. The Commission's actions will help incumbent LECs and collocated carriers better understand its collocation requirements and how they will be enforced.

II. Summary of Significant Issues Raised by Public Comments in Response to the Supplemental IRFA

7. In the Supplemental IRFA, the Commission stated that any rule changes would impose minimum burdens on small entities, including both telecommunications carriers that request collocation and the incumbent LECs that, under section 251(c)(6) of the Communications Act, must provide collocation to requesting carriers. The Commission also solicited comments on alternatives to the proposed rules that would minimize the impact that any changes to its rules might have on small entities. In their comments, OPASTCO stated that the Supplemental IRFA did not provide "the flexibility necessary to accommodate the needs of small (incumbent LECs) and their customers." OPASTCO also stated that the Supplemental IRFA does not specify the specific requirements that might be imposed on small incumbent LECs or the extent to which those requirements might burden small incumbent LECs. Finally, OPASTCO stated that the Supplemental IRFA failed "to describe the "significant alternatives" for small (incumbent LECs) that (were) presumptively under consideration" in this rulemaking. As noted, the Commission responded to OPASTCO's comments in the previous *Collocation Remand Order*.

III. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

8. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of entities that will be affected by the rules. The RFA defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

9. The most reliable source of information regarding the total numbers

of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator* report, which encompasses data compiled from FCC Form 499-A Telecommunications Reporting Worksheets. According to data in the most recent report, there are 5679 service providers. These carriers include, *inter alia*, providers of telephone exchange service, wireline carriers and service providers, LECs, interexchange carriers, competitive access providers, and resellers.

10. The Commission included small incumbent LECs in this present RFA analysis. A "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission therefore included small incumbent LECs in this RFA analysis, although the Commission emphasized that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

11. *Total Number of Telephone Companies Affected*. The United States Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." For example, a personal communications service (PCS) provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the rules adopted herein.

12. *Local Exchange Carriers*. Neither the Commission nor the SBA has

developed a definition for small providers of local exchange service (LECs). The closest applicable definition under the SBA rules is Wired Telecommunications Carriers.

According to the most recent data, there are 2,050 incumbent and other LECs. The Commission does not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, The Commission estimates that fewer than 2,050 providers of local exchange service are small entities or small incumbent LECs that may be affected by the rules adopted herein.

13. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers. According to the most recent data, there are 229 carriers engaged in the provision of interexchange services. Of these 229 carriers, 181 reported that they have 1,500 or fewer employees and 48 reported that alone, or in combination with affiliates, they have more than 1,500 employees. The Commission does not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are less than 229 small entity IXCs that may be affected by the rules adopted herein.

14. *Wireless Service Providers.* The SBA has developed a definition for small businesses within the two separate categories of Cellular and Other Wireless Telecommunications or Paging. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's most recent Telephone Trends Report data, 1,495 companies reported that they were engaged in the provision of wireless service. Of these 1,495 companies, 989 reported that they have 1,500 or fewer employees and 506 reported that, alone or in combination with affiliates, they have more than 1,500 employees. The Commission does not have data specifying the number of these carriers that are not independently

owned and operated, and thus are unable at this time to estimate with greater precision the number of wireless service providers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are 989 or fewer small wireless service providers that may be affected by the rules.

IV. Description of Projected Reporting, Record Keeping, and Other Compliance Requirements

15. None.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

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

17. In the *Fifth Report and Order*, the Commission addresses the need for a national space reservation policy, the conversion of virtual collocation arrangements to physical collocation arrangements, and whether incumbent LECs may require the use of point of termination (POT) bays. It rejects the alternative of adopting more stringent regulations as suggested by some commenters. The Commission concludes that disputes regarding an incumbent LEC's policies on space reservations and the conversion of virtual collocation arrangements should be addressed on a case-by-case basis. It also concludes that while the use of POT bay is permissible, incumbent LECs may not unilaterally compel their use.

Paperwork Reduction Act Analysis

18. The actions contained in the *Fifth Report and Order* have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose no new or modified reporting and recordkeeping requirements or burdens on the public.

Ordering Clauses

19. Pursuant to sections 1-4, 201-03, 251-54, 256, and 303(r) of the

Communications Act of 1934, as amended, 47 U.S.C. 151-54, 201-03, 251-54, 256, and 303(r), the *Fifth Report and Order* is adopted.

24. Pursuant to sections 1-4, 201-03, 251-54, 256, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 201, 202, 251-54, 256, and 303(r), the actions taken in the *Fifth Report and Order* shall become effective October 30, 2002.

25. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Fifth Report and Order*, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 51

Interconnection, Telecommunications carriers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02-24721 Filed 9-27-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 177

[Docket No. RSPA-01-10373 (HM-220D)]

RIN 2137-AD58

Hazardous Materials: Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders; Extension of Compliance Dates and Corrections

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; extension of compliance dates and corrections.

SUMMARY: This document extends the compliance dates and makes minor corrections for certain requirements adopted in a final rule published under Docket No. RSPA-01-10373 (HM-220D) on August 8, 2002 (67 FR 51626), which amended requirements applicable to the maintenance, requalification, repair, and use of DOT specification cylinders. RSPA is taking action in response to appeals stating that the October 1, 2002 effective date is unreasonable. This action provides additional time, until May 30, 2003, for RSPA to fully evaluate and determine the merits of issues raised by appellants concerning these requirements and their requests for clarification of certain other

requirements. These appeals will be fully addressed in a later document. Because these amendments do not impose new requirements, notice and public comment are unnecessary.

DATES: *Effective Date:* This rule is effective on October 1, 2002.

Compliance Date: However, certain regulatory actions will not occur until the date specified in the regulatory text.

FOR FURTHER INFORMATION CONTACT: Sandra Webb, (202) 366-8553, Office of Hazardous Materials Standards, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

I. Background

On August 8, 2002, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket No. 01-10373 (HM-220D) (67 FR 51625) amending the requirements of the Hazardous Materials Regulations applicable to the maintenance, requalification, repair, and use of DOT specification cylinders. The August 8, 2002 final rule, amended the HMR to:

(1) Prohibit a filled cylinder with a specified service life from being offered for transportation in commerce after its service life has expired.

(2) Remove authorization for the manufacture of DOT specification cylinders using aluminum alloy 6351-T6. Cylinders manufactured with this aluminum alloy have a greater risk of failure than other aluminum cylinders.

(3) Incorporate by reference new and updated Compressed Gas Association (CGA) standards and updated American Society for Testing and Materials (ASTM) standards.

(4) Require each person who performs a requalification function that requires marking of an inspection or retest date on a cylinder to have approval from the Associate Administrator for Hazardous Materials Safety (Associate Administrator).

(5) Standardize requirements for repair and rebuilding of DOT-4 series cylinders, other than the DOT 4L.

(6) Allow the application of requalification markings on cylinders by using alternative methods that produce durable, legible marks.

(7) Require pressure relief devices on all DOT-3 series specification cylinders to be set at test pressure with a tolerance of -10% to +0 beginning at the first requalification due on or after the effective date of this final rule.

In addition, we consolidated requirements for obtaining approval to be a cylinder requalifier, or an independent inspection agency, or to have chemical tests or analyses

performed outside the United States on cylinders manufactured outside the United States in a new Subpart I in Part 107.

We received approximately 20 appeals of the implementation of HM-220D, either in total or in part. We received appeals from representatives of industrial gas trade associations, gas distributors, shippers, carriers, cylinder manufacturers and requalifiers.

Extension of Compliance Date

Most appellants request that we extend the October 1, 2002 effective date for certain requirements adopted in the final rule. They state a 60-day implementation period is unreasonable for certain requirements. They request that we delay implementation of the particular requirements until we have had an opportunity to further review and address their specific concerns. We agree that the October 1 effective date of certain provisions should be extended. Therefore, in this final rule, we are providing a May 30, 2003 compliance date for the following requirements:

- Sections 173.40(b) and 173.301a(d)(3)—Requiring the pressure at 55 °C (131 °F) in a cylinder not to exceed the service pressure of the cylinder. This provision affects Hazard Zone B gases, such as hydrogen sulfide.
- Sections 173.301(f)(2) and 177.840(a)(1)—Requiring the inlet port to the relief channel of the pressure relief device, when installed, must be in the cylinder's vapor space.
- Section 173.301(f)(3)—Requiring the set pressure of the pressure relief device to be at test pressure with a tolerance of -10% to +0 for DOT 3-series cylinders.
- Section 173.301(h)(2)—Allowing cylinders filled with a flammable, corrosive, or noxious gas to have the valves protected by loading the cylinders in an upright position and securely bracing in cars or motor vehicles, when loaded by the consignor and unloaded by the consignee.

Editorial Corrections and Clarifications

Appellants expressed concern about a requirement in the August 8, 2002 final rule that prohibits a welded cylinder from being used for Hazard Zone A materials (see §§ 173.226(a) and 173.228(b) of the August 8, 2002 final rule). Appellants ask us to provide time for transporting filled cylinders for reprocessing or disposal of the cylinder's contents. We agree. In this final rule, we are revising the prohibition to permit a welded cylinder that is filled with a Hazard Zone A

material prior to October 1, 2002, to be transported for reprocessing or disposal until April 1, 2003.

In addition, in this final rule, we are clarifying a requirement applicable to cylinders used to transport oxygen. In § 173.302, the August 8, 2002 final rule included provisions applicable to aluminum cylinders used to transport oxygen. One of the requirements states that each valve or portion of a valve that comes into contact with the oxygen being transported must be constructed of brass or stainless steel. Several appellants point out that some aluminum oxygen cylinders have valve components made of non-metallic materials that may come in contact with the oxygen. It was not our intention to require persons transporting oxygen in aluminum cylinders to replace non-metallic valves or valve components with brass or stainless steel. Therefore, in this final rule we are clarifying that metallic portions of valves that may come into contact with the oxygen in the cylinder must be constructed of brass or stainless steel.

Appellants also point out that we inadvertently excepted all acetylene cylinders from the valve protection requirements in § 173.301(h) of the August 8, 2002 final rule. Appellants are correct that this was not our intent. As we stated in the preamble to the final rule (67 FR 51631), our intention was to except only acetylene MC cylinders and other types of small-capacity cylinders from the valve protection requirements. Therefore, in this final rule, we are revising the exception for acetylene cylinders to except small capacity MC and B style cylinders from valve protection requirements.

Partial Denial of Appeals

CGA and several other appellants also contend that HM-220D was issued as a final rule with no opportunity for public comment. They state that HM-220D should be withdrawn and converted to an NPRM with sufficient time provided for persons to review and comment on the proposals. We do not agree. We proposed to make the changes adopted under HM-220D in a notice of proposed rulemaking published under Docket No. RSPA-98-3684 (HM-220) on October 30, 1998 (63 FR 58460). The comment period for HM-220 closed September 30, 1999. In addition, we held three public meetings to discuss the HM-220 proposals on December 8, 1998 (63 FR 58460; October 30, 1998), January 28, 1999 (63 FR 72224; December 31, 1998), and April 13-15, 1999 (64 FR 9114; February 24, 1999). On February 13, 2002, we separated the proposals applicable to current DOT specification

cylinders, from those applicable to the metric-marked cylinders, and placed them under Docket No. RSPA-01-10373 (HM-220D) (67 FR 6667). Therefore, RSPA finds the appellants' claim that we did not provide the public with an opportunity to comment on this rule is without merit and is denied.

RSPA's procedural regulations for handling appeals of final rules require us to take action on appeals within 90 days after the date of publication of the final rule (see 49 CFR 106.130). If we anticipate that our decision on an appeal may be delayed beyond the 90-day time frame, we must provide notice of the delay in the **Federal Register**. For the August 8, 2002 final rule, the 90-day deadline is November 6, 2002. We intend to consider the issues raised by appellants concerning the above listed sections of the August 8, 2002 final rule as expeditiously as possible; however, it is unlikely that we will be able to resolve all the issues by November 6, 2002. We plan to address all issues raised by appellants by May 30, 2003.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 177

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, Chapter I of the Code of Federal Regulations, is amended as follow:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 5101-5127, 44701; 49 CFR 1.45, 1.53.

2. In § 173.40, as revised at 67 FR 51642, effective October 1, 2002, revise paragraph (b) to read as follows:

§ 173.40 General packaging requirements for toxic materials packaged in cylinders.

(b) *Outage and pressure requirements.* For Hazard Zone A and, after May 30, 2003, Hazard Zone B materials, the pressure of the hazardous material at 55° C (131° F) may not exceed the service pressure of the cylinder. Sufficient outage must be provided so

that the cylinder will not be liquid full at 55° C (131° F).

3. In § 173.226, as amended at 67 FR 51643, effective October 1, 2002, revise paragraph (a) to read as follows:

§ 173.226 Materials poisonous by inhalation, Division 6.1, Packing Group I, Hazard Zone A.

(a) In seamless specification cylinders conforming to the requirements of § 173.40. However, a welded cylinder filled before October 1, 2002, may be transported for reprocessing or disposal of the cylinder's contents until April 1, 2003.

4. In § 173.228, as revised at 67 FR 51643, effective October 1, 2002, revise paragraph (b) to read as follows:

§ 173.228 Bromine pentafluoride or bromine trifluoride

(b) A material in Hazard Zone A must be transported in a seamless specification cylinder conforming to the requirements of § 173.40. However, a welded cylinder filled before October 1, 2002, may be transported for reprocessing or disposal of the cylinder's contents until April 1, 2003. No cylinder may be equipped with a pressure relief device.

5. In § 173.301, as revised at 67 FR 51643, effective October 1, 2002, the following amendments are made:

- a. Paragraphs (f)(2), (f)(3), (h)(1)(vii) are revised.
 - b. The word "or" at the end of paragraph (h)(2)(ii) is removed.
 - c. The period at the end of paragraph (h)(2)(iii) is removed and "; or" is added in its place.
 - d. Paragraph (h)(2)(iv) is added.
- The amendments read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders and spherical pressure vessels.

- (f) * * *
- (2) After May 30, 2003, when a pressure relief device is installed, the inlet port to the relief channel must be in the vapor space of the cylinder.
- (3) For a DOT 3, 3A, 3AA, 3AL, 3AX, 3AXX, 3B or 3BN cylinder, from the first requalification due after May 30, 2003, the set pressure of the pressure relief device must be at test pressure with a tolerance of -10% to +0.
- (h) * * *
- (1) * * *
- (vii) A "B" style cylinder with a capacity of 40 ft³ (1.13 m³) or an "MC"

style cylinder with a capacity of 10 ft³ (0.28m³) containing acetylene.

(2) * * *

(iv) Notwithstanding the provisions of paragraph (h)(2) introductory text of this section, until May 30, 2003, by loading the cylinders in an upright position and securely bracing the cylinders in cars or motor vehicles, when loaded by the consignor and unloaded by the consignee.

6. In § 173.301a, as added at 67 FR 51645, effective October 1, 2002, revise paragraph (d)(3) to read as follows:

§ 173.301a Additional general requirements for shipment of specification cylinders.

(d) * * *

(3) After May 30, 2003, for toxic materials the pressure in the cylinder at 55° C (131° F) may not exceed the service pressure of the cylinder.

7. In § 173.302, as revised at 67 FR 51646, effective October 1, 2002, revise paragraph (b)(1) to read as follows:

§ 173.302 Filling of cylinders with nonliquefied (permanent) compressed gases.

(b) * * *

(1) Metallic portions of a valve that may come into contact with the oxygen in the cylinder must be constructed of brass or stainless steel.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

8. The authority citation for Part 177 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

§ 177.840 [Amended]

9. In § 177.840, as amended at 67 FR 51652, effective October 1, 2002, the last sentence in paragraph (a)(1) is amended by removing the wording "A cylinder containing" and adding in its place "After May 30, 2003, a cylinder containing".

Issued in Washington DC on September 24, 2002, under authority delegated in 49 CFR Part 1.

Elaine E. Joost,
Acting Administrator, Research and Special Programs Administration.

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****49 CFR Part 1144**

[STB Ex Parte No. 639]

Removal of Joint Rate Cancellation Regulations**AGENCY:** Surface Transportation Board, Transportation.**ACTION:** Final rule.

SUMMARY: The Surface Transportation Board (Board) is removing regulations concerning the cancellation of through routes and joint rates, because those rules have been made obsolete by statutory changes.

EFFECTIVE DATE: These rules are effective on September 30, 2002.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565-1661. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: The Board is revising its regulations at 49 CFR 1144 to delete obsolete provisions and reflect other changes made by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803 (1995) (ICCTA). The rules at section 1144 were issued by the Interstate Commerce Commission (ICC or Commission) in *Intramodal Rail Competition*, 1 I.C.C.2d 822 (1985), and pertain to three situations: cancellations of through routes and/or joint rates; prescription of a through rate or joint route; and prescription of reciprocal switching. The Board retains jurisdiction to prescribe through routes and joint rates (49 U.S.C. 10705), and to prescribe reciprocal switching (49 U.S.C. 11102, replacing former 49 U.S.C. 11103).

The ICCTA, however, eliminated the joint rate and through route cancellation provisions of former 49 U.S.C. 10705(e) and 10705a. Former section 10705(e) was previously found at former section 15(3) of the Interstate Commerce Act and provided that a joint rate cancellation could be investigated or suspended by the ICC, and if it was suspended and an investigation was instituted, the cancelling carrier had to show that the proposed cancellation was in the public interest. Suspension was considered under the standards of former 49 U.S.C. 10707. See 49 CFR 1144.3. The Staggers Rail Act of 1980 added a new section, former 49 U.S.C. 10705a, which provided a guaranteed cancellation of noncompensatory joint rates (below 110 percent of variable costs). Joint rates 110 percent or higher were to be considered under the public

interest standard of former section 10705(e), and if the Commission determined that an investigation was warranted, the cancellation was to be suspended during the pendency of the consideration. See *Family Lines Rail System—Unilateral Can. of Joint Rates*, 365 I.C.C. 464, 466-67 (1981), *aff'd*, *Southern R. Co. v. Interstate Commerce Commission*, 681 F.2d 29 (D.C. 1982).

We will eliminate sections 1144.1, 1144.3, and 1144.4 pertaining to the notification, suspension, and investigation of proposed joint rate cancellations. Not only are these sections obsolete with the elimination of the joint rate cancellation provisions of former 49 U.S.C. 10705(e) and 10705a, but they also contain references to obsolete sections 49 U.S.C. 10762(c)(3) (concerning tariff notification) and 49 U.S.C. 10707 (concerning rate suspensions). We will also remove the reference to through route or joint rate cancellations and suspension and investigation in the negotiations section, 49 CFR 1144.2.

The remainder of section 1144.2 and all of section 1144.5, concerning prescribing a through rate and establishing a switching arrangement, and section 1144.6, general provisions, are still applicable. As noted, the Board retains jurisdiction in these areas pursuant to 49 U.S.C. 10705 and 11102. Accordingly, we will not make any changes to section 1144.2 beyond removing the reference to cancellations, *supra*. We will not make substantive modifications to section 1144.5 but will only change obsolete references (section 11103 will be changed to section 11102 and section 11101a will be changed to section 11101.) We will remove a reference in section 1144.6 to our rules at 49 CFR 1132, which now pertain only to motor carriers, and the obsolete investigation section, 1144.4. Finally, these three remaining sections of this part will be renumbered as 49 CFR 1144.1, 1144.2, and 1144.3.¹

Because these changes merely remove obsolete regulations based on statutory provisions that have been eliminated and revise other regulations to provide updated statutory references, we find good cause to dispense with notice and comment. See 5 U.S.C. 553(b)(B). Moreover, we find good cause for making these rules effective on less than 30 days' notice under 5 U.S.C. 553(d), so that these changes will be effective by October 1, 2002, which is the cut-off date for revisions to the next edition of

¹ Consequently, the reference in new section 1144.3(c) will be to section 1144.2, instead of current section 1144.6(d)'s reference to sections 1144.4 and 1144.5.

the applicable volume of the Code of Federal Regulations.

Copies of the decision may be purchased from Da-2-Da Legal Copy Service by calling 202-293-7776 (assistance for the hearing impaired is available through FIRS at 1-800-877-8339) or visiting Suite 405, 1925 K Street, NW., Washington, DC 20006.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1144

Railroads.

It is ordered:

1. The final rules set forth in this decision are adopted. Notice of the rules adopted here will be published in the **Federal Register**.

2. This decision is effective on September 30, 2002.

Decided: September 19, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,*Secretary.*

For the reasons set forth in the preamble, part 1144, of title 49, chapter X, of the Code of Federal Regulations is revised to read as follows:

PART 1144—INTRAMODAL RAIL COMPETITION

Sec.

1144.1 Negotiation.

1144.2 Prescription.

1144.3 General.

Authority: 49 U.S.C. 721, 10703, 10705, and 11102.

§ 1144.1 Negotiation.

(a) Timing. At least 5 days prior to seeking the prescription of a through route, joint rate, or reciprocal switching, the party intending to initiate such action must first seek to engage in negotiations to resolve its dispute with the prospective defendants.

(b) Participation. Participation or failure to participate in negotiations does not waive a party's right to file a timely request for prescription.

(c) Arbitration. The parties may use arbitration as part of the negotiation process, or in lieu of litigation before the Board.

§ 1144.2 Prescription.

(a) General. A through route or a through rate shall be prescribed under 49 U.S.C. 10705, or a switching arrangement shall be established under 49 U.S.C. 11102, if the Board determines:

(1) That the prescription or establishment is necessary to remedy or

prevent an act that is contrary to the competition policies of 49 U.S.C. 10101 or is otherwise anticompetitive, and otherwise satisfies the criteria of 49 U.S.C. 10705 and 11102, as appropriate. In making its determination, the Board shall take into account all relevant factors, including:

(i) The revenues of the involved railroads on the affected traffic via the rail routes in question.

(ii) The efficiency of the rail routes in question, including the costs of operating via those routes.

(iii) The rates or compensation charged or sought to be charged by the railroad or railroads from which prescription or establishment is sought.

(iv) The revenues, following the prescription, of the involved railroads for the traffic in question via the affected route; the costs of the involved railroads for that traffic via that route; the ratios of those revenues to those costs; and all circumstances relevant to any difference in those ratios; provided that the mere loss of revenue to an affected carrier shall not be a basis for finding that a prescription or establishment is necessary to remedy or prevent an act contrary to the competitive standards of this section; and

(2) That either:

(i) The complaining shipper has used or would use the through route, through rate, or reciprocal switching to meet a significant portion of its current or future railroad transportation needs between the origin and destination; or

(ii) The complaining carrier has used or would use the affected through route, through rate, or reciprocal switching for a significant amount of traffic.

(b) Other considerations. (1) The Board will not consider product competition.

(2) If a railroad wishes to rely in any way on geographic competition, it will have the burden of proving the existence of effective geographic competition by clear and convincing evidence.

(3) When prescription of a through route, a through rate, or reciprocal switching is necessary to remedy or prevent an act contrary to the competitive standards of this section, the overall revenue inadequacy of the defendant railroad(s) will not be a basis for denying the prescription.

(4) Any proceeding under the terms of this section will be conducted and concluded by the Board on an expedited basis.

§ 1144.3 General.

(a) These rules will govern the Board's adjudication of individual cases

pending on or after the effective date of these rules (October 31, 1985).

(b) Discovery under these rules is governed by the Board's general rules of discovery at 49 CFR part 1114.

(c) Any Board determinations or findings under this part with respect to compliance or non-compliance with the standards of § 1144.2 shall not be given any res judicata or collateral estoppel effect in any litigation involving the same facts or controversy arising under the antitrust laws of the United States.

[FR Doc. 02-24603 Filed 9-27-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 092402D]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Western Aleutian District

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2002 Atka mackerel total allowable catch (TAC) in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 26, 2002, until 2400 hrs, A.l.t., December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 Atka mackerel TAC in the Western Aleutian District of the BSAI is 18,223 metric tons (mt) as established by an emergency rule implementing 2002 harvest specifications and

associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002, and 67 FR 34860, May 16, 2002).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the Atka mackerel TAC in the Western Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 17,523 mt, and is setting aside the remaining 700 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Western Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The Assistant Administrator for Fisheries, NOAA, also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: September 25, 2002.

Virginia M. Fay,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-24766 Filed 9-25-02; 3:42 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 011218304-1304-01; I.D. 092502E]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2002 Pacific cod total allowable catch (TAC) apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 26, 2002, until 2400 hrs, A.l.t., December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228, or Mary.Furuness@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone

according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area is 22,311 metric tons (mt) as established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002 and 67 FR 34860, May 16, 2002).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 16,811 mt, and is setting aside the remaining 5,500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for

processing by the inshore component in the Central Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: September 25, 2002

Virginia M. Fay,

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

[FR Doc. 02-24742 Filed 9-25-02; 3:42 pm]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register

Vol. 67, No. 189

Monday, September 30, 2002

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 99-012-2]

Standards for Permanent, Privately Owned Horse Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We are reopening the comment period for our proposed rule that would amend the regulations pertaining to the importation of horses to establish standards for the approval of permanent, privately owned quarantine facilities for horses. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before October 15, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 99-012-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1231. Please state that your comment refers to Docket No. 99-012-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 99-012-1" in the subject line.

You may read any comments that we receive on Docket No. 99-012-1 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room

hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Andrea Morgan, Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-8364.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2002, we published in the **Federal Register** (67 FR 44097-44111, Docket No. 99-012-1) a proposal to amend the regulations pertaining to the importation of horses to establish standards for the approval of permanent, privately owned quarantine facilities for horses.

Comments on the proposed rule were required to be received on or before August 30, 2002. We are reopening the comment period on Docket No. 99-012-1 until October 15, 2002. This action will allow interested persons additional time to prepare and submit comments. We will also consider all comments received between August 30, 2002, and the date of this notice.

Authority: 7 U.S.C. 1622 and 8301-8316; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 25th day of September, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02-24752 Filed 9-27-02; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 02-002-1]

Classical Swine Fever Status of Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations by adding the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan to the list of regions considered free of classical swine fever. We have conducted a series of risk evaluations and have determined that these four States have met our requirements for being recognized as free of this disease. This proposed action would allow importation into the United States of pork, pork products, live swine, and swine semen from these regions and would eliminate restrictions that no longer appear necessary.

DATES: We will consider all comments that we receive on or before November 29, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-002-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-002-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02-002-1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to

help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Hatim Gubara, Staff Veterinarian, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; phone (301) 734-4356, fax (301) 734-3222.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not currently present or prevalent in this country. The regulations pertaining to the importation of animals and animal products are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D (9 CFR parts 91 through 99).

Until several years ago, the regulations in parts 91 through 99 (referred to below as the regulations) governed the importation of animals and animal products according to the recognized disease status of the exporting country. In general, if a disease occurred anywhere within a country's borders, the entire country was considered to be affected with the disease, and importations of animals and animal products from anywhere in the country were regulated accordingly. However, international trade agreements entered into by the United States—specifically, the North American Free Trade Agreement and the World Trade Organization Agreement on Sanitary and Phytosanitary Measures—require APHIS to recognize regions, rather than only countries, for the purpose of regulating the importation of animals and animal products into the United States.

Consequently, on October 28, 1997, we published in the **Federal Register** a final rule (62 FR 56000-56026, Docket No. 94-106-9, effective November 28, 1997) and a policy statement (62 FR 56027-56033, Docket No. 94-106-8) that established procedures for recognizing regions (referred to below as “regionalization”) for the purpose of

regulating the importation of animals and animal products. With the establishment of those procedures, APHIS may consider requests to allow the importation of a particular type of animal or animal product from a foreign region, as well as requests to recognize all or part of a country or countries as a region. The regulations define the term *region*, in part, as “any defined geographic land area identifiable by geological, political, or surveyed boundaries.”

In accordance with these regionalization procedures, we are proposing to amend the regulations in §§ 94.9 and 94.10 by adding the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan to the lists of regions considered free of classical swine fever (CSF). This proposed rule would allow importation into the United States of pork, pork products, live swine, and swine semen from these regions and would eliminate restrictions that no longer appear necessary.

Change in Terminology

Our regulations in 9 CFR chapter I use the term “hog cholera.” However, it is standard practice among veterinary practitioners in the international community to refer to hog cholera as “classical swine fever.” For the sake of consistency throughout our regulations in 9 CFR chapter I, we have proposed in another document (67 FR 31987-31992, Docket No. 01-074-1, published May 13, 2002) to, among other things, remove the term “hog cholera” wherever it appears in the existing regulations (*i.e.*, parts 71, 93, 94, 98, and 130) and add in its place the term “classical swine fever.” In the remainder of this proposed rule, including the regulatory text at the end of this document, we use the term “classical swine fever,” or the abbreviation CSF, rather than “hog cholera.”

Risk Evaluation

Using information submitted to us by the Federal Government of Mexico and the State Governments of Campeche, Quintana Roo, Sonora, and Yucatan, as well as information gathered during a site visit by APHIS staff to the three States on the Yucatan Peninsula (Campeche, Quintana Roo, and Yucatan) in March 2001 and several site visits to Sonora, we have reviewed and analyzed the animal health status of these States relative to CSF. This review and analysis was conducted in light of the factors identified in § 92.2, “Application for recognition of the animal health status of a region,” which are used to evaluate the risk associated with

importing animals or animal products into the United States from a given region. Based on the information submitted to us, we have concluded the following:

Veterinary Infrastructure

A decree published in Mexico's *Federal Official Daily* on March 25, 1980, established a national campaign for the control and eradication of CSF. The campaign is mandatory and permanent throughout the entire country. Mexican animal disease control and eradication programs operate under the authority of the Federal Secretariat for Agriculture, Livestock, Rural Development, Fisheries and Food Safety (SAGARPA), and its subordinate Directorate for Animal Health (DGSA). International sea and airport border control for animal and plant products is under the authority of SAGARPA and its subordinate Directorate for Phyto and Zoosanitary Inspection (DGIF).

Yucatan Peninsula

Within each of the three Mexican States of the Yucatan Peninsula, there is a Federal SAGARPA delegate and other Federal personnel assigned to conduct Federal animal health activities in that State. Other personnel include an Assistant Delegate, as well as DGSA and DGIF personnel assigned to work in the State. Within each State of the Yucatan Peninsula, the Federal delegates work with State animal health officials in administering joint Federal/State animal health programs that have the ultimate responsibility for official disease diagnosis, animal disease emergency response, and epidemiological investigations of disease outbreaks. There is a peninsular animal health council consisting of the Federal regional coordinator, State animal health officials, and SAGARPA delegates. This council meets every few months to evaluate and determine the funding needs for animal health activities in the region. Results of our evaluation indicated that animal health officials in the Yucatan Peninsula States have the legal authority to enforce Federal and State regulations regarding CSF and that the necessary veterinary infrastructure is in place to carry out CSF surveillance and control activities. No specific factors were identified in the evaluation that might pose a risk to the United States if pork, pork products, live swine, and swine semen were imported from the Yucatan Peninsula States.

Sonora

Sonora is divided into 11 rural development districts (DDRs). The DD Rs

are staffed by 20 veterinarians, 12 of whom are Mexican Federal Inspection Standard (TIF) inspectors. The State has a Secretariat for the Development of Livestock Industry with responsibilities for promoting, developing, coordinating, and executing actions to develop the State's livestock industry. Hog slaughtering and processing are done in the State's eight TIF plants. These establishments comply with international sanitary requirements and have official veterinary officers, and are certified by the countries to which they export. In addition, there are 19 municipal and 2 private abattoirs for the slaughter of pigs. Our evaluation indicated that animal health officials in Sonora have the legal authority to enforce Federal and State regulations regarding CSF and that the necessary veterinary infrastructure is in place to carry out CSF surveillance and control

activities. No specific factors were identified that might pose a risk to the United States if pork, pork products, live swine, or swine semen were imported from Sonora.

Disease History and Surveillance

In regions, States, or areas in Mexico that are under eradication or free of CSF, the Federal and State governments, as well as swine owners or producers and accredited veterinarians, have responsibility for maintaining epidemiological surveillance for CSF. Surveillance includes inspection of swine products and byproducts and of the official documentation required for the control of movement from eradication areas into free areas, as well as virological monitoring by government and producers. Mexico is currently seeking to eradicate pseudorabies. Blood samples collected for the pseudorabies

campaign are also tested for CSF, thus providing additional surveillance for that disease. The surveillance data in tables 1 through 5 below were provided to APHIS by SAGARPA in response to APHIS's information requests.

Yucatan Peninsula

The State of Yucatan has not reported a clinical case of CSF since 1982 and was declared free of CSF by the Government of Mexico in 1995. Quintana Roo was declared free in June 1996, the last case having been detected and eradicated in 1980. Campeche was recognized as free in December 1997, with the last confirmed outbreak having been detected and eradicated in 1989.

The Federal Government of Mexico requires annual testing for CSF. All commercial herds are sampled once a year. Data for the years 1999 and 2000 are shown in tables 1 and 2.

TABLE 1.—SURVEILLANCE TESTING IN YUCATAN PENINSULA FOR CSF, 1999

	Commercial herds sampled	Samples per herd	Backyard herds sampled	Samples per herd
Campeche	5	59	299	5
Quintana Roo	38	59	299	5
Yucatan	211	29	299	5

TABLE 2.—SURVEILLANCE TESTING IN YUCATAN PENINSULA FOR CSF, 2000

	Commercial herds sampled	Samples per herd	Backyard herds sampled	Samples per herd
Campeche	5	59	scheduled: 348 sampled: 961	1 to 5
Quintana Roo	35	59	347	5
Yucatan	238	29	405	5

Sampling has been intensified in high-risk regions. There is a special high-risk zone in Campeche adjacent to Tabasco; this zone consists of the area within 50 kilometers of the Tabasco border and is delineated by peninsular officials, not by the national program. Additional backyard swine premises are tested annually from the risk zone, above the number of samples outlined by the national program. For CSF and pseudorabies, samples are collected from approximately 60 extra premises.

Data for additional passive CSF surveillance sampling conducted under Mexico's pseudorabies eradication program are provided in table 3 below.

TABLE 3.—TOTAL NUMBERS OF SAMPLES RUN FOR CSF DIAGNOSIS (PROGRAM AND OTHER), 2000

State	Number of herds represented	Number of samples
Campeche	1,035	2,091
Quintana Roo ...	383	3,734
Yucatan	643	8,689

APHIS concluded that authorities in the Yucatan Peninsula are conducting adequate surveillance for CSF to detect the disease if it were to be reintroduced into the peninsula. While there was no specific information presented to show that any wild swine in the peninsula are free of CSF, backyard herds, which may be exposed to wild swine, are actively monitored in the Yucatan Peninsula and have been free of this disease for many years.

Sonora

Sonora last reported a case of CSF in 1985. The Government of Mexico declared the State free of the disease in October 1991. Sonora conducts annual serological surveillance for CSF, as required by the Federal Government of Mexico under its national CSF campaign.

In 1995, Sonora began a comprehensive serologic survey strategy for CSF. The protocol included on-farm, backyard herd, and slaughterhouse sampling. Slaughter surveillance was discontinued in 1996 when serological surveillance became required under the Mexican Norms.

Currently, epidemiological surveillance for CSF in Sonora consists of routine sampling in commercial and backyard herds using the Cannon and Roe formula for estimating the statistical sample size. In commercial farms, 100

percent of farms are covered, with sampling being conducted at a rate that provides a 95 percent confidence level of detecting one or more infected swine when the assumed prevalence of the disease is 10 percent (reduced to 5 percent in 2000). Samples are randomly

selected on every farm, with 80 percent of samples taken from sows, 10 percent from boars, and 10 percent from fattening pigs. For backyard premises random samples are collected using the same Cannon and Roe formula, with sampling being conducted at a rate that

provides a 95 percent confidence level of detecting one or more infected swine when the assumed prevalence of the disease is 1 percent. Surveillance data for Sonora since 1998 are presented in table 4.

TABLE 4.—SURVEILLANCE TESTING IN SONORA FOR CSF, 1998–2001

Year	Commercial		Backyard	
	Number of farms	Number of animals	Number of farms	Number of animals
1998	225	7,769	300	1,500
1999	209	6,373	304	1,567
2000	191	7,116	260	2,504
2001	201	14,015	133	1,376

All of the swine sampled from 1998 to 2001 had negative results for CSF. Table 5 shows the numbers of samples targeted, the numbers actually collected, and the coverage rate for the same period (1998 to 2001). Generally, the numbers of animals actually sampled exceeded the targets.

TABLE 5.—TARGETS AND ACTUAL SAMPLES TAKEN, 1998–2001

Year	Commercial			Backyard		
	Target	Actual	Percentage of targets sampled	Target	Actual	Percentage of targets sampled
1998	3,263	7,769	238	1,203	1,500	125
1999	3,263	6,363	195	1,203	1,567	130
2000*	12,803	7,116	56	1,215	2,504	206
2001	10,620	14,015	132	1,325	1,376	104

* In the year 2000, the Animal Health General Directorate requested that Sonora collect 59 samples from each commercial farm instead of 29, in order to decrease the prevalence parameter in the sampling design. However, because of time constraints, it was agreed that Sonora would collect only 29 samples per farm for that year. Taking into account that there were 217 farms in 2000 and 29 samples were taken from each one, the total number of target samples would have been 6,293, with a coverage rate for that year of 113 percent. In 2001, 59 samples were collected from each farm.

Any suspicion of CSF requires notification of the Exotic Animal Disease Commission (EADC) and is investigated by the EADC regional coordinator or an official veterinarian. Diagnosis is made at the EADC's laboratory facility in Mexico City. Immediate notification would be given to the United States and Canada by telephone or fax as soon as a diagnosis was confirmed.

APHIS concluded that authorities in Sonora are conducting an adequate level of surveillance to detect the disease if it were to be reintroduced. While there was no specific information presented that would show that any wild swine are free of CSF, backyard herds, which may be exposed to wild swine, are actively monitored and have been free of this disease for many years.

Diagnostic Capabilities

Laboratories for CSF diagnosis in Mexico include the National Center for Animal Health Diagnosis (CENASA) in Mexico City; the EADC laboratory, also located in Mexico City; and eight

laboratories accredited for the diagnosis of CSF located throughout the country.

Yucatan Peninsula

Two laboratories provide veterinary diagnostic services to the swine and poultry industries on the Yucatan Peninsula. One is a small regional laboratory located in Chetumal in the State of Quintana Roo, and the second is a full-service regional laboratory located in Merida, Yucatan. The Yucatan Regional Laboratory in Merida meets the recommendations of the Office of International Epizootics for equipment and training. An APHIS team visited the laboratory in 2001 and deemed the facilities and personnel adequate for the CSF surveillance program in Yucatan.

Primary surveillance for CSF is carried out by serologic monitoring using the immunoperoxidase test (IPT). Samples with equivocal or positive results are further tested by an ELISA test to confirm the specificity of the antibody. This approach is consistent with serologic methods used in the United States for CSF. Any samples that

test positive at the Yucatan laboratory are sent to the CENASA central laboratories in Mexico City for confirmation, and tissues of any suspect animals are sent to the EADC laboratory in Mexico City for virus isolation. The laboratory in Chetumal provides general microbiological services to local producers but does not conduct diagnostic tests for program diseases.

The laboratory in Merida also provides support for hazard analysis and critical control point (HACCP) programs for TIF processing plants in the region. The laboratory does not have an official quality assurance program in place; however, some monitoring of equipment is being performed.

APHIS concluded that the laboratory capabilities and infrastructure in the three States on the Yucatan Peninsula are sufficient to support the CSF surveillance activities, although the team felt that some improvements might be in order.

Sonora

The State of Sonora has three diagnostic laboratories: Ciudad

Obregon, Lancer, and Pecuarius. All three laboratories have the capabilities to conduct CSF diagnosis. The two laboratories in Ciudad Obregon and Lancer serve the entire State of Sonora, while the lab in Pecuarius serves Sonora and other Mexican States. APHIS was unable to identify any limitations in Sonora's laboratory capabilities for diagnosis of CSF that would pose a risk to the United States.

Vaccination Status

Vaccination was discontinued in Yucatan in 1993, in Quintana Roo in 1994, in Campeche in 1995, and in Sonora in 1989.

Disease Status of Adjacent Regions

Yucatan Peninsula

Yucatan is bordered to the west by Campeche, and by Quintana Roo to the east and south. Tabasco, the only Mexican State bordering the Yucatan peninsula, shares the western border. Tabasco is a control State for CSF and had four foci of CSF in 2000, all of which were controlled using task forces. The State of Campeche shares its southern border with Guatemala, and the State of Quintana Roo shares its southern border with both Guatemala and Belize. Although the United States considers both Guatemala and Belize to be affected by CSF, officials of the Regional International Organization for Agricultural Health (OIRSA) informed APHIS that CSF has not appeared in Belize since 1988, that it is a notifiable disease, and that vaccination is prohibited. In Guatemala, CSF is more commonly reported in the southern portion of the country, a region not adjacent to Campeche. There were 38 cases and 55 cases reported during 1998 and 1999, respectively. In the Petén region of Guatemala, which abuts Campeche, an outbreak associated with the State of Tabasco was reported in November 2000 and was rapidly eliminated. In survey work in the Petén region, serologic titers have been dropping off as vaccination has declined due to eradication efforts and prohibition of vaccination since 1999.

Although there are continuing CSF outbreaks in the adjacent Mexican State of Tabasco and adjacent countries, APHIS considers that the control point activity in place between the Yucatan Peninsula and the neighboring State and countries is sufficient to reduce substantially the risk of infection being brought in from these regions. In addition, eradication activity for diseases considered exotic is diligent and sufficient for rapid control of

outbreaks of the type observed in the past.

Sonora

Sonora borders Chihuahua, Sinaloa, and Baja California in Mexico and Arizona in the United States. Arizona is free of CSF. The disease has not been reported in any of the three Mexican States in over a decade. Baja California was declared to be free of CSF by the Mexican Government in 1991; Chihuahua and Sinaloa were declared CSF-free in 1993. Therefore, disease occurrence in regions adjacent to Sonora is not considered a source of risk to the United States.

Degree of Separation From Adjacent Regions

Yucatan Peninsula

The State of Yucatan is northwest of Quintana Roo. Campeche sits to the west, with Guatemala and Belize located south and southwest. The Gulf of Mexico lies to the north, the Caribbean to the east, and the Hondo River to the south, bordering Belize. Quintana Roo is separated from Guatemala by the Calakmul Biosphere Reserve, which is a natural rain forest protected by the Mexican government, and from Belize by the Hondo River. The border between Campeche and the State of Tabasco, the area of highest risk closest to the Yucatan Peninsula, follows a river for a significant distance. In Campeche's southern part, bordering Guatemala, is the Calakmul Biosphere Reserve. All roads crossing the border have checkpoints. Yucatan has no direct contact with any area of higher risk.

Sonora

The State of Sonora is bordered on the north by the United States, on the east by the State of Chihuahua, on the southeast by the State of Sinaloa, on the south and west by the Gulf of California, and on the northwest by the State of Baja California. Sonora is surrounded along most of its borders by natural physical barriers. The Sierra Madre Mountains separate Sonora's eastern border with Chihuahua and the eastern part of its border with Sinaloa. There are few mountain passes crossing from Chihuahua and only two ports of entry in the southern part of the State, both controlled by inspection points. In the west, the Gulf of California acts as a natural barrier.

Movement Across Borders

Mexican Federal regulations exist to control inter- and intrastate animal movement, and the Federal Government monitors vehicle movements within the States. Movement of live hogs from CSF

control zones into free zones is not allowed, thus avoiding the greatest source of risk. Pork products from States of lower health status may be imported into CSF-free States only if they meet time and temperature processing requirements and if they originate from an approved TIF plant. Products must be moved in vehicles sealed with metal straps.

Yucatan Peninsula

The primary means for preventing the reintroduction of CSF into the Yucatan Peninsula is through regulations controlling the movement of land and air traffic. Observations made by site-visit team members verified effective implementation of these controls. Interstate checkpoints are manned at all times. Military personnel are commonly located at these crossing points and provide support. As part of a system of sanitary barriers within Mexico, the border checkpoints between Campeche and Tabasco provide 24-hour inspection and control. All roads that traverse the border between these two States are tightly monitored and controlled by officials from SAGARPA, peninsular governments, and law enforcement and military personnel from Campeche, Quintana Roo, and Yucatan, as well as from the State of Tabasco. The APHIS site-visit team observed that animal and plant products found during vehicle searches were confiscated and incinerated. Movement of livestock and poultry between States is prohibited without proper movement authorization/documentation, and the transport of unauthorized live animals from Tabasco is strictly prohibited.

There are two international airports on the peninsula, one at Merida and one at Cancun. There are national airports in Campeche and Quintana Roo. The site-visit team visited the international airport at Merida, Yucatan. Program officials inspect incoming domestic flights, including passengers, cargo, and containers for unpermitted agricultural products, including food wastes and stores. Because most domestic flights originate from areas not yet declared free of CSF, food served on airplanes is not permitted to contain pork.

The maritime port of Progreso primarily handles shipments of grain. Animals and animal products are permitted entry if the proper health certificate and permitting requirements are met. There are four full-time inspectors, including two veterinarians.

Animals can be brought into the Yucatan Peninsula States only from disease-free zones of Mexico. Permits specify that swine must come in via a specified route through low-risk States;

the greatest problem is the State of Tabasco due to its more frequent disease findings as compared with other regions. To address this, Federal and State officials have set up a system requiring that animals must transit Tabasco within an approved time limit. Pork products from States of lower health status may be imported only if they meet time and temperature processing requirements and if they originate in an approved TIF plant.

Officials in the Yucatan Peninsula have the authority, procedures, and the infrastructure for effective enforcement of the system of permits, inspection, quarantines, and treatments in place to control animals and animal products. APHIS was unable to identify specific limitations in the system that might pose a risk to the United States.

Sonora

The primary means for preventing the reintroduction of CSF in Sonora is through the implementation of Federal and local regulations to control animal and animal product movements. A system of permits, inspections, quarantines, and treatments is in place to control the cross-border movements of animals and animal products. The State government gives authorization for the entry of animals and checks and reviews documentation at inspection posts for animals and vehicles. The Federal government issues import/export permits, distributes animal health certificates to the State's Livestock Producers' Union, reviews inspection documents, and, when necessary, applies quarantine measures at control posts. Under its cooperative arrangement with the Federal government, the Livestock Producers' Union reviews documentation required for sanitary waybills and issues the animal health certificates. Sonora has the authority, procedures, and infrastructure to enforce its regulations effectively. APHIS was unable to identify specific limitations in the system that might pose a risk to the United States.

Livestock Demographics and Marketing Practices

Yucatan Peninsula

In recent years, the Yucatan Peninsula has seen a significant growth in production of poultry, swine, and cattle. Several major companies control the commercial herds. The site-visit team had the opportunity to go to one of the large commercial farms and a swine processing plant. Both followed strict biosecurity measures. The site-visit team also went to the peninsula's only

USDA-approved TIF swine processing plant, located near Merida, Yucatan. The current capacity of this plant is about 500,000 head per year, and the plant exports 8 to 9 containers (22 tons/container) of pork per week to Japan and Korea. The plant is expected to increase its capacity to 850,000 head per year by 2002 to meet the demands of the growing export market.

For both economic and animal health reasons, the swine industry in the Yucatan Peninsula is committed to producing quality hogs and maintaining CSF-free status. Industry leaders have demonstrated awareness of animal disease control measures to ensure the maintenance of a healthy and productive animal industry. Industry groups contribute funds to develop and improve sanitary operations to maintain the CSF-free status of their respective States. The eradication of CSF from the peninsula was largely due to the dedication and persistence of the industry and to its willingness to work with animal health officials to ensure that the disease is not reintroduced. No factors were identified in this category that might pose a risk to the United States if swine or swine products were to be imported from Campeche, Quintana Roo, or Yucatan.

Sonora

The swine industry in Sonora is made up of only about 174 producers, who own about 136,000 sows with an annual production of 2.4 million market hogs. The State supplies about 14 percent of Mexico's pork production. The average herd has about 600 to 800 sows. Commercial production is similar to that seen in the United States. Ninety-five percent or more of the production is commercial. The swine industry owns and operates its own slaughter facilities, which are under Federal inspection, and implements very good security measures at all production levels. Detailed production records are maintained, and necropsies are routinely performed on site. For both economic and animal health reasons, the swine industry in Sonora is committed to the production of quality hogs and maintaining CSF-free status. A unique and collaborative relationship exists among the swine producer associations, the Livestock Subdelegate office, and the State and Federal animal health officials. The CSF campaign in Sonora was financed by the swine producers' associations.

A small number of backyard farms exist in Sonora. Production from these farms is for local (family) consumption. A possible risk factor for the reintroduction of CSF into Sonora is the

lack of enforcement of the prohibition on garbage feeding for backyard swine. This risk is mitigated, however, because Mexico has an international garbage control system in place that is actively operational at seaports and international airports. Based on previous site visits, it is APHIS's view that the same active system holds true for Sonora. Therefore, the swill being fed to backyard pigs is produced locally and does not come from external garbage sources that might be infected with CSF. Moreover, backyard swine are unlikely to be exported directly or to come in contact with commercial swine, so the issue of garbage feeding is not seen as one that would be likely to affect U.S. imports.

APHIS did not identify any factors in the livestock demographics and marketing practices category that might pose a risk to the United States if swine or swine products were to be imported from Sonora.

Detection and Eradication of Disease

CSF has been effectively controlled and eradicated from Campeche, Quintana Roo, Sonora, and Yucatan and is not known to exist in those four States at this time. The Government of Mexico and the State Governments maintain a surveillance system capable of rapidly detecting CSF should the disease be reintroduced in any of the four States. The Federal Government of Mexico and the State Governments of Campeche, Quintana Roo, Sonora, and Yucatan have the laws, policies, and infrastructure to detect, respond to, and eliminate any reoccurrence of CSF.

These findings are described in further detail in a qualitative evaluation that may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** and may be viewed on the Internet at <http://www.aphis.usda.gov/vs/reg-request.html> by following the link for current requests and supporting documentation. The evaluation documents the factors that have led us to conclude that Campeche, Quintana Roo, Sonora, and Yucatan are free of CSF. Therefore, we are proposing to recognize the Mexican States of Yucatan, Campeche, Quintana Roo, and Sonora as free of CSF and to add them to the lists in §§ 94.9 and 94.10 of regions where CSF is not known to exist.

We are also proposing to amend § 94.15, which, among other things, sets out requirements for transit through the United States of pork and pork products that are not otherwise eligible for entry into the United States under part 94. Because these requirements would no longer apply to pork and pork products from Campeche, Quintana Roo, Sonora,

and Yucatan, references to these States in § 94.15(b) and § 94.15(b)(2) would be removed.

Finally, we are proposing to remove and reserve § 94.20, which contains restrictions on the importation into the United States of pork and pork products from the States of Sonora and Yucatan. Under the proposed rule, these restrictions would no longer apply.

Executive Order 12866 and Regulatory Flexibility Act

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

This proposed rule would amend the regulations in §§ 94.9 and 94.10 by adding the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan to the lists of regions considered free of CSF. These proposed changes would allow importation into the United States of pork, pork products, live swine, and swine semen from these regions.

Based on the assumption that Campeche, Quintana Roo, Sonora, and Yucatan would not drastically increase their levels of production of live swine, swine semen, pork, and pork products over those of the last few years, we do not anticipate that U.S. producers of those commodities would experience any substantial negative economic effects as a result of this proposed action. This is because the United States

could be expected to import only a small amount of those commodities from the four Mexican States.

This proposed rule is likely to have a minimal effect on U.S. live swine markets, both in the short term and in the medium term. Hog inventory of the four States covered by this rulemaking amounted to about 5 percent of U.S. hog and pig inventory in 2001.¹ Moreover, the four States covered by this rulemaking account for only about 13 percent of Mexico's live swine production. In 2001, the State of Sonora produced 10 percent of Mexico's live swine, Yucatan 2.3 percent, Quintana Roo 0.7 percent, and Campeche 0.2 percent. Figures for live swine are provided in table 6.

TABLE 6.—LIVE HOGS IN FOUR MEXICAN STATES AND MEXICO AS A WHOLE, 2001

State	Hogs in commercial farms	Hogs in backyard operations	All hogs
Campeche	6,612 (in 5 farms)	31,607 (in 137,174 farms)	38,219
Quintana Roo	29,179 (in 38 farms)	137,174 (in 13,450 farms)	166,353
Sonora	2,536,000 (in 174 farms)	200 (unknown farms)	2,536,200
Yucatan	500,000 (in 252 farms)	82,672 (in 8,786 farms)	582,672
Sum of 4 States	3,071,791	251,653	3,323,444
Mexico	25,736,000 (pig crop + beginning stocks) in both commercial and backyard operations		

Source: Risk Assessments of Importing Pork into the United States from the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan; Risk Analysis Systems, PPD, APHIS, USDA.

This rulemaking is also unlikely to have a significant effect on U.S. pork and pork products markets because, as with live swine, the United States is unlikely to import large amounts of these commodities from Campeche, Quintana Roo, Sonora, and Yucatan. The United States is a net exporter of pork, while Mexico, as indicated below in tables 7 and 8, is a net importer. Between 1999 and 2001, Mexican imports ranged between 130,000,000 and 150,000,000 kilograms, and exports ranged between 33,000,000 and 40,000,000 kilograms. Exports averaged only around 3.3 percent of total Mexican pork production.

TABLE 7.—MEXICAN PORK PRODUCTION AND IMPORTS (KILOGRAMS)

Calendar Year	1999	2000	2001
Production	994,000,000	1,035,000,000	1,060,000,000
Imports	143,000,000	130,000,000	150,000,000
Total Supply	1,137,000,000	1,165,000,000	1,210,000,000

Source: USDA, FAS, GAIN Report # MX1010, Mexico, Livestock and Products, Semiannual Report 2001; Source for stocks is the FAOSTAT database.

TABLE 8.—MEXICAN PORK CONSUMPTION AND EXPORTS (KILOGRAMS)

Calendar Year	1999	2000	2001
Exports	33,000,000	35,000,000	40,000,000
Domestic Consumption	1,104,000,000	1,130,000,000	1,170,000,000
Total Demand	1,137,000,000	1,165,000,000	1,210,000,000

Source: USDA, FAS, GAIN Report # MX1010, Mexico, Livestock and Products, Semiannual Report 2001.

Economic Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities. The domestic entities most likely to be affected by our proposal to declare the Mexican States of

Campeche, Quintana Roo, Sonora, and Yucatan free of CSF are pork producers.

According to the 1997 Agricultural Census, there were about 102,106 hog and pig farms in the United States in that year, of which 93 percent received \$750,000 or less in annual revenues.

Agricultural operations with \$750,000 or less in annual receipts are considered small entities, according to the Small Business Administration (SBA) size criteria.

We do not expect that U.S. hog producers, U.S. exporters of live hogs,

¹ Agricultural Outlook, Aug. 2002, p. 47.

or U.S. exporters of pork and pork products, small or otherwise, would be affected significantly by this proposed rule. This is because, for the reasons discussed above, the amount of live swine, pork, other pork products, and swine semen imported into the United States from the Mexican States of Sonora, Yucatan, Campeche, and Quintana Roo is likely to be small.

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 450, 7711–7714, 7751, 7754, 8303, 8306, 8308, 8310, 8311, and 8315; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.9 [Amended]

2. In § 94.9, paragraph (a) would be amended by adding the words “the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan;” after the words “Isle of Man;”.

§ 94.10 [Amended]

3. In § 94.10, paragraph (a) would be amended by adding the words “the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan;” after the words “Isle of Man;”.

4. In § 94.15, paragraph (b), introductory text, and paragraph (b)(2) would be revised to read as follows:

§ 94.15 Animal products and materials; movement and handling.

* * * * *

(b) Pork and pork products from Baja California, Baja California Sur, Chihuahua, Coahuila, Nuevo Leon, and Sinaloa, Mexico, that are not eligible for entry into the United States in accordance with this part may transit the United States via land border ports for immediate export if the following conditions are met:

(1) * * *

(2) The pork or pork products are packaged at a Tipo Inspección Federal plant in Baja California, Baja California Sur, Chihuahua, Coahuila, Nuevo Leon, or Sinaloa, Mexico, in leakproof containers and sealed with serially numbered seals of the Government of Mexico, and the containers remain sealed during the entire time they are in transit across Mexico and the United States.

* * * * *

§ 94.20 [Removed and Reserved]

5. Section 94.20 would be removed and reserved.

Done in Washington, DC, this 24th day of September, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–24753 Filed 9–27–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1750

RIN 2550–AA26

Risk-Based Capital

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Reopening and extension of the public comment period.

SUMMARY: On September 12, 2002, the Office of Federal Housing Enterprise Oversight (OFHEO) published a notice of proposed rulemaking (NPRM)

entitled “Risk-Based Capital” in the **Federal Register** (67 FR 57760). That document related to the correcting and technical amendments to the risk-based capital rule for the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae).

In response to the NPRM, OFHEO received requests to provide additional time to review the proposed amendments to revise the treatment of Financial Accounting Standard 133 in the risk-based capital rule (identified in the preamble as numbers 11 and 12 in the list of 12 proposed amendments). At the request of some commenters, OFHEO is providing an additional period for public comment on this revision until October 29, 2002. In addition, OFHEO invites comment during this period on the most appropriate effective date for the implementation of these proposed amendments. OFHEO may move to final action on the remaining technical elements of the proposal as to which no substantive objections were received.

DATES: The additional comment period will close on October 29, 2002.

ADDRESSES: Send written comments to Alfred M. Pollard, General Counsel, Office of General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552. Written comments may also be sent by electronic mail to RegComments@OFHEO.gov. OFHEO requests that written comments submitted in hard copy also be accompanied by the electronic version in MS Word or in portable document format (PDF) on 3.5” disk.

FOR FURTHER INFORMATION CONTACT: Robert Pomeranz, Senior Accounting Specialist, Office of Risk and Model Development, telephone (202) 414 3796; or Jamie Schwing, Associate General Counsel, telephone (202) 414–3787 (not toll-free numbers), Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

Dated: September 25, 2002.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 02–24815 Filed 9–27–02; 8:45 am]

BILLING CODE 4220–11–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39****[Docket No. 2002-NM-158-AD]****RIN 2120-AA64****Airworthiness Directives; Boeing Model 767 Series Airplanes****AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the superseding of an existing airworthiness directive (AD), applicable to all Boeing Model 767 series airplanes, that currently requires an inspection to ensure that all bolts of the support beam of the hinge fitting assembly on both the left- and right-hand outboard trailing edge flaps are the correct length and type, and correction of any discrepancy found. This action would reduce the applicability, add inspections, and mandate terminating action for certain airplanes. The actions specified by the proposed AD are intended to prevent failure of the bolts that attach the outboard trailing edge flap to the support beam, which could result in loss of the flap and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 14, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-158-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2002-NM-158-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport

Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Suzanne Masterson, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2772; fax (425) 227-1181.

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 2002-NM-158-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-158-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On April 25, 1997, the FAA issued AD 97-08-51, amendment 39-10012 (62 FR 24015, May 2, 1997), applicable to all Boeing Model 767 series airplanes, to require an inspection to ensure that all bolts of the hinge fitting assembly support beam on both the left- and right-hand outboard trailing edge flaps are the correct length and type, and correction of any discrepancy found. That action was prompted by a report indicating that a 20-foot section of the right-hand outboard trailing edge flap separated from the airplane due to failure of four bolts of the most inboard hinge fitting. The requirements of that AD are intended to detect and correct such failed bolts, which could result in loss of an outboard trailing edge flap, and consequent reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of AD 97-08-51, the manufacturer has done a structural analysis of the titanium bolts of the support beam of the hinge fitting assembly on both the left- and right-hand outboard trailing edge flaps on Boeing Model 767 series airplanes, line numbers 1 through 710 inclusive, which had titanium bolts installed during production. Model 767 series airplanes having line numbers 711 and subsequent had steel bolts installed during production. The analysis revealed that titanium bolts do not meet airplane fatigue life and damage tolerance criteria and must be replaced with steel bolts, which are less susceptible to fatigue and subsequent damage.

Explanation of Relevant Service Information

We have reviewed and approved Boeing Alert Service Bulletin 767-27A0151, Revision 4, dated August 27, 1998. Boeing Alert Service Bulletin 767-27A0151, Revision 1, dated April 2, 1997, was referenced in the existing AD for accomplishment of the specified actions. Revision 4 adds a second inspection for airplanes on which the one-time inspection specified in Revision 1 was accomplished prior to

the accumulation of 5,000 total flight cycles or 12,500 total flight hours.

We also have reviewed and approved Boeing Service Bulletin 767-27A0155, Revision 2, dated July 8, 1999, which describes procedures for repetitive inspections (torque checks) of the bolts of the support beam of the hinge fitting assembly on both the left- and right-hand outboard trailing edge flaps, and retorquing if necessary. The service bulletin also describes procedures for terminating action, which would eliminate the need for the repetitive inspections. The terminating action includes replacement of the six titanium bolts in each flap support fitting with steel bolts and self-aligning washers, and installation of radius fillers at the four aft bolt locations in each flap support fitting.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 97-08-51 to continue to require an inspection to ensure that all bolts of the support beam of the hinge fitting assembly on both the left- and right-hand outboard trailing edge flaps are the correct length and type, and correction of any discrepancy found. The proposed AD also would reduce the applicability, add inspections, and mandate terminating action for certain airplanes. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Cost Impact

There are approximately 700 airplanes of the affected design in the worldwide fleet. The FAA estimates that 287 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 97-08-51 take approximately 7 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be \$420 per airplane.

The torque check that is proposed in this AD action would take approximately 2 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the torque check proposed by this AD on U.S. operators is estimated to be

\$34,440, or \$120 per airplane, per check.

The terminating action that is proposed in this AD action would take approximately 3 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$3,058 per airplane. Based on these figures, the cost impact of the terminating action proposed by this AD on U.S. operators is estimated to be \$929,306, or \$3,238 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this 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 removing amendment 39-10012 (62 FR 24015, May 2, 1997), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2002-NM-158-AD.

Supersedes AD 97-08-51, amendment 39-10012.

Applicability: Model 767 series airplanes, line numbers 1 through 710 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i)(1) 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 failure of the bolts that attach the outboard trailing edge flap to the support beam, which could result in loss of the flap and consequent reduced controllability of the airplane, accomplish the following:

Inspection

(a) Perform an inspection to check the bolt torque, bolt length, and type of all bolts of both hinge fittings on the left- and right-hand outboard trailing edge flaps, in accordance with Boeing Alert Service Bulletin 767-27A0151, Revision 1, dated April 2, 1997; or Revision 4, dated August 27, 1998. Perform these inspections at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes that accumulated 15,000 or more total flight cycles, or 37,500 or more total flight hours, as of May 7, 1997 (the effective date of AD 97-08-51, amendment 39-10012): Perform the inspection within 15 days after May 7, 1997.

(2) For all other airplanes: Perform the inspection at the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Prior to the accumulation of 10,000 total flight cycles, or 25,000 total flight hours, whichever occurs first.

(ii) Within 30 days after May 7, 1997.

Repeat Inspection for Certain Airplanes

(b) For airplanes on which the inspection required by paragraph (a) of this AD was accomplished prior to the accumulation of 5,000 total flight cycles or 12,500 total flight hours: Repeat the inspection required by paragraph (a) of this AD one time within 120 days after the effective date of this AD.

Corrective Actions

(c) If any bolt of the hinge fittings of the left- and right-hand outboard trailing edge flaps is below the torque check threshold specified in Boeing Alert Service Bulletin 767-27A0151, Revision 1, dated April 2, 1997; or Revision 4, dated August 27, 1998: Prior to further flight, accomplish the actions specified in paragraph (c)(1) or (c)(2) of this AD, in accordance with the alert service bulletin.

(1) Perform a dye penetrant inspection of all the bolts of the hinge fitting to detect any cracking or discrepancy.

(i) If no cracking or discrepancy is detected, reinstall the bolt using new nuts and washers.

(ii) If any cracking or discrepancy is detected, replace the cracked or discrepant bolt with a new or serviceable bolt.

(2) Replace all of the bolts of both hinge fittings with new or serviceable bolts.

(d) If the length or type of any bolt of the hinge fittings of the left- and right-hand outboard trailing edge flaps is outside the specifications of Boeing Alert Service Bulletin 767-27A0151, Revision 1, dated April 2, 1997; or Revision 4, dated August 27, 1998: Prior to further flight, replace the bolt with a new or serviceable bolt in accordance with the alert service bulletin.

Credit for Actions Accomplished per Previous Revisions of Service Bulletin

(e) Accomplishment of the actions specified in paragraphs (a), (c), and (d) of this AD, in accordance with Boeing Alert Service Bulletin 767-27A0151, dated April 1, 1997; Revision 2, dated April 10, 1997; or Revision 3, dated July 7, 1997; before the effective date of this AD; is considered acceptable for compliance with the applicable requirements of this AD.

Repetitive Inspections

(f) Within 3 years, 12,500 flight hours, or 6,000 flight cycles after accomplishment of paragraph (a) of this AD, whichever is first; or within 90 days after the effective date of this AD, whichever is later: Perform an inspection to check the bolt torque of both hinge fittings on the left- and right-hand outboard trailing edge flaps, and retorquer if applicable, in accordance with Boeing Service Bulletin 767-27A0155, Revision 2, dated July 8, 1999. Repeat the inspection every 3 years, 12,500 flight hours, or 6,000 flight cycles, whichever is first.

Terminating Action

(g) Within 6 years, 25,000 flight hours, or 12,000 flight cycles after accomplishment of paragraph (a) of this AD, whichever is first; or within 90 days after the effective date of this AD; whichever is later: Perform the terminating action (including replacement of the six titanium bolts in each flap support

fitting with steel bolts and self-aligning washers, and installation of radius filters at the four aft bolt locations), in accordance with Part 2 of the Accomplishment Instructions of Boeing Service Bulletin 767-27A0155, Revision 2, dated July 8, 1999. Accomplishment of this paragraph ends the repetitive inspections required by paragraph (f) of this AD.

Credit for Actions Accomplished per Previous Revisions of Service Bulletin

(h) Accomplishment of the actions specified in paragraphs (f) and/or (g) of this AD, in accordance with Boeing Alert Service Bulletin 767-29A0155, dated August 27, 1998, or Revision 1, dated December 22, 1998, before the effective date of this AD, is considered acceptable for compliance with the applicable requirements of this AD.

Alternative Methods of Compliance

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

(2) Alternative methods of compliance, approved previously in accordance with AD 97-08-51, amendment 39-10012, are approved as alternative methods of compliance with paragraphs (a), (b), and (c) of this AD.

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

Special Flight Permits

(j) 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 23, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-24688 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 117**

[CGD13-02-012]

RIN 2115-AE47

Drawbridge Operation Regulations; Lake Washington Ship Canal, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the regulations governing the drawspan of the Montlake Bridge across the east end of the Lake Washington Ship Canal by lengthening the hours that the draw need not open for the passage of vessels during the part of the year when vessel traffic is low. The proposed change would relieve vehicular congestion during the peak congested period for road traffic.

DATES: Comments and related material must reach the Coast Guard on or before November 29, 2002.

ADDRESSES: You may mail comments and related material to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174-1067. The office of Aids to Navigation and Waterways Management maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at this office between 7:45 a.m. and 4:15 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Austin Pratt, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch, telephone (206) 220-7282.

SUPPLEMENTARY INFORMATION:**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD13-02-12), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the office at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Washington State Department of Transportation (WSDOT) has requested a change in the drawbridge operations schedule to alleviate traffic congestion in the Montlake area by increasing the periods for part of the year in which the drawbridge need not open for the passage of vessels.

The draw of the Montlake Bridge, mile 5.2, Lake Washington Ship Canal at Seattle, Washington, opens on signal except that the draw need not open for the passage of vessels from 7 a.m. to 9 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Friday, except federal holidays, for any vessel of less than 1000 gross ton, unless the vessel has in tow a vessel of 1000 gross tons or over. The draw need only open on the hour and half-hour from 12:30 p.m. to 3:30 p.m. and from 6 p.m. to 6:30 p.m. Between the hours of 11 p.m. and 5 a.m. the draw opens if one hour notice is provided. This notice requirement has been voluntarily suspended by WSDOT. The bridge is staffed by operators 24 hours a day. The proposed change would remove this nighttime notice provision.

The Montlake Bridge provides 48 feet of vertical clearance above the mean regulated lake level of Lake Washington for the central 100 feet of the bascule span. Navigation on the waterway includes tugs, gravel barges, construction barges, sailboats, motor yachts, kayaks, rowing shells, and government vessels.

The Lake Washington Ship Canal bisects Seattle from east to west and is currently crossed by two fixed highway bridges and four vehicular bascules, of which the Montlake is the easternmost. At the western extremity seaward of the Hiram Chittenden Locks at Ballard is a single-leaf railroad bascule.

The Montlake Bridge is critical to north-south road traffic in its area. The closest alternative crossing is about 0.8 mile to the west and cannot be reached easily without traveling other congested streets during peak traffic hours.

This proposal would alleviate vehicular congestion by lengthening the periods that the bridge would be allowed to remain closed to marine traffic from the beginning of September to the end of April each year. These months correspond approximately to the foul weather period in Seattle when congestion is heaviest and vessel traffic is lowest.

Discussion of Proposed Rule

The proposed change in operating regulations would lengthen the morning authorized closed periods by one hour

and the afternoon periods by a half-hour on weekdays. The proposed hours for September 1 through April 30 each year when the bridge may remain closed to vessel traffic would be from 7 a.m. to 10 a.m. and from 3:30 p.m. to 7 p.m. These periods would coincide more closely with the peak traffic periods on the major north-south arterial of Montlake Boulevard. This street is more congested during months when the University of Washington is at its peak attendance and inclement weather hinders traffic flow. The university, including the university hospital, is immediately north of the Montlake Bridge. State Route 520, a major east-west highway, is affected by traffic flow via entrance and exit ramps less than 300 yards south of the drawbridge.

Boating season begins officially in May and generally extends through Labor Day weekend. This period remains unaffected by the proposed change. The number of draw openings for vessels is far greater in this period than in the months bracketed by the proposed amendment. The total vessel traffic is far greater during the peak four months between May and August than the total for the other eight months of the year. The peak number of monthly openings in the affected period is less than 30 and for most of that period is less than 10 per month. Road traffic in contrast is between 4000 and 5000 vehicles per hour during each closed period, as measured for an average weekday in October 2000. Draw openings can queue traffic for over a mile from the bridge.

Regulatory Evaluation

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

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

This conclusion is based on the fact that the majority of vessels plying the canal will not be hindered by this change. Many of the commercial and recreational vessels can pass the span without an opening. Vessel traffic diminishes significantly during the months that would be affected while the

maximal use period would remain unchanged.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. There are no known small entities affected by this proposal. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Collection of Information

This proposed rule would call 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) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

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

Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this proposed 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 considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.IC, this proposed rule is categorically excluded from further environmental documentation. Drawbridge regulatory changes are categorically excluded. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. In Section 117.1051 paragraph (e)(2)(i) is revised and paragraph (e)(3) is removed to read as follows:

§ 117.1051 Lake Washington Ship Canal.

* * * * *

(e) * * *

(2) * * *

(i) The draw need not open from 7 a.m. to 9 a.m. and from 3:30 p.m. to 6:30 p.m. from April 30 to September 1 and from 7 a.m. to 10 a.m. and from 3:30 p.m. to 7 p.m. from September 1 to April 30.

* * * * *

Dated: September 20, 2002.

Erroll Brown,

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

[FR Doc. 02-24634 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[OH153-1b; FRL-7386-8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve, through direct final procedure, a negative declaration submitted by the State of Ohio which indicates there is no need for regulations covering existing Small Municipal Waste Combustors (MWC) in the State. The State's negative declaration regarding this category of sources was submitted in a letter dated June 25, 2002, and was based on a systematic search of the State's internal data bases. The intent of the State's action is to satisfy a Federal requirement to develop a plan to control emissions from small MWCs or to declare there are no sources of this type in the State.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's negative declaration request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. The rationale for approval is set forth in the direct final rule. If EPA receives no written adverse comments, EPA will take no further action on this proposed rule. If EPA receives written adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect. In that event, EPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Comments on this action must be received by October 30, 2002.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the State's negative declaration request is available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6084.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" are used we mean the EPA.

- I. What actions are EPA taking today?
- II. Where can I find more information about this proposal and corresponding direct final rule?

I. What Actions Are EPA Taking Today?

The EPA is proposing to approve a negative declaration submitted by the State of Ohio which indicates there is no need for regulations to control emissions from small Municipal Waste Combustors in the State. The State performed an analysis which shows that there are no small MWCs in Ohio.

II. Where Can I Find More Information About This Proposal and Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 4201 *et seq.*

Dated: September 18, 2002.

Steve Rothblatt,

Acting Regional Administrator, Region 5.

[FR Doc. 02-24768 Filed 9-27-02; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket OST-2002-13435]

RIN 2015-AD14

Drug and Alcohol Management Information System Reporting

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation's Office of Drug and Alcohol Policy and Compliance (ODAPC) proposes to revise the Management Information System (MIS) forms currently used within six U.S. Department of Transportation (DOT) operating administrations (OA) for submission of annual drug and alcohol program data. These OAs are: Federal Motor Carrier Safety Administration (FMCSA); Federal Aviation Administration (FAA); Federal Transit Administration (FTA); Federal Railroad Administration (FRA); Research and Special Programs Administration (RSPA); and the United States Coast Guard (USCG). The Department proposes to streamline the annual reporting of drug and alcohol program data to OAs through use of a one-page MIS data collection form. The Department desires to standardize across the OAs the information collected and to reduce the amount of data reported by transportation employers. If an OA intends to require

supplemental data, the OA will address those issues separately.

DATES: The Docket Office must receive comments by November 14, 2002. We will consider late-filed documents to the extent practicable.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (SVC-124), U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. [It is important to note that because of current security procedures affecting the U.S. Mail, other means (e.g., FedEx, UPS) may be faster];

(2) By delivery to room PL-401 on the Plaza Level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329;

(3) By fax to the Docket Management Facility at 202-493-2251; or,

(4) By electronic means through the Web site for the Docket Management System at: <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments to the docket will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The public may also review docketed comments electronically at: <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Jim L. Swart, Drug and Alcohol Policy Advisor at 202-366-3784 (voice) 202-366-3897 (fax) or at: jim.swart@ost.dot.gov (e-mail).

SUPPLEMENTARY INFORMATION:

Background and Purpose

Six OAs collect drug and alcohol program data from their regulated employers on an annual basis. Employers compile this data on MIS forms and each form is OA specific. In fact, more than twelve MIS data collection forms currently exist within the OAs. The Department believes that data collection and entry will be greatly simplified for transportation employers and the Department if a single form is utilized throughout the transportation industries and the OAs.

All drug and alcohol testing conducted under DOT authority uses a standard form for drug testing—Federal Drug Testing Custody and Control Form—and a standard form for alcohol

testing—DOT Alcohol Testing Form. In essence, use of standard testing forms should limit MIS reporting to a finite number of data elements. Therefore, a core set of data elements will make up the new MIS form—a ONE-DOT MIS form—which all transportation employers will complete, as appropriate, for their company and the OA regulating them.

This MIS form will simplify and streamline data recording for transportation employers and will require employers to enter less data. In addition, because the proposed form contains fewer data elements and is on a one-page format, it can be more easily entered and processed via electronically based systems. As an added benefit, there will be a single set of MIS instructions for all transportation employers, regardless of OA.

However, not every OA expects information for all potential data elements (e.g., RSPA does not conduct random alcohol testing), and some data elements may be collected through some means other than MIS (e.g., USCG receives alcohol data immediately following each post-accident testing event). The form's instructions will highlight some of those peculiar testing differences, and companies not required to conduct or report certain types of tests will simply leave those sections blank. For instance, because USCG wants no alcohol testing data on the MIS form, USCG-regulated employers will leave blank Section IV of the form. In addition, when no testing was done or no results were received for particular data elements, employers will leave those items blank rather than inserting zeros (as is now required).

On June 6, 2002, President Bush announced his proposal to create a Cabinet-level homeland security department. Inside this new department, the President proposes to put several agencies, including the USCG. The President urged Congress to pass legislation to create the new Department of Homeland Security. This process may take some time. As a result, if you have USCG ties and MIS interests, please submit your comments to this NPRM. We will consider congressional and presidential action regarding the USCG and homeland security in the final rule.

Discussion of Proposed Rule

The ODAPC and the OAs propose to revise the MIS reporting requirements to standardize the collection of data for the OAs. The proposed rulemaking would impose a few new requirements for data collection; specifically, data related to information associated with the revised

Federal Drug Testing Custody and Control Form developed by the Department of Health and Human Services (65 FR 39155, June 23, 2000). However, the overall amount of required data will be less than that required currently. The Department also intends to place the MIS form and instructions for completing it into Part 40. We propose to have the forms and instructions removed from all OA regulations.

As stated earlier, many data elements will no longer be part of the MIS form. OAs have decided that some information items required on previous MIS forms were available in other formats, had become superfluous, or were items obtainable during inspections, reviews and audits. The following represents a listing for each OA of most of the data elements we are proposing to eliminate:

FMCSA

1. Number of persons denied a position following a positive drug test.
2. Number of employees returned to duty following a refusal or positive drug test.
3. Supervisor initial drug training data.
4. Number of employees denied a position following an alcohol test of 0.04 or greater.
5. Number of employees returned to duty after engaging in alcohol misuse.
6. Number of employees having both a positive drug test and an alcohol test of 0.04 or greater when both tests were administered at the same time.
7. Actions taken for alcohol violations other than alcohol testing.
8. Supervisor initial alcohol training data.

FAA

1. Number of employees returned to duty after having failed or refused a drug test.
2. Actions taken for drug test refusals.
3. Number of persons denied employment for a positive drug test.
4. Actions taken for positive drug results.
5. Employee initial drug training data.
6. Supervisor initial drug training data.
7. Supervisor recurrent drug training data.
8. Number of persons denied a position for an alcohol test 0.04 or greater.
9. Number of employees returned to duty after engaging in alcohol misuse.
10. Actions taken for alcohol regulation violations.
11. Number of employees having both a positive drug test and an alcohol test

of 0.04 or greater when both tests were administered at the same time.

12. Number of other violations of the alcohol regulation.

13. Actions taken for refusals to take an alcohol test.

14. Supervisor alcohol training data.

FTA

1. Number of persons denied a position for alcohol results 0.04 or greater.
2. Number of accidents (noted as fatal and non-fatal) with alcohol results 0.04 or greater.
3. Number of fatalities from accidents resulting in alcohol results 0.04 or greater.
4. Number of employees returned to duty following an alcohol violation.
5. Number of employees having both a positive drug test and an alcohol test of 0.04 or greater when both tests were administered at the same time.
6. Actions taken for other alcohol rule violations.
7. Supervisor alcohol training data.
8. Number of persons denied a position for positive drug test results.
9. Number of accidents (noted as fatal and non-fatal) with positive drug test results.
10. Number of fatalities from accidents resulting in positive drug test results.
11. Number of persons returned to duty following a positive drug test or refusal result.
12. Employee drug education data.
13. Supervisor drug training data.
14. Funding source information.

FRA

1. Number of applicants/transfers denied employment/transfer for a positive drug test.
2. Number of employees returned to duty after having failed or refused a drug test.
3. Detailed breakouts of for-cause drug and alcohol testing.
4. Non-qualifying accident drug testing data.
5. Supervisor drug training data.
6. Number of applicants/transfers denied employment/transfer for alcohol results 0.04 or greater.
7. Number of employees returned to duty after engaging in alcohol misuse.
8. Supervisor alcohol training data.

USCG

1. Number of persons denied a position for a positive drug test.
2. Number of employees returned to duty following a drug violation.
3. Employee drug and alcohol training data.
4. Supervisor drug and alcohol training data.

5. Post-accident alcohol testing data.
6. Reasonable cause alcohol testing data.

RSPA

1. Number of employees returned to duty after engaging in alcohol misuse.
2. Actions taken for alcohol test results equal to or greater than 0.04.
3. Number of other alcohol rule violations and actions taken for them.
4. Actions taken for alcohol test refusals.
5. Supervisor initial alcohol training data.
6. Number of persons denied a position following a positive drug test.
7. Number of employees returned to duty following a positive or refusal drug test.
8. Actions taken for positive drug tests.
9. Actions taken for drug test refusals.
10. Supervisor initial drug training data.

The Department proposes also to count collections differently than under the old MIS regimen. Under the old MIS counting method a drug collection was considered to be a testing event that resulted in a negative, positive, or cancellation. Refusals to test—no matter the reason for the refusal—were not considered appropriate for inclusion. Despite the instruction to include no refusals, we know that many companies included those that were the result of adulterated or substituted results that were verified by the MRO as refusals. Still other companies counted these types of refusals as well as refusal events for which no urine was sent to laboratories for testing (e.g., employee failed to show-up at the collection site; employee left the collection site before urine had been collected).

Similarly, in determining if companies were conducting random testing at the appropriate established annual rates, some OAs did not count refusals; some counted all refusals; and still others counted only refusals reported by the MRO (as a result of adulteration or substitution) toward satisfaction of the random rate requirement. Furthermore, in calculating the annual random rates for testing, all OA rules say the following will be factored for the positive rate: number of random positives plus number of random refusals divided by number of random tests plus number of random refusals. This means that some cancelled random tests and random refusals were already in the random test numbers before the number of random refusals was added to the total.

To clear up these discrepancies, the Department proposes to count the

number of specimens collected as the number of testing events resulting in negative, positive, and refusal to test results no matter the reason for the refusal. We will add all refusals because the OAs factor refusals into the annual random testing rates. We will not add cancelled test results to the mix because § 40.207(b) says, “* * * a cancelled test does not count toward compliance with DOT requirements (e.g., being applied toward the number of tests needed to meet the employer’s minimum random testing rate).” Counting in this manner will enable many of the columns and rows of the MIS form to add-up.

In short, we would have employers continue to exclude cancelled tests and blind tests as testing events. We propose to instruct employers to include all refusals as testing events. After all, no matter how the refusal occurred, a refusal is a valid and final result. A quiet benefit would be that MIS blocks could add up: The number of testing events will equal the number of negatives plus positives for one or more drugs plus refusals (with types of refusals broken out). Invalid test results are always cancelled and would not be included. However, those invalid results requiring a subsequent directly observed collection would simply be considered another collection that will have a final result.

In addition, annual random testing rates would be determined using more accurate counts because no cancelled test would be mistakenly included and no refusals would be factored twice in the total. OA inspectors and auditors would count all refusals (e.g., be they from an adulterated specimen result or from shy bladder evaluation with no medical condition) as satisfying a company’s meeting their random testing rate. After all, the testing event had a valid result (e.g., it was not from a blind specimen; it was not a cancelled result). In short, the employee was selected for testing and the test result was negative, positive, or refusal to test.

For cancellations requiring the employee to go in for a second test, the test that is cancelled will not count. However, the result of the subsequent recollection will count, provided that it too is not cancelled. These include: Invalid test cancellations requiring the employee to go in for an observed collection; split specimen cancellations requiring the employee to go in for an observed collection; and cancellations requiring the employee to go in for another collection because a negative result is needed (for pre-employment; return to duty; and follow-up).

In addition, if more than one collection is sent to the lab during one

testing event, both will count as one collection: These include: Negative dilute specimens when the employee goes in for a second collection per employee policy [the result of the second test is the result of record]; and observed collections requiring both the original collection and the observed collection be sent to the laboratory (e.g., specimen out of temperature range) (the result requiring the most stringent consequence will ultimately be the result of record).

The Department is also seeking to clear up the discrepancies between OAs regarding how their regulated companies are to determine the total number of employees against which the annual random rate applies. Some OAs tell employers to count the number of covered employees working at the start of the calendar year; some OAs direct employers to count the total number of covered employees that worked for the company within the year; and still others advise employers to count the average number of employees on a monthly or quarterly basis.

We propose to have employers add the total number of covered employees eligible for random testing in each random testing selection period for the year and dividing that total by the number of random testing periods. For instance, a company conducting random testing quarterly would need to add the total of covered employees they had in the random pool when each selection was made; then divide this number by 4 to obtain the yearly average number of covered employees. (As an example, if Company A had 1500 employees in the first quarter random pool, 2250 in the second quarter, 2750 in the third quarter; and 1500 in the fourth quarter; $1500 + 2250 + 2750 + 1500 = 8000$; $8000/4 = 2000$; the total number of covered employees for the year would be reported as, “2000”.)

Companies (and their contractors, as applicable) will continue to submit the MIS reports in accordance with requirements (e.g., dates for submission; selection of companies required to submit, etc.) that will continue to be in each OA rule. Likewise, OA rules will continue to address the manner (e.g., mail; CD; electronic transmission) and locations they wish the completed forms sent.

It is important to note that MIS alcohol testing data would reflect all these proposals made for drug testing data. Refusals will count as testing events; cancelled tests will not; and random pool averages will determine the number of employees against which the annual testing rate applies.

The Department is currently working toward an electronic MIS form capable of Internet submission. Each form would be OA specific and would not have extraneous items showing (for example, the USCG-specific form would not include an alcohol testing section; the RSPA-specific form would not show an alcohol random testing category). Additionally, the system would bring to the attention of the person completing the form any items that did not accurately compute mathematically. Finally, employee categories would only be those for the specific employer. We seek comment about this type of system, suggestions for how it might work, and concerns for problems in implementing such a system.

Regulatory Analyses and Notices

This rule is not a significant rule for purposes of Executive Order 12866 or the DOT’s regulatory policies and procedures. Nor is the rule an economically significant regulation. It is a reworking of existing requirements; it imposes no new mandates; and it will not create any new costs. In fact, the proposed rule will serve to reduce requirements and costs.

This NPRM does not have sufficient Federalism impact to warrant a Federalism assessment under Executive Order 13132. With respect to the Regulatory Flexibility Act, the certifies that, if adopted, this rule would not have a significant economic impact on a substantial number of small entities, so a Regulatory Flexibility analysis has not been prepared. Even though this rule might affect a large number of small entities, we do not expect the new MIS requirements to have a significant economic impact on anyone.

This rulemaking involves a “610 Review” under the Small Business Regulatory Enforcement Fairness Act. We believe the changes recommended by the rulemaking should be particularly helpful to small, regulated employers.

The proposed rule also contains information collection requirements. As required by the Paperwork Reduction Act of 1995, (the PRA, 44 U.S.C. 3507(d)), the Department will submit these requirements to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for review, as required under the Paperwork Reduction Act.

As noted elsewhere in this preamble, the proposal would amend Part 40 to include a new format and a new set of instructions for the MIS form. This single form would be used across six DOT OAs rather than the multiple forms with multiple instructions currently in

use. The form's data elements would be reduced significantly as well.

Completing an MIS report requires a company to collect and compile drug and alcohol testing data generated throughout the year by that company's drug and alcohol testing program and placing some of that data onto the form. Certainly, the more complex a company's testing program set-up, the more complex assembling needed data becomes. Companies having decentralized program locations may have to draw information from a variety of localized programs. Companies with a number of subsidiaries may have large amounts of data to compile and authenticate. In addition, companies failing to regularly update and bring together their testing data may find themselves in positions of having to do so in a hurried manner at the end of the year. Also, companies lacking computerization of data capabilities may have to use the "stubby pencil-method" of data entry.

Because MIS reporting has been part of the DOT testing equation for more than half a decade, many companies have become experienced in and have applied sound business sense to putting the report together. Many companies update their drug and alcohol program data on a regular, throughout-the-year basis rather than doing so at the last minute. Most companies require their localized programs, subsidiaries, and contractors to regularly provide program updates rather than authenticate data at the end of the year. Many companies utilize computer databases rather than "pen-and-ink" data entries. Still other companies prefer to have data entry provided as part of their TPA's contracted services.

Whatever the case, the Department does not require any particular management style of program data: We simply require that the data be accurate; that it be in a system that has controlled access; that it be readily auditable; and that specific data be included in MIS reports when they are required or requested by the OAs. The Department would prefer that companies update their drug and alcohol program data throughout the year; require their divisions, subsidiaries, and contractors to report their data regularly to them; and computerize their data-entry methodologies. However, we do not mandate these actions even though we think they are all preferable to end-of-the-year company scrambles to complete MIS forms.

The Department believes that requiring less data entry on MIS forms and having only one form throughout the transportation industries will make

data gathering and compilation simpler. For instance, no longer will employers need to provide employee and supervisor training data, violation consequence data, and non-Part 40 violation data (among other entries). Furthermore, the single-format MIS form replaces the E-Z Drug form, the E-Z Alcohol form, the Long-Drug form, and the Long-Alcohol form, the format of which were different for each OA. Therefore, employers subject to more than one OA rule will not have to navigate their ways through multiple MIS formats.

These represent important steps in reducing the amount of time needed to compile data for MIS purposes—no matter of how a company chooses to manage their drug and alcohol testing data. The Department believes the simplicity of the form will result in another significant time saving action for employers.

OA estimates show that 5,948 companies submitted to DOT 13,542 MIS forms during one recent data-reporting year; and the time it took to fill out the forms was 18,411 hours. For that same data year, companies submitted an estimated 7,921 E-Z forms and 5,621 Long forms. (Based upon OA estimates, the old E-Z forms took 30 minutes (FMCSA, FTA, FRA, and RSPA) to 1 hour (FAA) to complete; the long forms, 2.5 hours each to complete. USCG did not authorize use of an E-Z form.)

Estimates for the new MIS form indicate that, if the new form had been operational, these 5,948 companies would have sent 6,300 MIS reports to DOT and the time to complete them would have been 9,450 hours. Therefore, we foresee nearly 9,000 hours saved per year in filling out the new MIS form as opposed to completing the old multiple MIS forms. (Based upon industry and OA estimates, we have concluded that the new MIS report will take between 45 minutes and 1.5 hours to complete. We have chosen, for this paragraph, to use the highest industry and OA estimate—1.5 hours. We estimate that slightly over 300 companies report to more than one OA.)

Individuals and organizations may submit comments on the information collection elements of the NPRM by November 14, 2002 and should submit them to the DOT docket specified at the beginning of the NPRM. According to OMB's regulations implementing the PRA (5 CFR 1320.8(b)(2)(vi)), an agency may not conduct or sponsor, and a person need not respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for this

information will be published in the **Federal Register** after OMB approves it.

A number of other Executive Orders can affect rulemakings. These include Executive Orders 13084 (Consultation and Coordination with Indian Tribal Governments), 12988 (Civil Justice Reform), 12875 (Enhancing the Intergovernmental Partnership), 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights), 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), 13045 (Protection of Children from Environmental Health Risks and Safety Risks), and 12880 (Implementation of North American Free Trade Agreement). We have considered these Executive Orders in the context of this NPRM, and we believe that the proposed rule does not directly affect matters that the Executive Orders cover.

We have prepared this rulemaking in accordance with the Presidential Directive on Plain Language.

List of Subjects in 49 CFR Part 40

Administrative practice and procedure, Alcohol abuse, Alcohol testing, Drug testing, Laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

Issued this 20th day of September, 2002, at Washington, DC.

Norman Y. Mineta,
Secretary of Transportation.

For reasons set forth in the preamble, the Department of Transportation proposes to amend part 40 of Title 49, Code of Federal Regulations, as follows:

1. The authority citation for 49 CFR part 40 continues to read as follows:

Authority: 49 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 45101 *et seq.*

2. Add a new § 40.26 to read as follows:

§ 40.26 What form must an employer use to report Management Information System (MIS) data to a DOT agency?

As an employer, when you are required to report MIS data to a DOT agency, you must use the form and instructions at Appendix H to Part 40.

3. Add a new Appendix H to read as follows:

Appendix H to Part 40—DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form

The following form and instructions must be used when an employer is required to report MIS data to a DOT agency.

BILLING CODE 4910-62-P

U.S. DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM

Calendar Year Covered by this Report: _____

I. Employer:

Company Name: _____

Doing Business As (DBA) Name (if applicable): _____

Address: _____ E-mail: _____

Certifying Official: _____ Signature: _____

Telephone: (____) _____ Date: _____ Prepared by (if different): _____

Check the Operating Administration for which you are reporting MIS data:

- FAA - Aviation FMCSA - Motor Carrier USCG - Maritime FTA - Transit
- RSPA - Pipeline Gas Gathering Gas Transmission Gas Distribution Transport Hazardous Liquids Transport Carbon Dioxide
- FRA - Railroad Total Number of observed/documentated Part 219 "Rule G" Observations for covered employees: _____

FAA Certificate # (if applicable): _____ FAA Plan / Registration # (if applicable): _____

FMCSA DOT #: _____ FMCSA Owner-operator: (circle one) YES or NO

USCG Vessel ID # (USCG- or State-issued): _____ (If more than one vessel, list separately.)

II. Covered Employees: (A) Enter Total Number of Employees for All Employee Categories: _____

(B) Enter Total Number of Employee Categories: _____

Employee Category	Total Number of Employees in this Category

If you have multiple employee categories, complete Sections I and II (A) & (B). Make one copy for each employee category and complete Sections II (C), III, and IV for each separate employee category.

III. Drug Testing Data:

Type of Test	Total Number Of Test Results [Should equal the sum of Columns 2, 3, 9, 10, 11, and 12]	Verified Negative Results	Verified Positive Results - For One Or More Drugs	Positive For Marijuana	Positive For Cocaine	Positive For PCP	Positive For Opiates	Positive For Amphetamines	Refusal Results				Cancelled Results	
									Adulterated	Substituted	Shy Bladder - With No Medical Explanation	Other Refusals To Submit To Testing		
Pre-Employment														
Random														
Post-Accident														
Reasonable Suspicion														
Reasonable Cause														
Return-to-Duty														
Follow-Up														

IV. Alcohol Testing Data:

Type of Test	Total Number Of Screening Test Results [Should equal the sum of Columns 2, 3, 7, and 8]	Screening Tests With Results Below 0.02	Screening Tests With Results 0.02 Or Greater	Number Of Confirmation Tests Results	Confirmation Tests With Results 0.02 Through 0.039	Confirmation Tests With Results 0.04 Or Greater	Refusal Results		Cancelled Results
							Shy Lung - With No Medical Explanation	Other Refusals To Submit To Testing	
Pre-Employment									
Random									
Post-Accident									
Reasonable Suspicion									
Reasonable Cause									
Return-to-Duty									
Follow-Up									

Department of Transportation Drug and Alcohol Testing MIS Data Collection Form Instruction Sheet

This MIS form is made-up of four sections: employer information; covered employee information; drug testing data; and alcohol testing data. The employer information needs only to be provided once per submission. However, you must submit a separate page of data for each employee category for which you report testing data. If you are preparing reports for more than one DOT Operating Administration (OA), then you must submit OA-specific forms.

Please type or print entries legibly in black ink.

TIP—Read the entire instructions before starting. Please note that USCG-regulated employers do not report alcohol test results on the MIS form.

Calendar Year Covered by this Report: Enter the appropriate year.

Section I. Employer

1. Enter your company's name, to include when applicable, your "doing business as" name; current address, city, state, and zip code; and an e-mail address, if available.

2. Enter the printed name, signature, and complete telephone number of the company official certifying the accuracy of the report and the date that person certified the report as complete.

3. If someone other than the certifying official completed the MIS form, enter that person's name on the appropriate line provided.

4. Operating Administration Information:
a. Check the box next to the OA for which you are completing this MIS form. Again, if you are submitting to multiple OAs, you must use separate forms for each OA.

b. If you are submitting the form for RSPA, check the additional box(s) indicating your type of operation.

c. If you are completing the form for FRA, enter the number of observed/documentated Part 219 "Rule G" Observations for covered employees.

d. If you are completing the form for FAA, enter your FAA Certificate Number and FAA Antidrug Plan/Registration Number, when applicable.

e. If you are submitting the form for FMCSA, enter your FMCSA DOT Number, as appropriate. In addition, you must indicate whether you are an owner-operator.

f. If you are submitting the form for USCG, enter the vessel ID number. If there is more than one number, enter the numbers separately.

Section II. Covered Employees

1. In Box II-A, enter the total number of covered employees who work for your company. Then enter, in Box II-B, the total number of employee categories that number represents.

[For instance, if you are submitting the information for the FRA and you have 20,000 covered employees performing duties in each of the FRA-covered service areas—you would enter "20,000" in the first box (II-A) and "5" in the second box (II-B), because FRA has five safety-sensitive employee categories.]

TIP—To calculate the total number of covered employees, add the total number of covered employees eligible for testing during each random testing selection period for the year and divide that total by the number of random testing periods. For instance, a company conducting random testing quarterly needs to add the total of covered employees they had in the random pool when each selection was made; then divide this number by 4 to obtain the yearly average number of covered employees. It is extremely important that you place all eligible employees into these random pools. [As an example, if Company A had 1500 employees in the first quarter random pool, 2250 in the second quarter, 2750 in the third quarter; and 1500 in the fourth quarter; $1500 + 2250 + 2750 + 1500 = 8000$; $8000 / 4 = 2000$; the total number of covered employees for the year would be reported as, '2000'.]

2. If you are reporting multiple employee categories, enter the specific employee category in box II-C; *and* provide the number of employees in that specific category.

[For example, you are submitting data to the FTA and you have 2000 covered employees. You have 1750 personnel performing revenue vehicle operation and the remaining 250 are performing revenue vehicle and equipment maintenance. When you provide vehicle operation information, you would enter "Revenue Vehicle Operation" in the first II-C box and "1750" in the second II-C box. When you provide data on the maintenance personnel, you would enter "Revenue Vehicle and Equipment Maintenance" in the first II-C box and "250" in the second II-C box.]

TIP—A separate form for each employee category must be submitted. You may do this by filling out a single MIS form through Section II-B and then make one copy for each additional employee category you are reporting. [For instance, if you are submitting the MIS form for the FMCSA, you need only submit one form for all FMCSA covered employees working for you—your only category of employees is "driver." If you are reporting testing data to the FAA and you employ *only* flight crewmembers, flight attendants, and aircraft maintenance workers, you need to complete one form each for category—three forms in all. If you are reporting to FAA and have all FAA categories of covered employees, you must submit eight forms.]

Here is a full listing of OA employee categories:

FMCSA (one category): Driver
FAA (eight categories): Flight Crewmember; Flight Attendant; Flight Instructor; Aircraft Dispatcher; Aircraft Maintenance; Ground Security Coordinator; Aviation Screener; Air Traffic Controller

FTA (six categories): Revenue Vehicle Operation; Revenue Vehicle and Equipment Maintenance; Revenue Vehicle Control/Dispatch; CDL/Non-Revenue Vehicle; Armed Security Personnel

FRA (five categories): Engine Service; Train Service; Dispatcher/Operation; Signal Service; Other [Includes yardmasters, hostlers (non-engineer craft), bridge tenders; switch tenders, and other

miscellaneous employees performing 49 CFR 228.5(c) defined covered service.]
RSPA (one category): Operation/
Maintenance/Emergency Response
USCG (one category): Crewmember

Section III. Drug Testing Data

This section summarizes the drug testing results for all covered employees (to include applicants). The table in this section requires drug test data by test type and by result. The categories of test types are: Pre-Employment; Random; Post-Accident; Reasonable Suspicion; Reasonable Cause; Return-to-Duty, and Follow-up.

The categories of type of results are: Total Number of Test Results [excluding cancelled tests and blind specimens]; Verified Negative; Verified Positive; Positive for Marijuana; Positive for Cocaine; Positive for PCP; Positive for Opiates; Positive for Amphetamines; Refusals due to Adulterated, Substituted, Shy Bladder with No Medical Explanation, and Other Refusals to Submit to Testing; and Cancelled Results.

TIP—Do not enter data on blind specimens submitted to laboratories. Be sure to enter all "pre-employment" testing data regardless of whether an applicant was hired or not. Make note of the fact that FMCSA and FTA do not authorize "reasonable cause" drug testing; that FAA, RSPA, and USCG do not authorize "reasonable suspicion" drug testing; but that FRA authorizes both. For USCG, enter any "Serious Marine Incident" testing in the "Post-Accident" row. For FRA, do not enter "post accident" data (the FRA does not collect this data on the MIS form). Finally, rather than enter "0" (zero) for any row or column in which there were no results, just leave that area blank.

Section III, Column 1. Total Number of Test Results—This column requires a count of the total number of test results in each testing category during the entire reporting year. Count the number of test results as the number of testing events resulting in negative, positive, and refusal results. Do not count cancelled tests and blind specimens in this total.

[For example, a company that conducted fifty pre-employment tests would enter "50" on the Pre-employment Row. If it conducted one hundred random tests, "100" would be entered on the Random Row. If that company did no post-accident, reasonable suspicion, reasonable cause, return-to-duty, or follow-up tests, those categories will be left blank.]

Section III, Column 2. Verified Negative Results—This column requires a count of the number of tests in each testing category that the Medical Review Officer (MRO) reported as negative. Do not count a negative-dilute result if, consequently, the employee underwent a second collection; the second test is the test of record.

[For example, if forty-seven of the company's fifty pre-employment tests were reported negative, "47" would be entered in Column 2 on the Pre-employment Row. If ninety of the company's one hundred random test results were reported negative, "90" would be entered in Column 2 on the Random Row. Because the company did no other testing, those other categories would be left blank.]

Section III, Column 3. Verified Positive Results—For One Or More Drugs—This column requires a count of the number of tests in each testing category that the MRO reported as positive for one or more drugs. When the MRO reports a test positive for two drugs, it would count as one positive test.

[For example, if one of the fifty pre-employment tests was positive for two drugs, “1” would be entered in Column 3 on the Pre-employment Row. If four of the company’s one hundred random test results were reported positive (three for one drug and one for two drugs), “4” would be entered in Column 3 on the Random Row.]

Section III, Columns 4 through 8. Positive (for specific drugs)—These columns require entry of the by-drug data for which specimens were reported positive by the MRO.

[For example, if the pre-employment positive test reported by the MRO was positive for marijuana, “1” would be entered in Column 4 on the Pre-employment Row. If three of the four positive results for random testing were reported by the MRO to be positive for marijuana, “3” would be entered in Column 4 on the Random Row. If one of the four positive results for random testing was reported positive for both PCP and opiates, “1” would be entered in Column 6 on the Random Row and “1” would be entered in Column 7 of the Random Row.]

TIP—Column 1 should equal the sum of Columns 2, 3, 9, 10, 11, and 12. Remember you have not counted specimen results that were ultimately cancelled or were from blind specimens. So, Column 1 = Column 2 + Column 3 + Column 9 + Column 10 + Column 11 + Column 12. Certainly, double check your records to determine if your actual results count is reflective of all negative, positives, and refusal counts.

An MRO may report that a specimen is positive for more than one drug. When that happens, to use the company example above (*i.e.*, one random test was positive for both PCP and opiates), the positive results should be recorded in the appropriate columns—PCP and opiates in this case. There is no expectation for Columns 4 through 8 numbers to add up to the numbers in Column 3 when you report multiple positives.

Section III, Columns 9 through 12. Refusal Results The refusal section is divided into four refusal groups—they are: Adulterated; Substituted; Shy Bladder With No Medical Explanation; and Other Refusals To Submit to Testing. The MRO reports two of these refusal types—adulterated and substituted specimen results “because of laboratory test findings.

When an individual does not provide enough urine at the collection site, the MRO conducts or causes to have conducted a medical evaluation to determine if there exists a medical reason for the person’s inability to provide the appropriate amount of urine. If there is no medical reason to support the inability, the MRO reports the result to the employer as a refusal to test: Refusals of this type are reported in the “Shy Bladder—With No Medical Explanation” category.

Finally, additional reasons exist for a test to be considered a refusal. Some examples

are: the employee fails to report to the collection site as directed by the employer; the employee leaves the collection site without permission; the employee fails to empty his or her pockets at the collection site; the employee refuses to have a required shy bladder evaluation. Again, these are only four examples; there are more.

Section III, Column 9. Adulterated—This column requires the count of the number of tests reported by the MRO as refusals because the specimens were adulterated.

[For example, if one of the fifty pre-employment tests was adulterated, “1” would be entered in Column 9 of the Pre-employment Row.]

Section III, Column 10. Substituted—This column requires the count of the number of tests reported by the MRO as refusals because the specimens were substituted.

[For example, if one of the 100 random tests was substituted, “1” would be entered in Column 10 of the Random Row.]

Section III, Column 11. Shy Bladder—With No Medical Explanation—This column requires the count of the number of tests reported by the MRO as being a refusal because there was no legitimate medical reason for an insufficient amount of urine.

[For example, if one of the 100 random tests was a refusal because of shy bladder, “1” would be entered in Column 11 of the Random Row.]

Section III, Column 12. Other Refusals To Submit To Testing—This column requires the count of refusals other than those already entered in Columns 9 through 11.

[For example, the company entered “100” as the number of random specimens collected, however it had five employees who refused to be tested without submitting specimens: two did not show up at the collection site as directed; one refused to empty his pockets at the collection site; and two left the collection site rather than submit to a required directly observed collection. Because of these five refusal events, “5” would be entered in Column 11 of the Random Row.]

TIP—Even though some testing events result in a refusal in which no urine was collected and sent to the laboratory, a “refusal” is still a final test result. Therefore, your overall numbers for test results (in Column 1) will equal the total number of negative tests (Column 2); positives (Column 3); and refusals (Columns 9, 10, 11, and 12). Do not worry that no urine was processed at the laboratory for some refusals; all refusals are counted as a testing event for MIS purposes and for establishing random rates.

Section III, Column 13. Cancelled Tests—This column requires a count of the number of tests in each testing category that the MRO reported as cancelled. You must not count any cancelled tests in Column 1 or in any other column. For instance, you must not count a positive result (in Column 3) if it had ultimately been cancelled for any reason (*e.g.*, specimen was initially reported positive, but the split failed to reconfirm).

[For example, if a pre-employment test was reported cancelled, “1” would be entered in Column 13 on the Pre-employment Row. If three of the company’s random test results

were reported cancelled, “3” would be entered in Column 13 on the Random Row.]

Section IV. Alcohol Testing Data

This section summarizes the alcohol testing conducted for all covered employees (to include applicants). The table in this section requires alcohol test data by test type and by result. The categories of test types are: Pre-Employment; Random; Post-Accident; Reasonable Suspicion; Reasonable Cause; Return-to-Duty, and Follow-up.

The categories of results are: Number of Screening Test Results; Screening Tests with Results Below 0.02; Screening Tests with Results 0.02 Or Greater; Number of Confirmation Test Results; Confirmation Tests with Results 0.02 through 0.039; Confirmation Tests with Results 0.04 Or Greater; Refusals due to Shy Lung with No Medical Explanation, and Other Refusals to Submit to Testing; and Cancelled Results.

TIP—Be sure to enter all “pre-employment” testing data regardless of whether an applicant was hired or not. Of course, for most employers pre-employment alcohol testing is optional, so you may not have conducted this type of testing. Make note of the fact that FMCSA, FAA, FTA, and RSPA authorize “reasonable suspicion” but not “reasonable cause” alcohol testing; but FRA authorizes both “reasonable cause” and “reasonable suspicion” alcohol testing. RSPA does not authorize “random” testing for alcohol. Finally, rather than enter “0” (zero) for any row or column in which there were no results, just leave that area blank. Please note that USCG-regulated employers do not report alcohol test results on the MIS form: Do not fill-out Section IV if you are a USCG-regulated employer.

Section IV, Column 1. Total Number of Screening Test Results—This column requires a count of the total number of screening test results in each testing category during the entire reporting year. Count the number of screening tests as the number of screening test events with final screening results of below 0.02, of 0.02 through 0.039, of 0.04 or greater, and all refusals. Do not count cancelled tests in this total.

[For example, a company that conducted twenty pre-employment tests would enter “20” on the Pre-employment Row. If it conducted fifty random tests, “50” would be entered. If that company did no post-accident, reasonable suspicion, reasonable cause, return-to-duty, or follow-up tests, those categories will be left blank.]

Section IV, Column 2. Screening Tests With Results Below 0.02—This column requires a count of the number of tests in each testing category that the BAT or STT reported as being below 0.02 on the screening test.

[For example, if seventeen of the company’s twenty pre-employment screening tests were reported as being below 0.02, “17” would be entered in Column 2 on the Pre-employment Row. If forty-four of the company’s fifty random screening test results were reported as being below 0.02, “44” would be entered in Column 2 on the Random Row. Because the company did no other testing, those other categories would be left blank.]

Section IV, Column 3. Screening Tests With Results 0.02 Or Greater—This column requires a count of the number of screening tests in each testing category that BAT or STT reported as being 0.02 or greater on the screening test.

[For example, if one of the twenty pre-employment tests was reported as being 0.02 or greater, “1” would be entered in Column 3 on the Pre-employment Row. If four of the company’s fifty random test results were reported as being 0.02 or greater, “4” would be entered in Column 3 on the Random Row.]

Section IV, Column 4. Number of Confirmation Test Results—This column requires entry of the number of confirmation tests that were conducted by a BAT as a result of the screening tests that were found to be 0.02 or greater. In effect, all screening tests of 0.02 or greater should have resulted in confirmation tests. Ideally the number of tests in Column 3 and Column 4 should be the same. However, we know that this required confirmation test sometimes does not occur. In any case, the number of confirmation tests that were actually performed should be entered in Column 4.

[For example, if the one pre-employment screening test reported as 0.02 or greater had a subsequent confirmation test performed by a BAT, “1” would be entered in Column 4 on the Pre-employment Row. If three of the four random screening tests that were found to be 0.02 or greater had a subsequent confirmation test performed by a BAT, “3” would be entered in Column 4 on the Random Row.]

Section IV, Column 5. Confirmation Tests With Results 0.02 Through 0.039 ~ This column requires entry of the number of confirmation tests that were conducted by a BAT that led to results that were 0.02 through 0.039.

[For example, if the one pre-employment confirmation test yielded a result of 0.042, Column 5 of the Pre-employment Row would be left blank. If two of the random confirmation tests yielded results of 0.03 and 0.032, “2” would be entered in Column 5 of the Random Row.]

Section IV, Column 6. Confirmation Tests With Results 0.04 Or Greater ~ This column requires entry of the number of confirmation tests that were conducted by a BAT that led to results that were 0.04 or greater.

[For example, because the one pre-employment confirmation test yielded a result of 0.042, “1” would be entered in Column 6 of the Pre-employment Row. If one of the random confirmation tests yielded a result of 0.04, “1” would be entered in Column 6 of the Random Row.]

TIP—Column 1 should equal the sum of Columns 2, 3, 7, and 8. The number of screening tests results should reflect the number of screening tests you have no matter the result (below 0.02 or at or above 0.02, plus refusals to test), unless of course, the tests were ultimately cancelled. So, Column 1 = Column 2 + Column 3 + Column 7 + Column 8. Certainly, double check your records to determine if your actual screening results count is reflective of all these counts.

There is no need to record MIS confirmation tests results below 0.02: That is why we have no column for it on the form. [If the one of the random test that screened 0.02 went to a confirmation test; and that confirmation test yielded a result below 0.02, there is no place for that confirmed result to be entered.] We assume that if a confirmation test was completed but not listed in either Column 5 or Column 6, the result was below 0.02. In addition, if the confirmation test ended up being cancelled, it should not have been included in Columns 1, 3, or 4 in the first place.

Section IV, Columns 7 and 8. Refusal Results—The refusal section is divided into two refusal groups—they are: Shy Lung—With No Medical Explanation; and Other Refusals To Submit to Testing. When an individual does not provide enough breath at the test site, the company requires the employee to have a medical evaluation to determine if there exists a medical reason for the person’s inability to provide the appropriate amount of breath. If there is no medical reason to support the inability as reported by the examining physician, the employer calls the result a refusal to test: Refusals of this type are reported in the “Shy Lung—With No Medical Explanation” category.

Finally, additional reasons exist for a test to be considered a refusal. Some examples are: the employee fails to report to the test site as directed by the employer; the employee leaves the test site without permission; the employee fails to sign the certification at Step 2 of the ATF; the employee refuses to have a required shy lung

evaluation. Again, these are only four examples; there are more.

Section IV, Column 7. Shy Lung—With No Medical Explanation—This column requires the count of the number of tests in which there is no medical reason to support the employee’s inability to provide an adequate breath as reported by the examining physician; subsequently, the employer called the result a refusal to test.

[For example, if one of the 50 random tests was a refusal because of shy lung, “1” would be entered in Column 7 of the Random Row.]

Section IV, Column 8. Other Refusals To Submit To Testing—This column requires the count of refusals other than those already entered in Columns 7.

[For example, the company entered “50” as the number of random specimens collected, however it had one employee who did not show up at the testing site as directed. Because of this one refusal event, “1” would be entered in Column 8 of the Random Row.]

TIP—Even though some testing events result in a refusal in which no breath (or saliva) was tested, there is an expectation that your overall numbers for screening tests (in Column 1) will equal the total number of screening tests with results below 0.02 (Column 2); screening tests with results 0.02 or greater (Column 3); and refusals (Columns 7 and 8). Do not worry that no breath (or saliva) was tested for some refusals; all refusals are counted as a screening test event for MIS purposes and for establishing random rates.

Section IV, Column 9. Cancelled Tests—This column requires a count of the number of tests in each testing category that the BAT or STT reported as cancelled. Do not count any cancelled tests in Column 1 or in any other column other than Column 9. For instance, you must not count a 0.04 screening result or confirmation result in any column, other than Column 9, if the test was ultimately cancelled for some reason (e.g., a required air blank was not performed).

[For example, if a pre-employment test was reported cancelled, “1” would be entered in Column 9 on the Pre-Employment Row. If three of the company’s random test results were reported cancelled, “3” would be entered in Column 13 on the Random Row.]

[FR Doc. 02–24718 Filed 9–27–02; 8:45 am]

BILLING CODE 4910–62–P

Notices

Federal Register

Vol. 67, No. 189

Monday, September 30, 2002

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

DEPARTMENT OF AGRICULTURE

Food Safety Inspection Service

[Docket No. 02-021N]

National Advisory Committee on Microbiological Criteria for Foods; Renewal

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of Re-chartering of Committee.

SUMMARY: This notice is announcing the re-chartering of the National Advisory Committee on Microbiological Criteria for Foods (NACMCF). The Committee is being renewed in cooperation with the Department of Health and Human Services (HHS). The establishment of the Committee was recommended by a 1985 report of the National Academy of Sciences Committee on Food Protection, Subcommittee on Microbiological Criteria, "An Evaluation of the Role of Microbiological Criteria for Foods." The current charter for the NACMCF is available for viewing on the NACMCF homepage at <http://www.fsis.usda.gov/OPHS/NACMCF/index.htm>.

FOR FURTHER INFORMATION CONTACT:

Karen Thomas, Advisory Committee Specialist, USDA, Food Safety and Inspection Service, Room 333 Aerospace Center, 1400 & Independence Avenue, SW., Washington, DC 20250-3700. Background materials are available for inspection on the web at the above address or by contacting Ms. Thomas at 202-690-6620.

SUPPLEMENTARY INFORMATION:

Background

The United States Department of Agriculture (USDA) is charged with administration and the enforcement of the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), and the Egg Products Inspection Act (EPIA). The Secretary of HHS is

charged with the administration and enforcement of the Federal Food, Drug, and Cosmetic Act (FFDCA). These Acts help protect consumers by assuring that food products are wholesome, not adulterated, and properly marked, labeled and packaged.

In order to assist the Secretaries in carrying out their responsibilities under the FMIA, PPIA, EPIA, and FFDCA, the NACMCF is being re-chartered. The Committee will be charged with advising and providing recommendations to the Secretaries on the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been adequately and appropriately processed.

Re-chartering of this Committee is necessary and in the public interest because of the need for external expert advice on the range of scientific and technical issues that must be addressed by the Federal sponsors in meeting their statutory responsibilities. The complexity of the issues to be addressed requires that the Committee meet at least twice per year.

Members will be appointed by the Secretary of USDA after consultation with the Secretary of HHS. Because of their interest in the matters to be addressed by this Committee, advice on membership appointments will be requested from the Department of Commerce's National Marine Fisheries Service, the Department of Defense's Veterinary Service Activity, and the Centers for Disease Control and Prevention.

Additional Public Notification

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

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

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

Done at Washington, DC on: September 25, 2002.

Elsa Murano,

Under Secretary for Food Safety.

[FR Doc. 02-24751 Filed 9-27-02; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee will meet in Yreka, California, October 21, 2002. The purpose of the meeting is to receive a presentation by the Backcountry Horsemen, refine the proposal receipt and review process, and develop a RAC outreach strategy.

DATES: The meeting will be held October 21, 2002 from 4 p.m. until 7 p.m.

ADDRESSES: The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Don Hall, RAC Coordinator, Klamath National Forest, (530) 841-4468 or electronically at donaldhall@fs.fed.us.

SUPPLEMENTARY INFORMATION: The meeting is open the public. Public comment opportunity will be provided and individuals will have the

opportunity to address the Committee at that time.

Dated: September 23, 2002.

Margaret J. Boland,

Designated Federal Official.

[FR Doc. 02-24709 Filed 9-27-02; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Status of Project Proposals, (5) Evaluation Criteria Form/Possible Action, (6) Draft Addition to Standard Long Form/Possible Action (7) General Discussion, (8) House Committee Report.

DATES: The meeting will be held on October 10, 2002, from 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Conference Room A, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino, DFO, 825 N. Humboldt Ave., Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT:

Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, P.O. Box 164, Elk Creek, CA 95939. (530) 968-5329; e-mail ggaddini@fs.fed.us.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by October 7, 2002 will have the opportunity to address the committee at those sessions.

Dated: September 24, 2002.

James F. Giachino,

Designated Federal Official.

[FR Doc. 02-24710 Filed 9-27-02; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Membership of the USCCR Performance Review Board

AGENCY: Commission on Civil Rights.

ACTION: Notice of membership of the USCCR Performance Review Board.

SUMMARY: This notice announces the appointment of the Performance Review Board (PRB) of the United States Commission on Civil Rights. Publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of the U.S. Commission on Civil Rights' Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Staff Director, U.S. Commission on Civil Rights for the FY 2002 rating year.

FOR FURTHER INFORMATION CONTACT:

TinaLouise Martin, Director of Human Resources, U.S. Commission on Civil Rights, 624 9th Street, NW., Washington, DC 20425, (202) 376-8364.

Members

Gloria Gutierrez, Assistant Director Marketing and Customer Liaison, U.S. Bureau of the Census.

Robert Kugelman, Director, Office of Budget, Department of Commerce.
Joseph Mancias, Senior Management Counsel, Department of Justice.

Debra A. Carr,

Deputy General Counsel.

[FR Doc. 02-24761 Filed 9-27-02; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-853]

Bulk Aspirin from the People's Republic of China: Notice of Court Decision and Suspension of Liquidation

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

SUMMARY: On September 9, 2002, in *Rhodia, Inc. v. United States*, Consol. Court No. 00-08-00407, Slip. Op. 02-109 (CIT 2002), a lawsuit challenging the Department of Commerce's ("the Department's") *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000) and accompanying Issues and Decision Memorandum (May

17, 2000) ("*Issues and Decision Memorandum*"), and *Notice of Amended Final Determination of Sales at Less Than Fair Value: Bulk Aspirin from the People's Republic of China*, 65 FR 39598 (June 27, 2000) (collectively, "*Final Determination*"), the Court of International Trade ("CIT") affirmed the Department's remand determination and entered a judgment order. In its remand determination, the Department reviewed the record evidence regarding the extent to which the Indian surrogate producers are integrated and concluded that the evidence did not support the *Final Determination* in this regard. We also reconsidered our use of weighted-average ratios for overhead, SG&A, and profit, and amended our calculations using simple averages. Finally, in accordance with our voluntary request for remand, we removed "trade sales" (or "traded goods") from the denominator in calculating the overhead ratio.

As a result of the remand determination, Jilin Pharmaceutical ("Jilin") will be excluded from the antidumping duty order on bulk aspirin from the People's Republic of China ("PRC") because its antidumping rate was *de minimis* (1.27 percent).¹ The antidumping duty rate for Shandong Xinhua Pharmaceutical Factory, Ltd. ("Shandong") was decreased from 16.51 to 6.42 percent. The PRC-wide rate was unchanged from the *Final Determination*.

Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), the Department will continue to order the suspension of liquidation of the subject merchandise until there is a "conclusive" decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct the U.S. Customs Service to terminate the suspension of liquidation for Jilin and revise the cash deposit rate for Shandong.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT:

Blanche Ziv or Julie Santoboni, AD/CVD Enforcement Group I, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230;

¹ If the Department affirms its preliminary finding in the changed circumstances review that Jilin Henghe Pharmaceutical Co. is the successor-in-interest to Jilin Pharmaceutical Co., Jilin Henghe Pharmaceutical Co. will be excluded from the antidumping duty order on bulk aspirin from the PRC.

telephone: (202) 482-4207 or (202) 482-4194, respectively.

SUPPLEMENTARY INFORMATION:

Background

Following publication of the *Final Determination*, Rhodia, Inc., the petitioner in this case, and respondents, Jilin and Shandong, filed lawsuits with the CIT challenging the Department's *Final Determination*.

In the underlying investigation, the Department was required to develop values for factory overhead, SG&A, and profit relying on "surrogate" data from Indian producers of comparable merchandise. See section 773(c) of the Act. Regarding factory overhead, the Department used information from three Indian producers: Andhra Sugars, Alta Laboratories, and Gujarat Organics, Ltd. In the *Final Determination*, the Department found that the PRC producers of bulk aspirin were more fully integrated than the Indian producers. Therefore, the Department reasoned, the PRC producers would have a higher overhead-to-raw material ratio than the surrogate Indian producers. To account for this in computing normal value, the Department applied the overhead ratio calculated from the Indian producers' data twice, once to reflect the overhead incurred in producing the inputs for aspirin, and again to reflect the overhead incurred in producing aspirin from those inputs.

The Court remanded this issue to the Department. First, the Court pointed to the lack of evidence or explanation regarding the Department's position that integrated producers would experience higher overhead ratios than non-integrated producers. The Court acknowledged that the Department had provided a more detailed explanation of its rationale in its brief to the Court. However, citing *Hoogovens Staal B.V. v. United States*, 86 F. Supp. 2d 1317, 1331 (CIT 2000), the Court ruled that the Department could not rely upon such *post hoc* rationalizations. *Rhodia* at 10.

Additionally, the Court questioned the Department's conclusion that the Indian producers were less integrated than the PRC producers. Specifically, the Court found that the Department could not reasonably infer this from the evidence cited in the Issues and Decision Memorandum. Therefore, the Court remanded this issue to the Department and asked the agency to identify the facts in the record that support its final determination. *Rhodia* at 12.

The second issue remanded to the Department relates to the calculation of the ratios for overhead, SG&A, and

profit. In the *Final Determination*, the Department computed a weighted average of the overhead, SG&A, and profit of the three Indian surrogate producers. However, citing to the agency's usual practice of using simple averages in these situations, the Court ruled that the Department had provided no explanation for departing from this practice. Thus, the Court directed the Department to explain its reasoning for computing weighted averages in this case. *Rhodia* at 15.

Finally, the Department sought, and the Court granted, a voluntary remand to correct the calculation of the overhead ratio by removing traded goods from the denominator. *Rhodia* at 13.

To assist it in complying with the Court's instructions, the Department asked the parties to identify information on the record of the proceeding regarding the extent of integration of Indian producers of comparable merchandise. See the December 13, 2001, letter to Rhodia, Inc., Jilin and Shandong. Responses were received from the three parties on January 15, 2002, and rebuttal comments were received on January 22, 2002.

The *Draft Redetermination Pursuant to Court Remand* ("Draft Results") was released to the parties on February 4, 2002. In its *Draft Results*, the Department reviewed the record evidence regarding the extent to which the Indian surrogate producers are integrated and concluded that the evidence did not support the *Final Determination* in this regard. We also reconsidered our use of weighted-average ratios for overhead, SG&A, and profit, and amended our calculations using simple averages. Finally, in accordance with our voluntary request for remand, we removed "trade sales" (or "traded goods") from the denominator in calculating the overhead ratio.

Comments on the *Draft Results* were received from Rhodia, Inc. and Shandong on February 11, 2002, and rebuttal comments were received from the petitioner and Jilin on February 14, 2002. On March 29, 2002, the Department responded to the Court's Order of Remand by filing its *Final Results of Redetermination* pursuant to the Court remand. ("Final Results of Redetermination"). The Department's *Final Results of Redetermination* were identical to the *Draft Results* except that in the *Final Results of Redetermination*, the Department did not include the two companies with negative profits, *i.e.*, Alta and Gujarat, in the profit calculation.

The CIT affirmed the Department's *Final Results of Redetermination* on September 9, 2002. See *Rhodia, Inc. v. United States*, Consol. Court No. 00-08-00407, Slip. Op. 02-109 (CIT 2002).

Suspension of Liquidation

The U.S. Court of Appeals for the Federal Circuit, in Timken, held that the Department must publish notice of a decision of the CIT or the Federal Circuit which is not "in harmony" with the Department's *Final Determination*. Publication of this notice fulfills that obligation. The Federal Circuit also held that the Department must suspend liquidation of the subject merchandise until there is a "conclusive" decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation pending the expiration of the period to appeal the CIT's September 9, 2002, decision or, if that decision is appealed, pending a final decision by the Federal Circuit. The Department will instruct the Customs Service to revise cash deposit rates and liquidate relevant entries covering the subject merchandise effective September 30, 2002, in the event that the CIT's ruling is not appealed, or if appealed and upheld by the Court of Appeals for the Federal Circuit.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-24777 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-839]

Certain Polyester Staple Fiber from the Republic of Korea: Notice of Court Decision and Suspension of Liquidation

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

SUMMARY: On August 22, 2002, in *Geum Poong Corporation and Sam Young Synthetics Co., Ltd. v. United States v. E.I. Dupont De Nemours, Inc., et. al.*, Court No. 00-06-00298, Slip. Op. 02-95 (CIT 2002), a lawsuit challenging the Department of Commerce's ("the Department's") *Notice of Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan*, FR 65 16880

(March 30, 2000) and accompanying Issues and Decision Memorandum, and *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea, and Antidumping Duty Orders: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000) (collectively, "*Final Determination*"), the Court of International Trade ("CIT") affirmed the Department's second remand redetermination and entered a judgment order. In the instant remand redetermination, in accordance with the Court's order, the Department reviewed the record evidence and derived a facts available profit cap using the financial statements of Saehan Industries, Inc., ("Saehan") and SK Chemical Co. Ltd., ("SK Chemical"), and calculated a profit rate for Geum Poong Corporation ("Geum Poong") using the same information.

As a result of the remand redetermination, Geum Poong will be excluded from the antidumping duty order on certain polyester staple fiber from Korea because its antidumping rate was decreased from 14.10 percent to 0.12 percent (*de minimis*). The "all others" rate was decreased from 11.38 percent, established in the *Final Determination*, to 7.91 percent. The antidumping duty rates for respondents Sam Young Synthetics Co. ("Sam Young"), and Samyang Corporation ("SAMYANG") were unchanged from the *Final Determination*.

This decision was not in harmony with the Department's original *Final Determination*. Consistent with the decision of the Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), the Department will continue to order the suspension of liquidation of the subject merchandise until there is a "conclusive" decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct the U.S. Customs Service to terminate the suspension of liquidation for Geum Poong and revise the all others cash deposit rate.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder or Scott Holland, Office 1, Group 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, D.C. 20230, telephone: (202) 482-0189 or (202) 482-1279, respectively.

SUPPLEMENTARY INFORMATION:

Background:

Following the publication of the *Final Determination*, the petitioners and the respondents in this case filed lawsuits with the CIT challenging the Department's *Final Determination*.

In the underlying investigation, the Department was required to calculate a CV profit rate for Geum Poong. Based on the information on the record, the Department determined that a combination of the CV profit rates calculated for the other respondents, Sam Young and Samyang, and a general profit ratio for the entire man-made fibers industry in Korea, extracted from a Bank of Korea ("BOK") publication, was a reasonable method for calculating Geum Poong's profit and was permissible under section 773 (e)(2)(B)(iii) of the Act. (*See Final Determination*)

In its September 6, 2001, opinion, the Court affirmed certain aspects of the Department's method for calculating Geum Poong's CV profit. (*See Geum Poong Corp. v. United States*, 163 F. Supp. 2d 669 (Ct. Int'l Trade 2002) ("*Geum Poong I*"). The Court also remanded certain aspects of the Department's determination. Specifically, the Court stated that the Department had not adequately explained why a profit cap was not available and, even assuming a profit cap could not be applied, Commerce had not adequately explained why the profit methodology it selected was reasonable. *Id.* at 678-9.

On October 5, 2001, Commerce submitted its *Final Results of Redetermination Pursuant to Court Remand* ("Redetermination I") in response to the Court's remand order in *Geum Poong I*. In that redetermination, Commerce stated its view that as a matter of law none of the profit information on the record of this proceeding could be used as a profit cap because all of the profit rates under consideration included, or likely included, profits on non-Korean sales. Commerce further provided an explanation of its decision to reject certain profit data and to combine other profit rates to calculate the CV profit rate for Geum Poong.

In *Geum Poong Corporation and Sam Young Synthetics Co., Ltd. v. United States v. E. I. Dupont De Nemours, Inc., et. al.*, Slip Op 02-26 (March 8, 2002) ("*Geum Poong II*"), the Court remanded again the issue of Geum Poong's CV profit.

We released the *Draft Redetermination Pursuant to Court Remand* ("*Draft Results*") to interested parties on April 16, 2002. Comments on

the *Draft Results* were received from the petitioners and Geum Poong and Sam Young on April 23, 2002. On April 30, 2002, the Department responded to the Court's Order of Remand by filing its *Final Results of Redetermination Pursuant to Court Remand* ("*Final Results of Redetermination*").

In the *Final Results of Redetermination*, we calculated a "facts available profit cap" using the financial statements of Saehan and SK Chemical. As per the Court's express instructions, we used this "facts available profit cap" as the CV profit rate for Geum Poong.

The Court affirmed the Department's *Final Results of Redetermination* on August 22, 2002. *See Geum Poong Corporation and Sam Young Synthetics Co., Ltd. v. United States v. E.I. Dupont De Nemours, Inc.*, Court No. 00-06-00298, Slip. Op. 02-95 (CIT 2002).

Suspension of Liquidation

The U.S. Court of Appeals for the Federal Circuit in *Timken* held that the Department must publish notice of a decision of the CIT or the Federal Circuit which is not "in harmony" with the Department's *Final Determination*. Publication of this notice fulfills that obligation. The Federal Circuit also held that the Department must suspend liquidation of the subject merchandise until there is a "conclusive" decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation pending the expiration of the period to appeal the CIT's August 22, 2002, decision or, if that decision is appealed, pending a final decision by the Federal Circuit. The Department will instruct the U.S. Customs Service to revise cash deposit instructions and liquidate relevant entries covering the subject merchandise effective September 30, 2002, in the event that the CIT's ruling is not appealed.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-24775 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-351-806]

Antidumping Duty Investigation; Silicon Metal from Brazil: Amended Final Determination in Accordance with Court Decision.

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

ACTION: Notice of Amended Final Determination of Antidumping Duty Investigation in Accordance with Court Decision.

SUMMARY: On February 14, 2001, the United States Court of International Trade ("CIT") sustained the final remand determination made by the Department of Commerce ("the Department") pursuant to the Court's remand of the final determination of sales at less than fair value of silicon metal from Brazil. See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91-09-00641, Slip Op. 01-15 (Ct. Int'l Trade February 14, 2001). As there is now a final and conclusive court decision in this case, we are amending our final determination of sales at less than fair value.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Marlene Hewitt, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington DC 20230; telephone (202) 482-1385.

SUPPLEMENTARY INFORMATION:**Background**

On June 12, 1991, the Department of Commerce ("the Department") published its final Determination of Sales at Less Than Fair Value: Silicon Metal from Brazil. In its final determination, the Department also found that critical circumstances existed with respect to exports from Brazil by Companhia Brasileira Carbureto de Calcio ("CBCCC"). See *Final Determination of Sales at Less Than Fair Value: Silicon Metal from Brazil*, 59 FR 26977 (June 12, 1991) ("*Final Determination*").

On July 24, 1991, the International Trade Commission ("ITC") notified the Department that such imports materially injure an United States industry. The ITC also notified the Department that critical circumstances do not exist with respect to any imports from Brazil.

On July 31, 1991, the Department issued its antidumping duty order on

Silicon Metal from Brazil for two specific Brazilian manufacturers/exporters, CBCC, and Camargo Correa Metais, S.A. ("CCM"), and for all other Brazilian manufacturers/exporters ("all others"). See *Antidumping Duty Order: Silicon Metal from Brazil*, 56 FR 36135 (July 31, 1991).

CCM challenged certain aspects of the Department's *Final Determination* at the CIT.

On August 13, 1993, the CIT remanded the Department's *Final Determination* on the following issues: (1) to re-examine the circumstances of sale adjustment for letter of credit sales and explain why such sales constitute a bona fide difference in the circumstances of domestic sales; (2) to explain in greater detail the allocation of annual GS&A expenses to the merchandise produced during the period of investigation, and recalculate said allocation if it systematically overstates GS&A expenses; and (3) to announce a method and rationale for complying with 19 U.S.C. §1677a(d)(1)(C) and to calculate an amount equal to the sum of the amounts incurred and realized for the exporter in this review, that avoids double counting but accounts for the economic reality of the Brazilian value-added tax "imposto sobre a circulacao de mercadorias e servicos" ("ICMS") paid on inputs to export production, and recovered from taxes otherwise due the Brazilian government which was not a cost of producing silicon metal for export in Brazil. See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91-09-00641, Slip Op. 93-163 (Ct. Int'l Trade August 13, 1993).

On December 13, 1993, the Department filed its redetermination pursuant to court remand. The Department recalculated the constructed value, excluding the ICMS paid by CBCCC and CCM, pursuant to the CIT's instructions. See *Silicon Metal from Brazil: Final Results of Redetermination Pursuant to Court Remand* (December 12, 1993).

On April 29, 1994, the CIT affirmed the Department's redetermination on remand, ruling that since all other issues have been decided, the case was dismissed. See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91-09-00641 (91-09-00645), Slip Op. 94-68 (Ct. Int'l Trade April 29, 1994).

American producers of silicon metal, American Alloys, Inc., Globe Metallurgical, Inc., and American Silicon Technologies (collectively "domestic producers" or "appellants"), appealed the CIT's judgment to the United States Court of Appeals for the Federal Circuit ("CAFC"). The CAFC

vacated the judgment of the CIT and remanded with directions to draft a judgment that complied with the relevant statute requiring findings of fact and conclusions of law or an opinion stating the facts in support of the judgment. See *Camargo Correa Metals, S.A., v. United States*, 52 F.3d 1040 (Fed. Cir. 1995).

The Department sought a rehearing before the CIT to have its original methodology reinstated. The Department argued, contrary to the CIT's first ruling, that the ICMS is not remitted or refunded upon export, and is therefore a cost. The CIT held that it "has found ICMS credit to be indistinguishable from a remittance or refund." See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91-09-00641, Slip Op. 97-159 (Ct. Int'l Trade November 25, 1997). Pursuant to the CAFC's directions, the CIT issued its opinion and remanded the case to the Department a second time with instructions to 1) consider the Brazilian ICMS credit to be a rebate or remittance for purposes of 19 U.S.C.

§1677a(d)(1)(C) (1988); 2) propose a method to eliminate or account for the double counting problem between the same statutes; and 3) recalculate the dumping margin for CBCC. In the same opinion, the CIT affirmed the Department's Redetermination in all other respects. See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91-09-00641, Slip Op. 97-159 (Ct. Int'l Trade November 25, 1997).

On March 25, 1998, the Department submitted its remand results. The Department excluded CBCCC's ICMS liability from its constructed value calculations, consistent with the Department's findings in its 1993 Final Remand Results. See *Silicon Metal from Brazil: Results of Redetermination Pursuant to Court Remand* (March 25, 1998).

On November 5, 1998, the CIT affirmed the Department's final result of redetermination on remand. See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91-09-00641, Slip Op. 98-152 (Ct. Int'l Trade November 5, 1998).

The United States and domestic producers, appealed the CIT's judgment to the CAFC. The CAFC reversed the CIT's judgment and remanded the case to the CIT to include the ICMS in the constructed value calculation. See *Camargo Correa Metals, S.A., v. United States*, 200 F.3d 771 (Fed. Cir. 1999).

On November 21, 2000, the Department issued its final results of redetermination pursuant to court remand. See *Silicon Metal from Brazil: Final Results of Redetermination*

Pursuant to Court Remand (November 21, 2000).

On February 14, 2001, the CIT sustained the Department's redetermination on remand. See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91-09-00641, Slip Op. 01-15 (Ct. Int'l Trade February 14, 2001).

Litigation in this case is final and conclusive. We are therefore amending our final determination of sales at less than fair value.

The weighted-average margins remain the same as in the antidumping duty order and are as follows:

Manufacturer/Exporter	Margin (percent)
CCM	87.79
CBCC	93.20
All others	91.06

CCM's and CBCC's current cash deposit rates are based upon an administrative review conducted subsequent to the investigation segment of the proceeding. Therefore, this amended final determination does not affect the cash deposit rates for CCM and CBCC currently in effect, which will continue to be based on the margins found to exist in the most recently completed review.

This notice is published in accordance with §§ 735(d) and 777(i) of the Tariff Act (19 U.S.C. §§ 1675(a)(1) and 1677f(i)).

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-24776 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-825]

Stainless Steel Sheet and Strip in Coils From Germany: Final Results of Changed Circumstances Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review.

SUMMARY: On July 29, 2002, the Department of Commerce (the Department) published the notice of initiation and preliminary results of its changed circumstances review examining whether ThyssenKrupp

Nirosta GmbH is the successor-in-interest to Krupp Thyssen Nirosta GmbH by virtue of its corporate name change.¹ See *Stainless Steel Sheet and Strip in Coils from Germany: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 67 FR 49005 (July 29, 2002) (*Initiation and Preliminary Results*). We have now completed this changed circumstances review in accordance with section 751(b) of the Tariff Act of 1930, as amended (the Tariff Act), and 19 CFR 351.216 and 351.221(c)(3) of the Department's regulations.

As a result of this review, the Department determines that ThyssenKrupp Nirosta GmbH is the successor-in-interest to Krupp Thyssen Nirosta GmbH, and that ThyssenKrupp Nirosta GmbH should retain the deposit rate assigned to Krupp Thyssen Nirosta GmbH by the Department for all entries of the subject merchandise produced or exported by ThyssenKrupp Nirosta GmbH.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Tran or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-1121 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2002).

Background

On July 29, 2002, the Department published the notice of initiation and preliminary results of this changed circumstances review. See *Initiation and Preliminary Results*. We gave interested parties 21 days to comment on this initiation and preliminary results. However, no interested parties

¹ In addition to ThyssenKrupp Nirosta GmbH the following companies involved in the production, importation, and U.S. sale of subject merchandise have changed their corporate names: Krupp Thyssen Nirosta North America, Inc. to ThyssenKrupp Nirosta North America, Inc.; Krupp VDM GmbH to ThyssenKrupp VDM GmbH; and Krupp VDM Technologies Corporation to Thyssen Krupp VDM USA, Inc.

provided comments, and no request for a hearing was received by the Department.

Scope of the Review

For purposes of this administrative review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.*, flat-rolled

stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves for compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a

honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless steel strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."²

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."³

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve

aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."⁴

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).⁵ This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6"⁶.

Successorship and Final Results of Review

On the basis of the record developed in this changed circumstances review, we determine that ThyssenKrupp Nirosta GmbH is the successor-in-interest to Krupp Thyssen Nirosta

⁴ "Durphynox 17" is a trademark of Imphy, S.A.

⁵ This list of uses is illustrative and provided for descriptive purposes only.

⁶ "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

² "Arnokrome III" is a trademark of the Arnold Engineering Company.

³ "Gilphy 36" is a trademark of Imphy, S.A.

GmbH for purposes of determining antidumping duty liability. In order to make this determination, we examined the management, organizational structure, ownership, production facilities, supplier relationships, and customer base of ThyssenKrupp Nirosta GmbH and Krupp Thyssen Nirosta GmbH. Since record evidence shows that ThyssenKrupp Nirosta GmbH has maintained the same management, organizational structure, ownership, production facilities, supplier relationships, and customer base as Krupp Thyssen Nirosta GmbH, we determine that ThyssenKrupp Nirosta GmbH is the successor company to Krupp Thyssen Nirosta GmbH. For a more thorough discussion of the basis for this decision, see *Initiation and Preliminary Results* (67 FR 49007). Therefore, ThyssenKrupp Nirosta GmbH shall retain the antidumping duty deposit rate assigned to Krupp Thyssen Nirosta GmbH by the Department in the most recent administrative review of the subject merchandise. This deposit requirement will apply to all unliquidated entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this changed circumstances review.

This notice also serves as a final reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to timely notify the Department in writing of the return/destruction of APO material is a sanctionable violation.

We are issuing and publishing this finding and notice in accordance with sections 751(b) and 777(i)(1) of the Tariff Act and 19 CFR 351.221(c)(3) and 19 CFR 351.216.

Dated: September 20, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-24778 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Alaska Department of Fish & Game, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural

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

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 02-034. *Applicant:* Alaska Department of Fish & Game, Anchorage, AK 99518. *Instrument:* (Two) Digital Fish Measuring Boards, Model FMB IV/64/10. *Manufacturer:* Limnoterra Ltd., Canada. *Intended Use:* See notice at 67 FR 52944, August 14, 2002. *Reasons:* The foreign instrument provides measurement and recording of fish length and weight which can be downloaded to a field-operated PC after a sample of fish has been measured. *Advice received from:* National Institutes of Health, August 27, 2002.

Docket Number: 02-038. *Applicant:* U.S. Department of Agriculture, Fargo, ND 58105. *Instrument:* Q Pix Colony Picker System, Model QPix2. *Manufacturer:* Genetix Ltd., United Kingdom. *Intended Use:* See notice at 67 FR 55198, August 28, 2002. *Reasons:* The foreign instrument provides a unique multi-tasking robotic system for picking, gridding and rearranging specific cell colonies with a rapid picking rate of 3500 colonies per hour and very high throughput. *Advice received from:* National Institutes of Health, August 27, 2002.

The National Institutes of Health advises in its memoranda that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02-24781 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Pennsylvania State University; Notice of Decision on Application for Duty-Free Entry of Electron Microscope

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

Docket Number: 02-027. *Applicant:* Pennsylvania State University, University Park, PA 16802. *Instrument:* Electron Microscope, Model JEM-2010F FasTEM. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 67 FR 47524, July 19, 2002. *Order Date:* July 29, 2002.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02-24779 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Colorado; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

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

Docket Number: 02-031. *Applicant:* University of Colorado, Boulder, CO 80309. *Instrument:* Nd:YAG Solid-state Laser. *Manufacturer:* InnoLight GmbH,

Germany. *Intended Use:* See notice at 67 FR 48881, July 26, 2002.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) A spectral linewidth of 1.0 kHz/100 ms and (2) a relative intensity noise level of < -150 dB/Hz. A domestic manufacturer of similar equipment advised September 18, 2002 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02-24780 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

West Chester University of Pennsylvania; Notice of Decision on Application for Duty-Free Entry of Electron Microscope

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

Docket Number: 02-035. *Applicant:* West Chester University of Pennsylvania, West Chester, PA 19383. *Instrument:* Electron Microscope, Model Tecnai 12 TWIN. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* See notice at 67 FR 52944, August 14, 2002. *Order Date:* May 1, 2002.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no

CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02-24782 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of National Estuarine Research Reserve

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Chesapeake Bay-Maryland National Estuarine Research Reserve.

The National Estuarine Research Reserve evaluation will be conducted pursuant to section 315 of the CZMA, as amended and regulations at 15 CFR part 921, subpart E and part 923 subpart L.

The CZMA requires continuing review of the performance of states with respect to National Estuarine Research Reserve program implementation. Evaluation of National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its Reserve final management plan, approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings will be held as part of the site visit.

Notice is hereby given of the dates of the site visit for the listed evaluation, and the date, local time, and location of the public meeting during the site visit.

The Chesapeake Bay-Maryland National Estuarine Research Reserve site visit will be from November 12-14, 2002. One public meeting will be held during the week. The public meeting will be held on Wednesday, November 13, 2002, at 7 p.m., at the Jug Bay Wetlands Sanctuary on Wrighton Road in Anne Arundel County, Maryland.

Copies of the state's most recent performance reports, as well as OCRM's notification and supplemental request letters to the state, are available upon request from OCRM. Written comments from interested parties regarding the program are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Douglas Brown, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT:

Douglas Brown, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713-3155, Extension 215.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: September 25, 2002.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02-24804 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Channel Islands National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSPP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Channel Islands National Marine Sanctuary (CINMS or Sanctuary) is seeking applicants for the following vacant seat on its Sanctuary Advisory Council (Council): Education Representative. Applicants are chosen based upon their particular expertise and experience in relations to the seat for which they are applying; community and professional affiliations; philosophy regarding the conservation and management of marine resources, and the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve three-year terms, pursuant to the Council's Charter.

DATES: Applications are due by October 11, 2002.

ADDRESSES: Applications kits may be obtained from Michael Murray at 115 Harbor Way, suite 150, Santa Barbara, CA 96825. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Michael Murray at (805) 884-1464, or michael.murray@noaa.gov, or visit the CINMS Web site at: www.cinms.nos.noaa.gov.

SUPPLEMENTARY INFORMATION: The CINMS Advisory Council was originally established in December 1998 and has a broad representation consisting of 20 members, including ten government agency representatives and ten numbers from the general public. The Council functions in an advisory capacity to the Sanctuary Manager. The Council works in concert with the Sanctuary Manager by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Manager in achieving the goals of the Sanctuary program. Specially, the Council's objectives are to provide advice on: (1) Protecting natural and cultural resources, and identifying and evaluating emergent or critical issues involving Sanctuary use or resources; (2) Identifying and realizing the Sanctuary's research objectives; (3) Identifying and realizing educational opportunities to increase the public knowledge and stewardship of the Sanctuary environment; and (4) Assisting to develop an informed constituency to increase awareness and understanding of the purpose and value of the Sanctuary and the National Marine Sanctuary Program.

Authority: 16 U.S.C. Section 1431 et seq.

Dated: September 23, 2002.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02-24719 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062802C]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the California Department of Transportation (CALTRANS) to take small numbers of Pacific harbor seals and possibly California sea lions, by harassment, incidental to seismic retrofit construction of the Richmond-San Rafael Bridge (the Bridge), San Francisco Bay (SFB), CA.

DATES: This authorization is effective from September 23, 2002, through September 22, 2003.

ADDRESSES: A copy of the application may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713-2055, ext 128, or Christina Fahy, Southwest Regional Office, NMFS, (562) 980-4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review and comment.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be

reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On May 28, 2002, NMFS received a letter from CALTRANS, requesting reauthorization of an IHA that was first issued to it on December 16, 1997 (62 FR 6704, December 23, 1997), and was renewed on January 8, 2000 (65 FR 2375, January 14, 2000) and September 19, 2001 (66 FR 49165, September 26, 2001). The current IHA expires on September 18, 2002. The renewed authorization would be for the harassment of small numbers of Pacific harbor seals (*Phoca vitulina*) and possibly California sea lions (*Zalophus californianus*), incidental to seismic retrofit construction of the Bridge.

The Bridge is being seismically retrofitted to withstand a future severe earthquake. Construction is scheduled to extend until the year 2005. A detailed description of the work planned is contained in the Final Natural Environmental Study/Biological Assessment for the Richmond-San Rafael Bridge Seismic Retrofit Project (CALTRANS, 1996). Among other things, seismic retrofit work will include excavation around pier bases, hydro-jet cleaning, installation of steel casings around the piers with a crane, installation of micro-piles, and installation of precast concrete jackets. Foundation construction will require approximately 2 months per pier, with construction occurring on more than one pier at a time. In addition to pier retrofit, superstructure construction and tower retrofit work will also be carried

out. Because seismic retrofit construction between piers 52 and 57 has the potential to disturb harbor seals hauled out on Castro Rocks, an IHA is warranted. The duration for the seismic retrofit of foundation and towers on piers 52 through 57, which has not taken place as of this date, will take approximately 7 to 8 months to complete.

Comments and Responses

A notice of receipt of the application and proposed authorization was published on July 24, 2002 (67 FR 48443), and a 30-day public comment period was provided on the application and proposed authorization. Comments were received only from the Marine Mammal Commission (the Commission).

Comment 1: The Commission notes that CALTRANS is seeking to expand the currently authorized period during which work is allowed and the size of the work zone in the vicinity of those piers. Specifically, CALTRANS is requesting that: (1) the current work period of 1 August to 15 February be extended to the time period from 16 July to 1 March, and (2) the location of the workboat exclusion zone (BEZ) be shifted from the currently authorized location of 100 ft (30.5 m) east of pier 57 to 100 ft (30.5 m) west of the pier, thus reducing the buffer zone between activities being conducted at pier 77 and "A" rock at Castro Rocks from 600 ft (183 m) to 400 ft (122 m). The Commission believes that NMFS' preliminary determination concerning the changes to the work period are reasonable in view of the facts that there will still be a two-week window quiet period before the onset of pupping (approximately 15 March), and disruptions in late August are likely to be less threatening to molting seals than they would be to mother/pup pairs during the reproductive period. However, the application does not provide the rationale for shifting the work zone closer to hauled-out seals. In addition, it does not provide sufficient information for evaluation of the potential effects for doing so. The existing evidence suggests that the seals have already modified their distribution due to construction activity. The CALTRANS application does not discuss whether the expansion of the work area might cause further disturbance to the seals, cause seals to abandon Castro Rocks completely, or whether there are alternative haul-out sites in the vicinity of Castro Rocks. Such information would facilitate an evaluation of whether the proposed expansion of the work area is likely to

have more than a negligible effect. Although it expects that the effects would be negligible if they are short-lived (*i.e.*, a single year), the Commission recommends that NMFS request the above information from CALTRANS to ensure that such is the case.

Response: Information on CALTRANS' request to adjust the BEZ is discussed later in this document (see Mitigation). Over the past several years, the number of seals hauling out on Castro Rocks has increased slightly, including the time since construction has begun. Although CALTRANS has noted a shift in the use of Castro Rocks by the seals while work is going on in the immediate area, the overall numbers have not been reduced. Given that the overall seal population size at Castro Rocks have not been negatively impacted by construction, CALTRANS' request to adjust the dimensions of the BEZ to provide contractors access to pier 57 seems reasonable. Assuming that CALTRANS can continue monitoring from pier 55, CALTRANS will be able to assess the changes in the BEZ by comparing disturbances which occurred last year to the number of disturbances recorded once the BEZ dimensions are changed. By making this comparison (mainly using disturbances which cause a flush), CALTRANS will be able to assess if the changes in the exclusion zone are having a greater impact on the seals at Castro Rocks.

If seals discontinue use of Castro Rocks due to construction work, they could potentially shift to another nearby site such as Yerba Buena Island (YBI), Angel Island, and Brooks Island. Although YBI could likely support more seals, both Angel Island and Brooks Island are typically used by a small number of seals - so seals may not use these two sites in high numbers. In addition, CALTRANS has also noted that, since the onset of construction activities, seals are using a couple of small structures located approximately 800 m (2,625 ft) to the north of the Bridge (slightly NE from Castro Rocks). However, these structures can probably only support approximately 12-15 seals. Monitoring impacts from this project can serve as a scientific experiment in that CALTRANS to determine the threshold limits (*e.g.* distance from construction activity) for disturbance to harbor seals. Although shifting the BEZ may cause further disturbances to the seals, we do not know how/if these disturbances will impact the seals. However, given that CALTRANS has not seen a significant decline in seal numbers at Castro Rocks due to construction thus far, it does not

anticipate that the seals will permanently abandon Castro Rocks as a result of changing the dimensions of the BEZ. If the changes in the BEZ dimensions appear to have more than a negligible impact on the seals, CALTRANS will request that the BEZ be moved back out to the original dimensions when the IHA is requested to be renewed in September 2003. Also, the eastern boundary of the exclusion zone will be relocated 300 ft (91 m) from the most eastern tip of Castro Rocks upon conclusion of work at Pier 57.

Description of Habitat and Marine Mammals Affected by the Activity

A description of the affected SFB ecosystem and its associated marine mammals can be found in the original CALTRANS application (CALTRANS, 1997) and in CALTRANS (1996). Castro Rocks are a small chain of rocky islands located next to the Bridge and approximately 1500 ft (460 m) north of the Chevron Long Wharf. They extend in a southwesterly direction for approximately 800 ft (240 m) from pier 55. The rocks start at about 55 ft (17 m) from pier 55 (A rock) and end at approximately 250 ft (76 m) from pier 53 (F rock). The chain of rocks is exposed during low tides and inundated during high tide.

Marine Mammals

General information on harbor seals and other marine mammal species found in Central California waters can be found in Forney et al. (2000, 2001), which are available at the following URL: http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html. Refer to those documents for information on these species. The marine mammals likely to be affected by work in the Bridge area are limited to harbor seals and California sea lions.

The harbor seal is the only marine mammal species expected to be found regularly in the Bridge area. A detailed description of harbor seals was provided in the 1997 notification of proposed authorization (62 FR 46480, September 3, 1997) with corrections and clarifications provided in the notice of IHA issuance (62 FR 67045, December 23, 1997). This information is not repeated here.

It should be noted that pups are born in mid- to late-March, peak numbers of pups are observed in early May, and, by the first week in June, all pups are weaned (Kopec and Harvey, 1995). Estimated pup counts at Castro Rocks were 35 in 1999, 40 in 2000 and 40 in 2001 (A. Bohorquez pers. comm in Green et al., 2001). This represents

approximately 22–24 percent of the pups born in SFB.

The California sea lion primarily uses the Central SFB area to feed. California sea lions are periodically observed at Castro Rocks. No pupping or regular haulouts occur in the project area.

Potential Effects on Marine Mammals

The impact to the harbor seals and California sea lions is expected to be disturbance by the presence of workers, construction noise, and construction vessel traffic. Disturbance from these activities is expected to have only a short-term negligible impact to a small number of harbor seals and sea lions. These disturbances will be reduced to the lowest level practicable by implementation of the work restrictions and mitigation measures (see Mitigation).

Marine mammal monitoring under the current and previous IHAs has been conducted at Castro Rocks and at two “control” haul-out locations in SFB, Mowry Slough and YBI (Green et al., 2001, 2002) since 1998. To date, over 10,000 hours of observations have been conducted at these sites with two-thirds of those hours at Castro Rocks. While disturbances can consist of head alerts, approaches to the water, and flushes into the water, only the third behavior is considered by NMFS to rise to Level B harassment. At Castro Rocks, of all flush disturbances monitored during the day, the major harassment sources were watercraft (e.g. motorboats, sailboats, tankers, kayaks and jet skis) with 0.128 disturbances/hr field time (d/hr); wildlife (seals and birds) with 0.075 d/hr; anthropogenic (debris, workmen on bridge with 0.040 d/hr; and research with 0.021 d/hr. Construction activities resulted in 0.0165 d/hr. There were fewer flushes observed at night. For more detailed information on the extent of take by harassment at Castro Rocks by activities other than the requested authorization, refer to Green et al. (2002).

During the work period (July 16 through February 28) the incidental harassment of harbor seals and, on rare occasions, California sea lions is expected to occur on a daily basis upon initiation of the retrofit work. In addition, the number of seals disturbed will vary daily depending upon tidal elevations. Monitoring by Green et al. (2002) indicates that although overall seal numbers each month of the year are not significantly different across years, there are differences in subsite use by seals at Castro Rocks during both the daytime and nighttime. For example, the average number of seals hauled out on 2 main sites on Castro Rocks (rocks

A and C) during the fall of 2001 (when construction activity was taking place within the area of the haul-out site) was significantly different than the average number of seals hauled out at those same sites on Castro Rocks during 1998–2000, prior to the construction period. It was noted, during the construction period, that fewer seals were using rock A, located closest to the Bridge, and more seals were hauling out on rock C, which was located farther from the Bridge than rock A. The number of seals hauled out on rocks B and E was not significantly different between years while the number hauled out on rocks D and F was greater during the fall of 2000 and 2001 than 1998 and 1999. For a more detailed discussion on the distribution of harbor seals during the work and non-work periods and levels of impact by various natural and anthropogenic disturbance sources, see Green et al. (2002) which is available upon request (see ADDRESSES).

Whether California sea lions will react to construction noise and move away from the rocks during construction activities is unknown. Sea lions are generally thought to be more tolerant of human activities than harbor seals and are, therefore, less likely to be affected.

Potential Effects on Habitat

Short-term impacts of the activities are expected to result in a temporary reduction in utilization of the Castro Rocks haulout site while work is in progress or until seals acclimate to the disturbance. This will not likely result in any permanent reduction in the number of seals at Castro Rocks. The abandonment of Castro Rocks as a harbor seal haulout and rookery is not anticipated since existing traffic noise from the Bridge, commercial activities at the Chevron Long Wharf used for off-loading crude oil, and considerable recreational boating and commercial shipping that currently occur within the area have not caused long-term abandonment. In addition, mitigation measures and work restrictions are designed to preclude abandonment.

Therefore, as described in detail in CALTRANS (1996), other than the potential short-term abandonment by harbor seals of part or all of Castro Rocks during retrofit construction, no impact on the habitat or food sources of marine mammals are likely from this construction project.

Mitigation

Several mitigation measures to reduce the potential for general noise have been implemented by CALTRANS as part of their activity. General restrictions include: with the exception of the

Concrete Trestle Section, no piles will be driven (*i.e.*, no repetitive pounding of piles) on the Bridge between 9 p.m. and 7 a.m.; an imposition of a construction noise limit of 86 dBA (re 20 micro Pascals) at 50 ft (15 m) between 9 p.m. and 7 a.m.; and, a limitation on construction noise levels for 24 hrs/day in the vicinity of Castro Rocks during the pupping/molting restriction period.

To minimize potential harassment of marine mammals, in previous IHAs NMFS required CALTRANS to comply with the following mitigation measures: (1) A March 1 through July 15 restriction on work in the water south of the Bridge center line and retrofit work on the Bridge substructure, towers, superstructure, piers, and pilings from piers 52 through 57; (2) no watercraft will be deployed by CALTRANS employees or contractors during the year within the BEZ located between piers 52 and 57, except for when construction equipment is required for seismic retrofitting of piers 52 through 57; and (3) minimize vessel traffic to the greatest extent practicable in the exclusion zone when conducting construction activities between piers 52 and 57. The boundary of the current and previous BEZs is rectangular in shape (1700 ft (518 m) by 800 ft (244 m)) and completely encloses Castro Rocks and piers 52 through 57, inclusive. The northern boundary of the BEZ is located 300 ft (91 m) from the most northern tip of Castro Rocks, and the southern boundary is located 300 ft (91 m) from the most southern tip of Castro Rocks. The eastern boundary was located 300 ft (91 m) from the most eastern tip of Castro Rocks, and the western boundary is located 300 ft (91 m) from the most western tip of Castro Rocks. The BEZ is restricted as a controlled access area and is marked off with buoys and warning signs for the entire year.

For this IHA, at the request of CALTRANS, NMFS has shifted the boundary of the BEZ from its current location so that the eastern boundary is shifted from 100 ft (30.5 m) east of pier 57 to 100 ft (30.5 m) west of pier 57. This will maintain a 400-ft (122-m) “buffer,” as opposed to the existing 600-ft (183-m) buffer, between the work at pier 57 and “A” rock. CALTRANS believes that this modification is reasonable based on observed seal behavior during the construction within the BEZ that harbor seals adjusted their location preference on Castro Rocks by moving westerly to rocks further from the construction (see discussion previously in this document). However, CALTRANS notes that there has not been a statistically significant change in

the total numbers of animals that utilize the Castro Rocks haulout.

In addition to shifting the eastern boundary of the BEZ, at the request of CALTRANS, NMFS has modified the period in which work is allowed in the vicinity of Castro Rocks from February 15th to March 1st. CALTRANS requested this modification due to unforeseen circumstances affecting the ability of the contractor to conduct seismic retrofit work on pier 57. This will allow the contractor to complete the work this coming season and to stay under budget. The previous Work Closure Period (February 15–July 31) was designed to encompass the entire harbor seal pupping and breeding seasons and nearly the entire molting season at Castro Rocks. Thus, the Work Closure Period included the entire pupping season at Castro Rocks and a substantial pre-pupping period when females are moving into pupping areas (62 FR 67045, December 23, 1997). Because moving the beginning of the Work Closure Period from February 15th to March 1st will still provide a 2–week window prior to the onset of successful pupping (March 15th), and because NMFS does not find scientific evidence indicating that female harbor seals need a “quiet period” from general noise in order to pup successfully, NMFS has determined that shifting the beginning of the Work Closure Period from February 15th to March 1st would not have a significant impact on harbor seal pupping.

Finally, at CALTRANS request, NMFS has modified the period in which work is allowed in the vicinity of Castro Rocks from August 1st to a new date of July 16th. As mentioned in previous documents, newborn harbor seal pups are able to swim immediately after birth (Zeiner et al., 1990) and pups are weaned by the first week of June. Therefore terminating the Work Closure Period on July 16th is not expected to affect pup survival. Under the current and previous authorizations, the July 31st ending date for the Work Closure Period was established to protect harbor seals during the molting season. However, those documents also noted that it is likely that harbor seals evolved adaptive mechanisms to deal with exposure to the water during the molt. For example, on some harbor seal haulouts (such as Castro Rocks) during the molting season seals must enter the water once or even twice a day due to tidal fluctuations limiting access to the haul-out. Also, since harbor seals lose hair in patches during the molt, they are never completely hairless and would not be as vulnerable to heat loss in the water during this period compared to

other seals (e.g., elephant seals) that lose all their hair at one time. Finally, if the levels of harbor seal disturbance during the molt are relatively high, seals are likely to utilize other local haul-out sites during the molt (DeLong, R., pers. commun. 1997; Hanan, D., pers. commun. 1997; Harvey, J., pers. commun. 1997). Hanan (1996) found that although harbor seals tagged at an isolated southern California haul-out tended to exhibit site fidelity during the molt, some seals were observed molting at other nearby haul-outs. Based on these reasons, NMFS has preliminarily determined that changing the last day of the Work Closure Period to July 15th should not significantly affect harbor seals in general or molting seals at Castro Rocks in particular.

Monitoring

NMFS is requiring CALTRANS to continue to monitor the impact of seismic retrofit construction activities on harbor seals at Castro Rocks. Monitoring will be conducted by one or more NMFS-approved monitors. CALTRANS is to monitor at least one additional harbor seal haulout within San Francisco Bay to evaluate whether harbor seals use alternative haulout areas as a result of seismic retrofit disturbance at Castro Rocks.

The monitoring protocol is divided into the Work Period Phase (July 16 through February 28) and the Work Closure Period Phase (March 1 through July 15). During the Work Period Phase and Work Closure Period Phase, the monitor(s) will conduct observations of seal behavior at least 3 days/week for approximately one tidal cycle each day at Castro Rocks. The following data will be recorded: (1) Number of seals and sea lions on site; (2) date; (3) time; (4) tidal height; (5) number of adults, subadults, and pups; (6) number of individuals with red pelage; (7) number of females and males; (8) number of molting seals; and (9) details of any observed disturbances. Concurrently, the monitor(s) will record general construction activity, location, duration, and noise levels. At least 2 nights/week, the monitor will conduct a harbor seal census after midnight at Castro Rocks. In addition, prior to any construction between piers 52 and 57, inclusive, the monitor(s) will conduct baseline observations of seal behavior at Castro Rocks and at the alternative site(s) once a day for a period of 5 consecutive days immediately before the initiation of construction in the area to establish pre-construction behavioral patterns. During the Work Period and Work Closure Period Phases, the monitor(s) will conduct observations of seal behavior

and collect appropriate data at the alternative Bay harbor seal haulout at least 3 days/week (Work Period) and 2 days/week (Work Closure Period), during a low tide.

In addition, NMFS is requiring that, immediately following the completion of the seismic retrofit construction of the Bridge, the monitor(s) will conduct observations of seal behavior, at Castro Rocks, at least 5 days/week for approximately 1 tidal cycle (high tide to high tide) each day, for one week/month during the months of April, July, October, and January. At least 2 nights/week during this same period, the monitor will conduct an additional harbor seal census after midnight.

Reporting

Under previous IHAs, CALTRANS has provided monitoring reports (Green et al. (2001, 2002). The findings from these reports have been summarized previously in this document.

CALTRANS will provide weekly reports to the Southwest Regional Administrator (Regional Administrator), NMFS, including a summary of the previous week's monitoring activities and an estimate of the number of harbor seals that may have been disturbed as a result of seismic retrofit construction activities. These reports will provide dates, time, tidal height, maximum number of harbor seals ashore, number of adults, sub-adults and pups, number of females/males, number of harbor seals with a red pelage, and any observed disturbances. A description of retrofit activities at the time of observation and any sound pressure levels measurements made at the haulout will also be provided. A draft interim report must be submitted to NMFS by April 30, 2003.

A draft final report must be submitted to the Regional Administrator within 90 days after the expiration of this IHA. A final report must be submitted to the Regional Administrator within 30 days after receiving comments from the Regional Administrator on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

CALTRANS will provide NMFS with a follow-up report on the post-construction monitoring activities within 18 months of project completion in order to evaluate whether haulout patterns are similar to the pre-retrofit haul-out patterns at Castro Rocks.

National Environmental Policy Act

In conjunction with the promulgation of regulations implementing section 101(a)(5)(D) of the MMPA, NMFS completed an Environmental

Assessment (EA) on May 9, 1995, that addressed the impacts on the human environment from issuance of IHAs and the alternatives to that action. NMFS' analysis resulted in a Finding of No Significant Impact. In addition, NMFS prepared an EA in 1997 that concluded that the impacts of CALTRANS' seismic retrofit construction of the Bridge will not have a significant impact on the human environment. Accordingly, this action has not changed significantly from the 1997 action, it is categorically excluded from further NEPA analysis and, therefore, a new EA will not be prepared. A copy of these two relevant EAs are available upon request.

Conclusions

NMFS has determined that the short-term impact of the seismic retrofit construction of the Bridge, as described in this document, should result, at worst, in the temporary modification in behavior by harbor seals and, possibly, by some California sea lions. While behavioral modifications, including temporarily vacating the haulout, may be made by these species to avoid the resultant visual and acoustic disturbance, this action is expected to have a negligible impact on the animals. In addition, no take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

Authorization

For the reasons previously discussed, NMFS has issued an IHA for a 1-year period, for the incidental harassment of harbor seals and California sea lions by the seismic retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, CA, provided the above mentioned mitigation, monitoring and reporting requirements are incorporated.

Dated: September 23, 2002.

David Cottingham,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.
[FR Doc. 02-24758 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091802C]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits (1400, 1401) and request for comment.

SUMMARY: Notice is hereby given that NMFS has received an application for scientific research from Wildlands, Inc. (WILDLANDS) in Citrus Heights, CA (1400), and the California Department of Water Resources (CDWR) in Sacramento, CA (1401). These permits would affect three Evolutionarily Significant Units (ESUs) of salmonids identified in Supplementary Information below. This document serves to notify the public of the availability of the permit application for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the permit applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on October 30, 2002.

ADDRESSES: Written comments on the modification request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the request. Comments will not be accepted if submitted via e-mail or the internet. The applications and related documents are available for review, by appointment, for permits 1400 and 1401: Protected Resources Division, NMFS, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814 (ph: 916-930-3600, fax: 916-930-3629). Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 3226 (301 713 1401).

FOR FURTHER INFORMATION CONTACT: For permits 1400 and 1401: Rosalie del Rosario at phone number 916-930-3600, or e-mail: Rosalie.delRosario@noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531 1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are

issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to three federally-listed salmonid ESUs: endangered Sacramento River Winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley Spring-run Chinook salmon (*O. tshawytscha*), and threatened Central Valley steelhead (*O. mykiss*).

New Applications Received

WILDLANDS requests a 1-year permit for takes of adult and juvenile endangered Sacramento River Winter-run Chinook salmon, threatened Central Valley Spring-run Chinook salmon, and threatened Central Valley steelhead to monitor seasonal fish use of newly created aquatic habitat within the restored tidal wetlands on Kimball Island (in the Sacramento-San Joaquin Delta). CDWR requests a 2.5-year permit for takes of adult and juvenile endangered Sacramento River Winter-run Chinook salmon, threatened Central Valley Spring-run Chinook salmon, and threatened Central Valley steelhead to study the temporal and spatial distribution of fish in relation to the Sacramento Deep Water Ship Channel Lock. The goal of the study is to evaluate fish passage in the boat lock system.

Dated: September 23, 2002.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02-24757 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 2002-C-006]

Notice of Publication of a 2002 Annual Index to the Electronic Official Gazette of the Patent and Trademark Office—Patents (eOG:P)

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States Patent and Trademark Office (USPTO) will publish a 2002 Annual Index to the electronic version of the *Official Gazette of the United States Patent and Trademark Office—Patents (eOG:P)*. This annual index will be published on DVD-ROM.

DATES: The *eOG:P* began publication on July 2, 2002. Publication of the *eOG:P* Annual Index for 2002 will occur in early 2003.

SUPPLEMENTARY INFORMATION: The USPTO has announced that a 2002 Annual Index to the *Electronic Official Gazette of the United States Patent and Trademark Office—Patents (eOG:P)* will be published on DVD-ROM in early 2003. Although the *eOG:P* began publication in July 2002, the *eOG:P* team is gathering and converting the data from January through June in order to provide a complete annual index.

This annual index will be cumulative of the information contained in the weekly issues of the *eOG:P* for 2002. Indexes and bibliographic records for the year will be included in this one source. Bibliographic records contain a representative claim and drawing (if applicable) as well as classification, inventor and assignee information. Consistent with the weekly *eOG:P* issues, patents can be browsed by type of patent (utility, plant, *etc.*), classification (class or class/subclass), patentee name, and geographical location. The *Official Gazette Notices*, covering both patents and trademarks, will also be included.

Due to the large amount of data, the *eOG:P* Annual Index will be published on one or two DVD-ROM discs, not on CD-ROM. The price of the *eOG:P* Annual Index will be \$300.00; it is not included in the annual subscription price of the *eOG:P*. Subscribers will receive notification when the annual index is available.

The *Index of Patents Issued From the U.S. Patent and Trademark Office* will be published in paper format through 2002 to coincide with the paper publication of the *Official Gazette—*

Patents, the last paper issue of which is September 24, 2002. This publication will continue to be supplied by the Superintendent of Documents, U.S. Government Printing Office. For more information, please visit the GPO Web site at: http://www.access.gpo.gov/su_docs/.

FOR FURTHER INFORMATION CONTACT: Information Products Division, Crystal Park 3, Suite 441, Washington, DC 20231. Phone: (703) 306-2600, Fax: (703) 306-2737. cassis@uspto.gov.

Dated: September 23, 2002.

James E. Rogan,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 02-24756 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-16-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

September 25, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at <http://www.customs.gov>. For information on embargoes and quota reopenings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 331pt./631pt. is being increased due to the recrediting of unused carryforward to this limit; and the limit for Categories 445/446 is being increased for carryover, and swing from Categories 341/641.

A description of the textile and apparel categories in terms of HTS numbers is available in the

CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63030, published on December 4, 2001.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 25, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on October 1, 2002, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit ¹
Other specific limits	
331pt./631pt. ²	713,170 dozen pairs.
341/641	2,504,714 dozen of which not more than 924,369 dozen shall be in Category 341.
445/446	37,474 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 2001.

² Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02-24759 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-DR-S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**Information Collection; Submission for OMB Review; Comment Request**

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation") has submitted a public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104-13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Peter Boynton, at (202) 606-5000, extension 499, (PBoynton@cns.gov); (TTY/TDD) at (202) 606-5256 between the hours of 9 a.m. and 4 p.m. Eastern Standard Time, Monday through Friday.

Comments should be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10235, Attn: Ms. Brenda Aguilar, OMB Desk Officer for the Corporation for National and Community Service, Washington, DC 20503, within 30 days from the date of publication in this **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Description

The Corporation is seeking public comment pursuant to final approval of a web-based senior service recruitment system, called "Join Senior Service Now" (JASON), that will enable older

Americans who are interested in volunteering to match their interests and talents with community homeland security and other critical community needs that have been identified by local National Senior Service Corps (Senior Corps) grant projects. This system was deployed on April 3, 2002 after being granted a six month emergency approval by OMB, and can be accessed by the public at the following Web site: <http://www.joinseniorservice.org>.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: National Senior Service Corps "Join Senior Service Now" (JASON).

OMB Number: 3045-00778.

Agency Number: None.

Affected Public: Prospective senior volunteers.

Total Respondents: 2,340,000.

Frequency: At the discretion of respondents.

Average Time Per Response: 0.25 hours for initial response; 0.7 hours for subsequent responses.

Estimated Total Burden Hours: 413,400 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: September 24, 2002.

Tess Scanell,

Director, National Senior Service Corps.

[FR Doc. 02-24740 Filed 9-27-02; 8:45 am]

BILLING CODE 6050--\$-P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000-0142]

Federal Acquisition Regulation; Submission for OMB Review; Past Performance Information

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an

extension of a currently approved information collection requirement concerning past performance information. A request for public comments was published in the **Federal Register** at 67 FR 45707 on July 10, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 30, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Laura Smith, Acquisition Policy Division, GSA (202) 208-7279.

SUPPLEMENTARY INFORMATION:**A. Purpose**

Past performance information is relevant information, for future source selection purposes, regarding a contractor's actions under previously awarded contracts. When past performance is to be evaluated, the rule states that the solicitation shall afford offerors the opportunity to identify Federal, state and local government, and private contracts performed by offerors that were similar in nature to the contract being evaluated.

B. Annual Reporting Burden

Respondents: 150,000.

Responses Per Respondent: 4.

Annual Responses: 600,000.

Hours Per Response: 2.

Total Burden Hours: 1,200,000.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202)

501-4755. Please cite OMB Control No. 9000-0142, Past Performance Information, in all correspondence.

Dated: September 23, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02-24711 Filed 9-27-02; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 29, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the

Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 24, 2002.

John D. Tressler,

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

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: National Postsecondary Student Aid Study: 2004.

Frequency: One time.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 1,204.

Burden Hours: 4,125.

Abstract: The 2004 National Postsecondary Student Aid Study is being conducted to meet the continuing need for national-level data about significant financial aid issues for students enrolling in postsecondary education. Information about financial aid policies and postsecondary affordability is critical to policymakers who determine the need analysis formulas for Pell Grants, maximum amounts for student loans and other need-based federal programs, and estimate the continuing and future burden that ensuring federal aid places on the Federal Government. For the first time this study will also collect representative data on state aid and tuition policies which have been previously unavailable at the student level. This clearance request covers field test and full-scale activities. This interview will collect information on background, program of study, enrollment status, federal aid amounts, state aid amounts, other types of aid, tuition, school-related expenses, student and parent finances, student employment, credit card usage, and educational expectations.

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 2165. 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 Kathy Axt at her e-mail address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf

(TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 02-24686 Filed 9-27-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 29, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including

through the use of information technology.

Dated: September 24, 2002.

John D. Tressler,

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

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Application for Recognition of Accrediting Agencies.

Frequency: Annually and every five years.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 61.

Burden Hours: 1,036.

Abstract: This information is needed to determine if an accrediting agency complies with the Criteria for Recognition and should be recognized by the Secretary.

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 2166. 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 vivan_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. 02-24760 Filed 9-27-02; 8:45 am]

BILLING CODE 4000-01-U

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB

review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 30, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the e-mail address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 24, 2002.

John D. Tressler,

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

Office of English Language Acquisitions

Type of Review: Revision.

Title: Application for Grants under School Improvement: Elementary School Foreign Language Incentive Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 300.

Burden Hours: 7,650.

Abstract: This application is used by public elementary schools and local education agencies to apply for formula grants authorized under the Elementary School Foreign Language Incentive Program.

Requests for copies of the submission for OMB review; comment request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 2108. 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 vivan_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 Sheila Carey at her e-mail address Sheila.Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 02-24684 Filed 9-27-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 30, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the e-mail address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 24, 2002.

John D. Tressler,

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

Office of Educational Research and Improvement

Type of Review: Revision.

Title: No Child Left Behind—Blue Ribbon Schools Program.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 420.

Burden Hours: 16,800.

Abstract: The purpose of the program is to recognize and present as models elementary and secondary schools in the United States with high numbers of students from disadvantaged backgrounds that dramatically improve student performance to a high level on state or nationally-normed assessments and to recognize schools whose students achieve in the top 10 percent on state or nationally-normed assessments.

Requests for copies of the submission for OMB review; comment request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 2074. 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 vivan.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 Kathy Axt at her e-mail address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 02-24685 Filed 9-27-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02-126-000]

City of Corona, Complainant, v. Southern California Edison Company, Respondent; Notice of Complaint

September 23, 2002.

Take notice that on September 16, 2002, the City of Corona, California (Corona or the City), at the request of the Commission's Hotline staff, tendered for filing modifications to its previously-filed complaint (the Complaint) against Southern California Edison. On September 11, 2002, Corona filed the Complaint, which references comments made by the Commission's Hotline staff. The Hotline staff has subsequently requested the modifications to confirm, clarify, and expand upon the Hotline staff's role in the instant matter and previous statements made to the City. Numbered paragraphs 4, 5, 40, and 64 should replace the corresponding paragraphs in the Complaint.

A copy of the filing was served upon the Parties.

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 modified 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 Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 502-8659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-24693 Filed 9-27-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-435-000]

Williston Basin Interstate Pipeline Company; Notice of Application

September 23, 2002.

Take notice that on September 9, 2002, Williston Basin Interstate Pipeline Company (Williston Basin), P.O. Box 5601, Bismarck, North Dakota 58506-5601, filed in Docket No. CP02-435-000 an Abbreviated Application pursuant to section 7(c) of the Natural Gas Act (NGA) for authorization to correct and/or update applicable portions of the Rate Schedule X-13 Service Agreement for services provided to Northern States Power Company (NSP) under Rate Schedule X-13 of Williston Basin's FERC Gas Tariff, Original Volume No. 2 (Tariff), in its entirety, all as more fully set forth in the application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or for TTY, (202) 502-8659.

Williston Basin states that no rates or services performed under this contract will be adversely affected since the proposed changes merely correct or update current contract information, and that such changes had been discussed with NSP, which signed an amendment to the contract on August 30, 2002, indicating its agreement that such changes should be made.

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) and the regulations under the Natural Gas Act (18 CFR 157.10). 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 October 15, 2002, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-24692 Filed 9-27-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF02-3031, et al.]

United States Department of Energy, et al.; Electric Rate and Corporate Regulation Filings

September 20, 2002.

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

1. United States Department of Energy Western Area Power Administration

[Docket No. EF02-5171-000]

Take notice that on September 12, 2002, the Secretary of the Department of Energy, by Rate Order No. WAPA-99, did confirm and approve on an interim basis, to be effective on October 1, 2002,

the Western Area Power Administration's (Western) Rate Schedules SLIP-F7 for firm power from the Salt Lake City Area Integrated Projects (SLCA/IP), SP-PTP6 for firm point-to-point transmission on the Colorado River Storage Project (CRSP), SP-NW2 for network integration transmission service on the CRSP transmission system, SP-NFT5 for non-firm transmission over the same system, and SP-SD2, SP-RS2, SP-EI2, SP-FR2, and SP-SSR2 for ancillary services.

The rates in Rate Schedules SLIP-F7, SP-PTP6, SP-NW2, SP-NFT5, SP-SD2, SP-RS2, SP-EI2, SP-FR2, and SP-SSR2 will be in effect pending the Federal Energy Regulatory Commission's (Commission) approval of these or of substitute rates on a final basis, ending September 30, 2007.

Comment Date: October 11, 2002.

2. ISO New England Inc.; New England Power Pool

[Docket Nos. EL00-62-051; ER98-3853-018]

Take notice that on September 13, 2002, ISO New England Inc. submitted its compliance filing in response to the Commissions September 4, 2002 Order in the above captioned Dockets.

Copies of said filing have been served upon all parties to this proceeding, and upon NEPOOL Participants, and upon all non-Participant entities that are customers under the NEPOOL Open Access Transmission Tariff, as well as upon the utility regulatory agencies of the six New England States.

Comment Date: October 4, 2002.

3. Midwest Independent Transmission System Operator, Inc.

[Docket No. EL02-65-010]

Take notice that on September 17, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and PJM Interconnection, L.L.C. (PJM) filed their further compliance filing pursuant to the Commission's July 31, 2002 order issued in the above-referenced proceeding.

Comment Date: October 8, 2002.

4. California Independent System Operator Corporation, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council

[Docket Nos. ER02-1656-000, EL01-68-017]

Take notice that on September 16, 2002, the California Independent System Operator Corporation (ISO) submitted, in the above-referenced dockets, an informational letter in compliance with the Commissions July 17, 2002 "Order On the California

Comprehensive Market Redesign Proposal," 100 FERC ¶ 61,060 (2002), informing the Commission that the ISO has retained the services of Potomac Economics, LTD, a privately-held S-corporation incorporated in the State of Virginia, to perform the task of calculating reference prices. The ISO has served copies of this filing upon all entities that are on the official service lists in the above-referenced dockets.

Comment Date: October 4, 2002.

5. Tampa Electric Company

[Docket No. ER02-2552-000]

Take notice that on September 13, 2002, Tampa Electric Company (Tampa Electric) tendered for filing a notice of cancellation of the service agreement with Mirant Americas Energy Marketing, LP (Mirant) for non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff. Tampa Electric proposes that the cancellation be made effective on September 13, 2002.

Copies of the filing have been served on Mirant and the Florida Public Service Commission.

Comment Date: October 4, 2002.

6. Duke Energy Corporation

[Docket No. ER02-2553-000]

Take notice that on September 13, 2002, Duke Energy Corporation, on behalf of Duke Electric Transmission, (collectively, Duke) tendered for filing a Notice of Cancellation of the Service Agreement for Network Integration Transmission Service between Duke and Cincinnati Gas and Electric Company, PSI Energy, Inc., and Cinergy Services, Inc., as agent for and on behalf of Cincinnati Gas and Electric Company, PSI Energy, Inc., and the Commissioners of Public Works of the City of Greenwood, South Carolina. Duke requests an effective date for the Notice of Cancellation of September 14, 2002.

Comment Date: October 4, 2002.

7. Southern California Edison Company

[Docket No. ER02-2554-000]

Take notice that on September 16, 2002, Southern California Edison Company (SCE) tendered for filing revised rate sheets (Revised Sheets) to the Interconnection Facilities Agreement (Interconnection Agreement) between SCE and Pastoria Energy Facility, LLC (PEF), Service Agreement No. 12, under SCE's Transmission Owner Tariff, FERC Electric Tariff, Substitute First Revised Original Volume No. 6 (Tariff). The Revised Sheets include revised and additional work elements, cost estimates and revisions identified by SCE that are

needed to interconnect PEF's generating facility to SCE electrical system.

SCE respectfully requests the Revised Sheets become effective on September 17, 2002. Copies of this filing were served upon the Public Utilities Commission of the State of California and PEF.

Comment Date: October 7, 2002.

8. CenterPoint Energy Houston Electric, LLC

[Docket No. ER02-2555-000]

Take notice that on September 16, 2002, CenterPoint Energy Houston Electric, LLC (CenterPoint Houston) tendered for filing a Notice of Succession, along with a revised Transmission Service Tariff for Transmission Service To, From and Over Certain Interconnections, reflecting CenterPoint Houston's exact name. As a result of a change in its name and corporate organization, CenterPoint Houston is succeeding to the FERC Electric Tariff, Fourth Revised Volume No. 1 of Reliant Energy HL&P, effective August 31, 2002.

Comment Date: October 7, 2002.

9. Oswego Harbor Power LLC

[Docket No. ER02-2556-000]

Take notice that on September 16, 2002, Oswego Harbor Power LLC (Oswego) filed under section 205 of the Federal Power Act, Part 35 of the regulations of the Federal Energy Regulatory Commission (Commission), and Commission Order No. 614, a request that the Commission (1) accept for filing a revised market-based rate tariff; (2) waive any obligation to submit a red-lined version of the currently effective tariff; and (3) grant any waivers necessary to make the revised tariff sheets effective as soon as possible, but no later than 60 days from the date of this filing. Oswego's proposed tariff revisions merely seek to properly designate, update and conform the tariff to a format like those that the Commission has approved for Oswego affiliates.

Comment Date: October 7, 2002.

10. Orion Power MidWest, L.P.

[Docket No. ER02-2557-000]

Take notice that on September 16, 2002, Orion Power MidWest, L.P. (Orion) submitted a Notice of Termination pursuant to Section 35.15 of the Commission's Regulations, 18 CFR 35.15 (2002). Orion states that its Ancillary Services Agreement and Capacity Agreement with Duquesne Light Company, accepted for filing in Docket Nos. ER02-2108-000 and ER02-2109-000, respectively, on July 26,

2002, terminated by their own terms at midnight on August 14, 2002.

Comment Date: October 7, 2002.

11. SWEPI LP

[Docket No. ER02-2558-000 (Kalkaska)]

Take notice that on September 17, 2002, SWEPI LP (SWEPI), a limited partnership organized under the laws of Delaware, petitioned the Commission for acceptance of its market-based rate tariff, waiver of certain requirements under Subparts B and C of Part 35 of the Commission's regulations, and the granting of waivers and blanket approvals normally accorded sellers permitted to sell at market-based rates. SWEPI proposes to sell up to 4 MW of power from its generation facility located in Kalkaska, Michigan.

Comment Date: October 8, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "RIMS" link, select "Docket #" and follow the instructions (call 202-208-2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-24694 Filed 9-27-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-434-000]

ANR Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed WESTLEG Project and Request for Comments on Environmental Issues

September 23, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the WestLeg Project involving construction and operation of facilities by ANR Pipeline Company (ANR) in McHenry County, Illinois and Walworth and Rock Counties, Wisconsin.¹ These facilities would consist of about 32.8 miles of replacement pipeline and new pipeline loop, as described below. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice ANR provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (<http://www.ferc.gov>).

Summary of the Proposed Project

The proposed facilities would provide total mainline capacity of 220,000 dekatherms/day to meet local distribution company demand growth in Rock and Dane Counties, Wisconsin,

¹ ANR's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

and to serve existing customer needs in the general Janesville, Wisconsin area.

ANR requests authorization to construct 26.3 miles of 30-inch-diameter pipeline loop through McHenry County, Illinois and Walworth and to Rock Counties, Wisconsin. ANR also proposes to abandon by removal two small diameter (4 and 6 inches) lateral pipelines and replace them with a new 20-inch-diameter lateral. This lateral would extend for about 6.5 miles in Rock County.

One new meter station would be required, adjacent to an existing metering facility. In addition, ANR would upgrade a second meter station and recalibrate a third. One new mainline valve would be installed and six others modified.

The location of the project facilities is shown in appendix 1.²

Land Requirements for Construction

Construction of the proposed facilities would require about 517 acres of land, including construction right-of-way, temporary extra work spaces, pipe storage and contractor yards, and access roads. Following construction, about 195 acres would be used for pipeline operation. Because this project consists of pipeline looping, replacement, and meter station expansion/modification within or adjacent to existing right-of-way, only about 12 acres of new permanent right-of-way would be required.

Over 90 percent of the land crossed by the facilities would be agricultural land. Other land uses that would be crossed include forested land and open land.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us³ to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the

important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

Geology and soils
Water resources, fisheries, and wetlands
Vegetation and wildlife
Cultural resources
Land use
Endangered and threatened species
Air quality and noise
Public safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by ANR. This preliminary list of issues may be changed based on your comments and our analysis.

Crossings of high value surface waterbodies, including those that contain sensitive species.

Permanent conversion of 0.32 acre of forested wetland to new right-of-way.

Crossing adjacent to or through the Alden Sedge Meadow Natural Area, a Wisconsin Department of Natural

Resources (WDNR) public hunting area, and the WDNR Turtle Creek Wildlife Area (which contains federally and state-listed plants).

Also, we have made a preliminary decision to not address the impacts of nonjurisdictional facilities. We will briefly describe their location and status in the EA.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentator, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St. NE.; Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of Gas Branch 1.

Reference Docket No. CP02-434-000. Mail your comments so that they will be received in Washington, DC on or before October 28, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov> under the "e-Filing" link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on "Login to File" and then "New User Account."

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor." Intervenor play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to

² The appendices referenced in this notice are not being printed in the *Federal Register*. Copies are available on the Commission's Web site (<http://www.ferc.gov>) at the "FERRIS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE; Washington, DC 20426, or call (202) 502-8371. For instructions on connecting to FERRIS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

³ "We," "us," and "our" refer to the environmental staff of the Office of Energy Projects (OEP).

the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).⁴ Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. By this notice we are also asking governmental agencies, especially those in appendix 3, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1-866-208-FERC or on the FERC Internet Web site (<http://www.ferc.gov>) using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at (202) 502-8222, TTY (202) 502-8659. The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-24691 Filed 9-27-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01-415-000]

East Tennessee Natural Gas Company; Notice of Availability of the Final Environmental Impact Statement for the Proposed Patriot Project

September 23, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a Final Environmental Impact Statement (FEIS) on the natural gas pipeline facilities proposed by East Tennessee Natural Gas Company (East Tennessee) in the above-referenced docket.

The FEIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project with the appropriate mitigating measures as recommended, would have limited adverse environmental impact. The FEIS also evaluates alternatives to the proposal, including systems alternatives; major route alternatives; and route variations.

The FEIS assesses the potential environmental effects of the construction and operation of the following Patriot Project facilities, which consists of three components, the Mainline Expansion, the Patriot Extension, and the TVA Project facilities. East Tennessee proposes to expand its existing mainline pipelines in Tennessee and Virginia and extend a new pipeline from Virginia into North Carolina.

The Mainline Expansion involves improvements along East Tennessee's existing pipeline in Tennessee and Virginia, and includes construction of:

Approximately 73.6 miles of new pipeline loops;

Approximately 22.5 miles of pipeline abandonment and re-lay;

Approximately 71.3 miles of pipeline uprates;

Five new compressor stations (CS) and modifications at nine existing compressor stations, with a net increase in compression totaling 58,795 horsepower (hp); and

Associated mainline valves, piping, and other appurtenant pipeline facilities.

The Patriot Extension involves new pipeline facilities in Virginia and North Carolina, and includes construction of:

Approximately 92.7 miles of new pipeline (Line 3600), extending from the East Tennessee mainline in Virginia to a terminus at the Transcontinental Gas

Pipe Line Corporation's (Transco) mainline pipeline in North Carolina;

Approximately 7.0 miles of new pipeline (Henry County Power Lateral [HCP Lateral]), extending from the Patriot Extension in North Carolina to the Henry County Power LLC (Henry County Power) energy facility in Virginia;

Three new meter stations;
Twenty pipeline taps; and
Associated mainline valves and appurtenant pipeline facilities.

The previously analyzed TVA Project facilities that are proposed to be incorporated into the Patriot Project include:

8.7 miles of pipeline loops;
5.4 miles of pipeline uprates;
1,590 hp of compression at an existing compressor station (CS 3206) on Line 3200; and

Installation of aerodynamic assemblies at two compressor stations (CSs 3206 and 3209) on Line 3200.

The purpose of the project is to provide natural gas to three electricity generation facilities (The Duke North America [DNA] Murray generating facility, DNA Wythe, LLC [DNA Wythe] energy project, and Henry County Power, LLC [Henry County Power] energy project) and interconnect with the existing Transco's 24-inch-diameter mainline in North Carolina. The Patriot Project is designed to initially transport 130,000 dekatherms per day (dth/day) of natural gas with an ultimate delivery capacity of 510,000 dth/day.

The FEIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, (202) 502-8371.

A limited number of copies of the FEIS are available from the Public Reference and Files Maintenance Branch identified above. Copies of the FEIS have been mailed to Federal, state and local agencies, public interest groups, individuals who have requested the FEIS, newspapers, and parties to this proceeding.

In accordance with the Council on Environmental Quality's (CEQ) regulations implementing the National Environmental Policy Act, no agency decision on a proposed action may be made until 30 days after the U.S. Environmental Protection Agency publishes a notice of availability of an FEIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process which allows other agencies or the public to make

⁴ Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

their views known. In such cases, the agency decision may be made at the same time the notice of the FEIS is published, allowing both periods to run concurrently. The Commission decision for this proposed action is subject to a 30-day rehearing period.

Additional information about the project is available from the Commission's Office of External Affairs, at 1-866-208-FERC or on the FERC Internet Web site (<http://www.ferc.gov>) using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at (202) 502-8222, TTY (202) 502-8659. The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-24690 Filed 9-27-02; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7386-7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; RCRA Hazardous Waste Permit Application and Modification, Part A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: RCRA Hazardous Waste Permit Application and Modification, Part A, OMB Control No. 2050-0034, expires on October 31, 2002. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 30, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 0262.10 and OMB Control No. 2050-0034, to the following addresses: Susan Auby, U.S. Environmental Protection Agency,

Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 566-1672, by e-mail at auby.susan@epamail.epa.gov or download off the Internet at <http://www.epa.gov/icr> and refer to EPA ICR No. 0262.10. For technical questions about the ICR contact David Eberly at (703) 308-8645.

SUPPLEMENTARY INFORMATION:

Title: RCRA Hazardous Waste Permit Application and Modification, Part A, OMB No. 2050-0034, EPA ICR No. 0262.10, expiring October 31, 2002. This is a request for extension of a currently approved collection.

Abstract: Section 3010 of Subtitle C of RCRA, as amended, requires any person who generates or transports regulated waste or who owns or operates a facility for the treatment, storage, or disposal (TSDF) of regulated waste to notify EPA of their activities, including the location and general description of activities and the regulated wastes managed. Section 3005 of Subtitle C of RCRA requires TSDFs to obtain a permit. To obtain the permit, the TSDF must submit an application describing the facility's operation. There are two parts to the RCRA permit application—Part A and Part B. Part A defines the processes to be used for treatment, storage, and disposal of hazardous wastes; the design capacity of such processes; and the specific hazardous wastes to be handled at the facility. Part B requires detailed site specific information such as geologic, hydrologic, and engineering data.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on May 9, 2002 (67 FR 31300). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 25 hours per response for an initial Part A Application and 13 hours per response

for a revised Part A application. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities:

Business or other for-profit, State, Local or Tribal Government.

Estimated Number of Respondents: 36

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 576 hours.

Estimated Total Annualized Capital, Operating/ Maintenance Cost Burden: \$1,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0262.10 and OMB Control No. 2050-0034 in any correspondence.

Dated: September 16, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02-24770 Filed 9-27-02; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[OPP-2002-0247; FRL-7199-6]

Azinphos-Methyl; Receipt of Requests for Amendments to Delete Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests for amendments by registrants to delete uses in certain pesticide registrations. Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at

any time request that any of its pesticide registrations be amended to delete one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request in the **Federal Register**. In addition to announcing the use deletion requests, this **Federal Register** notice announces the Agency's intent to approve these requests and the commencement of a 30-day public comment period as required by section 6(f)(1) of FIFRA. If the Agency receives no comments that alter these requests, it will issue a Cancellation order prohibiting these uses from azinphos-methyl product registrations.

DATES: Comments, identified by docket ID number OPP-2002-0247, must be received on or before October 30, 2002.

The deletions will be effective with the issuance of a Cancellation order shortly after October 30, 2002, unless the Agency receives comments that alter these requests.

The Agency intends to prohibit all sale, distribution and use of existing stocks of manufacturing use products by registrants no later than 90-calendar days after EPA approves revised labels reflecting the use deletions.

The Agency intends all sales and distributions by registrants of existing stocks of end-use products bearing labels with the deleted uses no later than 90-calendar days after EPA approves revised labels reflecting the use deletions. The Agency does not intend to restrict the use of end-use products bearing the deleted uses.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Veronique LaCapra, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 605-1525; fax number: (703) 308-8041; e-mail address: lacapra.veronique@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, 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 information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2002-0247. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may

be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any

cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPP-2002-0247. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP-2002-0247. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number OPP-2002-0247.

3. *By hand delivery or courier.* Deliver your comments to: Public Information

and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP-2002-0247. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is 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 docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket 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. What Action is the Agency Taking?

This notice announces the amended registration requests by Bayer Corporation; Makhteshim Chemical Works, Ltd.; Gowan Company; Micro-Flo Corporation; and Platte Chemical Company for the deletion of certain uses from their products containing azinphos-methyl. The uses requested for deletion are: Alfalfa, beans (succulent and snap), birdsfoot trefoil, broccoli, cabbage (including Chinese), cauliflower, celery, citrus, clover, cucumbers, eggplant, filberts, grapes, melons (honeydew, muskmelon, canteloupe, watermelons, and other melons), onions (green and dry bulb), pecans, peppers, plums and dried plums, quince, spinach, strawberries, and tomatoes. In addition, the registrants waived the 180-day comment period for these use deletions.

Azinphos-methyl is an organophosphate insecticide registered for use on a wide variety of field crops, fruit, nuts, ornamental plants, and vegetables.

On May 22, 2002, Bayer Corporation; Makhteshim Chemical Works, Ltd.; Gowan Company; Micro-Flo Corporation; and Platte Chemical Company signed a Memorandum of Agreement (MOA) with EPA requesting cancellation pursuant to section 6(f) of FIFRA of all their registrations for products containing azinphos-methyl and used on the following crops: Alfalfa, beans (succulent and snap), birdsfoot trefoil, broccoli, cabbage (including Chinese), cauliflower, celery, citrus, clover, cucumbers, eggplant, filberts, grapes, melons (honeydew, muskmelon, canteloupe, watermelons, and other melons), onions (green and dry bulb), pecans, peppers, plums and dried plums, quince, spinach, strawberries, and tomatoes. This notice announces EPA's receipt of the use deletion requests and a 30-day public comment period to provide input regarding the requests. Based on extensive public input on azinphos-methyl received during the reregistration public participation process, the Agency believes that the impact to growers resulting from these use deletions will be minimal. Unless comments appreciably change the Agency's understanding of the impacts of the use deletions, it intends to accept the use deletion requests.

Table 1 includes the names and addresses of record for all registrants requesting use deletions of azinphos-

methyl, in ascending sequence by EPA company number.

TABLE 1.—AZINPHOS-METHYL REGISTRANTS

EPA Company No.	Company Name and Address
3125	Bayer Corporation Agricultural Division 8400 Hawthorn Rd. P.O. Box 4913 Kansas City, MO 64120
10163	Gowan Company P.O. Box 5569 Yuma, AZ 85366
11678	Makhteshim Chemical Works, Ltd. c/o Makhteshim Agan of North America 551 Fifth Ave., Suite 1100 New York, NY 10176
34704	Platte Chemical Company, Inc. 419 18 th St. Greeley, CO 80631
51036	Micro-Flo Corporation, LLC P.O. Box 772099 Memphis, TN 38117

III. What is the Agency Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Provisions for Disposition of Existing Stocks

The May 22, 2002, MOA specifies the disposition of existing stocks of products bearing any of the uses requested for deletion. If the Agency receives no comments that alter its intent to accept these use deletion requests, it will issue a Cancellation order with the existing stocks provisions discussed in this unit.

For the purpose of this notice, existing stocks refers to product that bears one or more of the uses listed in Unit II.

A. Manufacturing Use Products

The Agency intends to prohibit all sale, distribution and use of existing stocks of manufacturing use products by registrants no later than 90-calender days after EPA approves revised labels reflecting the use deletions.

B. End Use Products

The Agency intends to prohibit all sale and distribution by registrants of existing stocks of end-use products bearing labels with the deleted uses no later than 90-calender days after EPA approves revised labels reflecting the use deletions. The Agency does not intend to restrict the use of end-use products bearing the deleted uses.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 17, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02-24771 Filed 9-27-02; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7387-4]

Barber Orchard Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a prospective purchaser agreement with Ms. Rose Picker, and Mr. James E. Picker to resolve potential EPA claims under sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendment and Reauthorization Act of 1986 ("CERCLA"), concerning the Barber Orchard Superfund Site (Site) located in Waynesville, Haywood County, North Carolina. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA, Region 4, (WMD-CPSB), 61 Forsyth

Street, SW, Atlanta, Georgia 30303, (404) 562-8887.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

Dated: September 16, 2002.

James T. Miller,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02-24769 Filed 9-27-02; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Information Quality Guidelines

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of availability of guidelines.

SUMMARY: The Federal Deposit Insurance Corporation's (FDIC) Information Quality Guidelines will be available for public access on the FDIC Web site: <http://www.fdic.gov>, on October 1, 2002. The Information Quality Guidelines describe the FDIC's procedures for reviewing and substantiating the quality of information before it is disseminated to the public, and the procedures by which an affected person may request correction of information disseminated by the FDIC that does not comply with the information quality guidelines.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Klear, Special Assistant to the Director, Division of Information Resources Management, (703) 516-5401, Manuel A. Palau, Counsel, Legal Division, (202) 898-8829, or Thomas E. Nixon, Senior Attorney, Legal Division, (202) 898-8766, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Authority: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554; 114 Stat. 2763).

Background: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 directed agencies subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) to develop information quality guidelines applicable to information disseminated by the agency on or after October 1, 2002. Consistent with Office of Management and Budget (OMB) guidelines implementing section 515 (66 FR 49718, Sept. 28, 2001, 67 FR 8452, Feb. 22, 2002), the FDIC has developed information quality

guidelines that ensure and maximize the quality, objectivity, utility, and integrity of information disseminated by the FDIC, and which include an administrative mechanism that allows affected persons to seek and obtain correction, where appropriate, of information disseminated by the FDIC that does not comply with FDIC or OMB guidelines. As required by OMB's guidelines, the FDIC is publishing in the **Federal Register** a notice of availability of the guidelines on its Web site www.fdic.gov.

Dated: September 24, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 02-24676 Filed 9-27-02; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency
Management Agency.

ACTION: Notice and request for
comments.

SUMMARY: The Federal Emergency
Management Agency has submitted the
following proposed information
collection to the Office of Management
and Budget for review and clearance in
accordance with the requirements of the
Paperwork Reduction Act of 1995 (44
U.S.C. 3507).

Title: Emergency Management
Institute Resident Course Evaluation
Form.

Type of Information Collection:
Reinstatement, without change, of a
previously approved collection for
which approval has expired.

OMB Number: 3067-0237.

Abstract: Students attending the
Emergency Management Institute
resident program courses at FEMA's
National Emergency Training Center
will be asked to complete a course
evaluation form. The information will
be used by EMI staff and management
to identify problems with course
materials, and evaluate the quality of
the course delivery, facilities, and
instructors. The data received will
enable them to recommend changes in
course materials, student selection
criteria, training experience and
classroom environment.

Affected Public: State, Local or Tribal
Government, Federal Government,
Individual or Households.

Number of Respondents: 4,000.

Estimated Time per Respondent: 10
minutes.

*Estimated Total Annual Burden
Hours:* 667 hours.

Frequency of Response: End of each
course.

Comments: Interested persons are
invited to submit written comments on
the proposed information collection to
the Desk Officer for the Federal
Emergency Management Agency, Office
of Information and Regulatory Affairs,
Office of Management and Budget,
Washington, DC 20503 within 30 days
of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or
copies of the information collection
should be made to Muriel B. Anderson,
Chief, Records Management Section,
Program Services and Systems Branch,
Facilities Management and Services
Division, Administration and Resource
Planning Directorate, Federal
Emergency Management Agency, 500 C
Street, SW, Room 316, Washington, DC
20472, telephone number (202) 646-
2625 or facsimile number (202) 646-
3347, or e-mail

InformationCollections@fema.gov.

Dated: September 20, 2002.

Reginald Trujillo,

*Branch Chief, Program Services and Systems
Branch, Facilities Management and Services
Division, Administration and Resource
Planning Directorate.*

[FR Doc. 02-24735 Filed 9-27-02; 8:45 am]

BILLING CODE 6718-01-P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10 p.m.—October 2,
2002.

PLACE: 800 North Capitol Street, NW.,
First Floor Hearing Room, Washington,
DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1.
Controlled Carrier Issues.

CONTACT PERSON FOR MORE INFORMATION:
Bryant L. VanBrakle, Secretary, (202)
523-5725.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 02-24834 Filed 9-25-02; 4:52 pm]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of the Assistant Secretary for Planning and Evaluation; Statement of Organization, Functions and Delegations of Authority

Part A (Office of the Secretary),
Statement of Organization, Functions,
and Delegations of Authority of the
Department of Health and Human
Services (HHS) is being amended at
Chapter AE, Office of the Assistant
Secretary for Planning and Evaluation
(ASPE), as last amended at 66 FR 2429
on January 11, 2001. This reorganization
is to realign the functions of ASPE to
reflect the current structure and areas of
focus. The changes are as follows:

1. Delete Chapter AE, Office of the Assistant Secretary for Planning and Evaluation, in Its Entirety And Replace With the Following

Section AE.00 Mission

The Assistant Secretary for Planning
and Evaluation is the principal advisor
to the Secretary on policy development
and provides coordination and support
for the Department's strategic and policy
planning, planning and development of
legislation, program evaluation, data
gathering, policy-related research, and
the Department's regulatory program.

The Office of the Assistant Secretary
for Planning and Evaluation advises the
Secretary on policy issues associated
with health, human services, disability,
aging, long-term care, science policy,
data resources, and other matters, such
as economic policy. ASPE leads special
initiatives on behalf of the Secretary;
provides direction for, and coordinates,
the Department's policy research,
evaluation and data gathering and
related analyses; and manages cross-
Department activities, such as strategic
and legislation planning. Integral to this
role, ASPE develops policy analyses—
both short and long-term—and related
initiatives, conducts policy research and
evaluation studies, and reviews and
estimates the costs and benefits of
policies (including regulations) and
programs under consideration by the
Department, Congress and others. ASPE
works with other HHS Assistant
Secretaries and agency heads on these
matters.

Section AE.10 Organization

The Office of the Assistant Secretary
for Planning and Evaluation consists of
the following components:

- A. Immediate Office (AE).
- B. Office of Health Policy (AEH).

- C. Office of Human Services Policy (AES).
- D. Office of Disability, Aging and Long-Term Care Policy (AEW).
- E. Office of Science and Data Policy (AEJ).

Section AE.20 Functions

A. The Immediate Office (AE)

The Immediate Office (IO) of the Assistant Secretary for Planning and Evaluation provides executive direction, leadership, guidance and support to ASPE components. The IO develops and guides implementation of the Department's strategic plan, the development of the Department's legislative and regulatory agenda in coordination with the Office of the Assistant Secretary for Legislation and the Office of the Executive Secretary, respectively, and the planning and coordination of policy-related research and evaluation across the Department. Research and evaluation planning and coordination for the Department is accomplished by the Department's Research Coordination Council, chaired by the ASPE. The Council is a planning and coordinating body of representatives from the Department's operating divisions and other offices conducting research, with support within ASPE by a staff group drawn from ASPE offices. The IO manages planning and implementation of ASPE budgets, evaluation and policy research agendas, workforce plans, executive correspondence, regulation review, and internal control procedures. The IO also provides information support services for ASPE and access by the public to information about ASPE and the Department's evaluation and policy research studies.

B. The Office of Health Policy (AEH)

The Office of Health Policy (HP) is responsible for policy development and coordination and for the conduct and coordination of research, evaluation, and data, on matters relating to health systems, services, and financing. Functions include policy and long-range planning; policy, economic, program and budget analysis; review of regulations and development of legislation. Health policy matters includes public health, health services and systems, health insurance, health care financing, health care quality, consumer health information in the public and private sectors, and the interaction among these matters and sectors.

HP is responsible for developing and coordinating a health policy research, information, and analytical program to

gain information concerning health services, systems and financing, and for providing support to the ASPE immediate Office for the Department's Research Coordination Council. The Office works closely with other ASPE and HHS offices on these matters, coordinates and shares information across Federal agencies, and collaborates with the health policy and service research community.

HP works closely with the Department's Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, the Centers for Disease Control and Prevention, and other HHS agencies. Within ASPE, the office coordinates closely with Office of Disability, Aging and Long-Term Care Policy on matters concerning persons with disabilities and the elderly, in particular those related to the Medicare and Medicaid programs.

1. The *Division of Health Financing Policy* (AEH1) is responsible for policies and functions of the office concerning health care financing and health care costs, principally Federal health care financing related to the Department's Medicare program, including matters concerning structural changes and modernization for the long-term, such as drug benefits, coverage and eligibility, new technology, and payments for services.

2. The *Division of Public Health Systems* (AEH2) is responsible for the functions of the office related to public health programs and policies. The division conducts analysis, studies and develops policies concerning such matters as: the public health system; the design and effectiveness of health promotion, disease prevention, and disease control activities undertaken by both the public and private sectors; the interaction between the medical services delivery system and population-based public health services; and the structure, function, capacity, practices, and interaction of public health entities at all levels of government.

3. The *Division of Health Care For Low Income Populations* (AEH3) focuses on the financing a delivery of health care services for the low-income population without private health insurance. The division is responsible for the functions of the office with respect to the Medicaid program, the State Children's Health Insurance Program, and other policies and programs to help low income individuals and families have access to

health care. This includes development of policies and mechanisms that integrate the financing and delivery of health care to this population. This division will collaborate with Health Care Financing on issues effecting populations who are dually eligible for Medicare and Medicaid and other cross-cutting areas.

4. The *Division of Health Care Delivery Systems* (AEH4) is responsible for functions related to health services, health organizations and health care delivery systems. The division's focus includes consumer information such as patient's bill of rights, incentives for private health insurance and health care, matters concerning the Health Insurance Portability and Accountability Act, health care organization, and the interaction between public and private health care and insurance.

C. The Office of Human Services Policy (AES)

The Office of Human Services Policy (HSP) is responsible for policy development and coordination, and for the conduct and coordination of research, evaluation, and data on matters relating to poverty, cash and non-cash support for low-income working and non-working families, welfare-to-work strategies, and services for families, children, and youth. Functions include policy and long-range planning; policy, program, economic and budget analysis; review of regulations; and development of legislation. In particular, the office is responsible for policies concerning families, child and youth development, support for low-income families and their children, welfare, and the financing and delivery of human services. The office works closely with agencies that provide services to low-income populations, particularly the Administration for Children and Families.

1. The *Division of Economic Support for Families* (AES1) is responsible for functions of the office related to low-income populations. The division's principal areas of focus include: cash and non-cash assistance for working and non-working families, welfare-to-work strategies, cash and non-cash assistance for working and non-working families, welfare-to-work strategies, child support enforcement, and special populations (e.g., immigrants). The division also monitors, analyzes, and maintain liaison with programs and policies outside the Department that effect HHS issues, such as earned income tax credits, food stamps, housing assistance, and

education and workforce development programs.

2. The *Division of Children and Youth Policy* (AES2) is responsible for functions of the office affecting children and youth. The principal areas of focus include: healthy development of children and youth, family support, human services for children, youth, and their families, such as child welfare and child protection, at-risk youth, child care and early childhood education, and violence prevention.

3. The *Division of Data and Technical Analysis* (AES3) is responsible for the development, analysis, and coordination of research, evaluation, and data gathering activities relating to policies and programs concerning the low-income population. The division provides support for policy development through data analysis, modeling, cost and impact analyses, and the enhancement of national, state, and local data sources for analyzing and tracking issues. The division also is responsible for the annual update of the HHS poverty guidelines. The division also maintains cognizance of data collection activities of the Federal statistical system and coordinates with the Office of Science and Data Policy, as appropriate.

D. The Office of Disability, Aging and Long-Term Care Policy (AEW)

The Office of Disability, Aging and Long-Term Care Policy (DALTCP) is responsible for the development of financing and service organization and delivery policy on matters related to disability, aging, and long-term care. Functions include policy and long-range planning; planning, policy and program analysis; review of regulations and development of legislation; and the conduct, coordination and dissemination of research, evaluation, and data. The office works closely with other ASPE offices, the Centers for Medicare and Medicaid Services, the Administration on Aging, and other HHS components. Activities related to the Older American Act are carried out in coordination with the Office of the Assistant Secretary for Aging.

1. The *Division of Disability and Aging Policy* (AEW1) is responsible for the functions of the office as they concern persons with disabilities and older Americans. The division is responsible for supporting the development and coordination of crosscutting policies and data collection within the Department and in other Federal agencies whose actions affect the health, economic and social well-being of persons with disabilities and elderly populations. The division is

responsible for measuring and evaluating the impact of all programs authorized by the Older Americans Act. The division assesses the interaction among health, disability, and the economic well-being of persons of all ages with disabilities, including identifying the prevalence of disability and disabling conditions, socio-demographic characteristics, service use, income, employment, and program participation patterns. The division also is responsible for coordinating the development of data and policies that are responsive to the characteristics, circumstances and needs of disabled populations.

2. The *Division of Long-Term Care Policy* (AEW3) is responsible for the functions of the office as they concern policies and programs that address the long-term care and personal assistance needs of people of all ages with chronic disabilities. The division develops and coordinates a comprehensive research, information, and analytical program to gain basic information to achieve the Department's objectives in the areas of long-term care and disability service and financing. The division is the focal point for policy development and analysis related to the disability, aging, and long-term care services components of Medicare and Medicaid, including nursing facility services, community residential services, personal assistance services, home health and rehabilitation services, and the integration of acute, post-acute, and long-term care services.

E. The Office of Science and Data Policy (AEJ)

The Office of Science and Data Policy (SDP) is responsible for guiding and coordinating the development of science and data policy throughout the Department. SDP establishes and leads broadly representative, multi-office working groups to develop policy initiatives related to complex science, technology or data issues that cut across the mission of organizations within the Department.

SDP is the ASPE lead on issues that are heavily science-based, including public health issues that involve complex or rapidly evolving science and technology, such as genetics, xenotransplantation, stem cell research, cloning, and bioterrorism. SDP guides and coordinates the incorporation of science-policy considerations within the Department's regulatory and legislative proposals, congressional testimony, press releases and other public documents describing major Department Initiatives. SDP provides critique and advice regarding the science policy content of such document and, in

selected instances, initiates their development.

SDP is responsible for data development and coordination within the Department and serves as the focal point for Department-wide data policy. It provides leadership and staff support to the Department's Data Council—the principal internal forum and advisory body to the Secretary on data policy issues, including data strategy, data standards, informatics, and privacy issues. SDP provides direction and oversight to, and the Executive Director for, the National Committee on Vital and Health Statistics, the statutory public advisory body to the Secretary on health data, statistics, privacy, informatics and national health information policy. SDP also provides support to the ASPE and Office of the Secretary leadership on a variety of Department-wide data planning and informatic issues, as well as data issues in support of performance measurement. SDP also directs a program of policy research, evaluation and analysis in these areas and provides several cross-cutting data policy services across ASPE.

SDP also is responsible for creating and maintaining effective communications and liaison with scientific, technical and data communities and agencies outside the Department regarding science and data policy issues. This includes liaison with the Office of Science and Technology activities; and government/private sector collaborations related to sciences policy.

II. Delegations of Authority

All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

Dated: September 20, 2002.

Ed Sontag,

Assistant Secretary for Administration and Management.

[FR Doc. 02-24747 Filed 9-27-02; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by HHS Agencies

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice announces the availability of the U.S. Department of Health and Human Services Guidelines for Ensuring the Quality of Information Disseminated to the Public. The HHS Information Quality Guidelines will be posted on the HHS website on or about October 1, 2002 and will go into effect on that date. Developed pursuant to the government-wide OMB Guidelines for Information Quality published on January 3, 2002, the HHS Guidelines will be available on the following HHS Web site: <http://www.hhs.gov/infoquality>.

The Guidelines include mechanisms enabling interested parties to request correction of information disseminated to the public by HHS agencies.

DATES: The HHS Guidelines will be available on the HHS website on or about October 1, 2002 and will go into effect on that date.

FOR FURTHER INFORMATION CONTACT: James Scanlon, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation, U.S. DHHS, Telephone (202) 690-7100.

SUPPLEMENTARY INFORMATION: On January 3, 2002, OMB issued final guidelines to federal agencies that implement section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554). Section 515 directs OMB to issue government-wide guidelines that provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility and integrity of information (including statistical information) disseminated by federal agencies. The OMB guidelines in turn direct each federal agency to issue its own guidelines to implement the OMB Guidelines and ensure the quality, objectivity, utility and integrity of the information that the agency disseminates to the public, including administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of information disseminated by the agency that does not comply with the guidelines.

On May 1, 2002, HHS posted draft guidelines for a sixty day public comment period. The final guidelines will be posted on the HHS Web site on or about October 1, 2002.

Dated: September 23, 2002.

William Raub,

Deputy Assistant Secretary for Planning and Evaluation.

[FR Doc. 02-24746 Filed 9-27-02; 8:45 am]

BILLING CODE 4151-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 17, 2002, from 8 a.m. to 4 p.m.

Location: Center for Drug Evaluation and Research Advisory Committee conference room 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Thomas H. Perez, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-6758, or e-mail: PerezT@cder.fda.gov or the FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will discuss the timing of the initiation of pediatric oncology clinical studies in a drug development program. The input from this meeting will be used in developing FDA policy to the application of the pediatric rule and the issuance of written requests under the Best Pharmaceuticals for Children Act.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by October 10, 2002. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 10, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and

an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please notify Thomas Perez at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September, 20, 2002.

Linda Arey Skladany,

Senior Associate Commissioner for External Relations.

[FR Doc. 02-24677 Filed 9-27-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Clinical Pharmacology Subcommittee of the Advisory Committee for Pharmaceutical Science; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Clinical Pharmacology Subcommittee of the Advisory Committee for Pharmaceutical Science.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 23, 2002, from 8 a.m. to 5 p.m.

Location: Center for Drug Evaluation and Research Advisory Committee conference room 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Kathleen Reedy, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301-827-7001, or e-mail: REEDYK@cder.fda.gov, or FDA Advisory Committee Information Line, 1-800-741-8138

(301-443-0572 in the Washington, DC area), code 12539. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will discuss: (1) Consideration of investigational pharmacokinetic studies to identify patient populations at risk, (2) methods used to adjust dosing given the availability of exposure-response information, (3) use of exposure-response relationships in the Pediatric Study Decision Tree, (4) questions to be asked of the pediatric database, and (5) scientific and practical considerations in the use of pharmacogenetic tests to determine drug dosage and administration.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by October 14, 2002. Oral presentations from the public will be scheduled between approximately 12 noon and 1 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 14, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electric outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kathleen Reedy at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 20, 2002.

Linda Arey Skladany,

Associate Commissioner for External Relations.

[FR Doc. 02-24678 Filed 9-27-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Interdisciplinary, Community-Based Linkages; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Committee Act, (Public Law 92-463), notice is hereby given of the following advisory committee meeting. The meeting is open to the public.

Name: Advisory Committee on Interdisciplinary Community-Based Linkages.

Date and Time: October 3, 2002, 8 a.m.-5:30 p.m.; October 4, 2002, 8:30 a.m.-3 p.m.

Place: The Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland 20852.

Agenda: Agenda items will include, but not be limited to: Welcome; plenary session on the role of the Health Resources and Services Administration, Bureau of Health Professions, in meeting Public Health Preparedness objectives; education and training related to bioterrorism; presentations by speakers representing: The Division of State, Community and Public Health, Bureau of Health Professions; and committee members. Meeting content will address preparation of the Committee's annual report and policy recommendations to the Secretary and the Congress and development of a fiscal year 2003 action agenda. Proposed agenda items are subject to change as priorities dictate.

Public Comments: Public comment will be permitted before lunch and at the end of the meeting on October 3, 2002. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, with a copy of their presentation to: Bernice A. Parlak, Executive Secretary, Division of State, Community and Public Health, Bureau of Health Professions, Health Resources and Services Administration, Room 9-105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1898.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The Division of State, Community and Public Health will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file a request in advance for a presentation, but wish to make an oral statement may register to do so at the Doubletree Hotel, Rockville, Maryland, on October 3, 2002. These persons will be allocated time as the Committee meeting agenda permits.

For Further Information Contact: Anyone requiring information regarding the Committee should contact Bernice A. Parlak, Division of State, Community and Public Health, Bureau of Health Professions, Health

Resources and Services Administration, Room 9-105, 5600 Fishers Lane, Rockville, Maryland 20867, Telephone (301) 443-1898.

Dated: September 19, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02-24732 Filed 9-27-02; 8:45 am]

BILLING CODE 4165-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4734-N-49]

Notice of Submission of Proposed Information Collection to OMB: Public Housing Financial Management Template

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 30, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2535-0107) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395-6974; E-mail Lauren_Wittenberg@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB

approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9)

whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Public Housing Financial Management Template.
OMB Approval Number: 2535-0107.
Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Public-Housing Authorities are required to submit financial information on an annual basis to HUD in accordance with the Uniform Financial Reporting Standards and the Public Housing Assessment System.

Respondents: Not-for-profit institutions, State, Local or Trial Government.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden:	3,173	1.87		5.36		31,961

Total Estimated Burden Hours: 31,961.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 19, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02-24701 Filed 9-27-02; 8:45 am]

BILLING CODE 4210-72-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4734-N-50]

Notice of Submission of Proposed Information Collection to OMB: CDBG Urban County/New York Towns Qualification/Requalification Process

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 30, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2506-0170) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395-6974; e-mail Lauren_Wittenberg@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB

approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: CDBG Urban County/New York Towns Qualification/Requalification Process.

OMB Approval Number: 25076-0170.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: The information obtained through these qualification/requalification processes is used in calculating the annual grant allocation under the CDBG program.

Respondents: State, Local or Trial Government.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	168	3		62		3,545

Total Estimated Burden Hours: 3,545.
Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 20, 2002.

Wayne Eddins,

*Departmental Reports Management Officer,
 Office of the Chief Information Officer.*

[FR Doc. 02-24702 Filed 9-27-02; 8:45 am]

BILLING CODE 4210-72-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4734-N-51]

Notice of Submission of Proposed Information Collection to OMB; Request for Credit Approval of Substitute Mortgagor

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 30, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502-3336) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395-6974; E-mail Lauren_Wittenberg@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable;

(6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Request for Credit Approval of Substitute Mortgagor.

OMB Approval Number: 2502-0036.

Form Numbers: 92210.

Description of the Need for the Information and its Proposed Use: A buyer may assume an FHA-insured mortgage by becoming the substitute mortgagor through the credit approval process. Prior to releasing a seller from liability on the mortgage note or for mortgages after December 15, 1989, HUD or a Direct Endorsement (DE) lender must review the credit of the assumer and record the approval on form HUD-92210.

Respondents: Individuals and Businesses or other for-profits.

Frequency of Submission: On occasion.

	Number of respondents	Annual respondents	×	Hours per response	=	Burden hours
Reporting Burden:	1,000	10,000		1		10,000

Total Estimated Burden Hours: 10,000.

Status: Reinstatement without change of a previously approved collection for which approval has expired.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 19, 2002.

Wayne Eddins,

*Departmental Reports Management Officer,
 Office of the Chief Information Officer.*

[FR Doc. 02-24703 Filed 9-27-02; 8:45 am]

BILLING CODE 4210-72-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4734-N-52]

Notice of Submission of Proposed Information Collection to OMB; Local Appeals to Single-Family Mortgage Limits

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 30, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502-0302) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395-6974; E-mail Lauren_Wittenberg@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents

submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable;

(6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Local Appeals to Single-Family Mortgage Limits.

OMB Approval Number: 2502-0302.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Housing industry groups may appeal for increases in FHA's maximum mortgage limits for specific counties or metropolitan statistical areas (MSA's).

Respondents: Individuals or households, Business or other for-profit, Not-for profit institutions.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	80	1		40		3,200

Total Estimated Burden Hours: 3,200.
Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 23, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02-24704 Filed 9-27-02; 8:45 am]

BILLING CODE 4210-72-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4734-N-53]

Notice of Submission of Proposed Information Collection to OMB: Deed-in-Lieu of Foreclosure (Corporate Mortgages or Mortgages Owning More Than One Property)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 30, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502-0301) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395-6974; e-mail Lauren_Wittenberg@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be

affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Deed in-Lieu of Foreclosure (Corporate Mortgages or Mortgages Owning More than One Property).

OMB Approval Number: 2502-0301.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Mortgagees must obtain written consent from HUD's National Servicing Center to accept a deed-in-lieu of foreclosure when the mortgagor is a corporate mortgagor or a mortgagor owning more than one property insured by the Department of Housing and Urban Development (HUD). Mortgagees must provide HUD with specific information.

Respondents: Individuals or households, Business or other for-profits.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	600	600		0.5		300

Total Estimated Burden Hours: 300.
Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 23, 2002.

Wayne Eddins,

*Departmental Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 02-24705 Filed 9-27-02; 8:45 am]

BILLING CODE 4210-72-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by October 30, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Hobson Reynolds, Dallas, TX, PRT-060384

The applicant requests a permit to import the sport-hunted trophy of one

male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Kurt E. Landig, Fremont, OH, PRT-061542

The applicant requests a permit to import one captive-born, male, white-eared pheasant (*Crossoptilon crossoptilon*) from The Old House Bird Gardens in Reading, England, for the purpose of enhancement of the survival of the species through captive propagation.

Applicant: Larry McFadden, Donalsonville, GA, PRT-061609

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: D. Olds Schupp, Dexter, MI, PRT-061560

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018-0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: August 23, 2002.

Anna Barry,

Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02-24736 Filed 9-27-02; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

National Park Service

Jimmy Carter National Historical Site Commission Meeting

AGENCY: National Park Service, Jimmy Carter National Historic Site, Interior.

ACTION: Notice of Advisory Commission Meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 1, Section 10(a)(2), that a meeting of the Jimmy Carter National Historic Site Advisory Commission will be held at 8:30 a.m. to 2 p.m. at the following location and date.

DATES: October 11, 2002.

ADDRESSES: The Plains High School, Jimmy Carter National Historic Site, 300 North Bond Street, Plains, Georgia 31780.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Boyles, Superintendent, Jimmy Carter National Historic Site, 496 Cemetery Road, Andersonville, Georgia 31711, (229) 924-0343 Extension 105.

SUPPLEMENTARY INFORMATION: The purpose of the Jimmy Carter National Historic Site Advisory Commission is to advise the Secretary of the Interior or her designee on achieving balanced and accurate interpretation of the Jimmy Carter National Historic Site. The members of the Advisory Commission are as follows: Dr. James Sterling Young, Dr. Barbara J. Fields, Dr. Donald B. Schewe, Dr. Steven H. Hochman, Dr. Jay Hakes, and Director, National Park Service, Ex-Officio member.

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: September 24, 2002.

Charlie Powell,

Acting Regional Director, Southeast Region.

[FR Doc. 02-24762 Filed 9-27-02; 8:45 am]

BILLING CODE 4310-70-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-469]

In the Matter of Certain Bearing and Packaging Thereof; Order

The Commission instituted this investigation on April 9, 2002, on the basis of a complaint filed by SKF USA, INC. ("SKF"). 67 FR 18632 (April 16, 2002). The complaint alleged that certain respondents had violated section 337 of the Tariff Act of 1930 by the unlawful importation into the United States, sale for importation, and/or sale within the United States after importation of certain bearings and packaging thereof by reason of: (1) Infringement of U.S. Trademark Registration Nos. 502,839, 502,840, 1,944,843, and 2,053,722; (2) infringement of common law trademarks; (3) dilution of registered and common law trademarks; (4) false representation of source; (5) false advertising; (6) passing off; and (7) unfair pecuniary benefits. The last claim alleges that respondents derive unfair pecuniary benefits by availing themselves of SKF's antidumping duty deposit rates and by failing to request antidumping duty administrative reviews to obtain their own rates. Complainant SKF describes the unfairness as being twofold. First, gray market importers of SKF bearings do not need to adjust their U.S. prices upwards to obtain a lower rate; they can keep their U.S. prices low and still get a low duty rate. Second, the gray market importers do not expend any resources to keep rates low; they merely "free ride" on SKF's rates. SKF analogizes this situation to the free riding problem recognized under the antitrust laws. On May 16, 2002, the Commission investigative attorney ("IA") filed a motion for summary determination as to the "unfair pecuniary benefits" claim, arguing that the claim is not cognizable under section 337 because it does not allege an unfair method of competition or an unfair act. Certain respondents supported the IA's motion. SKF filed an opposition to the motion. On June 14, 2002, in Order No. 11, the presiding administrative law judge ("ALJ") denied the IA's motion for summary determination. The ALJ explained that he was declining to decide whether the

"unfair pecuniary benefits" claim alleges an "unfair act" cognizable under section 337 because the claim presents a novel issue not appropriate for summary determination. The ALJ found that the risk of prematurely dismissing the claim outweighed the potential burden of additional discovery. On June 21, 2002, the IA filed a motion with the ALJ for leave to seek interlocutory review of Order No. 11 by the Commission. Respondents Bearings Limited and McGuire Bearing Company filed similar motions. On July 10, 2002, in Order No. 16, the ALJ granted these motions for leave to seek interlocutory review. The ALJ found that the motions met the requirements of Commission rule 210.24(b)(1), which provides that an ALJ may grant leave to seek interlocutory review of an order by the Commission if the order "involves a controlling question of law or policy as to which there is substantial ground for difference of opinion" and "subsequent review [of the order] will be an inadequate remedy." 19 CFR 210.24(b)(1). On July 18, 2002, the IA filed an application for interlocutory review, and on July 22, 2002, respondents Bearings Limited and McGuire Bearing Company did the same. The Commission has determined to grant the applications for interlocutory review of Order No. 16. Section 337(a)(1)(A) proscribes "unfair methods of competition and unfair acts" in the importation of articles, and/or sale thereof within the United States after importation. In order for the Commission to find that conduct involves an unfair method of competition or unfair act, it must be able to identify some sort of legally cognizable "unfairness" in that conduct. SKF's unfair pecuniary benefits claim does not allege the requisite legally cognizable unfairness. SKF alleges that respondents are engaging in an unfair method of competition by "availing themselves of SKF USA's antidumping duty rates." SKF's Amended Complaint at ¶ 157. SKF also describes the unfairness in respondents' conduct as lying in "[r]espondents' affirmative choice not to participate in Commerce's antidumping duty review process, and their free riding off SKF's rates." SKF USA's Opposition to the Commission Investigative Staff's Motion for Partial Summary Determination at 21. Respondents' practices with respect to antidumping duties apparently conform to the relevant Department of Commerce ("Commerce") regulations and Commerce's instruction to the U.S. Customs Service. SKF does not dispute this. Respondents enter their bearings at

the antidumping duty deposit rate specified by Commerce. When the bearings are liquidated, again the appropriate antidumping duty assessment rate is specified by Commerce. The Commission fails to see how following Commerce's specific directions with regard to antidumping duty deposit and assessment rates can constitute an unfair method of competition or unfair act. There is of course no per se prohibition on the importation of merchandise subject to an antidumping duty order by resellers (*i.e.*, entities other than the foreign manufacturer of the merchandise). SKF argues that respondents should request antidumping administrative reviews in order to obtain their own deposit rates. There is, however, no requirement that importers request an administrative review of their entries; such reviews are conducted only if "a request for such a review has been received." 19 U.S.C. 1675(a)(1). Having reviewed the arguments made by the IA, Bearings Limited, and McGuire Bearing Company on the one hand, and by SKF on the other, the Commission finds no basis to recognize SKF's unfair pecuniary benefits claim under section 337. SKF relies on antitrust cases addressing the "free rider" phenomenon. SKF's Amended Complaint at ¶ 169. However, those cases—to the extent that they discuss free riding at all—refer to it as a phenomenon that could excuse behavior that could otherwise violate the antitrust laws. The cases do not establish a cause of action based on free riding. Moreover, the courts have not extended the law of unfair competition to encompass free riding generally. SKF's attempt to liken respondents' conduct to misappropriation also is not persuasive. For there to be misappropriation, a property right or interest created by the skills, labor, and expenditure of another must be involved. SKF does not have such a right or interest in the antidumping duty rates that Commerce calculates for it. In essence, SKF's "unfair pecuniary benefits" claim has to do with the question of which antidumping duty deposit rates and assessment rates should be applied to resellers of merchandise subject to an antidumping duty order. This question is within Commerce's jurisdiction.

Having examined the relevant ALJ orders, the submissions of the parties, and the authorities cited therein, it is hereby *ordered that*:

1. Order No. 11 is reversed and the motion of the IA for summary determination as to the "unfair pecuniary benefits" claim is granted.

2. This investigation is terminated with respect to the "unfair pecuniary benefits" claim.

3. The Secretary shall serve copies of this Order on the parties of record and publish notice thereof in the **Federal Register**.

Issued: September 23, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02-24675 Filed 9-27-02; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-991 (Final)]

Silicon Metal From Russia

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731-TA-991 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Russia of silicon metal, provided for in subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: September 20, 2002.

FOR FURTHER INFORMATION CONTACT: Diane Mazur (202-205-3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting

¹ For purposes of this investigation, the Department of Commerce has defined the subject merchandise as "silicon metal, which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this investigation also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight."

the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of silicon metal from Russia are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on March 7, 2002, by Globe Metallurgical Inc., Cleveland, OH; SIMCALA, Inc., Mt. Meigs, AL; the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (I.U.E.-C.W.A., AFL-CIO, C.L.C., Local 693), Selma, AL; the Paper, Allied-Industrial Chemical and Energy Workers International Union (Local 5-89), Boomer, WV; and the United Steel Workers of America (AFL-CIO, Local 9436), Niagara Falls, NY.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of

this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on January 23, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on February 5, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 28, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 31, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is January 30, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline

for filing posthearing briefs is February 12, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 12, 2003. On February 28, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 4, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: September 24, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02-24683 Filed 9-27-02; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2231-02]

Registration and Monitoring of Certain Nonimmigrants; Notice of Ports-of-Entry for Departure of Aliens Who Are Subject to Special Registration

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: On August 12, 2002, the Attorney General published a final rule

in the **Federal Register** at 67 FR 52584, revising the special registration requirements for nonimmigrant aliens whose presence in the United States requires closer monitoring. The final rule became effective on September 11, 2002. The final rule also requires that when a nonimmigrant alien subject to special registration departs from the United States, he or she must report to an inspecting officer of the Immigration and Naturalization Service (Service) at any port-of-entry (POE), unless the Service has, by publication in the **Federal Register**, specified that nonimmigrant aliens subject to special registration may not depart from specific ports. The requirement for an alien subject to special registration to report to the Service prior to departing the United States becomes effective on October 1, 2002. This notice provides the public with a list of ports through which nonimmigrant aliens who have been specially registered may depart from the United States. The list is provided in the affirmative as a list of approved ports to assist the public.

DATES: This notice is effective October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Stephen M. Dearborn, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW., Room 4064, Washington, DC 20536, telephone number (202) 305-2970.

SUPPLEMENTARY INFORMATION:

Nonimmigrant Aliens Subject to Special Registration Requirements

Immigration and Naturalization Service (Service) regulations to be codified at 8 CFR 264.1(f) (see 67 FR 52584, August 12, 2002) provide that nonimmigrant aliens (other than those applying under section 101(a)(15)(A), or (G) of the Act (8 U.S.C. 1101(a)(15)(A), (G)) who meet certain criteria are subject to special registration, photographing and fingerprinting requirements upon arrival to the United States. If a nonimmigrant alien who is registered, photographed and fingerprinted, remains in the United States beyond 30 days, he or she must report in person to a Service Office to provide additional documentation that confirms that he or she is complying with the terms of his or her admission. This interview is repeated annually thereafter. Upon each change of address, the registrant must also notify the Service, educational institution, or employer, where applicable. Beginning on October 1, 2002, when a nonimmigrant alien subject to special registration departs the United States, he or she is required

to report to an inspecting officer at the POE through which the alien is departing unless the Service has specified in a **Federal Register** notice that certain ports may not be used for departure by special registrants. A nonimmigrant alien, subject to special registration, who fails to report his or her departure to an inspecting officer as required, may thereafter be presumed to be inadmissible to the United States.

POEs Which Are Not Available for Departure for Nonimmigrant Aliens Subject to Special Registration

Nonimmigrant aliens who are subject to special registration may not depart the United States from any POE listed in, or regarded as designated by 8 CFR 100.4(c)(2), or (c)(3), or any other point-of-embarkation, other than those listed below.

POEs Designated for Final Registration and Departure by Nonimmigrant Aliens Subject to Special Registration

The following POEs are specifically designated for final registration and departure by nonimmigrant aliens subject to special registration:

Amistad Dam POE, Texas;
Anchorage International Airport, Alaska;
Atlanta Hartsfield International Airport, Georgia;
Bell Harbor Pier 66 Cruise Ship Terminal, Washington;
Bridge of the Americas POE, Texas;
Brownsville/Matamoros POE, Texas;
Buffalo Peace Bridge POE, New York;
Cape Vincent POE, New York;
Calxico POE, California;
Chicago O'Hare International Airport, Illinois;
Champlain POE, New York;
Chateaugay POE, New York;
Columbus POE, New Mexico;
Dallas/Fort Worth International Airport, Texas;
Del Rio International Bridge POE, Texas;
Denver International Airport, Colorado;
Detroit Canada Tunnel, Michigan;
Detroit Metro Airport, Michigan;
Douglas POE, Arizona;
Dulles International Airport, Virginia;
Eagle Pass POE, Texas;
Fort Covington POE, New York;
Galveston POE, Texas;
Guam International Airport;
Heart Island POE, New York;
Hidalgo POE, Texas;
Highgate Springs POE, Vermont;
Honolulu International Airport, Hawaii;
Honolulu Seaport, Hawaii;
Houston George Bush Intercontinental Airport, Texas;
Houston Seaport, Texas;
International Falls POE, Minnesota;
John F. Kennedy International Airport, New York;

Gateway to the Americas Bridge POE, Laredo, Texas;
 Lewiston Bridge POE, New York;
 Logan International Airport, Massachusetts;
 Long Beach Seaport, California;
 Los Angeles International Airport, California;
 Miami International Airport, Florida;
 Miami Marine Unit, Florida;
 Minneapolis/St. Paul International Airport, Minnesota;
 Mooers POE, New York;
 Niagara Falls, Rainbow Bridge, New York;
 Newark International Airport, New Jersey;
 Nogales POE, Arizona;
 Ogdensburg POE, New York;
 Orlando, Florida;
 Oroville POE, Washington;
 Otay Mesa POE, California;
 Pacific Highway POE, Washington;
 Pembina POE, North Dakota;
 Piegan POE, Montana;
 Portal POE, North Dakota;
 Port Arthur POE, Texas;
 Progreso Bridge POE, Texas;
 Raymond POE, Montana;
 Roosville POE, Montana;
 Rouses Point POE, New York;
 San Antonio International Airport, Texas;
 San Diego Seaport, California;
 San Francisco International Airport, California;
 Seattle Seaport, Washington;
 Seaway International Bridge/Massena POE, New York;
 Seattle Tacoma International Airport, Washington;
 Sweetgrass POE, Montana;
 Thousand Islands POE, New York;
 Trout River POE, New York; and
 Ysleta POE, Texas.

Nonimmigrant aliens subject to special registration may not make final registration and depart the United States through any location not listed above.

Notice of Where To Report for Final Registration and Departure

Upon admission to the United States, each nonimmigrant alien subject to special registration will be issued an information packet that will list each designated port of departure and other instructions on how to comply with 8 CFR 264.1. This packet will also contain specific information regarding hours of operation, directions, and contact numbers.

The list of ports-of-entry through which nonimmigrant aliens subject to special registration must make final registration and depart will become effective on October 1, 2002. Due to the critical and immediate national security concerns of this program the Service

must limit the ports-of-departure to effectively capture departure data, given the limited availability of current resources, specifically departure staff and facilities. As the available ports-of-entry are expanded, the Service will publish subsequent notices in the **Federal Register** and make the list available at Service Offices and on its Web site at <http://www.ins.usdoj.gov>.

Dated: September 10, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02-24764 Filed 9-25-02; 3:45 am]

BILLING CODE 4410-10-U

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Leadership Initiatives Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Leadership Initiatives Advisory Panel, International Section, will be held by teleconference from 3 p.m.-4 p.m. on Thursday, October 10, 2002 in Room 709 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 2, 2002, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5691.

Dated: September 25, 2002.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 02-24715 Filed 9-27-02; 8:45 am]

BILLING CODE 7537-01-P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meeting

DATE AND TIME: October 10, 2002: 11 a.m.-11:15 a.m., Closed Session; October 10, 2002: 11:15 a.m.-11:30 a.m., Closed Session; October 10, 2002: 12 Noon-3 p.m., Open Session.

PLACE: The National Science Foundation, Room 1235, 4201 Wilson Boulevard, Arlington, VA 22230, <http://www.nsf.gov/nsb>.

STATUS: Part of this meeting will be closed to the public. Part of this meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Thursday, October 10, 2002

Executive Closed Session (11 a.m.-11:15 a.m.)

Closed Session Minutes, August, 2002

Closed Session (11 a.m.-11:15 a.m.)

NSF Budget

Open Session (12 Noon-3 p.m.)

Science Presentations

- Biological Sciences
- Nanotechnology

Open Session Minutes, August, 2002

Closed Session Items for November, 2002

Chairman's Report

Director's Report

Presentations

- Math and Science Partnerships
- Facilities Management and Oversight

Committee Reports

Other Business

Gerard R. Glaser,

Executive Officer.

[FR Doc. 02-24835 Filed 9-25-02; 4:52 pm]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Availability of Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the National Science Foundation

AGENCY: National Science Foundation.

ACTION: Notice of availability of guidelines.

SUMMARY: The National Science Foundation hereby announces the availability of its information quality guidelines on its website. The guidelines contain NSF's standards of quality, utility, objectivity, and integrity for information that is disseminated to the public, and the administrative

procedures for preparing, reviewing, and disseminating information products. The guidelines also describe the mechanisms for the public to request correction of information, and to request reconsideration of an NSF decision to deny a request for correction. The report will be available electronically at <http://www.nsf.gov/home/pubinfo/infoqual.htm> on October 1, 2002.

DATES: The information quality guidelines will be effective as of October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Section 515 Information Quality Officer; 4201 Wilson Blvd., Suite 305; Arlington, VA 22230; electronic mail to infoqual1515@nsf.gov, or via fax to (703) 292-9084. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) issued Government-wide guidelines under section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554) to ensure and maximize the quality, objectivity, utility and integrity of information disseminated by Federal agencies. Each Federal agency is responsible for issuing its own section 515 guidelines. Subsequently, the National Science Foundation developed corresponding information quality guidelines.

Dated: September 24, 2002.

Suzanne H. Plimpton,
Reports Clearance Officer, National Science Foundation.

[FR Doc. 02-24679 Filed 9-27-02; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-244]

Rochester Gas and Electric Corporation, R.E. Ginna Nuclear Power Plant; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for a Hearing Regarding Renewal of Facility Operating License No. DPR 18 for an Additional 20-year Period

The U.S. Nuclear Regulatory Commission (the Commission) is considering an application for the renewal of Operating License No. DPR-18, which authorizes Rochester Gas and Electric Corporation to operate R.E.

Ginna Nuclear Power Plant, at 1520 megawatts thermal. The renewed licenses would authorize the applicant to operate the R.E. Ginna Nuclear Power Plant for an additional 20 years beyond the period specified in the current licenses. The current operating license for R.E. Ginna Nuclear Power Plant expires on September 18, 2009.

On August 1, 2002, the Commission received an application from Rochester Gas and Electric Corporation to renew the operating license for the R.E. Ginna Nuclear Power Plant. A Notice of Receipt of Application, "R.E. Ginna Nuclear Power Plant Notice of Receipt of Application for Renewal of Facility Operating License No. DPR-18 for an Additional 20-year Period," was published in the **Federal Register** on August 26, 2002, (67 FR 54825).

The Commission's staff (the staff) has determined that Rochester Gas and Electric Corporation has submitted information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is complete and acceptable for docketing. The current Docket No. 50-244, for Operating License No. DPR-18, will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the Commission will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB) and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the Commission will prepare an environmental impact statement that is a supplement to NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants" (May 1996). Pursuant to 10 CFR 51.26, and as part of the environmental scoping process,

the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice. The Commission also intends to hold public meetings to discuss the license renewal process and the schedule for conducting the review. The Commission will provide prior notice of these meetings. As discussed further herein, in the event that a hearing is held, issues that may be litigated will be confined to those pertinent to the foregoing.

Within 30 days from the date of publication of this **Federal Register** notice, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the licenses in accordance with the provisions of 10 CFR 2.714.

The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows:

In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things: (i) The nature of the petitioner's right under the Act to be made a party to the proceeding. (ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding. (iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if: (i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or (ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room (PDR), 11555 Rockville Pike (first floor) Rockville, Maryland, and on the Commission's Web site at <http://www.nrc.gov> (the Public Electronic Reading Room). If a request for a hearing or a petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the

Atomic Safety and Licensing Board Panel will rule on the request(s) and/or petition(s), and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed by the above date, the Commission may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 51 and 54, renew the licenses without further notice.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth, with particularity, the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding, (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the board up to 15 days before the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days before the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must

provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Requests for a hearing and petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov. A copy of the request for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to Dr. Robert C. Mecredy, Vice President, Nuclear Operations, Rochester Gas and Electric Corporation, 89 East Avenue, Rochester, New York 14649.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Detailed information about the license renewal process can be found on the Commission's Web page at <http://www.nrc.gov>. A copy of the application is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or on the NRC Web site at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications/ginna.html>, while the application is under review. The staff has verified that a copy of the license renewal application for the R.E. Ginna Nuclear Power Station is also available to local residents at the Rochester Public Library in Rochester, New York, and at the Ontario Public Library in Ontario, New York.

Dated at Rockville, Maryland, this 13th day of September, 2002.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02-24712 Filed 9-27-02; 8:45 am]

BILLING CODE 7590-01-P

POSTAL RATE COMMISSION

[Docket No. MC2002-2; Order No. 1346]

Experimental Mail Classification Case

AGENCY: Postal Rate Commission.

ACTION: Notice and order on new experimental docket.

SUMMARY: This document establishes a docket for consideration of a proposed three-year experiment. The experiment, if approved, would implement a negotiated service agreement between the Postal Service and Capital One Services, Inc. The proposed terms entail certain discounts and fee waivers for qualifying Capital One First-Class mailings. This document briefly reviews the proposal, sets initial procedural deadlines, and identifies other Commission actions related to the proposal.

DATES:

1. September 19, 2002: request filed with Commission.
2. September 24, 2002: issuance of Commission notice and order (no. 1346).
3. October 17, 2002: deadline for notices of intervention, comments on application of experimental rules, and responses to various motions.
4. October 23, 2002: prehearing conference (10 a.m.).

5. October 17, 2002: deadline for filing notices of intervention, comments on application of experimental rules, and answers to various motions; October 23, 2002 (10 a.m.): prehearing conference.

ADDRESSES: Send correspondence to the attention of Steven W. Williams, Secretary, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268-0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202-789-6815.

SUPPLEMENTARY INFORMATION: On September 19, 2002, the United States Postal Service filed a request with the Postal Rate Commission for a recommended decision on a proposed three-year experimental classification change, and related discounts and fee waivers, for qualifying First-Class mailings entered by Capital One Services, Inc. ("Capital One"). Request of the United States Postal Service for a recommended decision on classification, rates and fees for Capital One Services, Inc. negotiated service agreement ("request"). The Service's request was filed pursuant to chapter 36 of the Postal Reorganization Act, 39 U.S.C. 3601 *et seq.* It was accompanied by a contemporaneous motion seeking waiver of certain requirements of rules 54 and 64; by a motion for joint sponsorship of the proposed changes by the Postal Service and Capital One; and by a notice of the filing of a Postal Service library reference, USPS-LR-1. All these documents are available for physical inspection in the Commission's docket section during regular business hours, and for Internet access on the Commission's Web site at <http://www.prc.gov> within the search field "Docket No. MC2002-2."

Simultaneous Filings by Capital One

On the same date, Capital One filed a petition for leave to intervene in the proceeding initiated by the Postal Service's request, and to join the Service in its motion for joint sponsorship of the proposed rate and service changes. In addition to requesting that it be granted the status of a full participant under rule 20 at the outset of this proceeding, Capital One seeks leave to present testimony in support of the Postal Service's request, and submits the prepared direct testimony of two witnesses.

Brief Description of Joint Proposal

The Postal Service proposes rate and service changes that would be available for certain forms of high-volume First-Class mail use in order to implement the

terms of a contract negotiated between the Service and Capital One. Under that contract, which is appended as attachment G to the request, the Postal Service and Capital One would observe reciprocal requirements, conditions, and conduct that would support alterations in the rates and fees of specified services available to Capital One—specifically, mailings of certain categories of First-Class Mail and optional use of address correction service.

Under the proposed changes, Capital One would be eligible for new incremental per-piece discounts for certain of its First-Class Mail solicitation and customer correspondence volume. Beyond an overall annual volume threshold, these discounts would vary under a "declining block" rate structure, with discounts increasing as specified levels of volume are exceeded. If Capitol One enters 750 million eligible pieces of First-Class Mail during the first year after implementation, electronic address correction service would also be provided by the Postal Service without fee to Capitol One's solicitations entered as First-Class Mail when such pieces prove to be undeliverable as addressed and cannot be forwarded under existing regulations. In return, Capital One would agree to forgo its current practice of receiving free return of such undeliverable mail, which is an existing service feature of First-Class Mail. Additionally, Capital One would be required to perform specific actions to maintain and improve the address quality of mail it enters as First-Class Mail.

Rationale for Filing the Joint Proposal

The Postal Service states that adoption of the rate and classification changes proposed in its request will allow it and the Commission to test the effectiveness of the negotiated service agreement ("NSA") approach, as a means of providing pricing flexibility under the Postal Reorganization Act's existing ratemaking and mail classification provisions. The Service states that agreements similar to NSAs have been successfully employed to set prices in other regulated industries, by foreign postal administrations, and by the Postal Service with its international customers. Request at 2-3.

With respect to the particular changes negotiated between the Postal Service and Capital One, the Service anticipates that they will lead to a net reduction in its costs related to handling of forwarded and returned mail. In addition, the changes are expected to enable Capital One to reduce its postage costs. More broadly, if volume

conditions are met, the Service states that it expects the revenue effects to result ultimately in a reduction in other mailers' proportional contribution to the Service's institutional costs. *Id.* at 2.

Significance of Experimental Designation

The Postal Service states that it believes it would be appropriate for the Commission to review and recommend the operative rate and classification elements of its NSA-based proposal as an experimental classification, under the expedited rules of practice and procedure for experimental changes in 39 CFR 3001.67-3001.67. These rules provide for issuance of the Commission's recommended decision within 150 days of the filing of the Postal Service's request, or of the Commission's determination that experimental treatment of the proposal is appropriate, whichever occurs later. 39 CFR 3001.67d.

In support of this treatment, the Service asserts that the substance of its request is innovative, and thus is consistent with the purpose of the experimental rules. Request at 3-4. According to the Service, the minor impact, limited scope of application, and proposed three-year duration of the requested changes conform to the logic of the experimental approach. *Id.* at 4. The Service further argues that the Commission's specialized procedures for considering experimental classifications are sufficiently comprehensive to provide for the exploration and resolution of whatever factual and legal issues might be raised regarding the proposals. *Id.* at 5. Finally, the Postal Service claims that the prospects for generating data and information documenting the effects of the proposed changes warrant adopting an experimental approach.¹ *Id.* at 4.

Motion for Waiver of Certain Commission Rules

In its waiver motion, the Postal Service states that it has supplemented information it developed specifically for this filing by incorporating documentation it submitted in connection with the most recently concluded omnibus rate proceeding, docket no. R2001-1. Motion of United States Postal Service for Waiver, September 19, 2002. The Service argues that this is a reasonable and sufficient approach to satisfying the filing requirements of sections 54, 64, and 67

¹ The Postal Service's plan for collecting and reporting data associated with the implementation of the proposed changes is described in the testimony of witness Michael K. Plunkett, USPS-T-2.

of the rules, in that the Capital One NSA experiment would not materially alter the rates, fees, and classifications proposed and adopted in the R2001-1 proceeding. In assessing compliance with the applicable filing requirements, the Service claims that substantial weight should be given to the nature of the proposed changes, and their negligible impact on physical attributes of mail and limited impact on costs, volumes, and revenues. However, should the Commission conclude that the materials imported from docket no. R2001-1 are insufficient, and that strict construction of the rules regarding information pertaining to other mail categories and special services would require newly-developed testimony reflecting the changes proposed in the request, the Service moves that those requirements be waived.

Appropriate Procedures at the Outset of This Case

The character of the request before the Commission is novel, in that the rate and mail classification changes proposed therein were arrived at bilaterally, through a process of negotiation. Thus, unlike typical rate and mail classification proposals submitted by the Postal Service, the Capital One negotiated service agreement evidently has two independent but contractually-linked proponents.

In view of this unique origin, the Commission is inclined to initiate its review of the request on the terms jointly advanced by the Postal Service and Capital One. As the Service notes in its motion for joint sponsorship, the proposed changes are mutually advantageous to the Service and Capital One, and are based on information provided by both parties. The Service's motion, and Capital One's petition, indicate that both parties are prepared to submit and defend their affirmative cases-in-chief at the outset of the case. Under these circumstances, although the rules of practice do not explicitly provide for this order of presentation, the Commission concludes that the proposed procedures would serve the interests of efficiency and economy in conducting the proceeding. Additionally, to the extent that other participants will be able to examine the evidence proffered by Capital One at an earlier stage of the proceeding, the proposed procedures would enhance its fairness. Accordingly, the Commission shall grant Capital One's petition to intervene at the outset and join the Postal Service's motion for joint sponsorship; grant the Service's and Capital One's joint motion for joint

sponsorship of the request's proposed changes; and grant the Service's motion for leave to rely on Capital One's case-in-chief. However, other participants may submit responses to these motions if they so desire, and their grant is subject to reconsideration, should another participant lodge any objection in its answer.

Appropriateness of Proceeding Under the Experimental Rules

As noted earlier, the Postal Service asks that the Commission consider its request under Commission rules 67-67d. As provided in rule 67, in determining whether these procedures are appropriate, the Commission will consider the proposed change's novelty, magnitude, the ease or difficulty of collecting data, and proposed duration.

Participants are invited to comment on whether the Postal Service's request should be evaluated under rules 67-67d. Comments are due on or before October 17, 2002, and participants should be prepared to discuss relevant issues at the prehearing conference.

Pending a determination on this issue, participants should recognize that the motion seeking application of the experimental rules may, or may not, be granted. The experimental rules provide that cases falling within this designation shall be treated as subject to the maximum expedition consistent with procedural fairness, and that participants will be expected to identify genuine issues of material fact at an early stage in this case. See rule 67a(b). The schedule ultimately adopted in appropriate cases is established to allow for issuance of a decision not more than 150 days following a determination regarding the appropriateness of applying the experimental rules or the filing of the request, whichever occurs later. 39 CFR 3001.67d. However, rule 67 states that the Commission reserves the right, in appropriate cases, to require that the procedures normally prescribed for non-experimental cases under 39 U.S.C. 3623 be used for a request that the Postal Service has submitted as a proposed experiment.

Other Matters

Limitation of issues. Rule 67a provides a procedure for limiting issues in experimental cases. To enable participants to evaluate whether genuine issues of fact exist, the proponents—*i.e.*, both the Postal Service and Capital One—shall respond to discovery requests within 10 days. Written discovery pursuant to rules 25-28 may be undertaken upon intervention.

Need for hearing. A decision on whether there is a need for evidentiary hearings, and the scope of any such hearings, has not been made. Comments on this matter, and other procedural issues raised by the Service's request, should be filed no later than October 17, 2002, and participants should be prepared to discuss these matters at the prehearing conference.

Representation of the general public. In conformance with § 3624(a) of title 39, the Commission designates Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and at the same time as, service on the Commission of the 24 copies required by Commission rule 10(d) [39 CFR 3001.10(d)].

Intervention. Those wishing to be heard in this matter are directed to file a written notice of intervention with Steven W. Williams, Secretary of the Commission, 1333 H Street NW., Suite 300, Washington, DC 20268-0001, on or before October 17, 2002. Notices should indicate whether participation will be on a full or limited basis. See 39 CFR 3001.20 and 3001.20a.

Prehearing conference. A prehearing conference will be held Wednesday, October 23, 2002, at 10 a.m. in the Commission's hearing room.

Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2002-2, Experimental Rate and Service Changes to Implement Negotiated Service Agreement with Capital One Services, Inc., to consider the request referred to in the body of this order.

2. The motion of United States Postal Service for joint sponsorship of proposals and for leave to rely on Capital One's case-in-chief, filed September 19, 2002, is granted, subject to reconsideration in response to any objection lodged by other participants in this proceeding.

3. The petition of Capital One Services, Inc. for leave to intervene in the above-captioned proceeding, and to join United States Postal Service motion for joint sponsorship of proposals, filed

September 19, 2002, is granted, subject to reconsideration in response to any objection lodged by other participants in this proceeding.

4. The Commission will sit en banc in this proceeding.

5. The deadline for filing notices of intervention and comments regarding the appropriateness of proceeding under rules 67 through 67d is October 17, 2002.

6. Answers to the Service's motion for waiver of certain filing requirements, to its motion for joint sponsorship of proposals, and to Capital One's motion for leave to intervene and jointly sponsor the proposals are due no later than October 17, 2002.

7. Written discovery pursuant to rules 26-28 may be undertaken upon intervention.

8. The Postal Service and Capital One Services, Inc. shall respond to discovery requests within 10 days.

9. A prehearing conference will be held Wednesday, October 23, 2002, at 10 a.m. in the Commission's hearing room.

10. Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.

11. The Secretary shall arrange for publication of this notice and order in the Federal Register.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. 02-24772 Filed 9-27-02; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 1 p.m., Monday, October 7, 2002; 8:30 a.m., Tuesday, October 8, 2002.

PLACE: Memphis, Tennessee, at the Peabody Hotel, 149 Union Avenue, in the Continental Ballroom.

STATUS: October 7-1 p.m. (Closed); October 8-8:30 a.m. (Open).

MATTER TO BE CONSIDERED:

Monday, October 7-1 p.m. (Closed)

- 1. Financial Performance.
2. Biohazard Detection System.
3. Strategic Planning.
4. Personnel Matters and Compensation Issues.

Tuesday, October 8-8:30 a.m. (Open)

- 1. Minutes of the Previous Meeting, September 5-6, 2002.
2. Remarks of the Postmaster General and CEO.

3. Board of Governors Calendar Year 2003 Meeting Schedule.

4. Office of the Governors Fiscal Year 2003 Budget.

5. Report on the FedEx Network.

6. Report on the Tennessee District.

7. Tentative Agenda for the November 4-5, 2002, meeting in Washington, DC

FOR FURTHER INFORMATION CONTACT:

William T. Johnstone, Secretary of the Board, U.S. Postal Service 475 L'Enfant Plaza, SW., Washington, DC 20260-1000. Telephone (202) 268-4800.

William T. Johnstone,

Secretary.

[FR Doc. 02-24956 Filed 9-26-02; 3:30 pm]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:

[67 FR 59322, September 20, 2002].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NEW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING:

Tuesday, September 24, 2002 at 2:30 p.m.

CHANGE IN THE MEETING: Additional Meeting.

An additional Closed Meeting was held on Wednesday, September 25, 2002 at 10:15 a.m. The subject matter of the September 25, 2002 Closed Meeting was: Adjudicatory matter.

Commissioner Campos, as duty officer, determined that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: September 25, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24821 Filed 9-25-02; 4:26 pm]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46519; File No. SR-CBOE-2002-46]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Its AutoQuote Triggered Ebook Execution System

September 20, 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 21, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its "Trigger" rule (Rule 6.8(d)(v)) to provide that the Trigger Volume shall be set at a size not to exceed the RAES eligible order size for the particular series of options, and that the appropriate Floor Procedure Committee shall be responsible for setting the Trigger Volume. Below is the text of the proposed rule change. Proposed new language is italicized. Proposed deletions are in [brackets].

* * * * *

Chicago Board Options Exchange, Inc.

Rules

* * * * *

Chapter VI-Doing Business on the Exchange Floor

Section A: General

RAES Operations

* * * * *

- Rule 6.8 (a)-(c) No change.
(d) Execution on RAES
(i)-(iv) No change.
(v) Notwithstanding sub-paragraph (d)(iv), for classes of options as determined by the appropriate Floor Procedure Committee, for any series of options where the bid or offer generated by the Exchange's Autoquote system (or any Exchange approved proprietary

1 15 U.S.C. 78s(b)(1)

2 17 CFR 240.19b-4.

quote generation system used in lieu of the Exchange's Autoquote system) is equal to or crosses the Exchange's best bid or offer as established by an order in the Exchange's limit order book, orders in the book for options of that series will be automatically executed against participants on RAES ("Trigger") up to a size not to exceed the number of contracts equal to the applicable maximum size of RAES-eligible orders for that series of options ("Trigger Volume"). *The appropriate Floor Procedure Committee is responsible for determining the Trigger Volume for a particular series of options.* In the event a member in the trading crowd verbally initiates a trade with a book order prior to the time the book staff announces to the trading crowd that the order has been removed from the book by Trigger, the book staff will manually endorse the book order to that member(s). In the event the order in the book is for a larger number of contracts than the applicable [RAES contract limit] *Trigger Volume*, the balance of the book order will be executed manually by the trading crowd. In the limited circumstance where contracts remain in the book after an execution of a book order up to the applicable [RAES contract limit] *Trigger Volume*, and the disseminated quote remains crossed or locked with the Autoquote bid or offer, or for any series where Trigger has not yet been implemented by the appropriate Floor Procedure Committee, orders in RAES for options of that series will not be automatically executed but instead will be rerouted on ORS to the crowd PAR terminal or to another location in the event of system problems or contrary firm routing instructions.

(e)-(g) No change.

* * * Interpretations and Policies

.01-.09 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 IV 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

The Exchange proposes to amend Rule 6.8(d)(v), which governs the operation of the AutoQuote Triggered EBook Execution system ("Trigger"). Trigger is a system that allows certain orders resting in the book to be automatically executed in the limited situation where the bid or offer for a series of options generated by the Exchange's AutoQuote system (or any Exchange approved proprietary quote generation system used in lieu of the Exchange's AutoQuote system) is equal to or crosses the Exchange's best bid or offer for that series as established by a booked order.³ The Exchange proposes to amend the Trigger rule to provide that the Trigger system will automatically remove orders in the Exchange's limit order book up to the "Trigger Volume" amount, which will be an amount not to exceed the RAES eligible size for the particular series of options. The appropriate Floor Procedure Committee shall be responsible for setting the Trigger Volume for a particular series of options.

Currently, the Trigger rule provides that Trigger will remove orders in the book up to the RAES size for the particular series of options. Thus, under the current rule, the volume that is removed from the book by Trigger cannot be set at a size less than the RAES size (and clearly, the volume cannot exceed the RAES size). As Dynamic Quotes with Size ("DQWS") has been rolled out across the trading floor, trading crowds have increased the RAES eligible order size for their options, in some cases up to 250 contracts. In these crowds, because the Trigger size is tied to the RAES size, Trigger will automatically remove up to 250 contracts from the book when there is a large order in the book that is setting the market and AutoQuote crosses or locks with that book order. The size of booked orders that Trigger removes is now currently much larger than was originally contemplated when Trigger was implemented.

Under the Trigger rule, a book order removed by Trigger will be endorsed to

the RAES wheel or manually endorsed to certain crowd members when required. In classes that have increased their RAES size since the inception of DQWS, more orders are being executed on RAES and larger book orders are being removed by Trigger and endorsed to the RAES wheel, resulting in fewer orders for market-makers to compete for.

Therefore, the Exchange proposes to amend the Trigger rule to provide that the volume Trigger will automatically remove from the book (Trigger Volume) may be set up to a size not to exceed the RAES eligible size for the particular series of options. As a result, the Trigger Volume could be set at a size lower than the RAES size (such as 50 contracts, which may have been the RAES size prior to DQWS).

The Exchange believes that this proposed rule change simply provides that Trigger will operate in the same fashion that it did prior to DQWS in those classes that have increased their RAES sizes, while providing those trading crowd members with the opportunity to trade with part of a large book order that is setting the market and is locked or crossed with AutoQuote.

Additionally, the Exchange proposes to amend the Trigger rule to provide that the appropriate Floor Procedure Committee ("FPC") shall be responsible for setting the Trigger Volume for a particular series of options. Currently, the Trigger rule provides only that the appropriate FPC has the authority to determine the classes that are eligible for Trigger. The Exchange believes that it should be explicitly set forth in the rule that the appropriate FPC also has the authority to set the Trigger Volume.

2. Statutory Basis

The proposed rule change is consistent with and furthers the objectives of section 6(b)(5) of the Act 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.

³ The Commission approved the rule governing the Trigger system in Securities Exchange Act Release No. 44462 (June 21, 2001), 66 FR 34495 (June 28, 2002) (approving SR-CBOE-00-22) ("Original Order"). For a detailed description of the operation of the Trigger System, see the Original Order and Securities Exchange Act Release No. 45992 (May 29, 2002), 67 FR 38530 (June 4, 2002) (approving SR-CBOE-2002-12).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. CBOE-2002-46 and should be submitted by October 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24696 Filed 9-27-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46533; File No. SR-CHX-2002-05]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Stock Exchange, Incorporated Requesting Permanent Approval of Pilot Rules Relating to the Securities Industry Transition to Decimal Pricing

September 23, 2002.

On March 1, 2001, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change requesting permanent approval of pilot rules relating to decimal pricing. The **Federal Register** published the proposed rule change for comment on February 2, 2001.³ The Commission received no comments on the proposal.

Specifically, the Exchange proposes permanent approval of changes to Article XX, Rule 37 which (1) allow specialists to elect, on an issue by issue basis, to either manually or automatically execute limit orders when a trade-through occurs in the primary market; (2) remove the "pending auto-stop" functionality from the Exchange's systems; and (3) allow a specialist, on an issue by issue basis, to establish an auto execution guarantee that is not dependent on the ITS Best Bid or Offer ("ITS BBO") or National Best Bid or Offer ("NBBO") size. The Exchange also proposes permanent approval of the pilot rule change to Article XX, Rule 23 of the Exchange's rules, which governs participation in crossing transactions in Nasdaq/NM securities effected on the floor of the Exchange. On August 24, 2000, the Commission originally approved the pilots⁴ and, by a series of subsequent submissions, each pilot was

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 43882 (January 24, 2001), 66 FR 8819.

⁴ These changes were proposed in two separate CHX submissions, the second of which dealt solely with decimal-related changes to the Exchange's crossing rule, Article XX, Rule 23. See Securities Exchange Act Release No. 43204 (August 24, 2000), 65 FR 53065 (August 31, 2000) (SR-CHX-00-22) (approving changes to various CHX rules on a pilot basis ("Omnibus Decimal Pilot")); see also Securities Exchange Act Release No. 43203 (August 24, 2000), 65 FR 53067 (August 31, 2000) (SR-CHX-00-13) (approving changes to the CHX crossing rule on a pilot basis ("Crossing Rule Decimal Pilot")).

extended to September 30, 2002.⁵ The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.⁶ Specifically, the Commission finds that the proposed rule change is consistent with the Section 6(b)(5)⁷ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.⁸ The Commission believes that the proposal is reasonably designed to limit the impact on the Exchange of the change to a decimal pricing environment. The Commission notes that no comments have been received since the proposed rule change was approved on a pilot basis over two years ago.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-CHX-2002-05) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24699 Filed 9-27-02; 8:45 am]

BILLING CODE 8010-01-P

⁵ See Securities Exchange Act Release Nos. 43974 (February 16, 2001), 66 FR 11621 (February 26, 2001) (SR-CHX-2001-03) (extending Omnibus Decimal Pilot through July 9, 2001); 44488 (June 28, 2001), 66 FR 35684 (July 6, 2001) (SR-CHX-2001-13) (extending Omnibus Decimal Pilot through November 5, 2001); 45059 (November 15, 2001), 66 FR 58543 (November 21, 2001) (SR-CHX-2001-20) (extending Omnibus Decimal Pilot through January 14, 2002), 45481 (February 27, 2002), 67 FR 10244 (March 6, 2002) (SR-CHX-2002-01) (extending Omnibus Decimal Pilot through April 15, 2002); and 45819 (April 24, 2002), 67 FR 21787 (May 1, 2002) (extending the Omnibus Decimal Pilot until September 30, 2002); see also, Securities Exchange Act Release Nos. 44000 (February 23, 2001), 66 FR 13361 (March 5, 2001) (extending Crossing Rule Decimal Pilot through July 9, 2001), 45010 (November 1, 2001), 66 FR 56585 (November 8, 2001) (SR-CHX-2001-22) (extending Crossing Rule Decimal Pilot through January 14, 2002), 45482 (February 27, 2002), 67 FR 10243 (March 6, 2002) (SR-CHX-2002-03) (extending Crossing Rule Decimal Pilot through April 15, 2002); and 45819 (April 24, 2002), 67 FR 21787 (May 1, 2002) (extending the Crossing Rule Decimal Pilot until September 30, 2002).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ In approving this rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

⁴ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46548; File No. SR-NQLX-2002-01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Nasdaq Liffe Markets, LLC Relating to Margin Rules for Security Futures Products Other Than Options on Security Futures

September 25, 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 September 24, 2002, the Nasdaq Liffe Markets, LLC ("NQLX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NQLX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NQLX is proposing new rule provisions and rule amendments related to customer margin for security futures contracts. These proposed rule and rule amendments would: (1) Define the term "Security Futures Dealers;" (2) add a provision stating that NQLX's customer margin rule would only apply to products traded on NQLX; (3) add a provision stating that NQLX's customer margin rule would not apply to (a) specified portfolio-margining systems, (b) margin requirements imposed by clearing organizations on their members, (c) "exempted persons" for activities in their own accounts, (d) market-making activities of "Security Futures Dealers," and (e) security futures contracts held in a securities account for a customer; (4) add a provision establishing the minimum initial and maintenance customer margin rates for security futures contracts; (5) add a provision requiring compliance with the customer margin rules jointly promulgated by the Commission and the Commodity Futures Trading Commission ("CFTC"); (6) add a provision establishing four strategy-based offsets, in table form, that would be allowed to reduce the customer margin requirements below the minimum initial and maintenance margin requirements; and (7) add a provision that would specify the

requirements for a market maker to be designated as a Security Futures Dealer by NQLX, which would include, among other requirements (a) holding itself out as being willing to buy and sell specified Security Futures Contracts for its own account on a regular or continuous basis and (b) meeting specified affirmative, minimum two-sided quotation requirements, including requirements related to maximum bid/ask spreads and minimum contract sizes in the front-two delivery months of the security futures contract and/or requirements related to responding to requests for quotation in delivery months other than the first-two delivery months.

Below is the text of the proposed rule change. Proposed new language is italicized.

* * * * *

Rule 101(a) Definitions. * * *

(72) "Security Futures Dealer"—means a Market Maker designated by NQLX as a Security Futures Dealer that meets the requirements of Rule 403(d) and Rule 403(e).

Rule 334 Customer Margin for Exchange Contracts

(a) General Rules:

(1) *This Rule only applies to Exchange Contracts and not other security futures or futures products listed or traded on other Contract Markets or national securities exchanges or national securities associations.*

(2) *With respect to Security Futures Contracts, this Rule does not apply to:*

(i) *Portfolio-margining systems meeting the requirements of CFTC rule 41.42(c)(2)(i) and SEC rule 400(c)(2)(i);*

(ii) *margin requirements that a Clearing Organization imposes on its members as specified by CFTC rule 41.42(c)(2)(iii) and SEC rule 400(c)(2)(iii);*

(iii) *"exempted persons" for trading in their own accounts as specified in, and defined by, CFTC rules 41.42(c)(2)(iv) and 41.43(a)(9) and SEC rules 400(c)(iv) and 401(a)(9);*

(iv) *market-making activities by Security Futures Dealers as specified in, and defined by, CFTC rule 41.42(c)(2)(iii) and SEC rule 400(c)(2)(iii); or*

(v) *Security Futures Contracts held in a securities account for a Customer, which instead will be subject to the customer margin rules of the Member's designated examining authority pursuant to SEC rule 17d-1.*

(3) *For Exchange Contracts, no Member shall effect a transaction or carry an account for a Customer without*

obtaining margin at the times, in the amounts, and in the forms required by this Rule.

(4) *If a Member fails to obtain and maintain the required minimum margin deposits for a Customer's account pursuant to this Rule, NQLX may require that the Member immediately liquidate all or part of the positions in the Customer's account to decrease or eliminate the margin deficiency.*

(5) *Nothing in this Rule prevents NQLX, a Clearing Organization, or a Member from imposing margin rates or requirements on a Customer that are higher or more stringent than the rates or requirements imposed by this Rule.*

(6) *Terms used in this Rule, but not otherwise defined by these Rules, have the meaning set forth in the Joint Audit Committee's Margins Handbook. In addition, a Member must follow the procedures specified in the Joint Audit Committee's Margins Handbook for the computation, issuance, collection, and offsets for margin calls and corresponding capital charges for the Member unless the Manual is inconsistent with these Rules, in which case these Rules prevail.*

(b) Rates and Requirements:

(1) *A Member carrying a Customer account with Exchange Contracts must collect at least the minimum margin requirements established by NQLX. Except as provided for in Rule 334(g)(2), a Member must collect at least twenty percent of the current market value (as that term is defined by CFTC rule 41.43(a)(4) and SEC rule 401(a)(4)) for each Security Future Contract (whether a long or short position) as minimum initial and maintenance margin from the Customer. For all Exchange Contracts other than Security Futures Contracts, NQLX will publish the minimum initial and maintenance margin rates and other requirements for each Exchange Contract or Group of Exchange Contracts through Notices to Members. Any changes imposed by NQLX to initial or maintenance margin rates or requirements apply to both new and existing positions and NQLX may, within its discretion, establish different margin rates or requirements for different types of accounts.*

(2) *Unless otherwise required by this Rule, a Member must use a risk-based portfolio margining system acceptable to NQLX to calculate the margin rates imposed on a Customer by this Rule.*

(3) *For a long option on an Exchange Contract other than a Security Futures Contract, when the transaction is initiated for a Customer, the Member must collect in full the premium on the long option.*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(c) Account Administration, Classification, and Aggregation:

(1) Omnibus Accounts: A Member must calculate margin requirements for an omnibus account (whether domestic or foreign) on a gross basis. However, a Member may impose maintenance margin rates for positions in the omnibus account and need not impose the initial margin rates. To use spread or hedge margin rates, a Member must obtain a written representation from the omnibus account identifying the positions within the account that are spreads or bona fide hedges.

(2) Bona Fide Hedge Accounts: For bona fide hedging transactions and positions as defined by CFTC regulation 1.3(z)(1), a Member may impose maintenance margin rates for the transactions and positions and need not impose the initial margin rates if the Member has a reasonable basis to believe, and the Customer represents in writing that, the transactions or positions are for bona fide hedging.

(3) Aggregation:

(i) When determining margin rates, margin calls, and the release of margin deposits, a Member may aggregate identically-owned accounts within the same regulatory account classification of Customer segregated, Customer secured, and non-segregated.

(ii) To satisfy a margin deficiency, a Member may not apply available free funds from an identically-owned account that has a different regulatory account classification. Instead, the Member must transfer the free funds from one identically-owned account in one regulatory account classification to another identically-owned account with a different regulatory account classification that is undermargined.

(iii) Except for omnibus accounts, a Member may calculate margin requirements on a net basis for concurrent long and short positions in identically-owned accounts within the same regulatory account classification.

(4) Extension of Credit: No Member shall extend or maintain credit to or for a Customer to evade or circumvent any requirements of this Rule. A Member may extend or maintain (or arrange for the extension or maintenance of) credit to or for a Customer to meet the margin requirements of this Rule only if the credit or loan is secured as defined by CFTC regulation 1.17(c)(3) and the proceeds are treated by the Member in accordance with CFTC regulation 1.30.

(d) Type, Form, and Value of Margin Deposits:

(1) Subject to Rule 334(d)(2), a Member must only accept the following assets, securities, or instruments as margin deposits:

(i) U.S. dollars and foreign currencies,
(ii) U.S. government treasury and agency securities,

(iii) municipal securities,
(iv) readily marketable securities (which means securities traded on a "ready market" as defined by SEC rule 15c3-1(c)(11)),

(v) money market mutual funds that meet the requirements of CFTC regulation 1.25 (other than securities issued by the Customer or an affiliate of the Customer), and/or

(vi) irrevocable letters of credit in a form, and issued by banks or trust companies, approved by the Clearing Organization (other than letters of credit issued by the Customer or an affiliate of the Customer).

(2) The assets, securities, and instruments accepted by a Member pursuant to Rule 334(d)(1) to meet a Customer's margin requirements must be and remain unencumbered by third party claims.

(3) If a Member accepts foreign currencies as margin deposits, then the Member must obtain a subordination agreement and value the foreign currencies as required by CFTC Interpretation #12—Deposit of Customer Funds in Foreign Depositories.

(4) If a Member accepts the securities identified in Rule 334(d)(1) as margin deposits, then the Member must value the securities at no greater than the current market value of the securities less any haircuts specified by SEC rule 15c3-1.

(5) A Member must not consider any guarantee of a Customer's account when determining whether required margin in a Customer's account is satisfied.

(e) Margin Calls and Liquidation:

(1) Once additional margin deposits are required pursuant to this Rule, a Member must call for the additional margin as promptly as possible and in any event not more than one business day after the event giving rise to the call. Once the Member calls for the additional margin, the Member must collect the full amount of the required additional margin from a Customer as promptly as possible and in any event within a reasonable time. In a margin call, a Member must require that a Customer deposit additional margin so that the Customer's account at least meets the minimum initial margin requirement (i) when the margin equity in the account initially falls below the minimum maintenance margin requirements and (ii) subsequently when the margin equity plus existing margin calls on the account are less than the minimum maintenance margin requirements.

(2) After a margin call is made by a Member but before the Customer makes the required additional margin deposit, the Member may only accept an Order from the Customer to establish a new position if the Member reasonably believes that the Customer will meet the outstanding margin call within a reasonable time. If a margin call to a Customer is outstanding for an unreasonable time, a Member may only accept Orders from the Customer that will reduce the Customer's margin requirements.

(3) After a margin call is made by a Member, if the Customer fails to deposit the required additional margin deposit within a reasonable time, the Member may, but is not required to, liquidate all or a portion of the Customer's positions to restore the Customer's account to a properly margined level. However, the inability of a Member to liquidate all or a portion of the Customer's positions before the account equity results in a debit or deficit balance does not affect any liability of the Customer to the Member.

(4) A Member must make and retain a written record of the date, time, amount, and other relevant information for all margin calls made (whether made by telephone, in writing, or by other means) as well as margin calls reduced, satisfied, or relieved.

(5) A Member that liquidates all or a portion of the Customer's positions pursuant to Rule 334(e)(3) is not deemed to have extended credit or made a loan to the Customer in violation of this Rule.

(f) Release of Margin:

A Member may only release free funds in connection with a Customer's account if after release the Customer's account has at least free funds at the initial margin requirement level.

(g) Security Futures Contracts:

(1) Unless otherwise provided by this Rule, no Member shall effect a transaction for a Customer in, or carry a Customer account with, Security Futures Contracts without complying with (i) CFTC rules 41.42 through and including 41.48 and SEC rules 400 through and including 406 of the Securities Exchange Act ("CFTC/SEC Margin Regulations") and (ii) Rule 334(a) through and including (g) to the extent consistent with the CFTC/SEC Margin Regulations.

(2) Notwithstanding the initial and maintenance margin rate specified in Rule 334(b)(1) for Security Futures Contracts, a Member may collect at least the initial and maintenance margin rates specified in the table below for the following strategy-based offsetting positions:

Description of offset	Security underlying the security futures contract	Initial margin requirement	Maintenance requirement margin
1. Long Security Futures Contract and short Security Futures Contract on the same underlying security (or index).	Individual stock ¹ or narrow-based security index.	The greater of: (a) 5% of the current market value ² of the long Security Futures Contract; or (b) 5% of the current market value of the short Security Futures Contract.	The greater of: (a) 5% of the current market value value of the long Security Futures Contract; or (b) 5% of the current market value of the short Security Futures Contract.
2. Long (short) a basket of Security Futures Contracts, each based on a narrow-based security index that together tracks the broad-based index ³ and short (long) the broad based-index future.	Narrow-based security index.	5% of the current market value of the long (short) basket of Security Futures Contracts.	5% of the current market value of the long (short) basket of Security Futures Contracts.
3. Long (short) a basket of Security Futures Contracts that together tracks a narrow-based index and short (long) a narrow based-index future.	Individual stock and narrow-based security index.	The greater of: (a) 5% of the current market value of the long Security Futures Contracts; or (b) 5% of the current market value of the short Security Futures Contracts.	The greater of: (a) 5% of the current market value of the long Security Futures Contracts; or (b) 5% of the current market value of the short Security Futures Contracts.
4. Long (short) a Security Future Contract and short (long) an identical security futures contract traded on a different market ("Non-NQLX Security Futures Contract"). ⁴	Individual stock and narrow-based security index.	The greater of: (a) 3% of the current market value of the long Security Futures Contract (or Non-NQLX Security Futures Contract); or (b) 3% of the current market value of the short Security Futures Contract (or Non-NQLX Security Futures Contract).	The greater of: (a) 3% of the current market value of the long Security Futures Contract (or Non-NQLX Security Futures Contract); or (b) 3% of the current market value of the short Security Futures Contract (or Non-NQLX Security Futures Contract).

¹ For purposes of this table, "individual stock" includes common stock, American Depository Receipts, shares of exchange-traded funds, shares of closed-end management investment companies, or trust-issued receipts.

² For purposes of this table, "current market value" is defined by CFTC rule 41.43(a)(4) and SEC rule 401(a)(4).

³ Baskets of securities or Security Futures Contracts must replicate the securities that comprise the index, and in the same proportions.

⁴ For purposes of this table, a Security Futures Contract (which is traded on NQLX) is considered "identical" to a Non-NQLX Security Futures Contract if the two contracts are issued by the same clearing agency or cleared or guaranteed by the same Derivatives Clearing Organization, have identical contract specifications, and would offset each other at the clearing level.

Rule 403 Market Makers

* * * (d) In addition to the requirements of Rule 403(a) through and including (c), a Market Maker in a Security Futures Contract that is designated as a Security Futures Dealer by NQLX must meet all of the following requirements:

(1) Is a Member;
(2) is registered as a floor trader or floor broker with the CFTC under section 4f(a)(1) of the CEA or as a dealer with the SEC under section 15(b) of the Securities Exchange Act;

(3) holds itself out as being willing to buy and sell Security Futures Contracts for its own account on a regular or continuous basis and enters into a written agreement that meets, at a minimum, the requirements of Rule 403(e);

(4) maintains records sufficient to prove compliance with the requirements of Rule 403(d) and Rule 403(e), including, but not limited to, documents concerning personnel effecting relevant Orders, relevant trade and cash blotters, relevant stock records, and documents concerning applicable internal system capacity and performance; and

(5) is subject to disciplinary action under Chapter 5 of these Rules for failing to comply with CFTC rules 41.42 through and including 41.48 and SEC rules 400 through and including 406 of the Securities Exchange Act, with

sanctions up to and including removal of the Member's designation as a Security Futures Dealer.

(e) To fulfill the requirements of Rule 403(d)(3), the Security Futures Dealer must meet, at a minimum, either the requirements of Rule 403(e)(1) or the requirements of Rule 403(e)(2):

(1) The Security Futures Dealer must:

(i) Provide continuous two-sided quotations for the first-two delivery months of a specified Security Futures Contract throughout the trading day, subject to relaxation during unusual market conditions as determined by NQLX (such as a fast market in either the Security Futures Contract or the security underlying the Security Futures Contract) at which times the Security Futures Dealer must use its best efforts to quote continuously and competitively; and

(ii) quote, for the first-two delivery months, with (A) a maximum bid/ask spread no more than the greater of \$.10 or 150 percent of the bid/ask spread in the primary market for the security underlying the Security Futures Contract and (B) a minimum number of contracts no less than the lesser of 10 contracts or the corresponding contract size equivalent of the best bid and best offer for the security underlying the Security Futures Contract; and

(iii) respond to requests for quotation in the specified Security Futures

Contract within 5 seconds for all delivery months other than the first-two delivery months with a two-sided quotation that has (A) a maximum bid/ask spread no more than the greater of \$.20 or 150 percent of the bid/ask spread in the primary market for the security underlying the Security Futures Contract and (B) a minimum number of contracts no less than the lesser of 5 contracts or the corresponding contract size equivalent of the best bid and best offer for the security underlying the Security Futures Contract.

(2) The Security Futures Dealer must:

(i) Respond to requests for quotation in a specified Security Futures Contract in specified delivery months other than the first-two delivery months with two-sided quotations throughout the trading day, subject to relaxation during unusual market conditions as determined by NQLX (such as a fast market in either the Security Futures Contract or the security underlying the Security Futures Contract) at which times the Security Futures Dealer must use its best efforts to quote competitively; and

(ii) quote, when responding to requests for quotation, within 5 seconds (A) with a maximum bid/ask spread no more than the greater of \$.20 or 150 percent of the bid/ask spread in the primary market for the security underlying the Security Futures

Contract and (B) a minimum number of contracts no less than the lesser of 5 contracts or the corresponding contract size equivalent of the best bid and best offer for the security underlying the Security Futures Contract.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NQLX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NQLX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commodity Futures Modernization Act of 2000 ("CFMA") lifted the ban on trading futures on single stocks as well as narrow-based stock indices. The CFMA also established a framework for joint regulation of security futures products by the Commission and the CFTC and gave the Board of Governors of the Federal Reserve System ("Federal Reserve Board") authority to promulgate rules governing initial and maintenance customer margin for these newly permissible products. In turn, the Federal Reserve Board delegated its rulemaking authority under Section 7(c)(2)(B) of the Act³ to the Commission and the CFTC, to be exercised jointly by the two agencies.⁴ Pursuant to that authority, the Commission and the CFTC jointly adopted customer margin requirements for security futures, which are CFTC Rules 41.42 through and including 41.49,⁵ and Rules 400 through and including 406 under the Act,⁶ ("SEC/CFTC Margin Regulations").⁷ The SEC/CFTC Margin Regulations went into effect on September 13, 2002. NQLX seeks to adopt these proposed rule provisions and rule amendments to

comply with Sections 6(h)(3)(L)⁸ and 7(c)(2)(B)⁹ of the Act as well the SEC/CFTC Margin Regulations.

NQLX proposes that its general customer margin rule, NQLX Rule 334, provide that NQLX's customer margin rule only applies to futures products traded on NQLX.¹⁰ NQLX further proposes adding a provision stating that its customer margin rule would not apply in five situations.¹¹ First, while no portfolio-margining system currently meets the criteria of Section 7(c)(2)(B) of the Act¹² and has been approved pursuant to Section 19(b)(2) Act,¹³ proposed NQLX Rule 334(a)(2)(i) would state that NQLX Rule 334 would not apply to portfolio-margining systems meeting the requirements of Rule 400(c)(2)(i) under the Act¹⁴ and CFTC Rule 41.42(c)(2)(i).¹⁵ Second, proposed NQLX Rule 334(a)(2)(ii) would state that NQLX Rule 334 would not apply to margin requirements that "Clearing Organizations" impose on their members.¹⁶ Third, proposed NQLX Rule 334(a)(2)(iii) would state that NQLX Rule 334 would not apply to transactions made by "exempted persons" for their own accounts.¹⁷ Fourth, proposed NQLX Rule 334(a)(2)(iv) would provide that NQLX Rule 334 would not apply to the market-making activities of a "Security Futures Dealer," as that term is defined by

⁸ 15 U.S.C. 78f(h)(3)(L).

⁹ 15 U.S.C. 78g(c)(2)(B).

¹⁰ See Proposed NQLX Rule 334(a)(1).

¹¹ See Proposed NQLX Rule 334(a)(2).

¹² 15 U.S.C. 78g(c)(2)(B).

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 7 CFR 242.400(c)(2)(i).

¹⁵ 17 CFR 41.42(c)(2)(i).

¹⁶ NQLX defines "Clearing Organizations" to mean "any Derivatives Clearing Organization registered with the CFTC or a securities clearing agency registered with the Commission or both and designated by NQLX as a Clearing Organization for NQLX." NQLX Rule 101(a)(16). In turn, NQLX's rules define "Derivative Clearing Organization" to have the "meaning attributed to it by section 1a(9) of the Commodity Exchange Act ("CEA") and the regulations promulgated thereunder." NQLX Rule 101(a)(26).

¹⁷ For purposes of proposed NQLX Rule 334(a)(2)(iii), "exempted persons" has the meaning prescribed by SEC/CFTC Margin Regulations. Generally, the SEC/CFTC Margin Regulations define an "exempted person" as a member of a national securities exchange, a registered broker-dealer, or registered futures commission merchant that: (1) maintains at least 1,000 active stock, futures, or option accounts for customers other than for, in effect, professional traders such as broker-dealers, future commission merchants, floor brokers, or floor traders trading securities, futures, or commodity options; or (2) earns at least \$10 million in gross revenues on an annual basis from transactions in securities, futures, or commodity options other than from professional traders; or (3) earns at least 10 percent of its gross revenues on an annual basis from transactions in securities, futures, or commodity options other than from professional traders. 17 CFR 240.401(a)(9) and 17 CFR 41.43(a)(9).

proposed NQLX Rules 101(a)(72) and 403(d) and (e). Fifth, proposed NQLX Rule 334(a)(2)(v) would state that NQLX Rule 334 would not apply to Security Futures Contracts that are held in a securities account for a customer, but instead the customer margin rules of the member's designated examining authority ("DEA") pursuant to Rule 17d-1 under the Act¹⁸ would apply.¹⁹ NQLX proposes this last provision because even if NQLX was to impose its customer margin rules on customers that held Security Futures Contracts in securities accounts, NQLX members that have DEAs would still have to apply the customer margin rules of their respective DEA. Therefore, to eliminate unnecessary regulatory duplication, proposed NQLX Rule 334(a)(2)(v) would allow NQLX members to only apply the customer margin rules of their respective DEAs for Security Futures Contracts held in securities accounts.

Consistent with the SEC/CFTC Margin Regulations, NQLX also proposes adding a sentence in its customer margin rule that would establish a minimum margin rate of at least 20 percent as the initial and maintenance margin for both a long and short position in a Security Futures Contract, except when specified offsets are allowed pursuant to proposed NQLX Rule 334(g)(2).²⁰ NQLX further proposes adding subsection (g) to NQLX Rule 334, which would provide that NQLX members could not effect transactions for a customer in, or carry a customer account with, Security Futures Contracts without complying with the SEC/CFTC Margin Regulations as well as all other provisions of NQLX's customer margin rule to the extent they are not inconsistent with the SEC/CFTC Margin Regulations.²¹

Consistent with the SEC/CFTC Margin Regulations, NQLX then proposes that subsection (g)(2) to NQLX Rule 334 would allow reduction of the minimum margin rate established in proposed NQLX Rule 334(b)(1) for specified strategy-based offsets for Security Futures Contracts held by customers. Because NQLX's customer margin rule, as proposed, would only apply to Security Futures Contracts held by customers in futures accounts, only four strategy-based offsets—of the eighteen offsets described in the SEC/CFTC joint release on the SEC/CFTC Margin Regulations—can apply.²² For strategy-

¹⁸ 17 CFR 240.17d-1.

¹⁹ See Proposed NQLX Rule 334(a)(2)(v).

²⁰ See Proposed NQLX Rule 334(b)(1).

²¹ See Proposed NQLX Rule 334(g)(1).

²² See Securities Exchange Act Release No. 46292 (August 1, 2002), 67 FR 53146 (August 14, 2002);

³ 15 U.S.C. 78g(c)(2)(B).

⁴ See letter to James E. Newsome, Acting Chairman, CFTC, and Laura S. Unger, Acting Chairman, Commission, from Jennifer J. Johnson, Secretary of the Federal Reserve Board, dated March 6, 2001.

⁵ 17 CFR 41.42 through 41.49.

⁶ 17 CFR 240.400 through 406.

⁷ See Securities Exchange Act Release No. 46292 (August 1, 2002), 67 FR 53146 (August 14, 2002).

based offsets for Security Futures Contracts held in securities accounts, NQLX's members would need to apply the offsets adopted by the particular member's DEA. Described briefly below are the four offsets that NQLX proposes as part of NQLX Rule 334(g)(2).

(1) The proposed first offset would be allowed for a calendar or inter-month spread. As proposed, for a long Security Futures Contract and a corresponding short Security Futures Contract on the same underlying individual stock²³ or narrow-based index, both the initial margin and the maintenance margin would be the greater of 5% of the current market value of the long Security Futures Contract or 5% of the current market value of the short Security Futures Contract.

(2) The proposed second offset would be allowed for an inter-index spread, which is subject to basis risk. As proposed, for a long (short) basket of Security Futures Contracts (each of which is based on a narrow-based security index that together tracks a broad-based index) held in combination with a short (long) of the applicable broad-based index, both the initial and the maintenance margin are proposed to be 5% of the current market value of the long (short) basket of Security Futures Contracts.

(3) The proposed third offset would be allowed for an index replication spread, which is subject to basis risk defined by the index's weighting scheme. As proposed, for a long (short) basket of Security Futures Contracts on individual stocks or narrow-based security index that together tracks a narrow-based index held in combination for a short (long) group of Security Futures Contracts held in combination with a short (long) narrow-based index, both the initial and the maintenance margin is proposed to be the greater of (a) 5% of the current market value of the long Security Futures Contracts or (b) 5% of the

current market value of the short Security Futures Contracts.

(4) The proposed fourth offset would be allowed for inter-exchange spreads. As proposed, for a long (short) Security Futures Contract on either an individual stock or a narrow-based index held in combination with an identical (short) long security futures position listed by a different exchange (*i.e.*, a Non-NQLX security futures contract), both the initial and maintenance margin level would be the greater of (a) 3% of the current market value of the long security futures position or (b) 3% of the current market value of the short security futures position.

Finally, for purposes of implementing the exemption from NQLX's customer margin rules provided by proposed NQLX Rule 334(a)(2)(iv) for "Security Futures Dealers," NQLX proposes defining a "Security Futures Dealer" as a market maker²⁴ designated by NQLX as a Security Futures Dealer that meets the requirements of NQLX Rules 403(d) and Rule 403(e). Proposed NQLX Rule 403(d) would then require a Security Futures Dealer to meet all the following requirements: "(1) Is a Member; (2) is registered as a floor trader or floor broker with the CFTC under section 4f(a)(1) of the CEA or as a dealer with the SEC under section 15(b) of the Securities Exchange Act; (3) holds itself out as being willing to buy and sell Security Futures Contracts for its own account on a regular or continuous basis and enters into a written agreement that must meet, at a minimum, the requirements of NQLX Rule 403(e); (4) maintains records sufficient to prove compliance with the requirements of NQLX Rule 403(d) and NQLX Rule 403(e), including, but not limited to, documents concerning personnel effecting relevant Orders, relevant trade and cash blotters, relevant stock records, and documents concerning applicable internal system capacity and performance; and (5) is subject to disciplinary action under Chapter 5 of these Rules for failing to comply with CFTC Rules 41.42 through and including 41.48 and Rules 400 through and including 406 of the Securities Exchange Act, with sanctions up to and including removal of the Member's designation as a Security Futures Dealer."

In turn, NQLX proposes adding NQLX Rule 403(e), which would require a Security Futures Dealer to meet, at least,

specified affirmative minimum two-sided quotation requirements, including requirements related to maximum bid/ask spreads and minimum contract sizes in the front-two delivery months of a Security Futures Contract, as well as requirements when responding to requests for quotation in delivery months other than the first two delivery months.²⁵ Pursuant to proposed Rule 403(d)(3), NQLX would enter into a written agreement with each market maker designated as a Security Futures Dealer. Then, the requirements of proposed Rule 403(e)(1) or the requirements of proposed Rule 403(e)(2) would specify the minimum affirmative quotation obligations that must be part of a written agreement between NQLX and a market maker that is designated as a Security Futures Dealer.

For example, proposed NQLX Rule 403(e)(1) would impose three minimum requirements on the Security Futures Dealer. First, the Security Futures Dealer would have to provide continuous two-sided quotations for the first two delivery months of a specified Security Futures Contract throughout the trading day, subject to relaxation during unusual market conditions as determined by NQLX.²⁶ Second, the Security Futures Dealer would have to quote, for the first two delivery months, with (a) a maximum bid/ask spread of no more than the greater of \$.10 or 150 percent of the bid/ask spread in the primary market for the security underlying the Security Futures Contract and (b) a minimum number of contracts no less than the lesser of 10 contracts or the corresponding contractual size equivalent of the best bid and best offer for the security underlying the Security Futures Contract.²⁷ Finally, the Security Futures Dealer would have to respond to requests for quotation in the specified Security Futures Contract within 5 seconds for all delivery months other than the first two delivery months with a two-sided quotation that has (a) a maximum bid/ask spread of no more than the greater of \$0.20 or 150 percent of the bid/ask spread in the primary market for the security underlying the Security Futures Contract and (b) a minimum number of contracts no less than the lesser of 5 contracts or the corresponding contractual size equivalent of the best bid and best offer

²³ *see also* Rule 403(b)(2) under the Act, 17 CFR 243.403(b)(2); and CFTC Rule 41.45(b)(2), 17 CFR 41.45(b)(2).

²⁴ Because the Commission and CFTC have jointly held that American Depository Receipts, shares of exchange-traded funds, shares of closed-end funds, and trust-issued receipts can serve as the underlying for security futures contracts, for purposes of the offsets in the table that is proposed by NQLX Rule 334(g), "individual stock" includes American Depository Receipts, shares of exchange-traded funds, shares of closed-end funds, and trust-issued receipts. Proposed NQLX Rule 334(g), footnote 4 to offset table; *see also* Joint Order Granting the Modification of Listing Standards Requirements (ADRs), Securities Exchange Act Release No. 44725 (August 20, 2001), and Joint Order Granting the Modification of Listing Standards Requirements (ETFs, TIRs and Closed-End Funds), Securities Exchange Act Release No. 46090 (June 19, 2002), 67 FR 42760 (June 25, 2002).

²⁴ NQLX's rules define a "Market Maker" as "any Member or other Person that enters into a written agreement with NQLX to facilitate liquidity and orderliness for a specified Exchange Contract or Groups of Exchange Contracts pursuant Rule 403." *See* NQLX Rule 101(a)(48).

²⁵ *See* Securities Exchange Act Release No. 46292 (August 1, 2002), 67 FR 53146 (August 14, 2002).

²⁶ *See* Proposed NQLX Rule 403(e)(1)(i).

²⁷ *See* Proposed NQLX Rule 403(e)(1)(ii).

for the security underlying the Security Futures Contract.²⁸

In the alternative, proposed NQLX Rule 403(e)(2) would impose two minimum requirements on the Security Futures Dealer. First, the Security Futures Dealer would have to respond to requests for quotation in a specified Security Futures Contract in specified delivery months other than the first two delivery months with two-sided quotations throughout the trading day.²⁹ Second, the Security Futures Dealer would have to quote, when responding to requests for quotation, within 5 seconds (a) with a maximum bid/ask spread of no more than the greater of \$0.20 or 150 percent of the bid/ask spread in the primary market for the security underlying the Security Futures Contract and (b) a minimum number of contracts no less than the lesser of 5 contracts or the corresponding contractual size equivalent of the best bid and best offer for the security underlying the Security Futures.³⁰

While proposed NQLX Rule 403(e)(1) and proposed NQLX Rule 403(e)(2) both would provide the minimum requirements imposed on market makers designated as Security Futures Dealers, NQLX and the particular Security Futures Dealer would be free to enter into written agreements with more rigorous affirmative obligations (e.g., more narrow maximum bid/ask spreads as well as larger minimum contract sizes). Subject to the requirements of proposed NQLX Rule 403(e)(1) or the requirements of proposed NQLX Rule 403(e)(2), the specific rights and obligations of Security Futures Dealers on NQLX will be a function of NQLX's market structure, which combines an anonymous central order book with a market-maker program to provide continuous liquidity and market depth.

On NQLX, no Security Futures Dealer will have an exclusive franchise in any group or specified Security Futures Contracts. Instead, NQLX expects to have multiple Security Futures Dealers in each Security Futures Contract that will compete with one another (and other market participants) for orders and get rewarded with fills by equaling or bettering the central order book's best bid or offer. Each Security Futures Dealer will have to meet its own specific, affirmative contractual obligations, which cannot be less rigorous than those specified by proposed NQLX Rule 403(e)(1) or proposed NQLX Rule 403(e)(2). In return for and commensurate with those

obligations, the Security Futures Dealer will receive various benefits, which may include the ability to interact with customer orders pursuant to NQLX Rule 418, the ability to participate in a portion of block trades pursuant to NQLX Rule 419, fee rebates, and additional bandwidth allocations.

NQLX will monitor the performance of its Security Futures Dealers and may take a number of actions up to and including termination of the contract of any Security Futures Dealer that fails to sufficiently discharge its contractual obligations. In addition, a Security Futures Dealer will be subject to disciplinary action under NQLX's Rules for failing to comply with the criteria established in proposed NQLX Rule 403(d) as well as NQLX Rule 403(e), with sanctions up to and including removal of the member's designation as a Security Futures Dealer.³¹

2. Statutory Basis

NQLX believes that these proposed rules are necessary to implement the requirements of the CFMA and to establish customer margin rules that: (1) Preserve the financial integrity of markets trading security futures products, (2) prevent systemic risk, (3) are consistent with the margin requirements for comparable exchange-traded options and require initial and maintenance margin levels no lower than the lowest level of margin, exclusive of premium, required for comparable exchange-traded options, and (4) are and will remain consistent with the margin requirements established by the Federal Reserve Board under regulation T. NQLX believes that its proposed rules and rule amendments comply with Sections 6(h)(3)(L)³² and 7(c)(2)(B)³³ of the Act as well as the SEC/CFTC Margin Regulations.

B. Self-Regulatory Organization's Statement on Burden on Competition

NQLX does not believe that these proposed rules and rule amendments will result in any burden on competition that is not necessary or appropriate in furtherance of the Act.

³¹ Proposed NQLX Rule 403(d)(5); see also NQLX Rule 514 (Sanction imposed in disciplinary proceedings can include "limitation on activities, functions, or operations, including, but not limited to, removal of designation as a Security Futures Dealer.")

³² 15 U.S.C. 78f(h)(3)(L).

³³ 15 U.S.C. 78g(c)(2)(B).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NQLX neither solicited nor received written comments on these proposed rules or rule amendments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, as amended; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, 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, as amended, 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 the filing will also be available for inspection and copying at the principal offices of the Exchange. All submissions should refer to File No. SR-NQLX-2002-01 and should be submitted by insert date 21 days from the date of publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁴

Margaret H. McFarland,
Deputy Secretary.

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³⁴ 17 CFR 200.30-3(a)(12).

²⁸ See Proposed NQLX Rule 403(e)(1)(iii).

²⁹ See Proposed NQLX Rule 403(e)(2)(i).

³⁰ See Proposed NQLX Rule 403(e)(2)(ii).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46532; File No. SR-NASD-2002-118]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to the Extension of a Pilot Program Making Available Certain Nasdaq Services and Facilities Until 6:30 p.m. Eastern Time

September 23, 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 30, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed this proposal pursuant to section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to extend through January 31, 2003 a pilot program making available several Nasdaq services and facilities until 6:30 P.M. Eastern Time. Nasdaq has designated this proposal as non-controversial and requests that the Commission waive both the five-day notice requirement and 30-day operative delay contained in Rule 19b-4(f)(6)(iii) under the Act.⁵ Nasdaq proposes no substantive changes to the pilot program other than extending its operation through January 31, 2003.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to extend through January 31, 2003 its current pilot program that makes available certain Nasdaq systems and facilities until 6:30 P.M. Eastern Time.⁶ The Commission originally approved the pilot on October 13, 1999.⁷ The pilot will continue to operate under the same terms and conditions as set forth in the Commission's original approval order, including mandating 90-second trade reporting until 6:30 P.M. Eastern Time.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,⁸ in general and with section 15A(b)(6) of the Act,⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

⁶ Nasdaq has also filed with the Commission a proposed rule change pursuant to Section 19(b)(2) of the Act to make Nasdaq's after-hours pilot program permanent. See SR-NASD-2002-119. Under this proposal, the pilot would become permanent under the same terms and conditions as set forth in the Commission's order approving the pilot. See Securities Exchange Act Release No. 42003 (October 13, 1999), 64 FR 56554 (October 20, 1999).

⁷ See Securities Exchange Act Release No. 42003 (October 13, 1999); 64 FR 56554 (October 20, 1999).

⁸ 15 U.S.C. 78o-3.

⁹ 15 U.S.C. 78o-3(b)(6).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹⁰

At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act,¹¹ the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Nasdaq has requested that the Commission waive the five-day pre-filing notice requirement and the 30-day operative delay. The Commission believes waiving the five-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest. Such waivers will allow the program to operate without interruption through January 31, 2003. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4(f)(6).

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4.

⁵ 17 CFR 240.19b-4(f)(6).

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-2002-118 should be submitted by October 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24698 Filed 9-27-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46534; File No. SR-NASD-2002-86]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. to Establish and Set a Fee for a New Data Feed for the Nasdaq InterMarket

September 23, 2002.

On June 27, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to make available a new data feed of market participant quotations from the Nasdaq InterMarket, Nasdaq's facility for over-the-counter trading of exchange-listed securities, and set a fee for purchase of that data feed. The proposed rule change was published for notice and comment in the **Federal Register** on August 20, 2002.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association⁴ and, in particular, the requirements of section 15A(b)(5)⁵ of

the Act. Section 15A(b)(5) requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by a national securities association. The Commission believes it is important that Nasdaq provide real-time market participant quotations, and believes that the iM Quotes data feed should provide broker-dealers and market data vendors with access to real-time InterMarket participant quotations to that effect. Additionally, the Commission believes that the fees Nasdaq will charge for the data feed are reasonable.

It is therefore ordered, pursuant to section 19(b)(2) of the Act⁶, that the proposed rule change (SR-NASD-2002-86) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24700 Filed 9-27-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46527; File No. SR-NYSE-2002-37]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Amending the Exchange's Automatic Execution Facility (NYSE Direct+)

September 20, 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 29, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rules governing NYSE Direct+® ("Direct+"). The rule amendments propose to: (i) Amend Rule 13 to provide for a one-year pilot program to expand Direct+

order size eligibility for Investment Company Units, including Exchange-Traded Funds ("ETFs"), and Trust Issued Receipts, such as Holding Company Depositary Receipts ("HOLDRs");³ (ii) amend Rule 1002 to include ETFs and HOLDRs and provide that ETFs trade until 4:15 p.m.; and (iii) amend Rule 1005 to reflect that the rule applies to ETFs and HOLDRs. Below is the text of the proposed rule change. Proposed new text is *italicized* and proposed deleted text is [bracketed].

Rule 13: Definitions of Orders

* * * * *

Auto Ex Order

An auto ex order is a limit order of 1099 shares or less priced at or above the Exchange's published offer (in the case of an order to buy) or at or below the Exchange's published bid (in the case of an order to sell), which a member or member organization has entered for automatic execution in accordance with, and to the extent provided by, Exchange Rules 1000-1005.

Pursuant to a one-year pilot program, orders in Investment Company Units (as defined in paragraph 703.16 of the Listed Company Manual), or Trust Issued Receipts (as defined in Rule 1200) may be entered as limit orders in an amount greater than 1099 shares. The pilot program shall provide for a gradual, phased-in raising of order size eligibility, up to a maximum of 10,000 shares. Each raising of order size eligibility shall be preceded by a minimum of a one week advance notice to the Exchange's membership.

* * * * *

NYSE DIRECT+™: RULES GOVERNING AUTOMATIC EXECUTION OF LIMIT ORDERS OF A SPECIFIED SIZE

Rules 1000-1001: No change.

Rule 1002: Availability of Automatic Execution Feature

Orders designated as "auto ex" in a particular stock, *Investment Company Unit (as defined in paragraph 703.16 of the Listed Company Manual), or Trust Issued Receipt (as defined in Rule 1200)* shall be eligible to receive an automatic execution if entered after the Exchange

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 46350 (August 14, 2002), 67 FR 54003.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78o-3(b)(5).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The proposal applies to the broader categories of Investment Company Units (as defined in paragraph 703.16 of the Listed Company Manual) and Trust Issued Receipts (as defined in Rule 1200), among which ETFs and HOLDRs are a part. Telephone conversation between Donald Siemer, Director, Market Surveillance, NYSE, Terri Evans, Assistant Director, Sonia Patton, Special Counsel, and Steve Williams, Economist, Division of Market Regulation, Commission, September 18, 2002.

has disseminated a published bid or [order] offer [in that stock], until 3:59 p.m. for stocks and Trust Issued Receipts, or 4:14 p.m. for Investment Company Units, or within one minute of any other closing time of the Exchange's floor market. Orders designated as "auto ex" in a particular stock, *Trust Issued Receipt*, or *Investment Company Unit* that are entered prior to the dissemination of a bid or offer [in that stock], [or] after 3:59 p.m. for stocks and *Trust Issued Receipts*, [or] after 4:14 p.m. for *Investment Company Units*, or within one minute of any other closing time, shall be displayed as limit orders in the auction market.

Rules 1003—1004: No change.

Rule 1005: Orders May Not Be Broken Into Smaller Amounts

An auto ex order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less than 30 seconds between entry of each such order in a stock, *Investment Company Unit* (as defined in paragraph 703.16 of the *Listed Company Manual*), or *Trust Issued Receipt* (as defined in Rule 1200).

* * * * *

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 NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is 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

NYSE Direct+ provides for the automatic execution of limit orders in a stock ("auto ex" orders) against trading interest reflected in the Exchange's published quotation.⁴ An auto ex order priced at or above the Exchange's published offer price (in the case of an auto ex order to buy), or an auto ex order priced at or below the Exchange's published bid price (in the case of an

⁴ NYSE Direct+ was originally filed as a one-year pilot. It was approved in Securities Exchange Act Release No. 43767 (December 22, 2000), 66 FR 834 (January 4, 2001). The pilot was subsequently extended for an additional year by SR-NYSE-2001-50 and approved by Securities Exchange Act Release No. 45331 (January 24, 2002), 67 FR 5024 (February 1, 2002).

auto ex order to sell) would receive an automatic execution without being exposed to the auction market, provided the bid or offer is still available.

Currently, order size eligibility for all auto ex orders for stocks is 1099 shares or less. The Exchange is proposing to expand the size of orders eligible for automatic execution under NYSE Direct+ to a maximum of 10,000 shares for two Exchange products. These are Investment Company Units (as defined in paragraph 703.16 of the *Listed Company Manual*), including ETFs,⁵ and Trust Issued Receipts (such as HOLDERS),⁶ which are defined in Rule 1200. The Exchange believes that the increase in the number of shares eligible for automatic execution for Investment Company Units and Trust Issued Receipts will serve to attract additional order flow to NYSE Direct+.⁷ The expanded order size would be phased in as a pilot program, with order size raised on a gradual, "stair step" basis to a maximum of 10,000 shares as experience is gained. The proposed pilot program time period is one year.

Rule 13

The change to Rule 13 codifies the pilot program.

Rule 1002

Rule 1002 currently provides that auto ex orders may be entered on any day in a particular stock from the time the Exchange has published a bid or offer in that stock until 3:59 p.m. If orders designated as auto ex are entered before a quote is published or after 3:59 p.m., the orders will be treated as limit orders in the auction market.

Exchange Rule 1100 provides that any series of Investment Company Units so designated by the Exchange may be traded on the Exchange until 4:15 p.m. each business day to match the trading hours of related futures contracts. The Exchange may close trading at an early time to coincide with the close of trading in a related futures contract, where applicable. Therefore, the Exchange is proposing to amend Rule 1002 to include orders in Investment

⁵ See Securities Exchange Act Release No. 44616 (July 30, 2001), 66 FR 40761 (August 3, 2001) (NYSE rules and policies were amended to accommodate the trading of certain ETFs on an unlisted trading privileges ("UTP") basis).

⁶ See Securities Exchange Act Release No. 45718 (April 9, 2002), 67 FR 18965 (April 17, 2002) (Adopted listing standards for the listing and trading, or the UTP trading, of Trust Issued Receipts under NYSE Rules 1200 through 1202, and 703.20 of the NYSE's *Listed Company Manual*); and SR-NYSE-2002-15, approved by Securities Exchange Act Release No. 45729 (April 10, 2002), 67 FR 18970 (April 17, 2002) (Adopted standards for UTP trading of HOLDERS).

⁷ See *supra* note 3.

Company Units and Trust Issued Receipts and to provide that orders in Investment Company Units trade until 4:15 p.m.⁸

Rule 1005

Rule 1005 in part provides that auto ex orders for the same customer in the same stock may be entered at time intervals of no less than 30 seconds between entry of each such order. The proposed amendment reflects that the rule will also apply to Investment Company Units and Trust Issued Receipts.⁹

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(5),¹⁰ which requires an Exchange to have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange also believes that the proposed rule change is designed to support the principles of section 11A(a)(1) of the Act¹¹ in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market, and provide an opportunity for investors' orders to be executed without the participation of a dealer.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

⁸ *Id.*

⁹ *Id.*

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78k-1(a)(1).

(ii) as to which the NYSE consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-2002-37 and should be submitted by October 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated Authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24754 Filed 9-27-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46531; File No. SR-Phlx-2002-47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Increasing the Maximum Guaranteed AUTO-X Size in Options on the Nasdaq-100 Index Tracking Stock ("QQQ") to 2,000 Contracts in the First Two Near-Term Expiration Months

September 23, 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 29, 2002, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. The proposed rule change has been filed by the Phlx as a "non-controversial" rule change under Rule 19b-4(f)(6) under the Act.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 1080 to provide that, with respect to options in the QQQs, orders of up to 2,000 contracts in the first two near-term expiration months and orders of up to 1,000 contracts for all other expiration months, would be eligible for automatic execution on the Exchange's automatic execution system ("AUTO-X"), which is part of the Exchange's Automated Options Market ("AUTOM") System. AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually or routed to AUTOM's automatic execution feature, AUTO-X, if they are eligible for execution on AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. Currently, orders of up to 1000 contracts in QQQ options are eligible for execution through AUTO-X.⁴

Below is the text of the proposed rule change. Proposed new language is *italicized*.

* * * * *

Rule 1080. Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X)

(a)-(b) No change.

(c) AUTO-X is a feature of AUTOM that automatically executes eligible public customer market and marketable

limit orders up to the number of contracts permitted by the Exchange for certain strike prices and expiration months in equity options and index options, unless the Options Committee determines otherwise. AUTO-X automatically executes eligible orders using the Exchange disseminated quotation (except if executed pursuant to the NBBO Feature in sub-paragraph (i) below) and then automatically routes execution reports to the originating member organization. AUTOM orders not eligible for AUTO-X are executed manually in accordance with Exchange rules. Manual execution may also occur when AUTO-X is not engaged, such as pursuant to sub-paragraph (iv) below. An order may also be executed partially by AUTO-X and partially manually.

The Options Committee may for any period restrict the use of AUTO-X on the Exchange in any option or series provided that the effectiveness of any such restriction shall be conditioned upon its having been approved by the Securities and Exchange Commission pursuant to Section 19(b) of the Securities Exchange Act of 1934 and the rules and regulations thereunder. Any such restriction on the use of AUTO-X approved by the Options Committee will be clearly communicated to Exchange membership and AUTOM users through an electronic message sent via AUTOM and through an Exchange information circular. Such restriction would not take effect until after such communication has been made. Currently, orders up to 250 contracts, subject to the approval of the Options Committee, are eligible for AUTO-X. With respect to options on the Nasdaq-100 Index Tracking Stock ("QQQ")SM, orders of up to 2,000 contracts in the first two (2) near term expiration months, and 1,000 contracts for all other expiration months, are eligible for AUTO-X.

The Options Committee may, in its discretion, increase the size of orders in one or more classes of multiply-traded equity options eligible for AUTO-X to the extent necessary to match the size of orders in the same options eligible for entry into the automated execution system of any other options exchange, provided that the effectiveness of any such increase shall be conditioned upon its having been filed with the Securities and Exchange Commission pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934.

(c)(i)(A)-(E) No change.

(d)-(j) No change.

Commentary. No change.

* * * * *

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ See Securities Exchange Act Release No. 46307 (August 2, 2002), 67 FR 52508 (August 12, 2002) (File No. SR-Phlx-2002-43).

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 Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposes to increase the maximum order size eligibility for AUTO-X in the first two near-term expiration months in QQQ options to 2,000 contracts⁵ to match the size of orders in the same options eligible for automatic execution on another options exchange.⁶ Under the rules of the Exchange, through AUTOM, orders are routed from member firms directly to the appropriate specialist on the trading floor. Of the public customer market and marketable limit orders routed through AUTOM, certain orders are eligible for AUTOM's automatic execution feature, AUTO-X. These orders are automatically executed at the disseminated quotation price on the Exchange and reported back to the originating firm.⁷

The Exchange notes that the American Stock Exchange LLC ("Amex") allows automatic executions in QQQ options for a size of up to 2,000 contracts in series in the two near-term expiration months, and up to 1,000 contracts in all other expiration months. See Amex Rule 933, Commentary .02. See also Securities Exchange Act Release No. 45828 (April 25, 2002), 67 FR 22140 (May 2, 2002) (File No. SR-Amex-2002-30).

⁵ Currently, the maximum option order size eligible for automatic execution via AUTO-X is 1,000 for QQQ options. *Id.*

⁶ Exchange Rule 1080(c) provides that The Options Committee may, in its discretion, increase the size of orders in one or more classes of multiply-traded equity options eligible for AUTO-X to the extent necessary to match the size of orders in the same options eligible for entry into the automated execution system of any other options exchange, provided that the effectiveness of any such increase shall be conditioned upon its having been filed with the Securities and Exchange Commission pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934.

⁷ See Phlx Rule 1080(c).

The Exchange represents that AUTO-X affords prompt and efficient automatic executions at the disseminated quotation price on the Exchange. Therefore, the Exchange believes that increasing automatic execution levels for eligible orders in QQQ options to 2,000 contracts for the first two near-term expiration months should provide the benefits of automatic execution to a larger number of customer orders. Further, the Exchange notes that this increase in automatic execution levels in QQQ options should enable the Exchange to remain competitive for order flow with other exchanges that trade QQQ options.

The Exchange notes that there are many safeguards incorporated into Exchange rules to ensure the appropriate handling of AUTO-X orders. For example, Phlx Rule 1080(f)(iii) states that the specialist is responsible for the remainder of an AUTOM order where a partial execution has occurred. Phlx Rule 1015 governs execution guarantees and requires the trading crowd to ensure that public orders are filled at the best market to a minimum of the disseminated size. Violations of any of these provisions could be referred to the Business Conduct Committee for disciplinary action.

The Wheel is a mechanism that allocates AUTO-X trades among specialists and Registered Options Traders ("ROT's").⁸ An ROT has discretion to participate on the Wheel to trade any option class to which he is assigned. An increase in the maximum AUTO-X order size for QQQ options in the first two near-term expiration months does not prevent an ROT from declining to participate on the Wheel.⁹ Because the Wheel rotates in two-lot to ten-lot increments depending upon the size of the order, no single ROT will be allocated the entire 2,000 contracts in the first two near-term expiration months.

The Exchange also has procedures that permit a specialist to disengage AUTO-X in extraordinary circumstances.¹⁰ AUTOM users are notified of such circumstances.

⁸ Unlike ROTs, specialists are required to participate on the Wheel. See Phlx Rule 1080(g).

⁹ See Exchange Options Floor Procedure Advice F-24(e)(i).

¹⁰ See Phlx Rule 1080(e). The Exchange has amended its rules relating to the disengagement of AUTO-X in extraordinary circumstances pursuant to the Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) (File No. 3-10282). See Securities Exchange Act Release No. 45928 (May 15, 2002), 67 FR 36059

With respect to financial responsibility issues, the Exchange notes that it has a minimum net capital requirement respecting ROTs.¹¹ Furthermore, an ROT's clearing firm performs risk management functions to ensure that the ROT has sufficient financial resources to cover positions throughout the day. In this regard, the function includes real-time monitoring of positions. The Exchange believes that clearing firm procedures address the issue of whether an ROT has the financial capability to support trading of QQQ options orders as large as 2,000 contracts in the first two near-term expiration months.

The Exchange believes that the increase in order size eligibility for AUTO-X orders in QQQ options should provide customers with quicker executions for a larger number of orders by providing automatic rather than manual executions, thereby reducing the number of orders subject to manual processing. The Exchange also believes that increasing the AUTO-X maximum order size in QQQ options should not impose a significant burden on the operation or capacity of the AUTOM System and will give the Exchange better means of competing with other options exchanges for order flow.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act¹² in general, and furthers the objectives of section 6(b)(5) of the Act¹³ in particular, because it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by enhancing efficiency by providing automatic executions to a larger number of options orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary in furtherance of the purposes of the Act.

(May 22, 2002) (order approving File No. SR-Phlx-2001-27).

¹¹ See Phlx Rule 703.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A)¹⁴ of the Act and Rule 19b-4(f)(6)¹⁵ thereunder.¹⁶

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx seeks to have the proposed rule change become operative immediately upon filing in order to remain competitive with other exchanges with similar rules in effect.¹⁷

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately upon filing as of August 29, 2002, to allow the Phlx to compete with another options exchange that currently has a maximum automatic execution eligibility limit in QQQ options of 2,000 contracts in the first two near-term expiration months.¹⁸ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2002-47 and should be submitted by October 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24697 Filed 9-27-02; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG-1998-3584]

Proposed Modernization of the Coast Guard National Distress and Response System

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability of supplemental program environmental assessment.

SUMMARY: The U.S. Coast Guard announces the availability of the Supplemental Program Environmental Assessment for the National Distress and Response System Modernization Project (NDRSMP). The Supplemental PEA provides an update to and supplements environmental information to the Programmatic Environmental Assessment that was issued in July

1998. The Coast Guard is requesting comments on the alternatives and the potential environmental impacts as a result of NDRSMP.

DATES: Comments and related material must reach the Docket Management Facility on or before October 28, 2002.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-1998-3584), U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001.

(2) By delivery to Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Internet for the Docket Management System at <http://dms.dot.gov>.

In choosing among these means, please give due regard to recent difficulties and delays associated with delivery of mail through the U.S. Postal Service to Federal facilities.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as the Supplemental Program Environmental Assessment, will become part of this docket and will be available for inspection or copying at Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You may also find this docket, including the SPEA, on the Internet at <http://www.dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, the proposed project, or the associated Environmental Assessment, contact Ms. Donna M. Meyer, Environmental Program Manager, National Distress and Response System Modernization Project, U.S. Coast Guard Headquarters, 202-267-1496. For questions on viewing or submitting material to the docket, contact Ms. Dorothy Beard, Chief, Dockets, DOT, at 202-366-9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments and related material on the Supplemental Program Environmental Assessment (SPEA) are encouraged. Please provide the name and address of

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

¹⁷ See *supra* note 6.

¹⁸ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. ¹⁵ U.S.C. 78c(f).

¹⁹ 17 CFR 200.30-3(a)(12).

the comment originator, identify the docket number for this notice (USCG-1998-3584), and provide background support for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. When submitting by mail or hand delivery, submit your comments or material in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know if the comments and/or material were received by the facility, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the comment period.

Proposed Action

The U.S. Coast Guard intends to modernize its National Distress and Response System (NDRS). The NDRS forms the backbone of the Coast Guard's Short Range Communication System (SRCS) that supports a wide range of Coast Guard operations, including Activity, Group, Marine Safety Office (MSO), Vessel Traffic Service (VTS), Air Station, Cutter and Station operations. As part of the SRCS, the NDRS incorporates the use of VHF-FM radios to provide two-way voice communications coverage for the majority of Coast Guard missions in coastal areas and navigable waterways where commercial and recreational traffic exists. The NDRS consists of approximately 300 remotely-controlled VHF transceivers and antenna sites, and was originally intended for monitoring the international VHF-FM maritime distress frequency (Channel 16), and as the primary command and control network to coordinate Coast Guard search and rescue (SAR) response activities. The secondary function was to provide command, control, and communications for the Coast Guard missions of National Security, Maritime Safety, Law Enforcement, and Marine Environmental Protection.

In July 1998, the Coast Guard published a Programmatic Environmental Assessment (PEA) that considered general concepts for a new system to modernize the current obsolete and nonstandard National Distress System (NDS). The alternatives considered by the Coast Guard included:

Alternative A—Status Quo.

Alternative B—Upgrade status quo by systematically upgrading the existing network with modern analog

transceivers. This alternative replaces old equipment with new equipment and adds additional radio capability. It is expected this alternative would require additional antenna sites.

Alternative C—Dual Mode VHF and/or UHF Network replaces existing analog network with dual mode (digital and analog) transceivers. It is expected this alternative would require additional antenna sites.

Alternative D—Multi-mode: Satellite, Cellular, VHF and/or UHF Network. This alternative replaces the existing network with multi-mode equipment that uses satellite, cellular, and VHF/UHF communications. It is expected that this alternative would require additional antenna sites.

Alternatives B, C, and D would all require approximately the same number of additional antenna sites. Since 1998, new circumstances and relevant information regarding the deployment of the system to an existing antenna site, or leasing an antenna site, or constructing a new antenna site as well as the Coast Guard's preference for Alternative C called for preparation of a Supplemental Program Environmental Assessment to consider any environmental impacts that were previously not taken into account.

Supplemental Programmatic Environmental Assessment

The Coast Guard has prepared a Supplemental Program Environmental Assessment (SPEA). The SPEA identifies and examines those reasonable alternatives to effectively deploy the modernized NDRS. The SPEA analyzed the no action alternative and three action alternatives that could fulfill the need and meet system requirements. The successful deployment of the NDRS will utilize a combination of only the action alternatives by using an existing antenna, leasing antenna space from a service provider, or constructing a new antenna site. The SPEA is a program document meant to provide a broad environmental review of a Federal agency's (Coast Guard) national program. In this case, the SPEA has provided a broad, general view of the environmental impacts that can be anticipated by modernizing and deploying the NDRS nationwide. The SPEA cannot foresee all possible site specific and cumulative environmental impacts as a result of implementing any of the action alternatives. However, once specific and individual sites have been identified for deployment of the NDRS, those sites will undergo a more narrow environmental review (tiering). This narrower environmental review of

individual and specific sites will result in the issuance of either (1) Categorical Exclusion, (2) Finding of No Significant Impact (FONSI), or (3) Environmental Impact Statement (EIS).

The purpose of this Notice of Availability is to inform the public, local, State, and Federal government agencies that a Supplemental PEA is available for review and comment. You are encouraged to submit your comments, information, or other relevant observations concerning the merits of the alternatives and potential environmental impacts relating to the deployment and installation of the National Distress and Response System Modernization Project. Coordination with appropriate Federal, State and local agencies, and private organizations and citizens who have expressed interest in this proposal has been undertaken and will continue. All comments will be considered in either the preparation of a FONSI or the development of an EIS (if necessary).

Dated: September 13, 2002.

C.D. Wurster,

RADM, U.S. Coast Guard, Assistant Commandant for Acquisitions.

[FR Doc. 02-24729 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2002-12408]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Elgin, Joliet and Eastern Railway Company

The Elgin, Joliet and Eastern Railway Company (EJ&E) has petitioned the FRA for a waiver of compliance from the Railroad Locomotive Safety Standards, 49 CFR Part 229 and Locomotive Cab Sanitation, 49 CFR 229.137.

The EJ&E is asking for an extension of time for the installation of new toilet facilities in 27 locomotives. They are asking for an extension of one (1) year to be able to install two (2) toilets per month and bring them into full compliance with FRA regulations. The

specific time period will terminate on July 1, 2003, approximately one (1) year. At the end of the extension of time requested, all locomotives should be up to standard and meet the FRA requirements and standards in regards to complying with the Locomotive Cab Sanitation requirements, 49 CFR 229.137.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA-2002-12408) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400-7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at <http://dms.dot.gov>.

Issued in Washington, DC on September 19, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02-24725 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2002-13202]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification

of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Applicant

Kansas City Southern Railway, Mr. Vernon A. Jones, Signal Engineer, 4601 Blanchard Highway, Shreveport, Louisiana 71107-5799.

Kansas City Southern Railway seeks approval of the proposed modification of the Ouachita River Bridge, milepost V-72.07, on the Transcontinental Division, near Monroe, Louisiana. The proposed changes consist of the removal of the electrically-locked pipeline driven rail lock surface detection system; the addition of proximity sensors attached to the self-aligning Lift Rails and Bridge alignment rocker; and the monitoring by redundant logic controllers, to detect and verify the bridge member alignment. The reason given for the proposed changes is to improve safety and reliability.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at <http://dms.dot.gov>.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on September 17, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02-24724 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2002-13201]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Applicants

Norfolk Southern Corporation, Mr. Brian L. Sykes, Chief Engineer C&S Engineering, 99 Spring Street, SW., Atlanta, Georgia 30303.
Columbus & Ohio River Railroad, Mr. Michael J. Connor, Vice President, 136 South Fifth Street, Coshocton, Ohio 43812.

Norfolk Southern Corporation and the Columbus & Ohio River Railroad jointly seek approval of the proposed modification and reduction of the interlocking limits at C. W. Tower, Columbus, Ohio, milepost N-704.8, Lake Division, Columbus, District. The proposed changes consist of the conversion of power-operated switches 44 and 55 to hand operation, and the discontinuance and removal of associated controlled signals 44R and 66L.

The reason given for the proposed changes is to improve and increase efficiency of operations.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI-401, Washington, DC 20590-0001.

Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590-0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at <http://dms.dot.gov>.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on September 12, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02-24722 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2002-12837]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief from Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Applicant

Union Pacific Railroad Company, Mr. Phil M. Abaray, Chief Engineer—Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179-1000.

Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the automatic block signal system on the single main track, between milepost 84.1 and milepost 86.0, on the Peoria Subdivision, at Sommer, Illinois, consisting of the following:

1. Removal of the fixed approach signals at milepost 83.24 and 86.7;
2. Removal of automatic signal 01, at milepost 84.1 and automatic signal 02, at milepost 86.0;
3. Removal of the two electric switch locks at milepost 84.2 and milepost 85.9; and
4. Removal of the four switch circuit controllers and associated track circuits.

The reasons given for the proposed changes are that the electric locks and signals are not necessary for present day operation. The application area is track warrant control territory and all trains must obtain authority from the UP train dispatcher before entering the main line onto the Peoria Subdivision. The affected signals only display a lunar or red aspect, and the speed in the area is limited to 30 mph.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590-0001.

Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590-0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at <http://dms.dot.gov>.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on September 12, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02-24723 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP02-008

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

ACTION: Denial of petition for a defect recall.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency compel General Motors Corporation (GM) to recall model year (MY) 1999 Chevrolet Malibu vehicles to address an alleged safety-related defect. The petition is identified as DP02-008.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan White, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5226.

SUPPLEMENTARY INFORMATION: Mr. Robert N. Green of Alexandria, VA, submitted a petition to NHTSA by letter dated May 21, 2002, requesting NHTSA to compel GM to recall MY 1999 Chevrolet Malibu vehicles (subject vehicles). The petitioner alleges that the engine coolant in his MY 1999 Chevrolet Malibu boils over, the low coolant red warning light comes on, and the coolant system reservoir requires frequent refilling. He believes that the alleged defect causes safety problems.

GM has issued two Technical Service Bulletins (TSB) that may pertain to the alleged defect. TSB No. 99-06-02-009, issued in March 1999, concerns malfunction of the check valve in the coolant pressure cap in the subject vehicles, which may cause one or more of the following conditions: coolant leaks, the low coolant light to come on, overheating or no heat, odors coming from the air conditioning system, and no start. The TSB applies to MY 1999 Chevrolet Malibu and Cavalier, Oldsmobile Alero and Cutlass, Pontiac Grand AM and Sunfire, and Chevrolet and GMC Silverado and Sierra vehicles. The second TSB, No. 00-06-02-001, issued in January 2000, concerns a radiator filler neck that may have an

imperfection in the sealing surface that may cause one or more of the following conditions: engine running hot, engine overheating, loss of coolant, and low coolant message. The TSB applies to all MY 1999–2000 passenger cars and trucks with a composite radiator end tank.

A review of ODI’s database shows that there are nine consumer complaints related to the engine cooling system in the subject vehicles. Five complaints allege that coolant leaked from the engine’s intake manifold gasket; two complaints allege that the engine overheated due to an unspecified coolant leak; one complaint alleges that there was a smell of engine coolant; and one complaint alleges an unspecified coolant problem. None of the complaints reported any coolant-related fire or injury. Furthermore, a similar review of consumer complaints about the other vehicles covered by the aforementioned TSBs also shows no reports of coolant-related fire or injury.

Based on our evaluation of the petition, the ODI complaints, and the TSBs, the cooling system defect alleged in the petition does not appear to be related to motor vehicle safety within the meaning of our statute.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of an alleged safety-related defect as defined by the petitioner in the subject vehicles at the conclusion of an investigation. Therefore, in view of the need to allocate and prioritize NHTSA’s limited resources to best accomplish the agency’s safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: September 24, 2002.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.
[FR Doc. 02–24727 Filed 9–27–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP02–006

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

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety in model year (MY) 2000 Kia Sportage vehicles with respect to their propensity to roll over. After reviewing the petition and other information, NHTSA has concluded that further expenditure of the agency’s investigative resources on the issue raised by the petition does not appear to be warranted. The agency accordingly has denied the petition. The petition is hereinafter identified as DP02–006.

FOR FURTHER INFORMATION CONTACT: Jonathan White, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5226.

SUPPLEMENTARY INFORMATION: Ms. Anne Marie Terrone of Franklin Square, New York, submitted a petition by letter dated April 17, 2002, requesting that NHTSA commence an investigation to determine the existence of a defect related to motor vehicle safety in MY 2000 Kia Sportage vehicles. The petitioner alleges that as she was making a left-hand turn, her MY 2000 Kia Sportage vehicle rolled over twice, causing her serious injuries.

In response to ODI’s inquiry, Kia Motors America, Inc (KMA) provided ODI with information concerning the aforementioned rollover incident. KMA’s information included a copy of the lawsuit filed by the petitioner and a copy of the police accident report (PAR). The lawsuit states that the petitioner’s vehicle rolled over twice while changing lanes on Route 135 in Nassau County, New York. The PAR

states that the incident occurred at 1:45 p.m., on March 16, 2001, on Route 135, an expressway with a posted speed limit of 55 mph. A non-scaled rough diagram in the PAR appears to show that the vehicle was initially in the right hand lane of the three-lane roadway, overturned between the right and middle lanes and came to a stop at an angle between the left and middle lanes. The PAR indicates that no other vehicle was involved and that “unsafe speed” was an apparent contributing factor.

Two variables that have significant influence on a vehicle’s resistance to rollover are its track width and center-of-gravity (CG). Wider track width and/or lower CG increases the vehicle’s resistance to rollover. According to KMA, the Kia Sportage vehicle’s track width and CG are the same from MY 1995 (first model year) to MY 2002. Accordingly, ODI has reviewed NHTSA’s consumer complaint database, the Fatality Analysis Reporting System database (FARS), and available state data for the MY 1995–2000 Kia Sportage vehicles (subject vehicles) to search for reported rollover incidents. ODI did not include MY 2001–2002 since state crash data and FARS data are either not available or incomplete at this time. For comparison purposes, ODI also reviewed similar data for the MY 1995–2000 Chevrolet/Geo Tracker, MY 1997–2000 Honda CR–V, MY 1999–2000 Suzuki Vitara/Grand Vitara, MY 1998–2000 Isuzu Amigo, and MY 1996–2000 Toyota RAV4 (hereinafter “peer vehicles”). These vehicles were selected as peers of the subject vehicles because of their general characteristics rather than specific dimensions. ODI also compared the rollover risk of the subject vehicles with those of certain model year 2001 Sport Utility Vehicles (SUV) evaluated under NHTSA’s New Car Assessment Program (NCAP).

Table 1, below, compares the number of complaints ODI has received for the subject vehicles and the peer vehicles of rollover incidents that appeared to have occurred on the road surface and did not involve another vehicle (Single-Vehicle On-Road (“SVOR”) rollovers). This data does not suggest that the Kia Sportage has a higher propensity of SVOR rollover than the peer vehicles.

TABLE 1.—ODI COMPLIANT COMPARISON ON SVOR ROLLOVER BETWEEN THE SUBJECT VEHICLES AND THE PEER VEHICLES

Make and model	Model year						Total
	1995	1996	1997	1998	1999	2000	
Kia Sportage	0	0	0	1	0	1	2
Isuzu Amigo	n/a	n/a	n/a	0	0	0	0
Honda CR–V	n/a	n/a	0	0	0	1	1

TABLE 1.—ODI COMPLIANT COMPARISON ON SVOR ROLLOVER BETWEEN THE SUBJECT VEHICLES AND THE PEER VEHICLES—Continued

Make and model	Model year						Total
	1995	1996	1997	1998	1999	2000	
Toyota RAV4	n/a	0	0	1	1	0	2
Chevrolet/GeoTracker	3	2	1	1	0	0	7
Suzuki Vitara*	n/a	n/a	n/a	n/a	0	0	0

"n/a" denotes here and hereinafter that the model vehicle was not produced in that model year.
 * Including the Grand Vitara model here and hereinafter.

Table 2, below, shows the number of all SVOR fatal crashes in FARS between calendar years 1994 through 2000 involving the subject vehicles and the peer vehicles. Also shown are the number of these crashes that involved rollovers, and the percentage of rollovers in these crashes. These SVOR crashes do not include first harmful event collisions with pedestrians, pedal-cyclists, trains, or animals. FARS appears to indicate that the subject vehicles have a lower propensity of SVOR rollover per fatal crash than the peer vehicles.

TABLE 2.—SVOR ROLLOVER RATE PER FATAL CRASH FOR THE SUBJECT VEHICLES AND THE PEER VEHICLES BASED ON 1994–2000 ARS DATA

Vehicle model	Model year												Total		Percent of rollovers in SVOR crashes
	1995		1996		1997		1998		1999		2000		Crash	Roll-over	
	Crash	Roll-over	Crash	Roll-over	Crash	Roll-over	Crash	Roll-over	Crash	Roll-over	Crash	Roll-over			
Sportage	1	1	1	1	0	0	1	0	4	3	1	1	8	6	75
Amigo	n/a	n/a	n/a	n/a	n/a	n/a	0	0	1	1	0	0	1	1	100
CR-V	n/a	n/a	n/a	n/a	1	1	1	1	1	1	0	0	3	3	100
RAV4	n/a	n/a	1	1	1	1	4	3	1	1	1	1	8	7	87
Tracker	4	4	2	2	2	2	1	1	1	1	0	0	10	10	100
Vitara	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0	0	0	0	0	0	unknown

Table 3, below, shows the number of SVOR crashes and the percentage of SVOR crashes involving rollovers using state crash data from Florida, Maryland, Missouri, North Carolina (calendar year 2000 data not available), Pennsylvania, and Utah for crashes that occurred in calendar years 1994 through 2000. These states were chosen because their crash records included the vehicle identification number and identified all rollover crashes. The state crash data appears to indicate that the subject vehicles have a comparable propensity of SVOR rollover as the peer vehicles.

TABLE 3.—PERCENTAGE OF THE SVOR ROLLOVERS IN SVOR CRASHES FROM SIX STATES

Make and model	Model year	SVOR crashes	SVOR rollover crashes	Percentage of the rollovers in SVOR crashes
Kia Sportage	95–00	260	94	36
Isuzu Amigo	98–00	264	116	44
Honda CR-V	97–00	195	42	21
Toyota RAV4	96–00	237	76	32
Chevrolet/Geo Tracker	95–00	2560	932	36
Suzuki Vitara	99–00	81	24	30

ODI also compared the rollover resistance of the subject vehicles to that of other MY 2001 SUVs by utilizing NCAP's evaluation of the static stability factor (SSF) for each of the other vehicles listed in Table 4. SSF is one-half the track width of a vehicle divided by the height of its center of gravity; a higher SSF value corresponds to greater rollover resistance in single-vehicle crashes. Table 4, below, shows that the SSF of the subject vehicles ranks favorably among the MY 2001 SUVs evaluated under NCAP.

TABLE 4.—NCAP STATIC STABILITY FACTOR FOR MODEL YEAR 2001 SPORT UTILITY VEHICLES COMPARED TO SSF FOR MY 1995–2002 KIA SPORTAGE CALCULATED BY KMA
 NCAP Static Stability Factor for Model Year 2001 Sport Utility Vehicles

Make and model	4x2	Make and model	4x4
Pontiac Aztek	1.21	Pontiac Aztek	1.26
Dodge Durango	1.20	Toyota RAV4	1.22
Lexus RX300	1.20	Lexus RX300	1.21
Toyota RAV4	1.19	Mazda Tribute	1.21
Honda CR-V	1.17	Honda CR-V	1.19
Mazda Tribute	1.17	Isuzu Rodeo	1.18
Chevrolet Tracker	1.16	Kia Sportage	1.18
Suzuki Grand Vitara	1.16	Honda Passport	1.18

TABLE 4.—NCAP STATIC STABILITY FACTOR FOR MODEL YEAR 2001 SPORT UTILITY VEHICLES COMPARED TO SSF FOR MY 1995–2002 KIA SPORTAGE CALCULATED BY KMA—Continued

NCAP Static Stability Factor for Model Year 2001 Sport Utility Vehicles

Make and model	4x2	Make and model	4x4
Honda Passport	1.15	Dodge Durango	1.16
Isuzu Rodeo	1.15	Infiniti QX4	1.16
Kia Sportage	1.14	Nissan Pathfinder	1.16
Chevrolet Suburban	1.13	Chevrolet Tracker	1.15
GMC Yukon XL	1.13	Suzuki Vitara	1.15
Chevrolet Tahoe	1.12	Chevrolet Suburban	1.14
GMC Yukon	1.12	Chevrolet Tahoe	1.14
Ford Expedition	1.11	GMC Yukon/Yukon XL	1.14
Lincoln Navigator	1.11	Jeep Wrangler	1.13
Jeep Grand Cherokee	1.09	Nissan Xterra	1.12
Nissan Xterra	1.09	Lincoln Navigator	1.11
Toyota 4Runner	1.08	Ford Expedition	1.11
Mitsubishi Montero Sport	1.07	Jeep Grand Cherokee	1.11
Nissan Pathfinder	1.07	Mitsubishi Montero Sport	1.11
Mercury Mountaineer	1.06	Chevrolet Blazer	1.09
Ford Explorer	1.06	GMC Jimmy	1.09
Chevrolet Blazer	1.02	Oldsmobile Bravada	1.09
GMC Jimmy	1.02	Jeep Cherokee	1.08
		Ford Explorer	1.06
		Mercury Mountaineer	1.06
		Toyota 4Runner	1.06

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of the alleged defect as defined by the petitioner at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: September 23, 2002.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 02–24726 Filed 9–27–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–11847, Notice 2]

Notice of Receipt of Petition for Decision That Nonconforming 2000 and 2001 Audi A4, S4, and RS4 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2000 and 2001 Audi A4, S4, and RS4 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 2000 and 2001 Audi A4, S4, and RS4 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 30, 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 am to 5 pm).

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) originally petitioned NHTSA to decide whether 2000 and 2001 Audi A4 and S4 passenger cars are eligible for importation into the United States. On April 4, 2002, NHTSA published a notice at 67 FR 16146 asking for comments on the petition. Comments were due by May 6, 2002. On July 26, 2002, J.K. revised its original petition to include the Audi RS4 model. Accordingly, we are publishing a new notice, covering all Audi “4-series” models.

The vehicles which J.K. believes are substantially similar to the non-U.S. certified 2000 and 2001 Audi A4, S4, and RS4 passenger cars described in its

petition are 2000 and 2001 Audi A4 and S4 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. Although a certified RS4 has not been offered in the U.S. market, the three models of the "4-series" differ principally in performance and trim options, and we regard those vehicles as being essentially the same "model;" *i.e.*, they are a family of vehicles which have a degree of commonality in construction, such as body, chassis, or cab type. See definition of the term "model" at 49 CFR 579.4, as added by the final rule establishing early warning reporting requirements published by NHTSA on July 10, 2002 (67 FR 45822 at 45875). The petitioner claims that it carefully compared non-U.S. certified 2000 and 2001 Audi A4, S4, and RS4 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 2000 and 2001 Audi A4, S4, and RS4 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 2000 and 2001 Audi A4, S4, and RS4 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*.

With respect to Standard No. 214, the petitioner noted that there are minor differences in ride height, in the range of 22 mm, between some models in the line. Petitioner claims that these differences do not exceed expected impact point variations during compliance testing for the standard.

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: replacement of the instrument cluster with a U.S.-model component, and reprogramming to allow the vehicle's computer system to accept the changes.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: (a) Installation of U.S.-model headlamps and front sidemarker lamps, (b) installation of U.S.-model taillamp assemblies that incorporate rear sidemarker lamps, (c) installation of a U.S.-model high mounted stop lamp assembly 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.

Standard No. 114 Theft Protection: programming of the key warning system at the time the instrument cluster is changed, performed at the time of conversion.

Standard No. 208 Occupant Crash Protection: inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, 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 and audible buzzer that are identical to components installed on U.S.-certified models. Petitioner notes that there are minor variations in the weights of the different models covered by the petition, but claims that these differences are so minor that they would have no effect on compliance testing for the standard.

The petitioner states that all vehicles will be inspected for compliance with the Theft Prevention Standard at 49 CFR part 541, and that required anti-theft devices will be installed if needed.

The petitioner also states that U.S.-model bumpers and shocks must be installed on the vehicles to comply with the Bumper Standard found in 49 CFR part 581. Petitioner states that the support structure for the bumpers on the vehicles is identical to that found on their U.S.-certified counterparts.

The petitioner further 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 24, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety, Compliance.

[FR Doc. 02-24730 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-59-P

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 60 and 63**

[AD-FRL-7379-3]

RIN 2060-AJ42

Standards of Performance for Bulk Gasoline Terminals and National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)*Correction*

In proposed rule document 02-23740 beginning on page 59434 in the issue of Friday, September 20, 2002 make the following correction:

On page 59434, in the second column, in the third line from the top, "October 20, 2002" should read "October 10, 2002".

[FR Doc. C2-23740 Filed 9-27-02; 8:45 am]

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0044]

GSA Submission for OMB Review; GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds*Correction*

In notice document 02-23791 beginning on page 59060 in the issue of Thursday, September 19, 2002, make the following correction:

On page 59060, in the third column, in the seventh line from the bottom, "180 " should read "1800".

[FR Doc. C2-23791 Filed 9-27-02; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

**Monday,
September 30, 2002**

Part II

Department of Housing and Urban Development

**Fair Market Rents for the Housing Choice
Voucher Program and Moderate
Rehabilitation Single Room Occupancy
Program Fiscal Year 2003; Notice**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-4741-N-02]

**Fair Market Rents for the Housing
Choice Voucher Program and
Moderate Rehabilitation Single Room
Occupancy Program Fiscal Year 2003**

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of final fiscal year (FY) 2003 fair market rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs annually to be effective on October 1 of each year. FMRs are used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, and to determine initial rents for housing assistance payments (HAP) contracts in the Moderate Rehabilitation (Mod Rehab) Single Room Occupancy (SRO) program. Other programs may require use of FMRs for other purposes. Today's notice provides final FY 2003 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2003.

EFFECTIVE DATE: The FMRs published in this notice are effective on October 1, 2002.

FOR FURTHER INFORMATION CONTACT:

Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, telephone (202) 708-0477, responsible for decisions on how fair market rents are used. Allison Manning, Community Assistance Division, telephone (202) 708-1234, responsible for administration of the Mod Rehab Single Room Occupancy (SRO) program. For technical information on the methodology used to develop fair market rents or a listing of all fair market rents, please call HUD USER at 1-800-245-2691 or access the information on the HUD Web site, <http://www.huduser.org/datasets/fmr.html>. Further questions on the methodology may be addressed to Marie L. Lihn, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708-0590, (e-mail: marie_l_lihn@hud.gov). Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TTY) at 1-800-927-7589. (Other than the "800" HUD User and TTY numbers, telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f)

authorizes housing assistance to aid lower income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different areas. In the Housing Choice Voucher program, the FMR is used to determine the "payment standard amount" used to calculate the maximum monthly subsidy for an assisted family (see 24 Code of Federal Regulations Section 982.503.) In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent and safe rental housing of a modest (non-luxury) nature with suitable amenities.

How HUD Sets FMRs

HUD Standard for Setting the FMR

FMRs are gross rent estimates that include both shelter rent paid by the tenant to the landlord and the cost of tenant-paid utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units in various neighborhoods and low enough to serve as many families as possible.

FMRs are set at a percentile within the rent distribution for standard quality rental housing units in each FMR area (see 24 Code of Federal Regulations 888.113). FMRs are based on the distribution of rents for units that are occupied by recent movers—renter households who moved into their units within the past 15 months. The distribution does not include rents for units less than two years old or for public housing units. Rents for subsidized housing units are adjusted by adding back the amount of the subsidy.

HUD sets FMRs either at the 40th percentile rent or at the 50th percentile rent. For most FMR areas, the FMR is set at the 40th percentile rent, the rent for 40 percent of standard rental housing units is at or below this dollar amount. For some FMR areas, the FMR is set at the 50th percentile rent, the median rent for 50 percent of standard units is at or below this dollar amount. An asterisk in Schedule B identifies each of the 39 FMR areas for which HUD Public Housing Agencies (PHAs) set 50th percentile FMRs.

Data Sources

HUD PHAs used the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

(1) The 1990 Census, which provides statistically reliable rent data for all FMR areas;

(2) The Bureau of the Census' American Housing Surveys (AHS), which are used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and

(3) Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or on HUD regional rent change factors developed from regional RDD surveys. Area-specific annual average CPI data are available for 99 metropolitan FMR areas. RDD regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD regions. The RDD factors are used to update the base-year estimates for all FMR areas that do not have their own local CPI survey.

State Minimum FMRs

With the exception of areas with FMRs set at the 50th percentile, FMRs are established at the higher of the local 40th percentile rent or a State minimum equal to the Statewide average 40th percentile rent for nonmetropolitan counties. The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.

Bedroom Size Adjustments

FMRs are calculated separately for each bedroom size category. In FMR areas where FMRs are based on the State minimums, the FMR for each bedroom size category is the higher of the 40th percentile rent for that bedroom size category (1) for the FMR area or (2) for the Statewide average of nonmetropolitan counties. For all other FMR areas, the bedroom intervals are based on 1990 census data indicating the rent for that bedroom size for the specific FMR area.

There are some areas where the bedroom intervals were adjusted because the rent intervals between bedroom sizes were above or below an acceptable range. The acceptable range for intervals between bedroom intervals was determined from a distribution of bedroom intervals for all metropolitan areas. Areas where the intervals were outside these standard ranges were increased or decreased to bring them

back within the range. Higher ratios continue to be used for 3-bedroom and larger size units than would result from using the actual market relationships. This is done to assist the largest, most difficult to house families in finding program-eligible units. The FMRs for unit sizes larger than 4-bedroom are calculated by adding 15 percent to the 4-bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4-bedroom FMR, and the FMR for a 6-bedroom unit is 1.30 times the 4-bedroom FMR. FMRs for SRO units are 0.75 times the 0 bedroom FMR.

Public Comments

In response to the May 23, 2002, proposed FMRs, HUD received 10 public comments covering 10 FMR areas. Rental housing survey information of some form was provided for four of those FMR areas. The Housing Authority of the County of Merced notified us that a survey was being conducted, but the survey was not submitted. All survey information submitted was evaluated and, based on that review, the FMRs for one area are being revised upward. The information submitted for the other FMR areas was not considered sufficient to provide a basis for revising the FMRs. The area with an approved FMR increase is:

Adams County, PA (Manufactured Home Space FMRs only)

Most of the commenters requested higher FMRs for their area. Some (Lebanon Housing Authority and the Housing Authority of the City of Los Angeles) suggested that FMRs be set at the 50th percentile for all areas. HUD conducted RDD surveys this summer for three areas (Los Angeles, CA, Washington, DC, and Oklahoma City, OK) that stated that the proposed FMRs were inadequate. The RDDs resulted in FMR increases for Los Angeles and Washington, DC; the RDD for Oklahoma City, OK, showed a slight decline in rents that will be incorporated into the proposed FMRs for FY 2004.

The Housing Authority of the City of Santa Barbara again requested that its FMR area be split into North and South Santa Barbara, or that HUD immediately approve its 146 percent exception for the southern area with the institution of the new FMRs on October 1. HUD agreed last year and continues to agree that the 146 percent exception rent for southern Santa Barbara should be effective October 1, 2002.

RDD Surveys

Summer RDDs

Based on RDDs conducted by HUD during the summer of 2002, FMRs for the following areas are being increased by more than the normal adjustments:

Fresno, CA
Los Angeles, CA
Sacramento, CA
Salinas, CA
Bridgeport, CT
Hartford, CT
Washington, DC
Pocatello, ID
Brockton, MA
Lawrence, MA
Lowell, MA
Rochester, MN
St Louis, MO
Middlesex-Somerset-Hunterdon, NJ
Eugene-Springfield, OR

Summer 2002 RDDs also were done for the following areas, but they resulted in no change in the FMRs:

Birmingham, AL
Riverside-San Bernardino, CA
Jacksonville, FL
Rocky Mount, NC
Philadelphia, PA-NJ
Pittsburgh, PA
Tacoma, WA

Two summer 2002 RDDs produced lower FMR estimates than those proposed in the May 23, 2002, publication. These areas will receive the proposed FY 2003 FMRs, but reductions will be in the **Federal Register** publication that contains proposed FY 2004 FMRs. The two areas are:

San Francisco, CA
Oklahoma City, OK

American Housing Survey

There were no AHS surveys with results that alter proposed FY 2003 FMRs.

FMR Area Definition Changes

There were no changes in Office of Management Budget (OMB) metropolitan area definitions affecting the FY 2003 FMRs. Although a new county has been formed in Colorado, Broomfield County, this new area definition will not be incorporated into an FMR area until OMB decides which Metropolitan Statistical Area (MSA) (Denver or Boulder) will include this county. OMB will not make this decision until it finishes its review of the 2000 Census data. The area that makes up the new county of Broomfield was split between the Denver and Boulder MSAs, and will remain split until Broomfield County is assigned to the Boulder or Denver metropolitan area.

Manufactured Home Space Surveys

The FMR used to establish payment standard amounts for the rental of manufactured home spaces in the Housing Choice Voucher program is 40 percent of the FMR for a 2-bedroom unit. HUD will consider modification of the manufactured home space FMRs where public comments present statistically valid survey data showing the 40th percentile manufactured home space rent (including the cost of utilities) for the entire FMR area.

Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base-year estimates that are updated annually using the same data used to update the other FMRs.

HUD Rental Housing Survey Guides

HUD recommends the use of professionally-conducted RDD telephone surveys to test the accuracy of FMRs for areas where there are sufficient numbers of Section 8 units to justify the survey cost of \$14,000–\$20,000. Areas with 500 or more program units usually meet this criterion, and areas with fewer units may meet it if local rents are thought to be significantly different than the FMR proposed by HUD. In addition, HUD PHAs developed a simplified version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of about \$5,000.

PHAs in nonmetropolitan areas may, in certain circumstances, do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. PHAs are cautioned that the resulting FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on its relationship to the combined rent of the group of FMR areas.

A PHA that plans to use the RDD survey technique may obtain a copy of the appropriate survey guide by calling HUD USER on 1–800–245–2691. Larger PHAs should request “Random Digit Dialing Surveys: A Guide to Assist Larger Housing Agencies in Preparing Fair Market Rent Comments.” Smaller PHAs should obtain “Rental Housing Surveys: A Guide to Assist Smaller Housing Agencies in Preparing Fair Market Rent Comments.” These guides are also available on the Internet at <http://www.huduser.org/datasets/fmr.html>.

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the

more traditional method described in the small PHA survey guide. Other survey methodologies are acceptable if they provide statistically reliable, unbiased estimates of the 40th percentile gross rent.

Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means of verification for determining whether the sample is representative of the FMR area's rental housing stock. All survey results must be fully documented.

A PHA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations HUD is prepared to relax normal sample size requirements.

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR part 888, are amended as follows:

Dated: September 20, 2002.

Mel Martinez,

Secretary.

Fair Market Rents for the Housing Choice Voucher Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. Metropolitan Areas—FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition.

HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions. Schedule B FMRs are issued for the metropolitan areas as defined by OMB, with the exceptions discussed in paragraph (b). The OMB-defined metropolitan areas closely correspond to housing market area definitions.

b. Exceptions to OMB Definitions—The exceptions are counties deleted from several large metropolitan areas whose revised OMB metropolitan area

definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the "Metropolitan FMR Areas" listing:

Metropolitan Area and Counties Deleted

Chicago, IL

DeKalb, Grundy, and Kendall Counties

Cincinnati-Hamilton, OH-KY-IN

Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana

Dallas, TX

Henderson County

Flagstaff, AZ-UT

Kane County, UT

New Orleans, LA

St. James Parish

Washington, DC-MD-VA-WV

Berkeley and Jefferson Counties in

West Virginia; and Clarke,

Culpeper, King George, and Warren Counties in Virginia

c. Nonmetropolitan Area FMRs—

FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states and for FMR areas in Puerto Rico, the Virgin Islands, and the Pacific Islands.

d. Virginia Independent Cities—FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these areas, including the independent cities, are as follows:

Virginia Nonmetropolitan County FMR Area and Independent Cities Included With County

County/Cities

Allegheny—Clifton Forge and

Covington

Augusta—Staunton and Waynesboro

Carroll—Galax

Frederick—Winchester

Greensville—Emporia

Henry—Martinsville

Montgomery—Radford

Rockbridge—Buena Vista and Lexington

Rockingham—Harrisonburg

Southampton—Franklin

Wise—Norton

2. Bedroom Size Adjustments

Schedule B shows the FMRs for 0-bedroom through 4-bedroom units. The FMRs for unit sizes larger than 4 bedrooms are calculated by adding 15 percent to the 4-bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4-bedroom FMR, and the FMR for a 6-bedroom unit is 1.30 times the 4-bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the 0 bedroom FMR.

3. FMRs for Manufactured Home Spaces

FMRs for manufactured home spaces in the Housing Choice Voucher program are 40 percent of the 2-bedroom Housing Choice Voucher program FMRs, with the exception of the areas listed in Schedule D whose manufactured home space FMRs have been modified on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that are updated annually using the same data used to estimate the Housing Choice Voucher program FMRs. The FMR area definitions used for the rental of manufactured home spaces are the same as the area definitions used for the other FMRs.

4. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

BILLING CODE 4210-62-P

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Anniston, AL MSA.....	278	329	412	574	650	Calhoun
Auburn-Opelika, AL MSA.....	277	387	497	646	817	Lee
Birmingham, AL MSA.....	424	479	557	756	837	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA.....	376	418	501	654	710	Russell
Decatur, AL MSA.....	369	373	469	609	728	Lawrence, Morgan
Dothan, AL MSA.....	334	342	425	584	593	Dale, Houston
Florence, AL MSA.....	314	360	462	577	647	Colbert, Lauderdale
Gadsden, AL MSA.....	278	340	392	509	627	Etowah
Huntsville, AL MSA.....	387	454	559	745	887	Limestone, Madison
Mobile, AL MSA.....	406	454	521	701	822	Baldwin, Mobile
Montgomery, AL MSA.....	424	453	535	729	878	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA.....	366	391	521	715	756	Tuscaloosa

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Barbour.....	261	311	370	480	550	Bibb.....	261	311	370	500	599
Bullock.....	261	311	370	480	550	Butler.....	261	311	370	480	550
Chambers.....	261	311	370	480	551	Cherokee.....	261	311	370	480	550
Chilton.....	271	311	370	480	550	Choctaw.....	261	311	370	480	550
Clarke.....	261	311	370	480	550	Clay.....	261	311	370	480	550
Cleburne.....	261	311	370	480	550	Coffee.....	261	367	477	663	744
Concuh.....	261	311	370	480	550	Coosa.....	261	311	370	480	550
Covington.....	261	311	370	480	550	Crenshaw.....	261	311	370	480	550
Cullman.....	261	311	370	492	598	Dallas.....	261	311	370	480	550
Dekalb.....	261	311	370	480	550	Escambia.....	261	311	370	480	550
Fayette.....	261	311	370	480	550	Franklin.....	261	311	370	480	550
Geneva.....	261	311	370	480	550	Greene.....	261	311	370	480	550
Hale.....	261	311	370	480	550	Henry.....	261	311	370	480	550
Jackson.....	282	311	370	480	589	Lamar.....	261	311	370	480	550
Lowndes.....	261	311	370	480	550	Macon.....	285	320	427	535	599
Marango.....	261	311	370	480	550	Marion.....	261	311	370	480	550
Marshall.....	300	311	378	522	619	Monroe.....	261	311	370	480	550
Perry.....	261	311	370	480	550	Pickens.....	261	311	370	480	550
Pike.....	313	364	434	563	656	Randolph.....	261	311	370	480	550
Sumter.....	261	311	370	480	550	Talladega.....	261	311	370	480	550
Tallapoosa.....	262	311	370	480	550	Walker.....	261	322	380	491	624
Washington.....	261	311	370	480	550	Wilcox.....	261	311	370	480	550
Winston.....	261	311	370	480	550						

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A L A S K A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	0 BR	1 BR	2 BR	3 BR	4 BR
Anchorage, AK MSA	537	635	842	1171	1383	Anchorage				
NONMETROPOLITAN COUNTIES										
Aleutian East	552	622	703	877	1148	474	536	600	753	843
Bethel	714	892	1131	1416	1584	572	661	742	1033	1122
Dillingham	690	701	932	1166	1306	435	592	777	1068	1259
Haines	514	637	725	986	1016	768	887	1130	1502	1561
Kenai Peninsula	468	596	718	996	1177	564	691	924	1286	1354
Kodiak Island	734	807	1049	1311	1701	441	715	803	1002	1126
Matanuska-Susitna	494	668	752	1021	1206	726	898	1009	1405	1585
North Slope	825	845	1045	1452	1692	874	983	1103	1535	1811
Pr. Wales-Outer Ketchikan	385	612	705	978	1034	607	722	810	1128	1330
Skagway-Yakutat-Angoon	472	480	621	779	874	484	508	612	767	861
Valdez-Cordova	577	707	785	1002	1195	413	621	701	876	981
Wrangell-Petersburg	420	619	753	958	1053	550	620	700	875	1012

A R I Z O N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	0 BR	1 BR	2 BR	3 BR	4 BR
Flagstaff, AZ	611	660	857	1149	1380	Coconino				
*Las Vegas, NV-AZ MSA	585	694	827	1150	1359	Mohave				
*Phoenix-Mesa, AZ MSA	530	641	806	1121	1320	Maricopa, Pinal				
Tucson, AZ MSA	428	513	683	949	1119	Pima				
Yuma, AZ MSA	412	478	636	884	890	Yuma				

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	0 BR	1 BR	2 BR	3 BR	4 BR
Apache	391	411	522	682	810	391	411	522	682	810
Gila	391	411	522	682	810	391	411	522	682	810
Greenlee	391	411	522	682	810	391	411	522	682	810
Navajo	391	411	522	682	810	391	411	522	682	810
Yavapai	415	432	578	806	887	391	432	538	682	810

A R K A N S A S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	0 BR	1 BR	2 BR	3 BR	4 BR
Fayetteville-Springdale-Rogers, AR MSA	329	415	545	736	761	Benton, Washington				
Fort Smith, AR-OK MSA	358	362	477	637	669	Crawford, Sebastian				
Jonesboro, AR MSA	388	422	496	683	722	Craighead				
Little Rock-North Little Rock, AR MSA	405	450	536	740	864	Faulkner, Lonoke, Pulaski, Saline				
Memphis, TN-AR-MS MSA	456	532	624	867	910	Crittenden				

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Pine Bluff, AR MSA..... 310 368 484 611 792 Jefferson
 Texarkana, TX-Texarkana, AR MSA..... 330 403 493 650 690 Miller

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Arkansas.....	279	303	388	530	575	Ashley.....	255	303	388	514	608
Baxter.....	255	324	431	554	675	Boone.....	302	307	408	568	669
Bradley.....	255	303	388	514	575	Calhoun.....	255	303	388	514	575
Carroll.....	300	327	388	514	614	Chicot.....	255	303	388	514	575
Clark.....	279	303	393	514	621	Clay.....	255	303	388	514	575
Cleburne.....	288	303	388	514	582	Cleveland.....	255	303	388	514	575
Columbia.....	255	303	388	514	575	Conway.....	255	314	421	526	589
Cross.....	265	335	388	521	615	Dallas.....	255	303	388	514	575
Desha.....	255	303	388	514	575	Drew.....	255	330	440	609	620
Franklin.....	267	303	388	514	575	Fulton.....	264	303	388	514	575
Garland.....	255	324	434	606	716	Grant.....	265	314	388	514	580
Greene.....	273	303	388	514	575	Hempstead.....	255	303	388	514	575
Hot Spring.....	255	303	388	514	575	Howard.....	255	303	388	514	575
Independence.....	268	310	388	514	575	Izard.....	255	303	388	514	575
Jackson.....	264	303	388	514	575	Johnson.....	255	303	388	514	575
Lafayette.....	267	303	388	514	575	Lawrence.....	255	303	388	514	575
Lee.....	280	303	388	514	575	Lincoln.....	275	303	394	527	575
Little River.....	255	303	394	547	645	Logan.....	267	303	388	514	575
Madison.....	292	303	394	514	575	Marion.....	255	303	388	514	575
Mississippi.....	291	314	421	555	623	Monroe.....	259	303	388	514	575
Montgomery.....	255	303	388	514	575	Nevada.....	255	303	388	531	575
Newton.....	255	303	388	514	575	Ouachita.....	298	303	388	535	631
Perry.....	255	303	388	514	575	Phillips.....	255	303	388	514	575
Pike.....	255	303	388	514	575	Poinsett.....	255	303	388	514	575
Polk.....	255	303	388	514	575	Pope.....	255	333	421	584	673
Prairie.....	255	303	388	514	575	Randolph.....	255	303	388	514	575
St. Francis.....	255	309	388	525	617	Scott.....	255	303	388	514	575
Searcy.....	255	303	388	514	575	Sevier.....	278	303	388	514	575
Sharp.....	255	303	388	514	575	Stone.....	255	303	388	514	575
Union.....	319	337	405	544	665	Van Buren.....	255	303	388	514	634
White.....	255	303	388	531	575	Woodruff.....	255	303	388	514	575
Yell.....	265	303	388	514	575						

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C A L I F O R N I A

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Bakersfield, CA MSA.....	407	457	575	798	883	Kern
Chico-Paradise, CA MSA.....	372	479	637	874	1045	Butte
Fresno, CA MSA.....	436	487	582	811	934	Fresno, Madera
Los Angeles-Long Beach, CA PMSA.....	638	764	967	1305	1558	Los Angeles
Merced, CA MSA.....	444	501	608	841	992	Merced
Modesto, CA MSA.....	530	569	694	968	1142	Stanislaus
*Oakland, CA PMSA.....	905	1095	1374	1883	2249	Alameda, Contra Costa
*Orange County, CA PMSA.....	855	934	1155	1607	1788	Orange
Redding, CA MSA.....	423	469	587	815	960	Shasta
Riverside-San Bernardino, CA PMSA.....	507	564	690	957	1130	Riverside, San Bernardino
*Sacramento, CA PMSA.....	651	733	918	1273	1501	El Dorado, Placer, Sacramento
Salinas, CA MSA.....	694	812	979	1360	1427	Monterey
*San Diego, CA MSA.....	766	875	1095	1524	1796	San Diego
San Francisco, CA PMSA.....	1048	1357	1716	2353	2491	Marin, San Francisco, San Mateo
*San Jose, CA PMSA.....	1250	1425	1760	2412	2709	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA MSA...	619	699	886	1232	1454	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA.....	696	773	980	1364	1540	Santa Barbara
Santa Cruz-Watsonville, CA PMSA.....	816	972	1298	1805	2114	Santa Cruz
Santa Rosa, CA PMSA.....	767	869	1126	1566	1849	Sonoma
Stockton-Lodi, CA MSA.....	504	569	731	1018	1200	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA.....	784	891	1086	1508	1779	Napa, Solano
*Ventura, CA PMSA.....	743	854	1081	1437	1675	Ventura
Visalia-Tulare-Porterville, CA MSA.....	412	439	572	798	911	Tulare
Yolo, CA PMSA.....	532	607	752	1040	1230	Yolo
Yuba City, CA MSA.....	367	429	551	769	888	Sutter, Yuba
NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR						
Alpine.....	332	498	563	782	842	Amador..... 458 504 673 937 1045
Calaveras.....	401	464	618	861	1013	Colusa..... 363 406 522 728 842
Del Norte.....	339	465	618	862	1015	Glenn..... 332 406 522 728 842
Humboldt.....	342	474	621	867	1025	Imperial..... 374 469 577 804 842
Inyo.....	344	464	595	781	842	Kings..... 384 448 558 777 914
Lake.....	373	475	635	799	1041	Lassen..... 406 411 534 728 842
Mariposa.....	359	456	586	768	905	Mendocino..... 459 553 679 945 952
Modoc.....	363	406	522	728	842	Mono..... 506 607 807 1123 1327
Nevada.....	415	568	757	1052	1218	Plumas..... 366 406 522 728 842
San Benito.....	571	672	841	1172	1371	Sierra..... 332 446 548 761 898
Siskiyou.....	348	406	522	728	842	Tehama..... 347 406 522 728 842
Trinity.....	372	406	522	728	842	Tuolumne..... 367 501 668 930 1096

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C O L O R A D O

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA.....	626	750	962	1341	1580	Boulder
Colorado Springs, CO MSA.....	482	518	690	962	1135	El Paso
*Denver, CO PMSA.....	595	710	945	1311	1548	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA.....	476	588	727	1010	1193	Larimer
Grand Junction, CO MSA.....	438	456	570	768	914	Mesa
Greeley, CO PMSA.....	526	581	731	1014	1200	Weld
Pueblo, CO MSA.....	462	478	598	805	961	Pueblo

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alamosa.....	414	429	537	724	863	Archuleta.....	495	542	641	865	1028
Baca.....	414	429	537	724	863	Bent.....	414	429	537	724	863
Chaffee.....	414	429	537	724	863	Cheyenne.....	414	429	537	724	863
Clear Creek.....	414	484	546	760	895	Conejos.....	414	429	537	724	863
Costilla.....	414	429	537	724	863	Crowley.....	414	429	537	724	863
Custer.....	414	429	537	724	863	Delta.....	414	429	537	724	863
Dolores.....	414	429	537	724	863	Eagle.....	556	607	809	1126	1328
Elbert.....	458	506	580	724	950	Fremont.....	414	429	537	724	863
Garfield.....	481	515	651	813	1065	Gilpin.....	414	550	700	923	1020
Grand.....	492	496	628	786	952	Gunnison.....	414	429	537	724	863
Hinsdale.....	414	438	537	724	863	Huerfano.....	414	429	537	724	863
Jackson.....	414	429	537	724	863	Kiowa.....	414	429	537	724	863
Kit Carson.....	414	429	537	724	863	Lake.....	414	429	537	724	863
La Plata.....	541	598	788	1098	1296	Las Animas.....	414	443	537	724	863
Lincoln.....	414	429	537	724	863	Logan.....	414	429	537	724	863
Mineral.....	414	429	537	724	863	Moffat.....	414	429	537	724	863
Montezuma.....	414	429	537	724	863	Montrose.....	414	429	543	753	887
Morgan.....	414	429	537	724	863	Otero.....	414	429	537	724	863
Ouray.....	414	429	543	724	879	Park.....	414	459	597	829	943
Phillips.....	414	429	537	724	863	Pitkin.....	621	850	1132	1493	1698
Prowers.....	414	429	537	724	863	Rio Blanco.....	414	429	537	724	863
Rio Grande.....	414	429	537	724	863	Routt.....	414	500	661	919	1083
Saguache.....	414	429	537	724	863	San Juan.....	414	429	537	724	863
San Miguel.....	761	1100	1209	1510	1950	Sedgwick.....	414	429	537	724	863
Summit.....	533	638	819	1139	1402	Teller.....	414	491	654	909	917
Washington.....	414	429	537	724	863	Yuma.....	414	429	537	724	863

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T

METROPOLITAN FMR AREAS

Components of FMR AREA within STATE

	0 BR	1 BR	2 BR	3 BR	4 BR	
Bridgeport, CT PMSA.....	555	721	868	1086	1354	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgfield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Hartington town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford town, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town
Danbury, CT PMSA.....	699	835	1044	1378	1589	
Hartford, CT MSA.....	510	636	813	1020	1238	
New Haven-Meriden, CT PMSA.....	597	733	905	1160	1344	
New London-Norwich, CT-RI MSA.....	532	643	784	980	1121	

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	0 BR 1 BR 2 BR 3 BR 4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA.....	1006 1178 1436 1925 2126	Fairfield county towns of Darien town, Greenwich town, New Canaan town, Norwalk town, Stamford town, Weston town, Westport town, Wilton town
Waterbury, CT PMSA.....	507 685 849 1058 1186	Litchfield county towns of Bethlehem town, Thomaston town, Watertown town, Woodbury town
Worcester, MA-CT PMSA.....	521 629 785 980 1099	New Haven county towns of Middlebury town, Naugatuck town, Prospect town, Southbury town, Waterbury town, Wolcott town, Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES

Hartford.....	393 635 717 996 1174	Towns within non metropolitan counties
Litchfield.....	457 622 830 1035 1179	Hartland town
Middlesex.....	676 766 1023 1424 1679	Canaan town, Colebrook town, Cornwall town, Goshen town, Kent town, Litchfield town, Morris town, Norfolk town, North Canaan town, Salisbury town, Sharon town, Torrington town, Warren town
New London.....	573 702 797 1028 1305	Chester town, Deep River town, Essex town, Westbrook town
Tolland.....	393 635 717 996 1003	Lyme town, Voluntown town
Windham.....	453 553 717 898 1126	Union town
		Brooklyn town, Eastford town, Hampton town, Killingly town, Pomfret town, Putnam town, Scotland town, Sterling town, Woodstock town

D E L A W A R E

METROPOLITAN FMR AREAS

Dover, DE MSA.....	0 BR 1 BR 2 BR 3 BR 4 BR	Counties of FMR AREA within STATE
Wilmington-Newark, DE-MD PMSA.....	523 579 659 855 973	Kent
	490 645 752 1022 1235	New Castle

NONMETROPOLITAN COUNTIES

Sussex.....	0 BR 1 BR 2 BR 3 BR 4 BR	NONMETROPOLITAN COUNTIES
	460 489 624 820 876	0 BR 1 BR 2 BR 3 BR 4 BR

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS

*Washington, DC-MD-VA.....	0 BR 1 BR 2 BR 3 BR 4 BR	Counties of FMR AREA within STATE
	865 984 1154 1573 1897	District of Columbia

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

F L O R I D A

METROPOLITAN FMR AREAS

Counties of FMR AREA within STATE

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA.....	418	490	626	830	882	Flagler, Volusia
*Fort Lauderdale, FL PMSA.....	547	644	798	1110	1305	Broward
Fort Myers-Cape Coral, FL MSA.....	449	516	623	871	908	Lee
Fort Pierce-Port Lucie, FL MSA.....	499	547	709	922	994	Martin, St. Lucie
Fort Walton Beach, FL MSA.....	435	475	540	733	863	Okaloosa
Gainesville, FL MSA.....	435	475	578	792	936	Alachua
Jacksonville, FL MSA.....	499	559	673	889	990	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA.....	418	457	516	640	700	Polk
Melbourne-Titusville-Palm Bay, FL MSA.....	418	489	611	818	953	Brevard
*Miami, FL PMSA.....	518	652	813	1116	1293	Dade
Naples, FL MSA.....	465	656	790	1098	1223	Collier
Ocala, FL MSA.....	435	475	540	709	831	Marion
Orlando, FL MSA.....	604	685	817	1072	1308	Lake, Orange, Osceola, Seminole
Panama City, FL MSA.....	435	475	540	689	739	Bay
Pensacola, FL MSA.....	435	475	540	721	850	Escambia, Santa Rosa
Punta Gorda, FL MSA.....	435	500	666	923	1088	Charlotte
Sarasota-Bradenton, FL MSA.....	437	555	706	907	988	Manatee, Sarasota
Tallahassee, FL MSA.....	445	494	650	849	1024	Gadsden, Leon
*Tampa-St. Petersburg-Clearwater, FL MSA.....	505	601	745	989	1199	Hernando, Hillsborough, Pasco, Pinellas
*West Palm Beach-Boca Raton, FL MSA.....	568	663	820	1088	1348	Palm Beach

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Baker.....	410	449	508	630	684	Bradford.....	410	449	508	630	684
Calhoun.....	410	449	508	630	684	Citrus.....	410	449	508	630	684
Columbia.....	410	449	508	630	684	Desoto.....	410	449	508	630	684
Dixie.....	410	449	508	630	684	Franklin.....	410	449	508	630	684
Gilchrist.....	410	449	508	630	684	Glades.....	410	449	508	630	684
Gulf.....	410	449	508	630	684	Hamilton.....	410	449	508	630	684
Hardee.....	410	449	508	630	684	Hendry.....	410	449	522	656	735
Highlands.....	410	449	508	632	707	Holmes.....	410	449	508	630	684
Indian River.....	410	513	660	826	924	Jackson.....	410	449	508	630	684
Jefferson.....	410	449	508	630	684	Lafayette.....	410	449	508	630	684
Levy.....	410	449	508	630	684	Liberty.....	410	449	508	630	684
Madison.....	410	449	508	630	684	Monroe.....	588	663	852	1174	1397
Okechobee.....	410	449	508	630	690	Putnam.....	410	449	508	630	684
Sumter.....	410	449	508	630	684	Suwannee.....	410	449	508	630	684
Taylor.....	410	449	508	630	685	Union.....	410	449	508	630	684
Wakulla.....	410	449	508	630	684	Walton.....	410	449	508	654	818
Washington.....	410	449	508	630	684						

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Albany, GA MSA.....	325	381	464	634	687	Dougherty, Lee
Athens, GA MSA.....	400	431	558	761	918	Clarke, Madison, Oconee
*Atlanta, GA MSA.....	714	795	927	1236	1495	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett Henry, Newton, Paulding, Pickens, Rockdale, Spalding Walton
Augusta-Aiken, GA-SC MSA.....	410	491	578	785	928	Columbia, McDuffie, Richmond
Chattanooga, TN-GA MSA.....	392	458	550	711	811	Catoosa, Dade, Walker
Columbus, GA-AL MSA.....	376	418	501	654	710	Chattahoochee, Harris, Muscogee
Macon, GA MSA.....	420	467	544	750	772	Bibb, Houston, Jones, Peach, Twiggs
Savannah, GA MSA.....	391	487	566	762	793	Bryan, Chatham, Effingham

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Appling.....	298	359	439	569	648	Atkinson.....	298	359	439	569	648
Bacon.....	298	359	439	569	648	Baker.....	298	359	439	569	648
Baldwin.....	298	382	465	597	652	Banks.....	298	359	439	569	648
Ben Hill.....	298	359	439	569	656	Berrien.....	298	359	439	569	648
Bleckley.....	298	359	439	569	648	Brantley.....	298	359	439	569	648
Brooks.....	298	359	439	569	648	Bulloch.....	359	365	468	604	767
Burke.....	298	359	439	569	648	Butts.....	298	395	523	702	735
Calhoun.....	298	359	439	569	648	Camden.....	418	472	528	735	869
Candler.....	298	359	439	569	648	Charlton.....	298	359	439	569	648
Chattooga.....	298	359	439	569	648	Clay.....	298	359	439	569	648
Clinch.....	298	359	439	569	648	Coffee.....	298	359	439	569	656
Colquitt.....	298	359	439	569	648	Cook.....	298	359	439	569	648
Crawford.....	298	359	439	569	648	Crisp.....	302	359	439	569	648
Dawson.....	298	389	516	647	796	Decatur.....	298	359	439	569	648
Dodge.....	298	359	439	569	648	Dooley.....	298	359	439	569	648
Early.....	298	359	439	569	648	Echols.....	298	359	439	569	648
Elbert.....	298	359	439	569	648	Emanuel.....	298	359	439	569	648
Evans.....	298	359	439	569	648	Fannin.....	298	359	439	569	648
Floyd.....	298	359	440	580	648	Franklin.....	298	359	439	569	648
Gilmer.....	298	359	439	569	648	Glascok.....	298	359	439	569	648
Glynn.....	416	465	526	708	867	Gordon.....	353	359	448	577	738
Grady.....	304	359	439	569	648	Greene.....	298	359	439	569	648
Habersham.....	320	359	439	569	653	Hall.....	316	480	564	707	788
Hancock.....	298	359	439	569	648	Haralson.....	298	359	439	569	648
Hart.....	298	359	439	569	648	Heard.....	298	359	439	569	648
Irwin.....	298	359	439	569	648	Jackson.....	332	359	451	569	742
Jasper.....	298	359	445	604	648	Jeff Davis.....	298	359	439	569	648
Jefferson.....	298	359	439	569	656	Jenkins.....	298	359	439	569	648

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A continued

NONMETROPOLITAN COUNTIES		0	BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES				0	BR 1	BR 2	BR 3	BR 4	BR
Johnson.....	298	359	439	569	648		Lamar.....	298	369	439	569	696				
Lanier.....	298	359	439	569	648		Laurens.....	305	359	439	569	648				
Liberty.....	371	414	471	655	660		Lincoln.....	298	359	439	569	648				
Long.....	298	389	439	569	648		Lowndes.....	334	404	489	685	759				
Lumpkin.....	298	402	452	605	742		Mcintosh.....	298	359	439	569	648				
Macon.....	298	359	439	569	648		Marion.....	298	359	439	569	648				
Meriwether.....	298	359	439	569	648		Miller.....	298	359	439	569	648				
Mitchell.....	298	359	439	569	648		Monroe.....	298	359	439	578	648				
Montgomery.....	298	359	439	569	648		Morgan.....	298	359	455	569	648				
Murray.....	298	359	439	569	648		Oglethorpe.....	298	359	439	569	648				
Pierce.....	298	359	439	569	648		Pike.....	346	375	476	662	666				
Polk.....	298	359	439	595	648		Pulaski.....	298	359	439	569	648				
Putnam.....	298	359	439	569	656		Quitman.....	298	359	439	569	648				
Rabun.....	298	359	439	569	648		Randolph.....	298	359	439	569	648				
Schley.....	298	359	439	569	648		Screven.....	298	359	439	569	648				
Seminole.....	298	359	439	569	648		Stephens.....	298	359	439	569	648				
Stewart.....	298	359	439	569	648		Sumter.....	298	365	439	569	648				
Talbot.....	298	359	439	569	648		Taliaferro.....	298	359	439	569	648				
Tattall.....	298	359	439	569	648		Taylor.....	298	359	439	569	648				
Telfair.....	298	359	439	569	648		Terrell.....	298	359	439	569	648				
Thomas.....	298	370	439	569	648		Tift.....	298	359	439	569	648				
Toombs.....	298	359	439	569	648		Towns.....	298	359	439	569	648				
Treutlen.....	298	359	439	569	648		Troup.....	298	406	457	571	648				
Turner.....	298	359	439	569	648		Union.....	298	359	458	574	648				
Upton.....	309	359	439	569	648		Ware.....	330	370	439	569	683				
Warren.....	298	359	439	569	648		Washington.....	298	359	439	569	648				
Wayne.....	309	359	439	569	648		Webster.....	298	359	439	569	648				
Wheeler.....	298	359	439	569	648		White.....	298	359	439	569	662				
Whitfield.....	298	392	471	602	710		Wilcox.....	298	359	439	569	648				
Wilkes.....	298	359	439	569	648		Wilkinson.....	298	359	439	569	648				
Worth.....	298	359	439	569	648											

H A W A I I

METROPOLITAN FMR AREAS 0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Honolulu, HI MSA..... 599 717 844 1142 1235 Honolulu

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

H A W A I I continued

NONMETROPOLITAN COUNTIES	0 BR 1 BR 2 BR 3 BR 4 BR	NONMETROPOLITAN COUNTIES	0 BR 1 BR 2 BR 3 BR 4 BR
Hawaii.....	466 608 699 929 1145	Kauai.....	595 889 1084 1434 1551
Mau.....	753 934 1140 1472 1667		

I D A H O

METROPOLITAN FMR AREAS 0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Boise City, ID MSA.....	419 477 580 805 952 Ada, Canyon
Pocatello, ID MSA.....	328 380 488 665 786 Bannock

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Adams.....	296 344 443 588 696	Bear Lake.....	296 344 443 588 696
Benewah.....	296 344 443 588 696	Bingham.....	316 344 443 588 696
Blaine.....	458 505 672 938 1104	Boise.....	296 382 443 588 696
Bonner.....	341 422 524 724 833	Bonneville.....	303 380 524 703 858
Boundary.....	296 344 443 588 696	Butte.....	296 344 443 588 696
Camas.....	296 344 443 588 696	Caribou.....	296 344 443 588 696
Cassia.....	296 344 443 588 696	Clark.....	296 344 443 588 696
Clearwater.....	296 344 443 588 696	Custer.....	296 344 443 588 696
Elmore.....	296 344 443 588 696	Franklin.....	296 344 443 588 696
Fremont.....	296 344 443 588 696	Gem.....	296 344 443 588 696
Gooding.....	296 344 443 588 696	Idaho.....	296 344 443 588 696
Jefferson.....	306 344 443 588 696	Jerome.....	296 344 443 588 696
Kootenai.....	377 443 580 807 954	Latah.....	296 344 443 588 705
Lemhi.....	296 344 443 588 696	Lewis.....	296 344 443 588 696
Lincoln.....	296 344 443 588 696	Madison.....	296 344 443 588 696
Minidoka.....	296 344 443 588 696	Nez Perce.....	303 344 443 588 696
Oneida.....	297 344 443 588 696	Owyhee.....	296 344 443 588 696
Payette.....	296 344 443 588 696	Power.....	296 344 443 588 696
Shoshone.....	296 344 443 588 696	Teton.....	323 344 443 600 710
Twin Falls.....	296 344 448 592 696	Valley.....	309 344 443 588 696
Washington.....	296 344 443 588 696		

I L L I N O I S

METROPOLITAN FMR AREAS 0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Bloomington-Normal, IL MSA.....	364 443 594 825 871 McLean
Champaign-Urbana, IL MSA.....	400 492 636 872 1046 Champaign
*Chicago, IL.....	649 778 928 1160 1298 Cook, Dupage, Kane, Lake, McHenry, Will
Davenport-Moline-Rock Island, IA-IL MSA.....	300 414 512 662 718 Henry, Rock Island

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

ILLINOIS continued

METROPOLITAN FMR AREAS		Counties of FMR AREA within STATE			
	0 BR	1 BR	2 BR	3 BR	4 BR
Decatur, IL MSA.....	290	376	482	652	675
De Kalb County, IL.....	498	579	733	1020	1182
Grundy County, IL.....	433	501	665	879	934
Kankakee, IL PMSA.....	394	477	634	811	891
Kendall County, IL.....	601	684	825	1148	1154
Peoria-Pekin, IL MSA.....	403	444	596	794	975
Rockford, IL MSA.....	387	496	603	758	885
*St. Louis, MO-IL MSA.....	437	533	691	900	994
Springfield, IL MSA.....	334	414	551	733	834
				Menard, Sangamon	
NONMETROPOLITAN COUNTIES		NONMETROPOLITAN COUNTIES			
	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	277	311	400	525	638
Bond.....	277	311	400	525	589
Bureau.....	277	350	409	525	589
Carroll.....	277	311	400	525	589
Christian.....	298	311	402	528	589
Clay.....	277	311	400	525	589
Crawford.....	277	311	400	525	589
De Witt.....	281	311	400	530	589
Edgar.....	277	311	400	525	589
Effingham.....	277	320	400	525	589
Ford.....	263	370	481	618	675
Fulton.....	285	319	411	540	607
Greene.....	277	311	400	525	589
Hancock.....	277	311	400	525	589
Henderson.....	277	311	400	525	589
Jackson.....	335	336	426	604	676
Jefferson.....	278	326	407	555	589
Johnson.....	277	311	400	525	589
La Salle.....	335	394	525	710	796
Lee.....	308	317	425	531	595
Logan.....	310	329	439	549	688
Macoupin.....	277	311	400	525	589
Marshall.....	277	311	400	525	589
Massac.....	278	311	400	525	589
Montgomery.....	277	311	400	525	589
Moultrie.....	277	311	400	539	589
Piatt.....	277	336	438	596	614
Pope.....	277	311	400	525	589
Putham.....	277	311	400	525	589
				Alexander.....	277
				Brown.....	277
				Calhoun.....	277
				Cass.....	278
				Clark.....	277
				Coles.....	292
				Cumberland.....	277
				Douglas.....	296
				Edwards.....	277
				Fayette.....	277
				Franklin.....	277
				Gallatin.....	277
				Hamilton.....	277
				Hardin.....	277
				Iroquois.....	277
				Jasper.....	277
				Jo Daviess.....	306
				Knox.....	277
				Lawrence.....	277
				Livingston.....	277
				Mcdonough.....	277
				Marion.....	282
				Mason.....	277
				Mercer.....	277
				Morgan.....	277
				Perry.....	278
				Pike.....	277
				Pulaski.....	277
				Randolph.....	277

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	0 BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	0 BR 1	BR 2	BR 3	BR 4	BR
Richland.....	277	311	400	525	589	Saline.....	277	311	400	525	589
Schuyler.....	277	311	400	525	589	Scott.....	277	311	400	525	589
Shelby.....	277	311	400	525	589	Stark.....	277	311	400	525	589
Stephenson.....	292	334	424	530	593	Union.....	277	311	400	525	589
Vermillion.....	277	354	441	551	618	Wabash.....	277	311	400	525	623
Warren.....	292	311	400	525	589	Washington.....	277	331	442	553	719
Wayne.....	277	311	400	525	589	White.....	277	311	400	525	589
Whiteside.....	292	332	443	554	625	Williamson.....	277	311	402	558	589

I N D I A N A

METROPOLITAN FMR AREAS	0 BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Bloomington, IN MSA.....	395	511	680	946	1118	Monroe
Cincinnati, OH-KY-IN.....	386	495	662	887	958	Dearborn
Elkhart-Goshen, IN MSA.....	399	456	575	736	846	Elkhart
Evansville-Henderson, IN-KY MSA.....	342	407	529	660	739	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA.....	342	435	542	698	757	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA.....	440	579	721	907	1012	Lake, Porter
Indianapolis, IN MSA.....	390	489	588	736	825	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison
Kokomo, IN MSA.....	368	434	567	729	794	Marion, Morgan, Shelby
Lafayette, IN MSA.....	373	473	630	876	1035	Howard, Tipton
Louisville, KY-IN MSA.....	368	473	581	801	845	Clinton, Tippecanoe
Muncie, IN MSA.....	383	477	566	767	905	Clark, Floyd, Harrison, Scott
Ohio County, IN.....	322	363	464	598	658	Delaware
South Bend, IN MSA.....	343	457	599	749	841	St. Joseph
Terre Haute, IN MSA.....	309	361	462	575	642	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	0 BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	0 BR 1	BR 2	BR 3	BR 4	BR
Bartholomew.....	425	457	551	688	906	Benton.....	299	336	432	554	611
Blackford.....	299	336	444	555	623	Brown.....	299	397	523	726	752
Carroll.....	299	336	432	554	611	Cass.....	299	336	432	554	611
Crawford.....	299	336	432	554	611	Daviess.....	299	336	432	554	611
Decatur.....	299	365	466	604	657	Dubois.....	299	336	432	554	629
Fayette.....	316	357	456	586	689	Fountain.....	299	336	432	554	611
Franklin.....	299	336	432	554	682	Fulton.....	329	346	432	580	611
Gibson.....	299	336	432	554	611	Grant.....	315	336	432	556	611
Greene.....	299	336	432	554	611	Henry.....	328	369	472	610	668
Jackson.....	367	385	475	628	675	Jasper.....	299	363	432	554	611
Jay.....	299	336	432	554	611	Jefferson.....	299	336	432	554	611

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I N D I A N A continued

NONMETROPOLITAN COUNTIES	0 BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	0 BR 1	BR 2	BR 3	BR 4	BR
Jennings.....	312	336	432	554	611	Knox.....	329	364	472	600	662
Kosciusko.....	299	396	478	620	669	Lagrange.....	304	352	447	582	677
La Porte.....	304	368	493	631	689	Lawrence.....	299	336	432	558	611
Marshall.....	355	360	478	601	669	Martin.....	299	336	432	554	611
Miami.....	299	336	432	554	611	Montgomery.....	431	452	565	717	793
Newton.....	312	336	432	554	611	Noble.....	346	353	438	565	625
Orange.....	299	336	432	554	611	Owen.....	299	336	432	554	639
Parke.....	299	336	432	554	638	Perry.....	299	336	432	554	611
Pike.....	299	336	432	554	611	Pulaski.....	299	336	432	554	611
Putnam.....	325	378	465	625	630	Randolph.....	299	336	432	554	611
Ripley.....	299	336	432	564	639	Rush.....	307	336	432	554	639
Spencer.....	299	336	432	554	611	Starke.....	299	336	432	554	611
Steuben.....	366	412	494	618	689	Sullivan.....	299	336	432	554	611
Switzerland.....	299	336	432	554	611	Union.....	299	336	432	554	611
Wabash.....	299	336	432	554	611	Warren.....	299	336	432	554	611
Washington.....	299	336	432	554	611	Wayne.....	361	405	520	668	734
White.....	299	336	432	554	674						

I O W A

METROPOLITAN FMR AREAS

	0 BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA.....	293	413	531	738	793	Linn
Davenport-Moline-Rock Island, IA-IL MSA.....	300	414	512	662	718	Scott
Des Moines, IA MSA.....	416	525	649	841	884	Dallas, Polk, Warren
Dubuque, IA MSA.....	311	380	489	624	762	Dubuque
Iowa City, IA MSA.....	367	473	610	846	1000	Johnson
Omaha, NE-IA MSA.....	359	492	621	814	914	Pottawattamie
Sioux City, IA-NE MSA.....	365	439	547	682	779	Woodbury
Waterloo-Cedar Falls, IA MSA.....	342	438	547	728	856	Black Hawk

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Adair.....	282	349	437	556	612	Adams.....	282	349	437	556	612
Allamakee.....	282	349	437	562	643	Appanoose.....	282	349	437	556	616
Audubon.....	282	349	437	556	612	Benton.....	289	349	437	556	612
Boone.....	282	370	437	562	666	Bremer.....	282	349	437	556	651
Buchanan.....	296	349	437	556	612	Buena Vista.....	297	349	437	556	612
Butler.....	299	349	437	556	612	Calhoun.....	282	349	437	556	612
Carroll.....	282	349	437	556	612	Cass.....	282	349	437	556	612
Cedar.....	282	354	437	556	612	Cerro Gordo.....	282	369	457	609	640
Cherokee.....	282	349	437	556	612	Chickasaw.....	282	349	437	556	612

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES		0 BR	1 BR	2 BR	3 BR	4 BR
Clarke.....	289	349	437	556	612	
Clayton.....	282	349	437	556	612	
Crawford.....	282	349	437	556	612	
Decatur.....	282	349	437	556	612	
Des Moines.....	282	360	463	579	647	
Emmet.....	282	349	437	556	647	
Floyd.....	307	349	437	556	612	
Fremont.....	310	349	437	556	645	
Grundy.....	282	349	437	556	630	
Hamilton.....	322	365	442	556	619	
Hardin.....	282	349	437	556	612	
Henry.....	282	358	454	568	643	
Humboldt.....	282	349	437	556	612	
Iowa.....	282	349	437	556	612	
Jasper.....	282	358	453	566	635	
Jones.....	291	349	437	556	612	
Kossuth.....	282	349	437	556	612	
Louisa.....	282	349	437	556	612	
Lyon.....	282	349	437	556	612	
Mahaska.....	282	349	437	556	612	
Marshall.....	311	385	482	611	676	
Mitchell.....	282	349	437	556	612	
Monroe.....	282	367	437	556	645	
Muscataine.....	322	399	529	705	739	
Osceola.....	282	349	437	556	612	
Palo Alto.....	282	349	437	556	612	
Pocahontas.....	282	349	437	556	612	
Ringgold.....	282	349	437	556	612	
Shelby.....	282	349	437	556	612	
Story.....	367	446	527	728	835	
Taylor.....	282	349	437	556	613	
Van Buren.....	282	349	437	556	612	
Washington.....	282	349	437	556	645	
Webster.....	282	349	444	559	622	
Winneshiek.....	282	349	437	556	612	
Wright.....	282	349	437	556	612	

NONMETROPOLITAN COUNTIES		0 BR	1 BR	2 BR	3 BR	4 BR
Clay.....	282	349	437	556	612	
Clinton.....	282	349	444	556	621	
Davis.....	282	349	437	556	612	
Delaware.....	282	349	437	556	612	
Dickinson.....	282	349	437	556	612	
Fayette.....	282	349	437	556	612	
Franklin.....	289	349	437	556	612	
Greene.....	282	349	437	556	612	
Guthrie.....	282	349	437	556	644	
Hancock.....	282	349	437	556	612	
Harrison.....	282	349	437	556	612	
Howard.....	282	349	437	556	640	
Ida.....	289	349	437	556	612	
Jackson.....	282	349	440	556	616	
Jefferson.....	282	357	474	617	780	
Keokuk.....	282	349	437	556	612	
Lee.....	282	349	451	565	634	
Lucas.....	282	349	437	556	612	
Madison.....	282	349	455	582	639	
Marion.....	282	388	474	594	666	
Mills.....	282	377	445	559	624	
Monona.....	282	349	437	556	612	
Montgomery.....	310	351	437	556	612	
O'Brien.....	282	349	437	556	612	
Page.....	282	349	437	556	612	
Plymouth.....	282	349	457	571	640	
Poweshiek.....	297	370	474	594	666	
Sac.....	282	349	437	556	612	
Sioux.....	282	349	437	556	612	
Tama.....	282	349	437	556	612	
Union.....	282	349	437	556	645	
Wapello.....	282	349	441	556	617	
Wayne.....	282	349	437	556	612	
Winnebago.....	282	355	437	556	612	
Worth.....	282	349	437	556	622	

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

*Kansas City, MO-KS MSA.....	463	582	701	970	1075	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA.....	378	453	580	808	930	Douglas
Topeka, KS MSA.....	354	408	531	718	809	Shawnee
*Wichita, KS MSA.....	370	444	594	804	868	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Allen.....	287	326	418	539	600	Anderson.....	287	326	418	539	600
Atchison.....	287	326	418	539	643	Barber.....	287	326	418	539	600
Barton.....	287	326	418	539	600	Bourbon.....	287	326	418	539	600
Brown.....	287	326	418	539	600	Chase.....	287	326	418	539	600
Chautauqua.....	287	326	418	539	600	Cherokee.....	287	326	418	539	600
Cheyenne.....	287	326	418	539	600	Clark.....	287	326	418	539	600
Clay.....	287	326	418	539	600	Cloud.....	287	326	418	539	600
Coffey.....	296	326	418	539	627	Comanche.....	287	326	418	539	600
Cowley.....	307	326	418	553	600	Crawford.....	287	326	426	539	600
Decatur.....	287	326	418	539	600	Dickinson.....	287	326	418	539	600
Doniphan.....	287	326	418	539	600	Edwards.....	287	326	418	539	600
Elk.....	287	326	418	539	600	Ellis.....	287	326	418	539	600
Ellsworth.....	287	326	418	539	600	Finney.....	377	402	516	672	849
Ford.....	330	391	486	612	689	Franklin.....	323	339	437	560	682
Geary.....	354	371	465	600	650	Gove.....	287	326	418	539	600
Graham.....	287	326	418	539	600	Grant.....	297	378	433	593	646
Gray.....	287	326	418	539	600	Greeley.....	287	326	418	539	600
Greenwood.....	287	326	418	539	600	Hamilton.....	287	326	418	539	600
Harper.....	287	326	418	539	600	Haskell.....	287	333	418	539	600
Hodgeman.....	287	326	418	539	600	Jackson.....	287	326	418	539	600
Jefferson.....	287	326	426	565	600	Jewell.....	287	326	418	539	600
Kearny.....	320	326	430	578	636	Kingman.....	287	326	418	539	600
Kiowa.....	287	326	418	539	600	Labette.....	287	326	418	539	600
Lane.....	287	326	418	539	600	Lincoln.....	287	326	418	539	600
Linn.....	287	326	418	539	600	Logan.....	287	326	418	539	600
Lyon.....	287	326	418	539	640	Mpgherson.....	289	326	418	539	600
Marion.....	287	326	418	539	600	Marshall.....	287	326	418	539	600
Meade.....	287	326	418	539	600	Mitchell.....	287	326	418	539	600
Montgomery.....	287	326	418	539	600	Morris.....	287	326	418	539	600
Morton.....	287	351	418	539	600	Nemaha.....	287	326	418	539	600
Neosho.....	287	326	418	539	600	Ness.....	287	326	418	539	600
Norton.....	287	326	418	539	600	Osage.....	287	326	418	539	600
Osborne.....	287	326	418	539	601	Ottawa.....	287	326	418	539	600
Pawnee.....	287	326	418	539	600	Phillips.....	287	326	418	539	600

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pottawatomie.....	287	326	418	539	613	Pratt.....	287	326	418	551	600
Rawlins.....	287	326	418	539	600	Reno.....	287	326	418	539	651
Republic.....	287	326	418	539	600	Rice.....	287	326	418	539	600
Riley.....	357	393	523	652	793	Rooks.....	287	326	418	539	600
Rush.....	287	326	418	539	600	Russell.....	287	326	418	539	600
Saline.....	376	389	512	708	716	Scott.....	287	326	418	551	633
Seward.....	347	378	502	630	702	Sheridan.....	287	326	418	539	600
Sherman.....	287	326	418	539	600	Smith.....	287	326	418	539	600
Stafford.....	287	326	418	539	600	Stanton.....	287	326	418	539	600
Stevens.....	287	327	418	539	616	Sumner.....	287	326	418	565	600
Thomas.....	287	326	418	539	600	Trego.....	287	326	418	539	600
Wabaunsee.....	287	326	418	539	600	Wallace.....	287	326	418	539	600
Washington.....	287	326	418	539	600	Wichita.....	287	326	430	539	670
Wilson.....	287	326	418	539	600	Woodson.....	287	326	418	539	600

K E N T U C K Y

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN.....	386	495	662	887	958	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA.....	364	407	479	652	671	Christian
Evansville-Henderson, IN-KY MSA.....	342	407	529	660	739	Henderson
Gallatin County, KY.....	290	395	484	607	792	Gallatin
Grant County, KY.....	289	344	455	635	752	Grant
Huntington-Ashland, WV-KY-OH MSA.....	325	381	469	598	659	Boyd, Carter, Greenup
Lexington, KY MSA.....	369	459	563	766	866	Bourbon, Clark, Fayette, Jessamine, Madison, Scott
Louisville, KY-IN MSA.....	368	473	581	801	845	Bullitt, Jefferson, Oldham
Owensboro, KY MSA.....	322	333	438	587	615	Daviess
Pendleton County, KY.....	291	338	448	564	631	Pendleton

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair.....	265	324	383	507	557	Allen.....	265	310	383	495	557
Anderson.....	292	310	401	501	562	Ballard.....	265	310	383	495	557
Barren.....	265	321	383	495	557	Bath.....	265	310	383	495	557
Bell.....	265	310	387	495	557	Boyle.....	316	320	427	535	599
Bracken.....	265	310	383	495	557	Breathitt.....	265	310	383	495	557
Breckinridge.....	265	310	383	495	557	Butler.....	265	310	383	495	557
Caldwell.....	265	310	383	495	557	Calloway.....	265	310	383	495	557
Carlisle.....	265	310	383	495	557	Carrroll.....	265	310	383	495	557
Casey.....	265	310	383	495	557	Clay.....	265	310	383	495	557
Clinton.....	265	310	383	495	557	Crittenden.....	265	310	383	495	557

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Cumberland.....	265	310	383	495	557	Edmonson.....	265	310	383	495	557
Elliott.....	265	310	383	495	557	Estill.....	265	310	383	495	557
Fleming.....	265	310	383	495	557	Floyd.....	280	340	383	532	610
Franklin.....	265	391	479	618	780	Fulton.....	265	310	383	495	557
Garrard.....	265	310	383	495	557	Graves.....	265	310	383	495	557
Grayson.....	265	310	383	495	557	Green.....	265	310	383	495	557
Hancock.....	265	310	383	500	592	Hardin.....	330	339	424	570	676
Harlan.....	265	403	459	600	708	Harrison.....	265	311	393	495	606
Hart.....	265	310	383	495	557	Henry.....	265	310	383	495	557
Hickman.....	265	310	383	495	557	Hopkins.....	265	310	383	495	562
Jackson.....	265	310	383	495	557	Johnson.....	265	310	383	495	557
Knott.....	265	310	383	495	557	Knox.....	265	367	469	589	723
Larue.....	265	310	383	495	557	Laurel.....	346	392	464	626	650
Lawrence.....	265	310	383	495	557	Lee.....	265	310	383	495	557
Leslie.....	265	310	383	495	557	Letcher.....	265	310	383	495	557
Lewis.....	265	310	383	495	557	Lincoln.....	265	310	383	495	557
Livingston.....	307	310	412	573	577	Logan.....	265	310	383	505	557
Lyon.....	265	310	383	495	557	McCracken.....	301	323	404	517	664
McCreary.....	265	310	383	495	557	McLean.....	265	310	383	495	557
Magoffin.....	265	310	383	495	557	Marion.....	265	310	383	495	557
Marshall.....	265	316	383	495	596	Martin.....	265	310	383	495	557
Mason.....	265	310	383	495	557	Meade.....	275	341	393	518	647
Menifee.....	265	310	383	495	557	Mercer.....	265	310	383	505	557
Metcalfe.....	265	310	383	495	557	Monroe.....	265	310	383	495	557
Montgomery.....	265	310	383	495	557	Morgan.....	265	310	383	495	557
Muhlenberg.....	265	310	383	495	557	Nelson.....	291	310	395	495	557
Nicholas.....	265	310	383	495	557	Ohio.....	265	310	383	495	557
Owen.....	265	310	383	495	570	Owsley.....	265	310	383	495	557
Perry.....	297	310	399	499	559	Pike.....	285	325	395	495	585
Powell.....	265	310	383	495	557	Pulaski.....	291	310	393	496	557
Robertson.....	265	310	383	495	557	Rockcastle.....	265	310	383	495	557
Rowan.....	265	310	383	495	577	Russell.....	265	310	383	495	557
Shelby.....	266	350	393	548	557	Simpson.....	265	332	389	496	557
Spencer.....	265	316	383	495	557	Taylor.....	320	379	424	567	642
Todd.....	265	310	383	495	557	Trigg.....	265	310	383	495	557
Trimble.....	265	310	383	495	557	Union.....	265	310	383	495	557
Warren.....	265	343	458	572	662	Washington.....	265	314	383	495	557
Wayne.....	265	310	383	495	557	Webster.....	265	310	383	495	557
Whitley.....	265	310	383	495	557	Wolfe.....	265	310	383	495	557

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

L O U I S I A N A

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Alexandria, LA MSA.....	301	376	471	653	664	Rapides
*Baton Rouge, LA MSA.....	346	429	533	739	873	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA.....	297	347	445	617	731	Lafourche, Terrebonne
Lafayette, LA MSA.....	314	362	430	592	701	Lafayette, Acadia, St. Landry, St. Martin
Lake Charles, LA MSA.....	346	402	510	668	836	Calcasieu
Monroe, LA MSA.....	325	364	485	654	679	Ouachita
New Orleans, LA.....	461	529	659	896	1085	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA.....	296	335	446	555	622	St. James
Shreveport-Bossier City, LA MSA.....	366	417	522	699	858	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Allen.....	287	312	385	504	562	Assumption.....	314	338	401	504	562
Avoyelles.....	287	312	385	504	565	Beauregard.....	350	382	452	590	651
Bienville.....	287	312	385	511	604	Caldwell.....	287	312	385	504	562
Cameron.....	287	312	385	504	562	Catahoula.....	287	312	385	504	562
Claiborne.....	287	312	385	504	562	Concordia.....	287	312	385	504	562
De Soto.....	287	312	385	504	567	East Carroll.....	287	312	385	504	562
East Feliciana.....	287	312	385	504	562	Evangeline.....	287	312	385	504	562
Franklin.....	287	312	385	504	567	Grant.....	287	312	385	504	562
Iberia.....	304	316	393	504	562	Iberville.....	287	312	385	504	579
Jackson.....	287	312	385	504	562	Jefferson Davis.....	287	312	385	504	571
La Salle.....	287	312	385	504	567	Lincoln.....	338	340	424	582	698
Madison.....	287	312	385	504	562	Morehouse.....	287	312	385	504	562
Natchitoches.....	307	314	407	563	567	Pointe Coupee.....	287	312	385	504	610
Red River.....	287	312	385	504	567	Richland.....	287	312	385	504	567
Sabine.....	287	320	385	504	593	St. Helena.....	287	312	385	504	562
St. Mary.....	314	337	423	577	602	Tangipahoa.....	308	320	412	540	575
Tensas.....	287	312	385	504	562	Union.....	287	312	385	504	567
Vermilion.....	287	312	385	504	562	Vernon.....	330	368	419	543	641
Washington.....	287	312	385	504	562	West Carroll.....	287	312	385	504	562
West Feliciana.....	287	375	501	626	703	Winn.....	287	312	385	504	562

M A I N E

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Components of FMR AREA within STATE

Bangor, ME MSA.....	376	459	588	769	825	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town
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* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MAINE continued

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Lewiston-Auburn, ME MSA.....	346	418	537	672	763	Waldo county towns of Winterport town Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town
Portland, ME MSA.....	498	642	845	1058	1184	
Portsmouth-Rochester, NH-ME PMSA.....	573	686	882	1132	1388	

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin.....	348	431	571	714	800	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook.....	348	409	524	666	767	Baldwin town, Bridgton town, Brunswick town Harpwell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Cumberland.....	510	520	692	940	1080	
Franklin.....	355	409	524	666	767	
Hancock.....	375	460	569	717	796	
Kennebec.....	362	453	543	683	767	
Knox.....	348	448	582	777	817	
Lincoln.....	454	504	573	797	940	
Oxford.....	348	409	524	666	767	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Sebobeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town
Penobscot.....	348	409	524	666	767	

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

	0 BR 1	BR 2	BR 3	BR 4	BR	Towns within non metropolitan counties
NONMETROPOLITAN COUNTIES						
Piscataquis.....	348	409	524	666	767	Belfast city, Belmont town, Brooks town, Burnham town
Sagadahoc.....	490	560	692	921	1136	Frankfort town, Freedom town, Islesboro town
Somerset.....	365	416	524	666	787	Jackson town, Knox town, Liberty town, Lincolnville town
Waldo.....	348	409	524	666	767	Monroe town, Montville town, Morrill town
						Northport town, Palermo town, Prospect town
						Searsmont town, Searsport town, Stockton Springs t
						Swanville town, Thorndike town, Troy town, Unity town
						Waldo town
Washington.....	348	409	524	666	767	Acton town, Alfred town, Arundel town, Biddeford city
York.....	431	492	659	824	923	Cornish town, Dayton town, Kennebunk town
						Kennebunkport town, Lebanon town, Limerick town
						Lyman town, Newfield town, North Berwick town
						Ogunquit town, Parsonsfield town, Saco city
						Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

	0 BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
METROPOLITAN FMR AREAS						
Baltimore, MD.....	566	691	844	1117	1278	Anne Arundel, Baltimore, Carroll, Harford, Howard
						Queen Anne's, Baltimore city
Columbia, MD.....	608	817	952	1259	1572	Columbia
Cumberland, MD-WV MSA.....	359	432	535	707	807	Allegany
Hagerstown, MD PMSA.....	382	459	573	749	855	Washington
*Washington, DC-MD-VA.....	865	984	1154	1573	1897	Calvert, Charles, Frederick, Montgomery, Prince George's
Wilmington-Newark, DE-MD PMSA.....	490	645	752	1022	1235	Cecil

	0 BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	0 BR 1	BR 2	BR 3	BR 4	BR
NONMETROPOLITAN COUNTIES											
Caroline.....	396	427	534	700	795	Dorchester.....	354	457	534	696	795
Garrett.....	354	474	534	696	877	Kent.....	358	441	589	735	886
St. Mary's.....	577	685	790	1102	1259	Somerset.....	422	473	534	740	876
Talbot.....	468	496	660	827	1084	Wicomico.....	398	460	594	755	832
Worcester.....	354	427	535	742	795						

M A S S A C H U S E T T S

	0 BR 1	BR 2	BR 3	BR 4	BR	Components of FMR AREA within STATE
METROPOLITAN FMR AREAS						
Barnstable-Yarmouth, MA MSA.....	532	712	951	1192	1334	Barnstable county towns of Barnstable town, Brewster town
						Chatham town, Dennis town, Eastham town, Harwich town
						Mashpee town, Orleans town, Sandwich town, Yarmouth town

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 082102

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A S A C H U S E T T S continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR	Components of FMR AREA within STATE
953 1074 1343 1680 1972	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town
614 809 993 1234 1407	Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Hollbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town Bristol county towns of Easton town, Raynham town Norfolk county towns of Abington town, Bridgewater town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town
Brockton, MA PMSA.....	

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A S A C H U S E T T S continued

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Fitchburg-Leominster, MA MSA.....	418	588	764	982	1067	Hanson town, Lakeville town, Middleborough town, Plympton town, West Bridgewater t, Whitman town Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
Lawrence, MA-NH PMSA.....	607	733	923	1153	1418	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Lowell, MA-NH PMSA.....	646	835	1009	1264	1413	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
New Bedford, MA PMSA.....	562	686	781	976	1096	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Pittsfield, MA MSA.....	347	493	607	762	943	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town
Providence-Fall River-Warwick, RI-MA MSA.....	407	555	667	837	1032	Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Springfield, MA MSA.....	432	535	674	843	1037	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town
Worcester, MA-CT PMSA.....	521	629	785	980	1099	

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 082102

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A S A C H U S E T T S continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Components of FMR AREA within STATE
 Uxbridge town, Webster town, Westborough town
 West Boylston town, West Brookfield to, Worcester city

NONMETROPOLITAN COUNTIES

0 BR 1 BR 2 BR 3 BR 4 BR Towns within non metropolitan counties
 Bourne town, Falmouth town, Provincetown town
 Truro town, Wellfleet town
 Alford town, Becket town, Clarksburg town, Egremont town
 Florida town, Great Barrington t, Hancock town
 Monterey town, Mount Washington t, New Ashford town
 New Marlborough to, North Adams city, Otis town
 Peru town, Sandisfield town, Savoy town, Sheffield town
 Tyringham town, Washington town, West Stockbridge t
 Williamstown town, Windsor town

Dukes..... 700 713 948 1186 1331
 Franklin..... 445 552 706 884 1068

Ashfield town, Bernardston town, Buckland town
 Charlemont town, Colrain town, Conway town
 Deerfield town, Erving town, Gill town, Greenfield town
 Hawley town, Heath town, Leverett town, Leyden town
 Monroe town, Montague town, New Salem town
 Northfield town, Orange town, Rowe town, Shelburne town
 Shutesbury town, Warwick town, Wendell town
 Whately town

Hampden..... 449 613 817 1087 1341
 Hampshire..... 630 637 850 1067 1193

Blandford town, Brimfield town, Chester town
 Granville town, Tolland town, Wales town
 Chesterfield town, Cummington town, Goshen town
 Middlefield town, Pelham town, Plainfield town
 Westhampton town, Worthington town

Nantucket..... 796 1067 1423 1778 1991
 Worcester..... 501 523 696 872 975

Athol town, Hardwick town, Hubbardston town
 New Braintree town, Petersham town, Phillipston town
 Royalston town, Warren town

M I C H I G A N

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Ann Arbor, MI PMSA..... 526 635 785 1030 1155 Lenawee, Livingston, Washtenaw
 Benton Harbor, MI MSA..... 404 410 538 671 753 Berrien
 *Detroit, MI PMSA..... 470 638 771 964 1080 Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
 Flint, MI PMSA..... 410 464 584 744 816 Genesee
 *Grand Rapids-Muskegon-Holland, MI MSA..... 442 517 632 791 886 Allegan, Kent, Muskegon, Ottawa

Jackson, MI MSA..... 318 428 543 677 759 Jackson
 Kalamazoo-Battle Creek, MI MSA..... 377 455 572 717 801 Calhoun, Kalamazoo, Van Buren
 Lansing-East Lansing, MI MSA..... 424 499 645 843 973 Clinton, Eaton, Ingham

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I C H I G A N continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Saginaw-Bay City-Midland, MI MSA..... 371 408 543 677 759 Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcona.....	308	353	446	580	661
Alpena.....	308	353	446	580	661
Arenac.....	308	353	446	580	661
Barry.....	308	380	506	636	712
Branch.....	358	366	449	615	661
Charlevoix.....	375	379	481	654	677
Chippewa.....	308	353	446	580	661
Crawford.....	337	353	456	623	661
Dickinson.....	308	379	468	585	661
Gladwin.....	308	353	446	580	661
Grand Traverse.....	408	438	584	730	820
Hillsdale.....	308	353	446	580	661
Huron.....	308	353	446	580	661
Iosco.....	308	353	446	580	700
Isabella.....	346	368	493	665	808
Keweenaw.....	308	353	446	580	661
Leelanau.....	419	452	530	691	868
Mackinac.....	308	353	446	580	661
Marquette.....	308	353	446	580	661
Mecosta.....	308	353	446	604	717
Missaukee.....	325	353	446	580	661
Montmorency.....	308	353	446	580	661
Oceana.....	329	353	446	580	661
Ontonagon.....	308	353	446	580	661
Oscoda.....	308	353	446	580	661
Presque Isle.....	308	353	446	580	661
St. Joseph.....	308	360	446	582	661
Schoolcraft.....	308	353	446	580	661
Tuscola.....	335	366	488	611	682

M I N N E S O T A

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Duluth-Superior, MN-WI MSA.....	300	386	496	662	771	St. Louis
Fargo-Moorhead, ND-MN MSA.....	366	504	609	846	905	Clay
Grand Forks, ND-MN MSA.....	379	451	594	819	914	Polk

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A continued

METROPOLITAN FMR AREAS

	0	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
La Crosse, WI-MN MSA.....	304	391	498	666	807	Houston	
*Minneapolis-St. Paul, MN-WI MSA.....	554	713	912	1233	1397	Anoka, Carver, Chicago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright	
Rochester, MN MSA.....	386	542	709	980	1101	Olmsted	
St. Cloud, MN MSA.....	347	450	531	670	855	Benton, Stearns	

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

	0	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES
Aitkin.....	287	372	496	622	693	Becker.....	283 406 457 572 641
Beltrami.....	283	363	485	636	679	Big Stone.....	283 346 438 548 627
Blue Earth.....	387	466	581	745	944	Brown.....	283 366 438 548 627
Carlton.....	283	346	438	548	627	Cass.....	283 346 438 548 627
Chippewa.....	283	346	438	548	627	Clearwater.....	283 346 438 548 627
Cook.....	335	346	450	616	641	Cottonwood.....	283 346 438 548 627
Crow Wing.....	283	346	460	576	723	Dodge.....	283 346 438 548 627
Douglas.....	283	346	438	548	627	Faribault.....	283 346 438 548 627
Fillmore.....	283	346	438	548	627	Freeborn.....	283 346 446 587 629
Goodhue.....	327	421	560	716	785	Grant.....	283 346 438 548 627
Hubbard.....	289	346	438	548	627	Itasca.....	363 367 479 597 670
Jackson.....	283	346	438	548	627	Kanabec.....	350 442 572 714 801
Kandiyohti.....	350	441	537	673	810	Kittson.....	283 346 438 548 627
Koochiching.....	343	350	464	580	760	Lac qui Parle.....	283 346 438 548 627
Lake.....	283	346	438	548	627	Lake of the Woods.....	283 346 438 548 627
Le Sueur.....	283	346	438	548	676	Lincoln.....	283 346 438 548 627
Lyon.....	283	346	438	548	649	McLeod.....	336 434 578 718 806
Mahnomen.....	283	346	438	548	627	Marshall.....	283 346 438 548 627
Martin.....	283	346	438	548	627	Meeker.....	337 397 503 632 722
Mille Lacs.....	370	425	541	753	887	Morrison.....	314 346 438 548 627
Mower.....	283	346	438	548	627	Murray.....	283 346 438 548 627
Nicollet.....	356	379	505	670	710	Nobles.....	283 346 438 548 627
Norman.....	283	346	438	548	627	Otter Tail.....	283 346 438 548 627
Pennington.....	283	346	438	585	627	Pine.....	359 396 503 633 720
Pipestone.....	283	346	438	548	627	Pope.....	283 346 438 548 627
Red Lake.....	283	358	438	548	627	Redwood.....	283 346 438 548 627
Renville.....	283	346	438	548	627	Rice.....	335 459 613 763 855
Rock.....	283	346	438	548	627	Roseau.....	343 350 458 590 643
Sibley.....	283	346	438	548	627	Steele.....	335 390 519 648 726
Stevens.....	322	407	460	576	645	Swift.....	283 346 438 548 627
Todd.....	283	346	438	548	627	Traverse.....	283 346 438 548 627
Wabasha.....	306	373	472	592	677	Wadena.....	283 346 438 548 627
Waseca.....	369	405	514	645	737	Watsonwan.....	283 346 438 548 627

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I N E S O T A continued

	0 BR 1	BR 2	BR 3	BR 4	BR	0 BR 1	BR 2	BR 3	BR 4	BR
NONMETROPOLITAN COUNTIES										
Wilkin.....	283	346	438	548	627					
Yellow Medicine.....	283	346	438	548	627					

M I S S I S I P P I

METROPOLITAN FMR AREAS 0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Biloxi-Gulfport-Pascagoula, MS MSA.....	423	496	571	795	938	Hancock, Harrison, Jackson
Hattiesburg, MS MSA.....	319	390	478	642	765	Forrest, Lamar
Jackson, MS MSA.....	421	480	587	781	824	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA.....	456	532	624	867	910	Desoto

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Adams.....	264	314	391	500	636	Alcorn.....	264	314	389	500	562
Amite.....	264	314	389	500	562	Attala.....	264	314	389	500	562
Benton.....	264	314	389	500	562	Bolivar.....	301	314	404	505	576
Calhoun.....	264	314	389	500	562	Carroll.....	264	314	389	500	562
Chickasaw.....	264	314	389	500	562	Choctaw.....	264	314	389	500	562
Clabourne.....	264	314	389	500	562	Clarke.....	264	314	389	500	562
Clay.....	264	314	389	500	567	Coahoma.....	308	314	414	519	580
Copiah.....	264	314	389	500	562	Covington.....	264	314	389	500	562
Franklin.....	267	314	389	500	562	George.....	264	314	389	500	562
Greene.....	264	314	389	500	562	Grenada.....	264	315	389	531	562
Holmes.....	264	314	389	500	562	Humphreys.....	264	314	389	500	562
Issaquena.....	278	382	507	634	711	Itawamba.....	264	314	389	500	562
Jasper.....	264	314	389	500	562	Jefferson.....	264	314	389	500	562
Jefferson Davis.....	264	314	389	500	562	Jones.....	264	314	389	500	562
Kemper.....	266	314	389	500	562	Lafayette.....	267	367	489	613	684
Lauderdale.....	264	341	429	557	602	Lawrence.....	264	314	389	500	562
Leake.....	264	314	389	500	562	Lee.....	331	355	429	537	602
Leflore.....	264	314	389	501	601	Lincoln.....	264	314	389	500	562
Lowndes.....	326	351	418	522	590	Marion.....	264	314	389	500	562
Marshall.....	264	314	389	500	570	Monroe.....	264	314	389	500	562
Montgomery.....	264	314	389	500	562	Neshoba.....	264	314	389	500	562
Newton.....	264	314	389	500	562	Noxubee.....	268	314	389	500	562
Oktibbeha.....	324	338	412	573	677	Panola.....	274	314	389	500	562
Pearl River.....	278	314	389	502	562	Perry.....	264	314	389	500	562
Pike.....	268	314	389	500	562	Pontotoc.....	264	314	389	500	562
Prentiss.....	267	314	389	500	562	Quitman.....	264	314	389	500	562
Scott.....	264	314	389	500	562	Sharkey.....	268	314	389	500	562
Simpson.....	267	314	389	500	562	Smith.....	264	314	389	500	562

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S I P P I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Stone.....	264	314	389	500	562	Sunflower.....	292	318	389	500	597
Tallahatchie.....	264	314	389	500	562	Tate.....	264	357	412	517	679
Tippah.....	264	314	389	500	562	Tishomingo.....	264	314	389	500	562
Tunica.....	264	314	389	500	562	Union.....	264	314	389	500	562
Walthall.....	264	314	389	500	562	Warren.....	264	345	431	596	714
Washington.....	286	340	454	587	647	Wayne.....	264	314	389	500	562
Webster.....	266	314	389	500	562	Wilkinson.....	264	314	389	500	562
Winston.....	264	314	389	500	562	Yalobusha.....	266	314	389	500	562
Yazoo.....	268	314	389	500	562						

M I S S O U R I

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA.....	278	392	510	709	836	Boone
Joplin, MO MSA.....	271	314	417	549	590	Jasper, Newton
*Kansas City, MO-KS MSA.....	463	582	701	970	1075	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA.....	261	316	422	533	592	Andrew, Buchanan
*St. Louis, MO-IL MSA.....	437	533	691	900	994	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA.....	285	361	467	646	671	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair.....	254	318	421	531	637	Atchison.....	254	292	377	489	562
Audrain.....	272	292	377	509	589	Barry.....	254	303	377	489	562
Barton.....	254	292	377	489	562	Bates.....	254	292	377	489	572
Benton.....	286	292	390	489	562	Bollinger.....	254	292	377	489	562
Butler.....	254	292	377	489	562	Caldwell.....	254	294	397	496	562
Callaway.....	299	305	405	515	667	Camden.....	334	338	451	627	737
Cape Girardeau.....	262	322	428	570	699	Carroll.....	254	292	377	489	562
Carter.....	254	292	377	489	562	Cedar.....	254	292	377	489	562
Chariton.....	254	292	377	489	562	Clark.....	254	292	377	489	562
Cole.....	254	335	447	597	626	Cooper.....	254	292	377	489	562
Crawford.....	279	335	378	498	562	Dade.....	254	292	377	489	562
Dallas.....	254	292	377	489	562	Davess.....	254	292	377	489	562
Dekalb.....	263	292	377	495	562	Dent.....	254	292	377	489	562
Douglas.....	254	292	377	489	562	Dunklin.....	254	292	377	489	562
Gasconade.....	254	292	377	489	562	Gentry.....	254	292	377	489	562
Grundy.....	254	292	377	489	562	Harrison.....	254	292	377	489	562
Henry.....	289	294	394	493	647	Hickory.....	254	292	377	489	562
Holt.....	254	292	377	489	562	Howard.....	254	292	377	489	564
Howell.....	254	292	377	489	562	Iron.....	254	292	377	489	562

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Johnson.....	306	341	445	590	697	Knox.....	254	292	377	489	562
Laclede.....	254	292	377	493	562	Lawrence.....	270	299	377	489	562
Lewis.....	254	292	377	489	562	Linn.....	254	292	377	489	562
Livingston.....	254	292	378	489	562	McDonald.....	254	292	377	489	562
Macon.....	274	315	404	526	603	Madison.....	254	292	377	489	562
Maries.....	254	292	377	489	562	Marion.....	254	292	377	489	562
Mercer.....	254	292	377	489	562	Miller.....	279	335	377	493	582
Mississippi.....	254	292	377	489	562	Moniteau.....	254	292	377	489	562
Monroe.....	254	292	377	489	562	Montgomery.....	270	310	398	518	594
Morgan.....	254	292	377	489	562	New Madrid.....	254	292	377	489	562
Nodaway.....	269	325	400	508	612	Oregon.....	254	292	377	489	562
Osage.....	254	292	377	489	562	Ozark.....	254	292	377	489	562
Pemiscot.....	254	292	377	489	562	Perry.....	308	313	418	557	586
Pettis.....	273	320	428	538	644	Phelps.....	263	316	404	549	596
Pike.....	254	292	377	489	591	Polk.....	254	293	377	489	589
Pulaski.....	254	357	400	530	591	Putnam.....	254	292	377	489	562
Ralls.....	254	292	377	489	562	Randolph.....	254	292	377	489	562
Reynolds.....	254	292	377	489	562	Ripley.....	254	292	377	489	562
St. Clair.....	254	292	377	489	562	Ste. Genevieve.....	254	303	390	498	632
St. Francois.....	279	351	444	557	730	Saline.....	254	292	388	489	562
Schuyler.....	254	292	377	489	562	Scotland.....	254	292	377	489	562
Scott.....	306	308	412	556	640	Shannon.....	254	292	377	489	562
Shelby.....	254	292	377	489	562	Stoddard.....	254	292	377	489	562
Stone.....	294	314	391	498	562	Sullivan.....	254	292	377	489	562
Taney.....	287	318	416	562	660	Texas.....	254	292	377	489	562
Vernon.....	254	292	377	501	562	Washington.....	296	360	403	504	565
Wayne.....	254	292	377	489	562	Worth.....	254	292	377	489	562
Wright.....	254	292	377	489	562						

M O N T A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA.....	357	415	554	745	904	Yellowstone
Great Falls, MT MSA.....	357	413	544	708	843	Cascade
Missoula, MT MSA.....	357	419	557	719	914	Missoula

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M O N T A N A continued

NONMETROPOLITAN COUNTIES		0 BR	1 BR	2 BR	3 BR	4 BR
Beaverhead.....	321	370	489	634	741	
Blaine.....	321	370	489	634	741	
Carbon.....	365	427	555	723	843	
Chouteau.....	321	370	489	634	741	
Daniels.....	321	392	489	634	741	
Deer Lodge.....	321	370	489	634	741	
Fergus.....	321	370	489	634	741	
Gallatin.....	394	461	618	793	1014	
Glacier.....	321	370	489	634	741	
Granite.....	321	370	489	634	741	
Jefferson.....	338	370	489	634	741	
Lake.....	348	370	489	634	741	
Liberty.....	321	370	489	634	741	
McCone.....	321	390	489	634	741	
Meagher.....	321	392	489	634	741	
Musselshell.....	326	370	489	634	741	
Petroleum.....	321	370	489	634	741	
Pondera.....	321	391	489	634	741	
Powell.....	326	370	489	634	741	
Ravalli.....	321	370	489	634	741	
Roosevelt.....	335	370	489	634	741	
Sanders.....	321	370	489	634	741	
Silver Bow.....	321	370	489	634	741	
Sweet Grass.....	345	370	489	634	741	
Toole.....	328	370	489	634	741	
Valley.....	321	370	489	634	741	
Wibaux.....	321	392	489	634	741	

N E B R A S K A

METROPOLITAN FMR AREAS		0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA.....	334	427	564	748	874	Lancaster	
Omaha, NE-IA MSA.....	359	492	621	814	914	Cass, Douglas, Sarpy, Washington	
Sioux City, IA-NE MSA.....	365	439	547	682	779	Dakota	

NONMETROPOLITAN COUNTIES		0 BR	1 BR	2 BR	3 BR	4 BR
Big Horn.....	321	370	489	634	741	
Broadwater.....	321	370	489	634	790	
Carter.....	321	392	489	634	741	
Custer.....	321	370	489	634	741	
Dawson.....	321	370	489	634	741	
Fallon.....	321	370	489	634	741	
Flathead.....	321	371	496	693	814	
Garfield.....	321	370	489	634	741	
Golden Valley.....	321	391	489	634	741	
Hill.....	331	370	489	634	741	
Judith Basin.....	321	392	489	634	741	
Lewis and Clark.....	357	417	554	770	913	
Lincoln.....	348	370	489	634	741	
Madison.....	328	370	489	634	741	
Mineral.....	321	370	489	634	757	
Park.....	321	370	489	634	750	
Phillips.....	321	370	489	634	741	
Powder River.....	321	375	489	634	741	
Prairie.....	321	370	489	634	741	
Richland.....	321	400	489	634	741	
Rosebud.....	321	370	489	634	741	
Sheridan.....	330	370	489	634	741	
Stillwater.....	328	370	489	634	741	
Teton.....	321	370	489	634	741	
Treasure.....	321	370	489	634	741	
Wheatland.....	321	370	489	634	741	

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES		0	BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES		0	BR 1	BR 2	BR 3	BR 4	BR
Adams.....	264	354	467	586	701		Antelope.....	253	343	416	535	605	605	
Arthur.....	253	326	416	532	605		Banner.....	253	326	416	533	605	605	
Blaine.....	253	326	416	532	605		Boone.....	253	326	416	532	630	630	
Box Butte.....	275	326	416	533	629		Boyd.....	253	340	416	532	605	605	
Brown.....	253	326	416	532	617		Buffalo.....	273	395	495	617	747	747	
Burt.....	253	326	416	532	605		Butler.....	253	326	416	532	605	605	
Cedar.....	253	326	416	532	605		Chase.....	253	344	416	532	635	635	
Cherry.....	253	343	416	535	630		Cheyenne.....	283	326	416	532	605	605	
Clay.....	253	326	416	532	605		Colfax.....	276	339	416	532	605	605	
Cuming.....	253	344	416	532	605		Custer.....	283	328	416	532	629	629	
Dawes.....	271	326	416	536	633		Dawson.....	278	339	416	536	605	605	
Deuel.....	253	326	416	532	605		Dixon.....	282	326	416	532	605	605	
Dodge.....	253	326	429	565	605		Dundy.....	253	326	416	532	605	605	
Fillmore.....	253	326	416	532	605		Franklin.....	253	326	416	537	605	605	
Frontier.....	284	326	416	532	605		Furnas.....	253	326	416	532	630	630	
Gage.....	253	327	424	539	605		Garden.....	253	339	416	535	633	633	
Garfield.....	253	326	416	532	605		Gosper.....	253	326	416	532	612	612	
Grant.....	253	326	416	532	605		Greeley.....	253	326	416	532	615	615	
Hall.....	304	400	533	701	786		Hamilton.....	253	326	416	536	605	605	
Harlan.....	253	326	416	533	605		Hayes.....	253	341	416	532	630	630	
Hitchcock.....	253	326	416	532	605		Holt.....	253	326	416	532	605	605	
Hooker.....	253	341	416	532	634		Howard.....	253	326	416	532	605	605	
Jefferson.....	253	326	416	533	605		Johnson.....	253	330	416	532	605	605	
Kearney.....	253	326	416	532	633		Keith.....	253	326	416	532	605	605	
Keya Paha.....	253	326	416	532	605		Kimball.....	253	326	416	533	633	633	
Knox.....	253	338	416	532	605		Lincoln.....	259	339	416	532	605	605	
Logan.....	253	326	416	532	634		Loup.....	253	326	416	532	632	632	
Mcperson.....	253	326	416	533	605		Madison.....	259	341	451	584	712	712	
Merrick.....	253	326	416	532	605		Morrill.....	253	328	416	532	630	630	
Nance.....	253	326	416	532	605		Nemaha.....	253	326	416	532	605	605	
Nuckolls.....	253	326	416	532	605		Otoe.....	253	326	416	532	634	634	
Pawnee.....	253	326	416	536	605		Perkins.....	253	326	416	532	605	605	
Phelps.....	283	326	416	533	633		Pierce.....	253	326	416	532	605	605	
Platte.....	253	326	416	580	605		Polk.....	253	326	416	532	605	605	
Red Willow.....	253	326	416	532	615		Richardson.....	253	326	416	532	605	605	
Rock.....	253	333	416	532	605		Saline.....	253	340	416	532	605	605	
Saunders.....	253	326	416	532	605		Scotts Bluff.....	257	338	429	532	630	630	
Seward.....	314	326	425	532	605		Sheridan.....	253	326	416	532	606	606	
Sherman.....	253	328	416	532	634		Sioux.....	253	326	416	532	633	633	
Stanton.....	253	326	416	532	605		Thayer.....	253	343	416	532	605	605	

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Thomas.....	253	326	416	532	605	Thurston.....	253	326	416	532	605
Valley.....	253	326	416	532	605	Wayne.....	289	326	416	532	630
Webster.....	253	326	416	532	605	Wheeler.....	253	326	416	533	605
York.....	253	326	421	532	605						

N E V A D A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Las Vegas, NV-AZ MSA.....	585	694	827	1150	1359	Clark, Nye
Reno, NV MSA.....	537	622	800	1114	1317	Washoe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Churchill.....	476	484	646	890	1057	Douglas.....	427	623	782	1086	1207
Elko.....	432	495	659	870	1083	Esmeralda.....	459	573	645	804	901
Eureka.....	351	573	645	803	898	Humboldt.....	516	542	653	857	915
Lander.....	355	549	645	806	1056	Lincoln.....	352	529	645	807	903
Lyon.....	419	502	645	897	1057	Mineral.....	357	487	648	850	1063
Pershing.....	488	495	659	824	943	Storey.....	495	501	659	917	1083
White Pine.....	352	485	645	870	914	Carson City.....	370	506	677	941	1110

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA.....	953	1074	1343	1680	1972	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA.....	607	733	923	1153	1418	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA.....	646	835	1009	1264	1413	Hillsborough county towns of Pelham town Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town
Manchester, NH PMSA.....	473	675	842	1053	1180	Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town Londonderry town
Nashua, NH PMSA.....	557	777	963	1310	1558	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA.....	573	686	882	1132	1388	Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 082102

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Components of FMR AREA within STATE

Kensington town, New Castle town, Newfields town
 Newington town, Newmarket town, North Hampton town
 Portsmouth city, Rye town, Stratham town
 Strafford county towns of Barrington town, Dover city
 Durham town, Farmington town, Lee town, Madbury town
 Milton town, Rochester city, Rollinsford town
 Somersworth city

Towns within non metropolitan counties.

	0 BR	1 BR	2 BR	3 BR	4 BR
Belknap.....	467	540	710	960	1166
Carroll.....	390	535	714	895	1115
Cheshire.....	485	575	736	959	1136
Coos.....	335	409	524	684	809
Grafton.....	431	520	692	895	1130

NONMETROPOLITAN COUNTIES

Hillsborough.....	459	573	764	1010	1216
Merrimack.....	482	577	719	922	1028
Rockingham.....	501	586	785	1089	1256
Strafford.....	443	602	803	1006	1127
Sullivan.....	466	473	615	808	862

N E W J E R S E Y

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Atlantic-Cape May, NJ PMSA.....	548	624	830	1039	1188
*Bergen-Passaic, NJ PMSA.....	763	930	1090	1452	1791
Jersey City, NJ PMSA.....	742	876	1020	1297	1427
Middlesex-Somerset-Hunterdon, NJ PMSA.....	819	897	1120	1521	1756
Monmouth-Ocean, NJ PMSA.....	642	769	976	1297	1521
*Newark, NJ PMSA.....	616	788	949	1195	1509
*Philadelphia, PA-NJ PMSA.....	573	704	871	1089	1366
Trenton, NJ PMSA.....	551	768	936	1268	1531
Vineland-Millville-Bridgeton, NJ PMSA.....	529	644	776	968	1089

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

N E W Y O R K continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allegany.....	375	421	507	655	749	Cattaraugus.....	375	421	507	655	749
Chenango.....	400	421	507	655	749	Clinton.....	375	421	546	682	764
Columbia.....	469	493	633	828	886	Cortland.....	375	448	561	701	830
Delaware.....	375	421	507	655	805	Essex.....	375	427	536	671	749
Franklin.....	375	421	507	655	749	Fulton.....	375	421	507	655	749
Greene.....	375	487	584	753	919	Hamilton.....	375	451	519	655	749
Jefferson.....	404	476	560	701	786	Lewis.....	375	421	507	655	749
Otsego.....	375	444	511	659	838	St. Lawrence.....	375	421	507	655	749
Schuyler.....	406	433	514	715	843	Seneca.....	401	431	520	672	749
Steuben.....	389	442	507	662	749	Sullivan.....	487	546	665	919	932
Tompkins.....	490	527	677	946	1114	Ulster.....	460	641	770	1003	1262
Wyoming.....	375	421	507	655	749	Yates.....	375	421	507	655	749

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA.....	368	445	580	756	816	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA.....	547	617	695	917	1097	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA.....	403	458	513	711	845	Cumberland
Goldsboro, NC MSA.....	366	422	511	659	771	Wayne
Greensboro--Winston-Salem--High Point, NC MSA....	437	498	593	818	831	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA.....	453	459	595	802	981	Pitt
Hickory-Morganton, NC MSA.....	417	454	527	665	787	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA.....	377	439	497	689	815	Onslow
*Norfolk-Virginia Beach-Newport News, VA-NC MSA.	558	628	743	1037	1218	Currituck
Raleigh-Durham-Chapel Hill, NC MSA.....	559	678	796	1069	1260	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA.....	352	381	462	613	676	Edgecombe, Nash
Wilmington, NC MSA.....	484	530	649	888	1060	Brunswick, New Hanover

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany.....	312	365	436	562	665	Anson.....	312	359	436	562	637
Ashe.....	312	359	436	562	637	Avery.....	347	392	477	598	667
Beaufort.....	312	359	436	562	637	Bertie.....	312	359	436	562	637
Bladen.....	312	359	436	562	637	Camden.....	312	398	531	663	744
Carteret.....	352	387	471	655	729	Caswell.....	312	359	436	562	637
Cherokee.....	312	359	436	562	637	Chowan.....	312	359	436	562	637
Clay.....	312	359	436	562	637	Cleveland.....	397	465	556	736	813
Columbus.....	312	359	436	562	637	Craven.....	312	390	468	614	657
Dare.....	323	512	590	809	827	Duplin.....	312	359	436	562	637
Gates.....	312	359	436	562	637	Graham.....	312	359	436	562	637

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H C A R O L I N A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Granville.....	329	359	436	577	654	Greene.....	312	359	436	562	637
Halifax.....	312	359	436	562	637	Harnett.....	351	406	493	637	720
Haywood.....	324	369	449	603	656	Henderson.....	403	415	513	682	786
Hertford.....	312	359	436	562	637	Hoke.....	312	359	436	562	637
Hyde.....	312	359	436	562	637	Iredell.....	421	431	568	711	794
Jackson.....	383	442	537	751	981	Jones.....	312	359	436	562	637
Lee.....	312	398	471	610	661	Lenoir.....	312	359	436	562	637
McDowell.....	312	380	455	622	737	Macon.....	312	372	436	562	637
Martin.....	312	359	436	562	637	Mitchell.....	312	407	467	638	667
Montgomery.....	312	359	436	562	637	Moore.....	358	432	516	706	846
Northampton.....	312	359	436	562	637	Pamlico.....	312	359	436	562	637
Pasquotank.....	359	385	479	665	672	Pender.....	376	455	525	678	828
Perquimans.....	312	359	436	562	637	Person.....	312	359	467	610	715
Polk.....	404	513	574	729	828	Richmond.....	312	359	436	562	637
Robeson.....	312	367	436	562	637	Rockingham.....	312	359	436	562	637
Rutherford.....	386	440	535	689	782	Sampson.....	312	359	436	562	637
Scotland.....	312	359	436	562	637	Stanly.....	312	359	443	598	637
Surry.....	312	359	436	562	637	Swain.....	312	359	436	562	637
Transylvania.....	360	386	488	647	690	Tyrrell.....	312	359	436	562	637
Vance.....	330	373	436	562	637	Warren.....	312	359	436	562	637
Washington.....	312	359	436	562	637	Watauga.....	406	488	617	839	1012
Wilkes.....	353	399	449	621	697	Wilson.....	325	359	442	562	637
Yancey.....	312	366	436	562	658						

N O R T H D A K O T A

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA.....						374	418	556	775	918	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA.....						366	504	609	846	905	Cass
Grand Forks, ND-MN MSA.....						379	451	594	819	914	Grand Forks

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	246	309	399	518	605	Barnes.....	246	311	412	539	605
Benson.....	280	309	399	518	605	Billings.....	267	309	399	518	605
Bottineau.....	246	309	399	518	605	Bowman.....	246	309	399	518	605
Burke.....	267	309	399	518	605	Cavalier.....	246	319	423	528	652
Dickey.....	267	309	399	518	605	Divide.....	246	309	399	518	605
Dunn.....	246	309	399	518	605	Eddy.....	246	309	399	518	605
Emmons.....	246	309	399	518	605	Foster.....	246	309	401	518	605
Golden Valley.....	246	318	421	527	605	Grant.....	246	309	399	518	605

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H D A K O T A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Griggs.....	246	309	399	518	605	Hettinger.....	246	309	399	518	605
Kidder.....	246	309	399	518	605	Lancure.....	246	309	399	518	605
Logan.....	246	309	399	518	605	Mchenry.....	246	309	399	518	605
Mcintosh.....	246	309	399	518	605	Mckenzie.....	246	309	399	518	605
Mclean.....	261	309	399	518	605	Mercer.....	246	309	399	518	605
Mountrail.....	272	309	399	518	605	Nelson.....	246	309	399	518	605
Oliver.....	246	309	399	518	605	Pembina.....	246	309	399	526	625
Pierce.....	246	309	399	534	605	Ramsey.....	254	339	452	567	739
Ransom.....	252	309	399	518	605	Renville.....	285	309	399	521	617
Richland.....	259	309	407	518	605	Rolette.....	266	340	410	518	605
Sargent.....	246	309	399	518	605	Sheridan.....	246	309	399	518	605
Sioux.....	246	309	399	518	605	Slope.....	246	309	399	518	605
Stark.....	246	309	399	518	605	Steele.....	246	309	399	518	605
Stutsman.....	294	309	403	561	662	Towner.....	282	318	421	527	695
Trails.....	259	330	399	518	605	Walsh.....	329	350	435	545	610
Ward.....	246	339	452	611	728	Wells.....	262	309	399	518	605
Williams.....	246	309	399	518	605						

O H I O

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Akron, OH PMSA.....	422	511	656	821	920	Portage, Summit
Brown County, OH.....	322	379	472	612	675	Brown
Canton-Massillon, OH MSA.....	307	399	509	637	716	Carroll, Stark
Cincinnati, OH-KY-IN.....	386	495	662	887	958	Clermont, Hamilton, Warren
*Cleveland-Lorain-Elyria, OH PMSA.....	481	603	748	951	1070	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA.....	419	496	636	808	929	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway
Dayton-Springfield, OH MSA.....	410	459	585	755	848	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA.....	350	497	638	798	892	Butler
Huntington-Ashland, WV-KY-OH MSA.....	325	381	469	598	659	Lawrence
Lima, OH MSA.....	307	368	483	617	676	Allen, Auglaize
Mansfield, OH MSA.....	307	368	468	584	654	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA.....	327	392	449	582	631	Washington
Steubenville-Weirton, OH-WV MSA.....	307	361	454	578	645	Jefferson
Toledo, OH MSA.....	384	467	570	734	797	Fulton, Lucas, Wood
Wheeling, WV-OH MSA.....	335	367	454	578	645	Belmont
Youngstown-Warren, OH MSA.....	359	424	531	667	759	Columbiana, Mahoning, Trumbull

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

O H I O continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	297	353	439	559	627	Ashland.....	297	353	463	579	648
Athens.....	410	463	544	714	875	Champaign.....	297	362	470	587	658
Clinton.....	339	435	522	727	733	Coshocton.....	297	353	439	559	627
Darke.....	326	353	442	559	627	Defiance.....	353	401	529	666	739
Erie.....	297	396	494	666	808	Fayette.....	322	353	439	559	627
Gallia.....	297	353	439	559	627	Guernsey.....	297	353	439	559	627
Hancock.....	376	380	482	616	674	Hardin.....	297	353	439	559	627
Harrison.....	297	353	439	559	627	Henry.....	342	378	472	611	693
Highland.....	297	353	439	559	627	Hocking.....	297	353	439	559	627
Holmes.....	297	353	439	559	627	Huron.....	344	374	466	616	655
Jackson.....	297	353	439	559	627	Knox.....	350	385	493	637	704
Logan.....	349	354	456	614	639	Marion.....	297	353	439	559	627
Meigs.....	297	353	439	559	627	Mercer.....	297	353	439	559	645
Monroe.....	297	353	439	559	627	Morgan.....	297	358	439	559	627
Morrow.....	297	353	439	559	627	Muskingum.....	297	353	439	559	627
Noble.....	297	353	439	559	636	Ottawa.....	297	439	504	686	733
Paulding.....	297	353	439	559	627	Perry.....	297	353	439	559	627
Pike.....	312	371	461	590	659	Preble.....	304	361	449	576	643
Putnam.....	307	353	439	559	627	Ross.....	344	359	439	559	627
Sandusky.....	297	386	494	623	688	Scioto.....	297	353	439	559	627
Seneca.....	298	353	439	565	627	Shelby.....	297	362	483	603	676
Tuscarawas.....	297	353	460	576	645	Union.....	297	410	542	678	784
Van Wert.....	297	357	439	559	627	Vinton.....	297	353	439	559	627
Wayne.....	297	393	483	614	676	Williams.....	329	368	459	586	656
Wyandot.....	297	353	439	559	627						

O K L A H O M A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA.....	318	323	428	595	681	Garfield
Fort Smith, AR-OK MSA.....	358	362	477	637	669	Sequoyah
Lawton, OK MSA.....	394	396	504	700	767	Comanche
*Oklahoma City, OK MSA.....	397	431	559	777	869	Canadian, Cleveland, Logan, McClain, Oklahoma Pottawatomie
*Tulsa, OK MSA.....	380	454	593	826	975	Creek, Osage, Rogers, Tulsa, Wagoner

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

O K L A H O M A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair.....	266	305	381	506	580	Alfalfa.....	266	305	381	506	580
Atoka.....	266	305	381	506	580	Beaver.....	266	309	381	506	580
Beckham.....	270	305	381	506	580	Blaine.....	266	305	381	506	580
Bryan.....	266	305	381	506	580	Caddo.....	266	305	381	506	580
Carter.....	266	307	384	534	580	Cherokee.....	278	314	381	506	588
Choctaw.....	266	305	381	506	580	Cimarron.....	266	305	381	506	580
Coal.....	266	305	381	506	580	Cotton.....	266	305	381	506	580
Craig.....	266	305	381	519	614	Custer.....	266	305	390	543	626
Delaware.....	266	305	381	506	590	Dewey.....	266	305	381	506	580
Ellis.....	266	305	381	506	580	Garvin.....	266	305	381	506	584
Grady.....	292	305	394	536	648	Grant.....	266	305	381	506	580
Greer.....	266	305	381	506	580	Harmon.....	266	305	381	506	580
Harper.....	266	305	381	506	580	Haskell.....	266	305	381	506	580
Hughes.....	266	305	381	506	580	Jackson.....	266	345	420	552	623
Jefferson.....	266	305	381	506	580	Johnston.....	266	305	381	506	580
Kay.....	295	311	410	571	668	Kingfisher.....	266	313	389	510	580
Kiowa.....	266	305	381	506	580	Latimer.....	266	305	381	506	580
Le Flore.....	266	305	381	506	580	Lincoln.....	284	305	381	506	580
Love.....	266	305	385	506	580	McCurtain.....	266	305	381	506	580
McIntosh.....	266	305	381	506	580	Major.....	266	319	381	528	580
Marshall.....	266	305	381	506	580	Mayes.....	266	309	412	519	580
Murray.....	266	305	381	506	580	Muskogee.....	287	323	381	526	580
Noble.....	266	305	381	506	580	Nowata.....	266	305	381	506	580
Okfuskee.....	266	305	381	506	580	Oklmulgee.....	270	305	381	506	580
Ottawa.....	285	305	381	506	580	Pawnee.....	300	305	394	507	580
Payne.....	359	424	543	750	841	Pittsburg.....	266	305	381	506	580
Pontotoc.....	266	305	381	506	580	Pushmataha.....	266	305	381	506	580
Roger Mills.....	266	305	381	506	580	Seminole.....	266	305	381	506	580
Stephens.....	270	305	381	506	604	Texas.....	266	315	381	507	580
Tillman.....	266	305	381	506	580	Washington.....	266	364	443	588	688
Washita.....	266	305	381	506	580	Woods.....	266	305	381	506	580
Woodward.....	266	305	381	506	580						

O R E G O N

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Corvallis, OR MSA.....	422	548	695	1045	1109	Benton
Eugene-Springfield, OR MSA.....	370	507	661	923	1066	Lane
Medford-Ashland, OR MSA.....	368	482	645	897	999	Jackson

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

O R E G O N continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE
 Portland-Vancouver, OR-WA PMSA..... 508 625 771 1073 1164 Clackamas, Columbia, Multnomah, Washington, Yamhill
 Salem, OR PMSA..... 431 508 650 895 938 Marion, Polk

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Baker..... 331 392 509 701 781 Clatsop..... 382 452 593 809 909
 Coos..... 331 404 537 748 781 Crook..... 331 392 509 701 781
 Curry..... 331 450 598 766 942 Deschutes..... 409 471 629 877 1015
 Douglas..... 331 392 509 701 834 Gilliam..... 331 418 509 701 781
 Grant..... 331 392 509 701 781 Harney..... 331 392 509 701 781
 Hood River..... 389 438 595 774 916 Jefferson..... 331 392 509 701 781
 Josephine..... 331 402 517 701 817 Klamath..... 331 392 509 701 829
 Lake..... 331 392 509 701 781 Lincoln..... 402 408 544 757 823
 Linn..... 398 473 612 843 940 Malheur..... 331 392 509 701 781
 Morrow..... 331 392 509 701 781 Sherman..... 331 392 509 701 781
 Tillamook..... 331 392 509 701 781 Umatilla..... 331 392 509 701 781
 Union..... 331 392 509 701 781 Wallowa..... 331 392 509 701 781
 Wasco..... 403 500 559 761 856 Wheeler..... 331 392 509 701 781

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE
 Allentown-Bethlehem-Easton, PA MSA..... 398 541 643 838 940 Carbon, Lehigh, Northampton
 Altoona, PA MSA..... 304 386 463 604 676 Blair
 Erie, PA MSA..... 308 402 474 612 684 Erie
 Harrisburg-Lebanon-Carlisle, PA MSA..... 366 468 600 757 844 Cumberland, Dauphin, Lebanon, Perry
 Johnstown, PA MSA..... 308 392 471 612 684 Cambria, Somerset
 Lancaster, PA MSA..... 406 497 620 809 870 Lancaster
 Newburgh, NY-PA PMSA..... 518 671 823 1043 1190 Pike
 *Philadelphia, PA-NJ PMSA..... 573 704 871 1089 1366 Bucks, Chester, Delaware, Montgomery, Philadelphia
 Pittsburgh, PA PMSA..... 413 505 608 762 851 Allegheny, Beaver, Butler, Fayette, Washington
 Westmoreland
 Reading, PA MSA..... 321 474 585 730 823 Berks
 Scranton-Wilkes-Barre-Hazleton, PA MSA..... 326 456 546 681 823 Columbia, Lackawanna, Luzerne, Wyoming
 Sharon, PA MSA..... 338 392 471 612 684 Mercer
 State College, PA MSA..... 443 543 672 880 941 Centre
 Williamsport, PA MSA..... 308 394 474 612 684 Lycoming
 York, PA MSA..... 344 471 585 729 816 York

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

P E N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	304	409	542	703	889
Bedford.....	304	387	462	604	674
Cameron.....	304	387	462	604	674
Clearfield.....	304	387	462	604	674
Crawford.....	304	387	462	604	674
Forest.....	304	387	462	604	674
Fulton.....	304	387	462	604	674
Huntingdon.....	304	387	462	604	674
Jefferson.....	304	387	462	604	674
Lawrence.....	304	387	462	604	674
Mifflin.....	338	387	462	604	674
Montour.....	359	387	486	674	797
Potter.....	304	387	462	604	674
Snyder.....	365	387	463	604	674
Susquehanna.....	363	387	462	604	717
Union.....	366	487	609	761	850
Warren.....	304	387	462	604	674

R H O D E I S L A N D

METROPOLITAN FMR AREAS

0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
532	643	784	980	1121	Washington county towns of Hopkinton town, Westerly town
407	555	667	837	1032	Bristol county towns of Barrington town, Bristol town Warren town
					Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town
					Newport county towns of Jamestown town
					Little Compton tow, Tiverton town
					Providence county towns of Burrillville town
					Central Falls city, Cranston city, Cumberland town
					East Providence ci, Foster town, Glocester town
					Johnston town, Lincoln town, North Providence t
					North Smithfield t, Pawtucket city, Providence city
					Scituate town, Smithfield town, Woonsocket city
					Washington county towns of Charlestown town, Exeter town
					Narragansett town, North Kingstown to, Richmond town
					South Kingstown to

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 082102

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES

0 BR 1 BR 2 BR 3 BR 4 BR	Towns within non metropolitan counties
605 705 905 1133 1268	Middletown town, Newport city, Portsmouth town
715 805 904 1166 1284	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

410 491 578 785 928	Aiken, Edgefield
432 502 576 765 892	Berkeley, Charleston, Dorchester
547 617 1097	York
463 510 586 776 892	Lexington, Richland
351 390 507 633 710	Florence
417 504 569 716 843	Anderson, Cherokee, Greenville, Pickens, Spartanburg
455 462 592 741 829	Horry
371 412 466 638 758	Sumter

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

307 357 434 558 637	Abbeville	307 357 434 558 637
307 357 434 558 637	Bamberg	307 357 434 558 637
437 537 618 771 864	Beaufort	307 357 434 558 637
307 357 434 558 637	Chester	307 357 434 558 637
307 357 434 558 637	Clarendon	307 357 434 558 637
307 357 434 558 637	Darlington	307 357 434 558 637
307 410 467 582 654	Fairfield	307 390 437 558 664
308 357 434 558 637	Greenwood	307 357 434 558 637
307 357 434 558 637	Jasper	307 357 434 558 637
321 358 434 558 637	Lancaster	307 357 434 558 637
307 357 434 558 637	Lee	307 357 434 558 679
307 357 434 558 637	Marion	307 357 434 558 637
307 357 434 558 637	Newberry	307 357 434 558 637
307 357 434 558 637	Orangeburg	307 357 434 558 637
307 357 434 558 637	Union	307 357 434 558 637

S O U T H D A K O T A

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

386 460 612 832 1008	Rapid City, SD MSA	Pennington
374 516 655 828 952	Sioux Falls, SD MSA	Lincoln, Minnehaha

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aurora.....	273	366	455	602	698	Beadle.....	273	363	455	602	698
Bennett.....	273	363	455	602	698	Bon Homme.....	303	363	455	602	698
Brookings.....	292	464	514	696	820	Brown.....	301	399	501	663	767
Brule.....	273	363	455	602	698	Buffalo.....	273	363	455	602	704
Butte.....	316	429	572	747	880	Campbell.....	273	363	455	602	698
Charles Mix.....	273	363	455	602	698	Clark.....	273	363	455	602	698
Clay.....	304	403	506	671	832	Codington.....	315	417	525	695	803
Corson.....	273	363	455	602	698	Custer.....	273	363	455	602	698
Davison.....	305	386	486	650	743	Day.....	305	363	455	602	698
Deuel.....	273	363	455	602	698	Dewey.....	273	363	455	602	698
Douglas.....	303	363	455	602	698	Edmunds.....	273	363	455	602	698
Fall River.....	311	363	455	602	698	Faulk.....	273	363	479	602	698
Grant.....	273	363	455	602	698	Gregory.....	275	363	455	602	698
Haakon.....	273	371	455	602	698	Hamlin.....	273	363	455	602	698
Hand.....	273	363	455	602	698	Hanson.....	278	380	505	635	711
Harding.....	273	371	455	602	698	Hughes.....	310	375	497	654	775
Hutchinson.....	273	363	455	602	698	Hyde.....	273	369	455	602	698
Jackson.....	273	368	455	602	698	Jerauld.....	273	366	455	602	698
Jones.....	273	363	455	602	698	Kingsbury.....	297	363	455	602	698
Lake.....	273	368	455	602	698	Lawrence.....	313	451	568	777	879
Lyman.....	273	363	455	602	698	McCook.....	273	363	455	602	698
Mcpherson.....	273	363	455	602	698	Marshall.....	323	363	455	602	698
Meade.....	384	433	578	756	892	Mellette.....	326	368	455	602	698
Miner.....	273	368	455	602	698	Moody.....	273	363	455	602	698
Perkins.....	273	363	455	602	698	Potter.....	273	363	455	602	698
Roberts.....	273	363	455	602	698	Sanborn.....	273	363	455	602	698
Shannon.....	273	368	455	602	698	Spink.....	296	363	463	602	698
Stanley.....	273	371	455	602	698	Sully.....	273	363	455	602	698
Todd.....	301	363	455	602	698	Tripp.....	273	363	455	602	698
Turner.....	273	363	455	602	698	Union.....	287	363	455	602	698
Walworth.....	273	371	455	602	698	Yankton.....	273	363	455	602	698
Ziebach.....	273	363	455	602	698						

T E N N E S S E E

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Chattanooga, TN-GA MSA.....	392	458	550	711	811	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA.....	364	407	479	652	671	Montgomery
Jackson, TN MSA.....	282	372	499	690	694	Madison, Chester

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E N E S S E E continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Johnson City-Kingsport-Bristol, TN-VA MSA.....	327	390	484	627	743	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA.....	327	402	505	674	809	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA.....	456	532	624	867	910	Fayette, Shelby, Tipton
Nashville, TN MSA.....	458	548	676	921	1033	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Bedford.....	254	326	399	503	559	Benton.....	274	312	375	494	553
Bledsoe.....	254	297	375	494	553	Bradley.....	254	320	427	577	703
Campbell.....	256	297	375	494	553	Cannon.....	254	297	375	494	553
Carroll.....	254	309	375	494	553	Claiborne.....	254	297	375	494	553
Clay.....	258	297	375	494	553	Cocke.....	254	297	375	494	553
Coffee.....	254	353	398	553	630	Crockett.....	254	297	375	494	553
Cumberland.....	267	297	390	543	553	Decatur.....	254	297	375	494	553
Dekalb.....	254	297	375	494	553	Dyer.....	317	321	428	536	667
Fentress.....	254	297	375	494	553	Franklin.....	265	297	375	516	607
Gibson.....	254	297	375	494	553	Giles.....	254	323	400	501	560
Grainger.....	258	297	375	494	553	Greene.....	254	297	375	494	553
Grundey.....	254	297	375	494	553	Hamblen.....	254	298	392	520	553
Hancock.....	254	297	375	494	553	Hardeman.....	254	297	375	494	553
Hardin.....	254	297	375	494	553	Haywood.....	266	310	412	516	577
Henderson.....	254	297	375	494	553	Henry.....	254	297	375	494	553
Hickman.....	300	304	403	532	564	Houston.....	254	297	375	494	553
Humphreys.....	254	310	375	494	553	Jackson.....	254	297	375	494	553
Jefferson.....	277	297	386	494	613	Johnson.....	254	297	375	494	553
Lake.....	254	297	375	494	553	Lauderdale.....	254	297	379	494	553
Lawrence.....	254	297	375	494	553	Lewis.....	254	297	375	494	553
Lincoln.....	254	297	380	494	553	Mcminn.....	254	297	375	496	553
McNairy.....	254	297	375	494	553	Macon.....	254	297	375	494	553
Marshall.....	298	325	424	536	596	Mauzy.....	364	371	494	619	689
Meigs.....	254	297	375	494	553	Monroe.....	254	297	375	494	553
Moore.....	254	297	375	494	553	Morgan.....	254	297	375	494	553
Obion.....	294	298	382	506	553	Overton.....	254	297	375	494	553
Perry.....	254	300	375	494	553	Pickett.....	254	297	375	494	553
Polk.....	254	297	375	494	553	Putnam.....	309	312	400	550	592
Rhea.....	254	317	375	500	553	Roane.....	274	297	375	505	607
Scott.....	254	297	375	494	553	Sequatchie.....	254	297	375	494	553
Smith.....	254	297	375	494	553	Stewart.....	254	297	375	494	553
Trousdale.....	254	312	414	519	680	Van Buren.....	254	297	375	494	553
Warren.....	282	297	385	494	553	Wayne.....	254	297	375	494	553

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E N E S E E continued

NONMETROPOLITAN COUNTIES	0 BR 1 BR 2 BR 3 BR 4 BR	NONMETROPOLITAN COUNTIES	0 BR 1 BR 2 BR 3 BR 4 BR
Weakley.....	275 297 375 494 553	White.....	258 297 375 494 553

T E X A S

METROPOLITAN FMR AREAS

Counties of FMR AREA within STATE

Abilene, TX MSA.....	359 399 515 695 845	Taylor
Amarillo, TX MSA.....	304 384 477 665 784	Potter, Randall
*Austin-San Marcos, TX MSA.....	565 684 911 1265 1496	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA.....	346 419 510 675 714	Hardin, Jefferson, Orange
Brazoria, TX PMSA.....	519 578 722 1006 1183	Brazoria
Brownsville-Harlingen-San Benito, TX MSA.....	318 401 501 628 784	Cameron
Bryan-College Station, TX MSA.....	404 470 594 829 978	Brazos
Corpus Christi, TX MSA.....	379 465 593 808 955	Nueces, San Patricio
*Dallas, TX.....	575 662 850 1176 1391	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA.....	427 479 567 785 931	El Paso
*Fort Worth-Arlington, TX PMSA.....	525 572 741 1035 1219	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA.....	510 524 656 912 1077	Galveston
Henderson County, TX.....	314 374 457 622 747	Henderson
*Houston, TX PMSA.....	514 578 747 1042 1227	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA.....	426 444 561 781 858	Bell, Coryell
Laredo, TX MSA.....	345 397 521 652 734	Webb
Longview-Marshall, TX MSA.....	342 386 472 644 703	Gregg, Harrison, Upshur
Lubbock, TX MSA.....	327 415 538 747 828	Lubbock
Mc Allen-Edinburg-Mission, TX MSA.....	296 393 450 561 631	Hidalgo
Odessa-Midland, TX MSA.....	327 378 504 701 813	Ector, Midland
San Angelo, TX MSA.....	304 388 470 645 761	Tom Green
*San Antonio, TX MSA.....	424 489 633 880 1041	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA.....	304 416 501 640 766	Grayson
Texarkana, TX-Texarkana, AR MSA.....	330 403 493 650 690	Bowie
Tyler, TX MSA.....	380 420 512 709 751	Smith
Victoria, TX MSA.....	376 380 480 666 751	Victoria
Waco, TX MSA.....	330 404 533 708 746	McLennan
Wichita Falls, TX MSA.....	364 406 491 653 770	Archer, Wichita

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES		0	BR 1	BR 2	BR 3	BR 4	BR
Anderson.....	355	400	448	624	630		
Angelina.....	322	375	421	584	689		
Armstrong.....	296	341	446	559	630		
Austin.....	296	341	412	565	630		
Bandera.....	316	341	412	559	630		
Bee.....	296	341	412	552	630		
Borden.....	296	341	412	552	630		
Brewster.....	296	341	412	556	666		
Brooks.....	296	341	412	552	630		
Burleson.....	296	341	432	584	712		
Calhoun.....	315	341	412	570	673		
Camp.....	400	405	506	633	708		
Cass.....	296	341	412	552	630		
Cherokee.....	330	342	419	552	630		
Clay.....	296	348	412	552	643		
Coke.....	296	341	412	552	630		
Collingsworth.....	296	341	412	552	630		
Comanche.....	296	341	412	552	630		
Cooke.....	320	341	433	588	654		
Crane.....	296	341	412	552	630		
Crosby.....	296	341	412	552	630		
Dallam.....	296	341	412	552	630		
Deaf Smith.....	296	341	412	552	641		
Dewitt.....	296	341	412	552	630		
Dimmit.....	296	341	412	552	630		
Duval.....	296	341	412	552	630		
Edwards.....	296	341	412	552	630		
Falls.....	296	341	412	552	630		
Fayette.....	296	341	412	552	630		
Floyd.....	296	341	412	552	630		
Franklin.....	296	341	412	570	630		
Frio.....	296	341	412	552	630		
Garza.....	296	341	412	552	630		
Glascock.....	296	341	412	552	630		
Gonzales.....	296	341	412	552	630		
Grimes.....	296	341	412	556	657		
Hall.....	296	341	412	552	630		
Hansford.....	296	341	412	552	648		
Hartley.....	296	341	412	552	630		
Hemphill.....	296	381	425	594	630		
NONMETROPOLITAN COUNTIES							
Andrews.....	296	341	412	552	630		
Aransas.....	296	363	485	673	679		
Atascosa.....	296	341	412	552	630		
Bailey.....	296	341	412	552	630		
Baylor.....	296	341	412	552	630		
Blanco.....	296	341	435	607	640		
Bosque.....	296	341	412	552	630		
Briscoe.....	296	341	412	552	630		
Brown.....	296	341	413	554	678		
Burnet.....	376	434	534	742	868		
Callahan.....	296	341	412	552	630		
Carson.....	296	341	412	552	630		
Castro.....	298	341	412	552	630		
Childress.....	296	341	412	552	630		
Cochran.....	296	341	412	552	630		
Coleman.....	296	341	412	552	630		
Colorado.....	296	341	412	552	630		
Concho.....	296	341	412	552	630		
Cottle.....	296	341	412	552	630		
Crockett.....	296	341	412	552	630		
Culberson.....	296	341	412	552	630		
Dawson.....	296	341	412	552	630		
Delta.....	296	354	412	552	630		
Dickens.....	296	341	412	552	630		
Donley.....	296	341	412	552	630		
Eastland.....	296	341	412	552	630		
Erath.....	306	347	448	580	630		
Fannin.....	300	341	412	554	630		
Fisher.....	296	341	412	552	630		
Foard.....	296	341	412	552	630		
Freestone.....	296	341	412	552	630		
Gaines.....	302	341	412	552	630		
Gillespie.....	296	373	481	663	676		
Goliad.....	296	341	412	552	630		
Gray.....	323	341	438	552	652		
Hale.....	296	341	412	552	630		
Hamilton.....	296	341	412	552	630		
Hardeman.....	296	341	412	552	630		
Haskell.....	296	341	412	552	630		
Hill.....	296	341	412	552	630		

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES		0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES		0 BR	1 BR	2 BR	3 BR	4 BR
Hockley.....	302	352	412	557	630		Hopkins.....	345	371	435	607	654	
Houston.....	296	341	412	552	630		Howard.....	314	341	412	556	630	
Hudspeth.....	356	402	448	563	739		Hutchinson.....	296	341	425	594	701	
Ition.....	296	341	412	552	630		Jack.....	296	341	412	552	630	
Jackson.....	296	342	412	552	630		Jasper.....	296	341	420	559	687	
Jeff Davis.....	296	341	412	552	630		Jim Hogg.....	296	341	412	552	630	
Jim Wells.....	296	341	412	552	639		Jones.....	296	341	412	552	630	
Karnes.....	296	341	412	552	630		Kendall.....	296	431	485	673	797	
Kenedy.....	296	341	412	552	630		Kent.....	296	341	412	552	630	
Kerr.....	296	383	477	665	785		Kimble.....	296	341	448	562	630	
King.....	296	341	412	552	630		Kinney.....	296	341	412	552	630	
Kieberg.....	359	373	453	633	745		Knox.....	296	341	412	552	630	
Lamar.....	296	366	431	603	712		Lamb.....	296	341	412	552	630	
Lampasas.....	296	341	412	559	661		La Salle.....	296	341	412	552	630	
Lavaca.....	296	341	412	552	630		Lee.....	335	377	422	589	662	
Leon.....	296	380	424	552	699		Limestone.....	296	341	412	552	630	
Lipscomb.....	296	341	412	552	630		Live Oak.....	296	341	412	552	630	
Llano.....	296	381	506	634	832		Loving.....	296	341	412	552	630	
Lynn.....	296	341	412	552	630		Mcculloch.....	304	341	412	552	630	
McMullen.....	296	341	412	552	630		Madison.....	296	351	412	552	650	
Marion.....	296	341	412	552	654		Martin.....	296	341	412	552	630	
Mason.....	296	341	412	552	630		Matagorda.....	341	374	463	642	648	
Maverick.....	296	341	412	552	630		Medina.....	296	341	412	552	630	
Menard.....	296	341	412	552	630		Milam.....	296	341	412	552	630	
Mills.....	296	341	412	552	630		Mitchell.....	296	341	412	552	630	
Montague.....	296	341	412	552	630		Moore.....	296	347	412	552	641	
Morris.....	296	341	412	552	630		Motley.....	296	341	412	552	630	
Nacogdoches.....	311	377	488	609	720		Navarro.....	354	373	447	568	630	
Newton.....	296	341	412	552	630		Nolan.....	304	341	412	552	630	
Ochiltree.....	296	341	412	552	630		Oldham.....	296	341	446	559	655	
Palo Pinto.....	296	341	412	552	656		Panola.....	296	348	412	552	630	
Parmer.....	296	341	412	552	630		Pecos.....	296	341	412	556	657	
Polk.....	330	360	419	565	685		Presidio.....	296	341	412	552	630	
Rains.....	296	383	463	642	648		Reagan.....	377	383	508	639	835	
Real.....	296	341	412	552	630		Red River.....	296	381	425	552	630	
Reeves.....	296	341	412	552	630		Refugio.....	296	341	412	552	630	
Roberts.....	296	345	412	552	630		Robertson.....	296	391	436	552	630	
Runnels.....	296	341	412	552	630		Rusk.....	308	341	412	552	630	
Sabine.....	296	341	412	552	630		San Augustine.....	296	341	412	552	630	
San Jacinto.....	309	349	412	552	645		San Saba.....	296	341	412	552	630	

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Schleicher.....	296	341	412	552	630	Scurry.....	296	341	426	596	704
Shackelford.....	296	341	412	552	630	Shelby.....	296	341	412	552	630
Sherman.....	296	341	412	552	630	Somervell.....	338	381	425	584	630
Starr.....	296	341	412	552	630	Stephens.....	296	341	412	552	630
Sterling.....	296	341	412	552	630	Stonewall.....	296	341	412	552	630
Sutton.....	296	341	412	552	630	Swisher.....	296	341	412	552	630
Terrell.....	296	341	412	552	630	Terry.....	296	341	412	552	630
Throckmorton.....	296	341	412	552	630	Titus.....	313	390	441	610	630
Trinity.....	307	347	412	552	630	Tyler.....	296	341	439	552	724
Upton.....	296	341	412	552	630	Uvalde.....	296	341	412	552	630
Val Verde.....	296	392	462	576	680	Van Zandt.....	315	341	426	582	704
Walker.....	398	423	518	688	726	Ward.....	296	341	412	552	630
Washington.....	366	375	500	624	820	Wharton.....	296	341	412	552	630
Wheeler.....	296	341	412	552	630	Wilbarger.....	296	341	412	552	651
Willacy.....	296	341	412	552	630	Winkler.....	296	341	412	552	630
Wise.....	296	345	414	577	630	Wood.....	296	341	425	594	701
Yoakum.....	296	389	477	597	785	Young.....	296	341	412	552	639
Zapata.....	296	341	412	552	630	Zavala.....	296	341	412	552	630

U T A H

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT.....	339	417	521	699	841	Kane
Provo-Orem, UT MSA.....	469	495	612	849	1004	Utah
*Salt Lake City-Ogden, UT MSA.....	506	586	744	1036	1213	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaver.....	321	392	492	658	791	Box Elder.....	358	395	496	663	800
Cache.....	358	440	550	736	885	Carbon.....	344	392	492	658	791
Daggett.....	348	476	632	793	888	Duchesne.....	321	392	492	658	791
Emery.....	321	392	492	658	791	Garfield.....	321	392	492	658	791
Grand.....	321	392	492	658	791	Iron.....	328	446	554	695	816
Juab.....	321	392	492	658	791	Millard.....	321	392	492	658	791
Morgan.....	321	392	492	658	791	Piute.....	321	392	492	658	791
Rich.....	321	392	492	658	791	San Juan.....	321	392	492	658	791
Sanpete.....	321	392	492	658	791	Sevier.....	325	392	492	658	791
Summit.....	474	585	730	986	1199	Tooele.....	397	504	609	815	979
Uintah.....	321	392	492	658	791	Wasatch.....	321	408	492	658	791
Washington.....	394	487	645	863	1055	Wayne.....	321	392	492	658	791

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

V E R M O N T

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA.....	512	627	836	1140	1376	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison.....	457	551	641	894	1002	
Bennington.....	412	521	669	850	992	
Caledonia.....	398	475	580	730	838	
Chittenden.....	419	677	764	1062	1251	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex.....	379	458	565	713	817	
Franklin.....	457	518	634	805	925	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle.....	394	473	586	738	847	Alburtown, Isle La Motte town, North Hero town
Lamoille.....	365	506	604	828	948	
Orange.....	378	496	612	808	905	
Orleans.....	351	424	524	660	757	
Rutland.....	417	541	661	830	928	
Washington.....	393	487	657	821	922	
Windham.....	453	523	694	880	969	
Windsor.....	487	551	688	883	1047	

V I R G I N I A

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA.....	459	543	693	922	1033	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA.....	352	496	642	882	900	Clarke
Culpeper County, VA.....	411	598	695	920	1102	Culpeper
Danville, VA MSA.....	313	394	463	622	750	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA.....	327	390	484	627	743	Scott, Washington, Bristol city
King George County, VA.....	426	567	636	884	891	King George
Lynchburg, VA MSA.....	372	411	473	622	750	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
*Norfolk-Virginia Beach-Newport News, VA-NC MSA.	558	628	743	1037	1218	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 082102

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Richmond-Petersburg, VA MSA.....	592	669	780	1084	1279	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA.....	315	394	512	656	817	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA.....	344	471	629	823	1028	Warren
*Washington, DC-MD-VA.....	865	984	1154	1573	1897	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Accomack.....	365	395	461	613	738	Allegany.....	320	389	456	613	738
Amelia.....	308	389	456	613	738	Appomattox.....	308	389	456	613	738
Augusta.....	308	399	485	639	776	Bath.....	308	389	456	613	738
Bland.....	308	389	456	613	738	Brunswick.....	308	389	456	613	738
Buchanan.....	308	389	456	613	738	Buckingham.....	308	389	456	613	738
Caroline.....	436	442	591	784	826	Carroll.....	308	389	456	613	738
Charlotte.....	308	389	456	613	738	Craig.....	308	389	456	613	738
Cumberland.....	308	423	490	613	738	Dickenson.....	308	389	456	613	738
Essex.....	308	433	511	712	841	Floyd.....	308	389	456	613	738
Franklin.....	308	389	456	613	738	Frederick.....	419	483	581	795	952
Giles.....	308	389	456	613	738	Grayson.....	308	389	456	613	738
Greensville.....	308	399	456	613	738	Halifax.....	308	389	456	613	738
Henry.....	308	389	456	613	738	Highland.....	308	389	456	613	738
King and Queen.....	308	442	498	622	738	King William.....	308	423	473	613	738
Lancaster.....	386	432	488	650	792	Lee.....	308	389	456	613	738
Louisa.....	308	401	495	687	738	Lunenburg.....	308	389	456	613	738
Madison.....	309	459	516	648	848	Mecklenburg.....	308	389	456	613	738
Middlesex.....	308	391	456	613	738	Montgomery.....	316	417	489	679	803
Nelson.....	308	389	456	613	738	Northampton.....	308	389	456	613	738
Northumberland.....	308	389	456	613	738	Nottoway.....	308	389	456	613	738
Orange.....	342	464	622	866	1016	Page.....	358	403	456	613	738
Patrick.....	308	389	456	613	738	Prince Edward.....	345	391	456	613	738
Pulaski.....	308	389	456	613	738	Rappahannock.....	312	506	570	790	932
Richmond.....	308	412	460	613	757	Rockbridge.....	308	389	456	613	738
Rockingham.....	308	427	540	740	868	Russell.....	308	389	456	613	738
Shenandoah.....	406	417	512	710	807	Smyth.....	308	389	456	613	738
Southampton.....	308	389	456	613	738	Surry.....	319	389	456	613	738
Sussex.....	308	389	456	613	738	Tazewell.....	308	389	456	613	738

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	0 BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	0 BR 1	BR 2	BR 3	BR 4	BR
Westmoreland.....	308	417	553	696	900	Wisconsin.....	308	389	456	613	738
Wythe.....	321	389	456	613	738						

W A S H I N G T O N

METROPOLITAN FMR AREAS

0 BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
424	550	731	1011	1198	Whatcom
509	587	761	1027	1249	Kitsap
523	643	802	1104	1302	Thurston
508	625	771	1073	1164	Clark
529	605	724	1009	1183	Benton, Franklin
584	710	899	1249	1476	Island, King, Snohomish
339	461	557	757	847	Spokane
451	539	717	997	1127	Pierce
382	470	583	781	815	Yakima

NONMETROPOLITAN COUNTIES

0 BR 1	BR 2	BR 3	BR 4	BR
336	402	524	691	766
336	402	524	691	766
336	402	524	691	766
392	415	524	691	766
336	402	524	691	766

343	402	529	712	822
336	402	524	691	766
336	402	524	691	766
381	473	581	764	822
336	402	524	691	766
415	566	755	994	1184
336	402	524	691	766
336	402	524	691	766
362	412	548	761	901

W E S T V I R G I N I A

METROPOLITAN FMR AREAS

0 BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
462	494	581	726	816	Berkeley
306	416	527	724	792	Kanawha, Putnam
359	432	535	707	807	Mineral
325	381	469	598	659	Cabell, Wayne
467	518	641	834	945	Jefferson

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

WEST VIRGINIA continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Parkersburg-Marietta, WV-OH MSA..... 327 392 449 582 631 Wood
 Steubenville-Weirton, OH-WV MSA..... 307 361 454 578 645 Brooke, Hancock
 Wheeling, WV-OH MSA..... 335 367 454 578 645 Marshall, Ohio

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Barbour..... 274 347 389 500 582 Boone..... 274 334 389 500 582
 Braxton..... 274 334 389 500 582 Calhoun..... 274 334 389 500 582
 Clay..... 274 334 389 500 582 Doddridge..... 283 334 389 500 582
 Fayette..... 274 334 389 500 582 Gilmer..... 301 334 389 500 582
 Grant..... 274 334 389 500 582 Greenbrier..... 274 377 402 502 582
 Hampshire..... 274 334 391 513 582 Hardy..... 274 334 389 500 582
 Harrison..... 301 370 427 533 640 Jackson..... 274 342 389 532 582
 Lewis..... 274 365 389 500 582 Lincoln..... 274 334 389 500 582
 Logan..... 280 334 389 503 595 McDowell..... 274 334 389 500 582
 Marion..... 274 345 426 545 629 Mason..... 274 334 389 500 597
 Mercer..... 274 334 389 500 582 Mingo..... 274 334 389 500 589
 Monongalia..... 344 382 463 640 756 Monroe..... 274 334 389 500 582
 Morgan..... 372 420 470 590 657 Nicholas..... 274 334 389 500 582
 Pendleton..... 274 334 389 500 582 Pleasants..... 282 334 389 500 596
 Pocahontas..... 274 334 389 500 582 Preston..... 274 350 389 500 582
 Raleigh..... 315 372 433 558 653 Randolph..... 274 334 389 500 582
 Ritchie..... 274 334 389 500 582 Roane..... 274 334 389 500 582
 Summers..... 274 334 389 500 582 Taylor..... 335 361 395 500 582
 Tucker..... 274 334 389 500 582 Tyler..... 274 334 409 511 582
 Upshur..... 274 334 391 500 582 Webster..... 274 334 389 500 582
 Wetzel..... 309 334 420 524 660 Wirt..... 274 334 389 500 582
 Wyoming..... 274 334 389 500 582

WISCONSIN

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Appleton-Oshkosh-Neenah, WI MSA..... 342 421 536 674 778 Calumet, Outagamie, Winnebago
 Duluth-Superior, MN-WI MSA..... 300 386 496 662 771 Douglas
 Eau Claire, WI MSA..... 369 401 527 675 761 Chippewa, Eau Claire
 Green Bay, WI MSA..... 404 445 572 795 800 Brown
 Janesville-Beloit, WI MSA..... 377 475 588 736 825 Rock

Kenosha, WI PMSA..... 443 549 674 926 1043 Kenosha
 La Crosse, WI-MN MSA..... 304 391 498 666 807 La Crosse
 Madison, WI MSA..... 468 588 711 986 1164 Dane

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

W I S C O N S I N continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Milwaukee-Waukesha, WI PMSA.....	408	533	670	839	937	Milwaukee, Ozaukee, Washington, Waukesha
*Minneapolis-St. Paul, MN-WI MSA.....	554	713	912	1233	1397	Pierce, St. Croix
Racine, WI PMSA.....	363	450	594	766	838	Racine
Sheboygan, WI MSA.....	326	420	512	640	795	Sheboygan
Wausau, WI MSA.....	400	415	517	707	783	Marathon

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Adams.....	294	343	437	556	628	Ashland.....	320	356	437	556	628
Barron.....	294	343	437	556	628	Bayfield.....	294	343	437	556	628
Buffalo.....	294	343	437	556	628	Burnett.....	294	343	437	556	628
Clark.....	294	343	437	556	628	Columbia.....	294	350	459	601	675
Crawford.....	294	343	437	556	628	Dodge.....	372	377	496	622	693
Door.....	294	364	451	581	705	Dunn.....	294	343	448	599	739
Florence.....	294	343	437	556	628	Fond du Lac.....	341	462	547	745	767
Forest.....	294	343	437	556	628	Grant.....	298	343	437	556	628
Green.....	299	343	437	597	628	Green Lake.....	294	343	437	556	628
Iowa.....	304	343	437	574	628	Iron.....	294	343	437	556	628
Jackson.....	294	343	437	556	628	Jefferson.....	294	390	505	654	715
Juneau.....	300	343	437	556	628	Kewaunee.....	294	343	437	556	628
Lafayette.....	299	343	437	556	628	Langlade.....	294	343	437	556	628
Lincoln.....	294	343	437	556	628	Manitowoc.....	297	343	437	556	628
Marquette.....	294	343	437	556	628	Marquette.....	294	343	437	556	628
Menominee.....	294	343	437	556	628	Monroe.....	294	343	437	582	628
Oconto.....	294	343	437	556	628	Oneida.....	294	344	437	560	673
Pepin.....	294	343	437	556	628	Polk.....	294	343	444	556	628
Portage.....	358	377	489	612	756	Price.....	294	343	437	556	628
Richland.....	294	343	437	556	628	Rusk.....	294	343	437	556	628
Sauk.....	344	356	474	590	662	Sawyer.....	294	343	437	556	628
Shawano.....	299	343	437	556	628	Taylor.....	294	343	437	556	628
Trempealeau.....	294	343	437	556	628	Vernon.....	294	343	437	556	628
Vilas.....	294	343	437	556	628	Walworth.....	306	432	559	729	820
Washburn.....	294	343	437	556	628	Waupaca.....	294	343	437	556	660
Waushara.....	294	343	437	556	628	Wood.....	318	365	452	568	638

* 50th percentile FMRs are indicated by an * before the MSA name.

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

W Y O M I N G

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Casper, WY MSA..... 350 406 519 711 841 Natrona
 Cheyenne, WY MSA..... 395 496 662 847 1029 Laramie

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Albany..... 332 415 553 768 909 Big Horn..... 316 363 465 617 709
 Campbell..... 341 363 465 619 730 Carbon..... 316 363 465 617 709
 Converse..... 316 363 465 617 709 Crook..... 316 363 465 617 709
 Fremont..... 316 363 465 617 709 Goshen..... 316 363 465 617 709
 Hot Springs..... 316 363 465 617 709 Johnson..... 316 363 465 617 709
 Lincoln..... 316 363 465 617 709 Niobrara..... 316 363 465 617 709
 Park..... 316 363 465 617 716 Platte..... 316 363 465 617 709
 Sheridan..... 316 363 465 617 716 Sublette..... 350 394 465 617 709
 Sweetwater..... 329 363 465 619 730 Teton..... 420 535 711 957 1043
 Uinta..... 331 363 465 618 747 Washakie..... 316 363 465 617 709
 Weston..... 316 363 465 617 709

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Pacific Islands..... 739 888 1052 1319 1483

P U E R T O R I C O

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Aguadilla, PR MSA..... 226 276 328 407 459 Aguada Municipio, Aguadilla Municipio, Moca Municipio
 Arecibo, PR MSA..... 245 297 349 438 493 Arecibo Municipio, Camuy Municipio, Hatillo Municipio
 Caguas, PR MSA..... 287 344 406 511 569 Caguas Municipio, Cayey Municipio, Cidra Municipio
 Gurabo Municipio, San Lorenzo Municipio
 Mayaguez, PR MSA..... 269 328 389 485 545 Anasco Municipio, Cabo Rojo Municipio
 Hormigueros Municipio, Mayaguez Municipio
 Sabana Grande Municipio, San German Municipio
 Ponce, PR MSA..... 266 327 385 483 541 Guayanilla Municipio, Juana Diaz Municipio
 Penuelas Municipio, Ponce Municipio, Villalba Municipio
 Yauco Municipio
 San Juan-Bayamon, PR PMSA..... 360 439 517 648 728 Aguas Buenas Municipio, Barceloneta Municipio
 Bayamon Municipio, Canovanas Municipio
 Carolina Municipio, Catano Municipio, Ceiba Municipio
 Comerio Municipio, Corozal Municipio, Dorado Municipio
 Fajardo Municipio, Florida Municipio, Guaynabo Municipio
 Humacao Municipio, Juncos Municipio
 Las Piedras Municipio, Loiza Municipio
 Luquillo Municipio, Manati Municipio, Morovis Municipio

* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

P U R T O R I C O continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Naguabo Municipio, Naranjito Municipio
 Rio Grande Municipio, San Juan Municipio
 Toa Alta Municipio, Toa Baja Municipio
 Trujillo Alto Municipio, Vega Alta Municipio
 Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Adjuntas Municipio.....	213	263	309	390	431
Arroyo Municipio.....	213	263	309	390	431
Ciales Municipio.....	213	263	309	390	431
Culebra Municipio.....	213	263	309	390	431
Guayama Municipio.....	213	263	309	390	431
Jayuya Municipio.....	213	263	309	390	431
Lares Municipio.....	213	263	309	390	431
Maricao Municipio.....	213	263	309	390	431
Orocovis Municipio.....	213	263	309	390	431
Quebradillas Municipio..	213	263	309	390	431
Salinas Municipio.....	213	263	309	390	431
Santa Isabel Municipio..	213	263	309	390	431
Vieques Municipio.....	213	263	309	390	431

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

St. Croix.....	509	618	729	909	1019
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NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

Aibonito Municipio.....	213	263	309	390	431
Barranquitas Municipio..	213	263	309	390	431
Coamo Municipio.....	213	263	309	390	431
Guanica Municipio.....	213	263	309	390	431
Isabela Municipio.....	213	263	309	390	431
Lajas Municipio.....	213	263	309	390	431
Las Marias Municipio....	213	263	309	390	431
Maunabo Municipio.....	213	263	309	390	431
Patillas Municipio.....	213	263	309	390	431
Rincon Municipio.....	213	263	309	390	431
San Sebastian Municipio..	213	263	309	390	431
Utua Municipio.....	213	263	309	390	431

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR

St. Johns/St. Thomas....	654	792	934	1167	1307
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* 50th percentile FMRs are indicated by an * before the MSA name.
 Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE D - FY 2003 FAIR MARKET RENTS FOR MANUFACTURED HOME
SPACES IN THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

State	Area Name	Space Rent
CALIFORNIA	Los Angeles-Long Beach, CA PMSA	\$438
	Orange County, CA PMSA	\$532
	Riverside-San Bernardino, CA PMSA	\$349
	San Diego, CA MSA	\$539
	Vallejo-Fairfield-Napa, CA PMSA	\$468
COLORADO	Boulder-Longmont, CO PMSA	\$414
	Denver, CO PMSA	\$394
MARYLAND	Hagerstown, MD PMSA	\$245
	ST. MARYS	\$376
NEVADA	Reno, NV MSA	\$430
NEW YORK	Newburgh, NY-PA PMSA	\$381
	Rochester, NY MSA	\$258
	Utica-Rome, NY MSA	\$232
OREGON	Portland-Vancouver, OR-WA PMSA	\$314
	Salem, OR PMSA	\$388
	DESCHUTES	\$276
PENNSYLVANIA	Adams County	\$413
WASHINGTON	Olympia, WA PMSA	\$462

[FR Doc. 02-24619 Filed 9-27-02; 8:45 am]

BILLING CODE 4210-62-C



Federal Register

**Monday,
September 30, 2002**

Part III

Department of Education

**Preschool Curriculum Evaluation
Research; Notice**

DEPARTMENT OF EDUCATION**Preschool Curriculum Evaluation Research**

AGENCY: Office of Educational Research and Improvement, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary proposes a priority for Preschool Curriculum Evaluation Research (PCER). The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2003 and in later fiscal years. We take this action to implement rigorous evaluations of preschool curricula that will provide information to support informed choices of classroom curricula for early childhood programs. We intend this priority to focus support on research that will determine, through randomized clinical trials, whether one or more curricula produce educationally meaningful effects on children.

DATES: We must receive your comments on or before October 30, 2002.

ADDRESSES: Address all comments about this proposed priority to Heidi Schweingruber, U.S. Department of Education, 555 New Jersey Avenue, NW., room 602-c, Washington, DC 20208-5501. You may fax your comments to (202) 219-1402. If you prefer to send your comments through the Internet, use the following address: heidi.schweingruber@ed.gov.

FOR FURTHER INFORMATION CONTACT: Heidi Schweingruber. Telephone: (202) 219-2040 or via the Internet, heidi.schweingruber@ed.gov.

If you use a telecommunications device for the deaf (TDY), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:**Invitation To Comment**

We invite you to submit comments regarding this proposed priority. We also invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the

effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 602-c, 555 New Jersey Avenue, NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

General Information

The Secretary believes that research that provides evidence about the effectiveness of preschool curricula for supporting school readiness is essential to improving educational opportunity for all children.

The proposed priority is based on responses to the first PCER competition held in FY 2002. In reviewing the content of applications and feedback from applicants, we have revised the priority. For background information, you may view the original notice soliciting applications for the FY 2002 PCER competition on the Internet at: <http://www.ed.gov/legislation/FedRegister/announcements/2001-4/121701b.html>.

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this proposed priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to

which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority*Preschool Curriculum Evaluation Research***Background**

The importance of early child-care and preschool experiences in supporting cognitive development and other skills essential to a successful transition into school is a focus of the administration's early childhood initiative—Good Start, Grow Smart. This initiative calls attention to the need for preschool programs to enhance their instructional content in order to ensure that young children start school with the skills that will lead to continued academic success.

The evidence that would allow informed choices of classroom curricula for early childhood programs is weak. Rigorous preschool program evaluations that exist are for programs designed and delivered decades ago. The results from historical evaluations of preschool curricula and current research on the learning and development of young children provide some insights into general features of successful preschool programs. However, they give little guidance for selecting from among the ever-expanding list of available preschool curricula. The proposed priority is intended to address the lack of rigorous, systematic evaluation of preschool curricula currently in use.

PCER is intended to build on recent initiatives aimed at evaluating the preschool experiences of children. These initiatives include The Family and Child Experiences Survey (FACES) undertaken by Head Start, and the Early Childhood Longitudinal Survey-Kindergarten (ECLS-K) and the Early Childhood Longitudinal Survey-Birth Cohort (ECLS-B), both ongoing projects of the National Center for Education Statistics within OERI.

The outcomes of greatest interest to PCER are those skills that are most highly predictive of academic success in the early years of elementary school and that are most amenable to influence by factors within the realm of classroom curricula and practice. These outcomes include language development, pre-

reading and pre-math abilities, cognition, general knowledge, and social competence.

The curricula of primary interest to PCER are those with sufficient standardized training procedures and published curriculum materials to support implementation of the curriculum by entities other than, and at a distance from, the curriculum developers. In addition, the curricula of interest to PCER are those that focus on the child outcomes described in the preceding paragraph and those with instructional approaches supported in the scientific literature on learning and instruction.

An applicant is not expected to compare different well-articulated, well-implemented preschool curricula, though we do not discourage these. Rather, we anticipate that the typical applicant will propose to implement a well-articulated, well-implemented curriculum and compare it to the prevailing approach, which is likely to be a home-grown, unlabeled preschool experience that lacks specific instructional goals and a detailed curriculum.

PCER is not intended to support the development of new curricula, nor to support research on interventions for children from birth to 3 years of age. These efforts are the focus of other programs of research to be sponsored by other Federal agencies participating in the Interagency Task Force in Early Childhood Development.

Grantees would coordinate with a national evaluation coordinator, funded separately by OERI, to ensure that evaluations carried out in different locations follow consistent protocols and use a core set of comparable measures. The cross-site data collected by the national coordinator would be returned to grantees in a timely manner for their own use. For the purposes of planning proposed studies and calculating participant burden, a full listing of the measures and procedures used in the 2002–2003 PCER data collection can be found at: <http://pcer.rti.org>.

Description of Priority

Each applicant must propose to (a) implement one or more pre-kindergarten (pre-K) curricula, with attention to fidelity of the curriculum implementation; and (b) coordinate with a national coordinator the assessment of children and classrooms in the fall and spring of the pre-K year, and in the spring of the kindergarten and first grade year.

(a) Specifically, an applicant must—

(1) Provide a letter of cooperation from participating preschool programs for the purposes of conducting the research. In the letter of cooperation, representatives of the preschool would have to clearly indicate and accept the responsibilities associated with participating in the study. These responsibilities must include—

(i) Agreement to provide a sufficient number of preschool sites and classrooms to participate in the study; and

(ii) Agreement to the random assignment of children or classrooms to the curriculum being evaluated versus one or more comparison approaches;

(2) Provide an on-site coordinator to manage all aspects of data collection, curriculum implementation, and interaction with the national coordinator;

(3) Be prepared to obtain informed consent of parents of children participating in the study, and of all teachers and other administrators from whom data will be collected;

(4) Be prepared to provide all necessary materials and professional development to teachers and staff to implement the curriculum to be evaluated in the intervention classrooms;

(5) Be prepared to make all on-site arrangements necessary for the national coordinator to assess participating children and classrooms;

(6) Be prepared to conduct face-to-face interviews with parents and provide incentives for parent participation in the interviews;

(7) Be prepared to work with the national evaluation contractor for the collection of cross-site data, in coordination with any local data collection activities; and

(8) Be prepared to send at least one representative to attend up to two meetings each year of all of the grantees, national coordinator, and Federal staff. The applicant's budget must include travel funds for these purposes.

(b) An applicant must also do the following:

(1) Be able to guarantee access to a minimum of 10 classrooms with a total of 150 children. The national coordinator can accommodate data collection using the core PCER battery for a maximum of 20 classrooms and 300 children for each applicant. An applicant that proposes to include more than this maximum must include the costs of additional data collection in its budget.

(2) Propose to include only children who are of an age in the first year of the study to be eligible for entrance into public kindergarten in the second year.

(3) Either focus on preschools that serve children from low-income backgrounds or assure that these children are present in significant numbers within the preschool classrooms that are sampled.

(4) Employ random assignment in the evaluation design. A preschool program that is to be a site for curriculum implementation must agree to cooperate fully with the random assignment as a condition for the applicant to receive an award.

To facilitate random assignment, we encourage applicants to consider the use of incentives for schools and families. These may include, but are not limited to: compensation for additional preschool staff time required to cooperate with the research effort; funding for a new classroom; provision of additional resources to enable a program to conduct new activities; securing vehicles for transportation; and stipends to families.

(5) Provide a convincing rationale for its intervention being likely to improve children's outcomes compared with the practices used in the control or comparison conditions. In this regard and for all the projects, we require a reasonable assumption that children in the intervention classrooms will experience neutral to positive outcomes—rather than negative outcomes—compared with children in the control classrooms.

(6) Follow children who participate in studies of PCER curricula that generate educationally meaningful effects at the end of the pre-K year into kindergarten and first grade. The national coordinator will assess all children at follow-up in both the intervention and control or comparison conditions. However, each grantee would be responsible for making arrangements for these assessments, including obtaining parental permission and negotiating access to children for testing in their schools.

The applicant must address how it will provide access to children for follow-up testing. The grantee would also be responsible for conducting interviews with parents, using the established PCER parent interview, each time children and classrooms are assessed by the national coordinator.

(c) *Evaluation Design:* The applicant must propose an evaluation design that includes the following:

(1) A description of the control condition and the intervention condition or conditions.

(2) An explanation of procedures for random assignment and discussion of procedures for tracking fidelity to the assignment and potential sources of contamination.

(3) The logic of sampling so as to capture, to the degree possible, diversity in the preschool population to be studied. Core variables an applicant should consider for capturing diversity include: race, ethnicity status or language status or both; household income; and parental education.

(4) A discussion of possible variations in the structure of the participating preschool program or programs (part-day or full day, public or private, profit or non-profit, *etc.*) and how the applicant will take these variations into consideration in the evaluation design.

(5) A discussion of how the applicant will document implementation of and fidelity to the curriculum.

(d) *Partners and consultants:* An applicant that is not a research organization must obtain the services of at least one consultant who is an established researcher and who has committed enough time to the project to assure the integrity of the local evaluation and to participate in all required meetings.

An applicant that is a research organization may involve curriculum developers or distributors in the project, from having the curriculum developers as full partners in its proposal to using off-the-shelf curriculum materials without involvement of the developer or publisher. Involvement of the curriculum developer or distributor must not jeopardize the objectivity of the evaluation and must not involve a level of professional training or support for the curriculum that rises above that available to ordinary adopters of the curriculum.

In addition, an applicant that is a commercial curriculum developer must indicate in the budget summary the value of any nonfederal resources that would be devoted to the research project, such as their curriculum products.

Additional Considerations

In any given year, the Secretary may, in the application notice, do either or both of the following:

(a) Give competitive preference to applicants proposing to evaluate preschool curricula not currently under study by existing PCER grantees.

(b) Request or require proposals that incorporate complementary research studies to further knowledge of the mechanisms by which curricula support children's learning. The complementary research may address a range of issues related broadly to curriculum effectiveness, such as the impact of curriculum implementation on preschool staff, the influence of individual differences in children on program impact, the development of instrumentation, or other related topics.

Complementary research provides an opportunity to identify outcomes that, because of data constraints, are not explored in the core evaluation or are specific to an individual site. It expands the possibilities for multiple measures of the same variable, and for the development of new measures. Complementary research designs may involve continued pre-K implementations and ongoing research in the pre-K setting for some or all years of the grant while children in the first cohort are being followed into first grade.

Two areas of complementary research are of particular interest:

(1) Studies that address how individual or background differences in children interact with the curriculum to influence developmental outcomes. These studies would address the question: For which children under which conditions is the curriculum most successful?

(2) Studies that compare different versions of the curriculum or different

approaches to implementation in order to identify key features of the curriculum and approaches that might improve effectiveness and ease of implementation. These studies would address the question: Under what circumstances does the curriculum achieve the greatest impact?

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/legislation/FedRegister>.

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.305) Preschool Curriculum Evaluation Research Program)

Program Authority: 20 U.S.C. 6031.

Dated: September 24, 2002.

Grover J. Whitehurst,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 02-24656 Filed 9-27-02; 8:45 am]

BILLING CODE 4000-01-P



Federal Register

**Monday,
September 30, 2002**

Part IV

Federal Emergency Management Agency

44 CFR Parts 61 and 206

**Disaster Assistance; Federal Assistance to
Individuals and Households; and National
Flood Insurance Program (NFIP); Group
Flood Insurance Program (GFIP); Final
Rules**

**FEDERAL EMERGENCY
MANAGEMENT AGENCY****44 CFR Part 206**

RIN 3067-AD25

**Disaster Assistance; Federal
Assistance to Individuals and
Households**AGENCY: Federal Emergency
Management Agency (FEMA).

ACTION: Interim final rule.

SUMMARY: This interim final rule implements subsection 206(a) of the Disaster Mitigation Act of 2000 by consolidating "Temporary Housing Assistance" and "Individual and Family Grant Programs" into a single program called "Federal Assistance to Individuals and Households." Through this consolidation we are attempting to streamline the provision of assistance to disaster victims.

DATES: *Effective Date:* This rule is effective on September 30, 2002.

Applicability Date: This rule applies to Emergencies and Major Disasters declared on or after October 15, 2002.

Comment Date: Please submit written comments on or before April 15, 2003.

ADDRESSES: Please send any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, room 840, 500 C. Street, SW., Washington, DC 20472, or *fax* (202) 646-4536, or (e-mail) *rules@fema.gov*.

FOR FURTHER INFORMATION CONTACT:

Michael Hirsch; Response and Recovery Directorate; (202) 646-4099, or (e-mail) at *Michael.Hirsch@fema.gov*, or Lumumba Yancey, Response and Recovery Directorate, (202) 646-3939, or (e-mail) at *Lumumba.Yancey@fema.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the enactment of subsection 206(a) of the Disaster Mitigation Act of 2000, Pub. L. 106-390, Congress effectively combined into one section of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act") what previously had been two separate provisions. The first is the previous version of section 408 of the Stafford Act, 42 U.S.C. 5174, entitled "Temporary Housing Assistance." The second is section 411 of the Stafford Act, 42 U.S.C. 5178, entitled "Individual and Family Grant Programs." This consolidation of sections 408 and 411 of the Stafford Act becomes effective on October 15, 2002.

When we published the proposed rule to implement the new Individuals and Households Program ("IHP") authority, we solicited comments on a wide

variety of issues. In response we have received comments from twenty States, as well as the National Emergency Management Agency (NEMA), the International Association of Emergency Managers (IAEM), and one local government. Many of the comments we received expressed similar reactions to the issues which were raised in the proposed rule. In addition, we received a number of comments on the concept of a Memorandum of Understanding which we had planned to use in the course of our implementation of the new IHP program. This Supplementary Information discussion describes the comments we received on the proposed rule, as well as the decisions we made in response to the public's input. To facilitate a review of the comments and our decision-making, the balance of this discussion is divided under headings that describe the various issues that this rulemaking raises.

FEMA v. State Administration of IHP

Even before FEMA published the proposed IHP rule, a number of States had expressed a desire to actively participate in the administration of IHP. We identified this as a significant issue when we published the proposed rule, and most of the States that provided comments addressed this issue.

Although one commenter expressed the belief that IHP would function most efficiently if FEMA was consistently responsible for the implementation of the entire program, a substantial majority of the commenters felt that the IHP process should provide States with opportunities to be active partners in the administration of the new program. Virtually all of the States expressed approval of FEMA's willingness to provide four different options for the implementation of the "Other Needs" assistance that is authorized by subsections 408(e) and (f) of the Stafford Act, 42 U.S.C. 5174(e) and (f). These options ranged from a program which is administered exclusively by FEMA, to one that is administered by FEMA with substantial State involvement, to one that is administered by the State with substantial FEMA assistance, to a final option pursuant to which the State would administer the entire "Other Needs" assistance with minimal FEMA participation. See 206.120 of the interim final rule. Several commenters questioned whether FEMA is authorized to reimburse State administrative costs when FEMA is administering the program with State involvement in the program. These comments are based on the fact that subsection 408(f) of the Stafford Act explicitly authorizes FEMA to make grants to cover State "Other

Needs" administrative expenses only when the State is administering the program. We have determined that because there is no explicit authority for FEMA to provide reimbursement to States when FEMA is administering the program under subsection 408(e) of the Act, no such reimbursement is authorized. Therefore, we are now only offering three options to the State for the implementation of the "Other Needs" assistance program—a program administered exclusively by FEMA, one administered by the State with substantial FEMA assistance, and one administered by the State with minimal FEMA participation.

Whichever option a State chooses in the context of the "Other Needs" assistance, FEMA will always provide 75 percent of the grant funds, and the State is obliged to provide the balance of the "Other Needs" assistance. Although FEMA initially expressed a desire for all States to choose by May 1, 2002, a particular option for the method of administering "Other Needs" assistance during the balance of this calendar year, we recognize that an early decision on this important issue is not feasible for most States, so we decided not to require such a decision immediately. However, after the interim final rule is published we expect that States will become familiar with the new IHP and will as a result become more comfortable making such choices reasonably promptly.

One of the consistent themes in the State comments we received relates to the potential for appeals of IHP decisions and the possibility that States may want to play a role as advocate for disaster victims. A number of the States expressed an inclination for FEMA to administer IHP, but also expressed a desire to be able to play an advocacy role for disaster victims. A number of States also were concerned with the provision of the proposed rule which indicates that FEMA can take up to 90 days to respond to appeals from applicants for IHP assistance. See 44 CFR 206.115(f) of the proposed rule. We retained the 90 day appeal provision in the interim final rule at 44 CFR 206.115(f) because under section 423(b) of the Stafford Act any appeal decision must be rendered within 90 days. However, the overwhelming majority of appeals in the context of the previous temporary housing and Individual and Family Grant programs are routinely answered in less than 30 days, so we anticipate that FEMA will not normally need 90 days to respond to appeals under IHP. FEMA will work with States to ensure that they will be able to provide advisory and advocacy

assistance to IHP applicants whose applications for assistance under IHP are pending.

State Administrative Plan and Other IHP Documentation

As we described in the proposed rule and the Supplementary Information discussion relating to that document, we initially intended to ask each State to sign an annual Memorandum of Understanding (MOU) with FEMA in which each State would identify in advance of the occurrence of disasters the extent to which the State would participate in the administration of the Other Needs Assistance portion of IHP during that year. One State expressed a concern that FEMA's proposal to require States to execute MOUs, in addition to our plan to develop State Management Plans (in lieu of the previous Individual and Family Grant State Administrative Plans) and an MOU Support Guide, constituted excessive IHP documentation. The commenter suggested that this type of IHP documentation be limited as much as possible so as not to overburden the system. On the other hand, several States expressed a concern that FEMA has not provided adequate documentation to clearly describe the process by which IHP will be administered.

FEMA and all of the States that commented on the proposed rule realize that FEMA needs to develop documentation that is adequate to clarify the rules for the administration of IHP and to ensure consistency and fairness in its implementation throughout the United States. We also recognize that it would be counterproductive for FEMA to require the use of excessive documentation in our development of the program's basic ground rules. Therefore, we decided to consolidate the MOU as a "pre-planning portion" into the State Administrative Plan for Other Needs Assistance. We believe that a single consolidated document as outlined in 206.120(b) will balance the need for clarity and conciseness when either the State or FEMA administers Other Needs Assistance.

State Administration of Disaster Housing Operations

We also pointed out in the proposed rule that States would be given the option of participating in the management of "direct" temporary housing assistance (*i.e.*, the provision of mobile homes and travel trailers) under section 408 of the Stafford Act. *See* 42 U.S.C. 5174(c)(1)(B). Several entities questioned whether FEMA is authorized

to permit States to participate in the administration of the provision of housing assistance. Because there is no explicit authority for States to participate in the administration of housing activities under subsection 408(c) of the Stafford Act (as there is under subsection 408(f) of the Act with respect to the provision of "Other Needs" assistance), we have concluded that Congress did not intend to authorize State participation in disaster housing activities under subsection 408(c) of the Act. Therefore, we have decided not to retain the option of allowing States to participate in the administration of "direct" temporary housing assistance. Accordingly, the interim final IHP rule will not contain language permitting the State to administer "direct" temporary housing activities. However, this decision will not impact the general statutory mandate that States provide group sites, complete with utilities, in the course of the provision of "direct housing" assistance.

Period of IHP Assistance

As we pointed out when we published the proposed IHP rule, subsection 408(a)(3) of the previous version of section 408 of the Stafford Act stated "Federal financial and operational assistance under this section shall continue for no longer than 18 months." * * * Section 411 of the Stafford Act does not contain any specific time limitation relating to the Individual and Family Grant Program. On the other hand, under the amended version of section 408, 42 U.S.C. 5174(c)(1)(B)(ii), the only type of temporary housing assistance that is time limited (to 18 months) is "direct" temporary housing assistance (*e.g.*, mobile homes and travel trailers). When we published the proposed rule we indicated that we were inclined to establish a standard period of 18 months for IHP assistance to be available. *See* 206.110(e) of the proposed rule. However, we also solicited comments on this aspect of IHP.

We received a wide variety of comments on this issue. A number of States believed that there should be a standard period of IHP assistance up to 18 months. One State suggested that there should be a standard period of IHP assistance, but it should extend to 24 months. Another State believed there should not be a standard period of IHP assistance, but that instead FEMA should continue to provide such assistance until the maximum amount of assistance (*i.e.*, the statutory cap of \$25,000) was reached. Some comments also expressed the belief that "Other

Needs" assistance, which is intended only to address immediate necessary expenses and serious needs, need not remain available for as long as 18 months.

Although we have decided to retain a regulatory deadline beyond which IHP assistance will normally not be available (*See* 206.110(e) of the interim final rule), the interim final rule also gives FEMA's Associate Director for Response and Recovery the discretionary authority to extend this period under extraordinary circumstances if an extension would be in the public interest. Although we have opted to establish an 18 month period for the provision of IHP assistance, we note that the statutory cap for such assistance has already been set at \$25,000, and in most cases that cap would be exceeded within 18 months—indeed, in many urban areas where FEMA might provide rental assistance while a disaster victim's home is being repaired, the \$25,000 cap could be reached well before 18 months have passed. With respect to the concern about the implicit limitation of "Other Needs" assistance to address only immediate and short-term needs, we believe that it is not likely that we will continue to receive "Other Needs" applications for extended periods, so it is not necessary to establish a shorter regulatory limit on the period during which such assistance may be available.

\$5,000 Cap on Housing Repair Assistance

When we published the proposed rule on this new provision of the Stafford Act, we explained that subsection 408(c)(2), 42 U.S.C. 5174(c)(2), contains a \$5,000 cap on the amount of assistance that FEMA is authorized to provide for the repair of owner-occupied private residences which have been damaged by disasters. Under the previous provision of section 408 of the Stafford Act, there was no cap relating to this type of assistance. We received a number of comments on this new provision of the Stafford Act, and all of them expressed the belief that this cap would imprudently limit FEMA's ability to provide meaningful housing repair assistance to many disaster victims. We agree with this concern, and as a result are seeking a modification to this provision. However, until such a change is made, FEMA does not have the discretion to exceed this \$5,000 cap for housing repairs to homeowners.

Permanent Housing Authority

In the proposed rule, which we published on January 23, 2002, we described the new provision of the Stafford Act that authorizes FEMA to

provide assistance for the construction of housing in insular areas and other remote locations to replace primary residences that are destroyed during disasters. That provision, which appears at subsection 408(c)(4) of the Stafford Act, 42 U.S.C. 5174(c)(4), authorizes FEMA to “provide financial assistance or direct assistance to individuals or households to construct permanent housing in insular areas outside the continental United States and in other remote locations * * *” when no alternative housing resources are available and when other types of housing assistance are not feasible or cost effective.

Virtually all of the comments we received on this provision of the rule were supportive of the new authority. However, one commenter suggested that FEMA interpret this new authority more expansively when affordable housing shortages exist in many States, particularly where new types of permanent housing are available at very reasonable rates. The commenter suggested that FEMA should consider the provision of permanent housing construction whenever it might be cost-effective, regardless of the remoteness of the area where the disaster occurred. We do not believe this proposal is consistent with the new statutory authority, so we declined to revise this provision of the rule. See 44 CFR 206.117(b)(4) of the interim final rule.

\$10,000 Housing Replacement Authority

We noted when we published the proposed rule in January of 2002 that the revised version of section 408 of the Stafford Act contains a new authority to provide replacement housing assistance, but that authority is capped at \$10,000. See subsection 408(c)(3) of the Act, 42 U.S.C. 5174(c)(3), which authorizes “financial assistance for the replacement of owner-occupied private residences damaged by a major disaster.” Our proposed rule to implement this new provision indicated that the authority would only be used where an owner-occupied residence could be replaced “in its entirety” for \$10,000 or less, and we speculated that this authority would not be used often because it would usually not be feasible to replace the housing of disaster victims for this limited amount. See section 206.117(b)(3) of the proposed rule.

In response we received a comment that suggested we may have interpreted 42 U.S.C. 5174(c)(3) too narrowly and that in fact the new authority is not necessarily limited to situations where housing can be replaced entirely for

\$10,000 or less. Therefore, we have revised the interim final rule to reflect the fact that the authority can be used in FEMA’s discretion when disaster victims who qualify for such assistance have received at least \$10,000 of damage to their homes and can apply such funds toward the cost of acquiring a new permanent residence. See section 206.117(b)(3) of the interim final rule.

Transient Accommodations

The FEMA regulation that has been used to implement the earlier version of the Stafford Act’s temporary housing authority contains a reference to FEMA’s provision of “transient accommodations.” See 44 CFR 206.110(g)(i)(ii). Transient accommodation assistance has historically been provided by FEMA for short periods to reimburse disaster victims whose homes have been made uninhabitable by disasters for short term lodging accommodations (such as hotel rooms) before they are provided rental assistance. We described in the proposed rule our intention to eliminate from the final rule the explicit reference to “transient accommodations” because we intend to continue providing such short-term assistance in the form of lodging expense reimbursement under subsection 408(c)(1)(A) of the Stafford Act, 42 U.S.C. 5174(c)(1)(A), which authorizes FEMA to provide “financial assistance to individuals or households to rent alternative housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings.”

We received only one comment expressing a concern about our proposal to delete the explicit reference to transient accommodations in the regulation. That commenter felt that by deleting the reference to the term, we enable FEMA to subsequently establish a policy of eliminating such assistance—without having to amend our regulations. We are certain that we will continue to provide short-term lodging reimbursement to disaster victims while they are addressing their long-term housing needs separately. It is also clear under the new version of section 408 of the Stafford Act that we have the authority to provide such multiple forms of housing assistance. See subsection 408(b)(2)(B) of the Stafford Act, 42 U.S.C. 5174(b)(2)(B). Therefore, we have decided not to include an explicit reference to “transient accommodations” in the interim final rule which we are publishing today, even though there is such a reference in the previous

temporary housing rule, which appears at 44 CFR 206.110(g)(1)(ii).

Flood Insurance Purchase Requirements

We discussed in the proposed IHP rule that paragraphs (A)(iv) and (B)(ii)(II) of the new version of subsection 408(d)(2) of the Stafford Act, 42 U.S.C. 5174(d)(2)(A)(iv) and (B)(ii)(II), relate to the obligation to purchase insurance on disaster housing units that are provided under the authority of IHP. The insurance purchase mandates relate to “hazard insurance” and “flood insurance” (flood insurance is not typically provided in standard homeowner’s insurance policies). We received no comments relating to our interpretation that the requirement to purchase “hazard insurance” equates to a mandate to obtain standard homeowner’s insurance, rather than requiring the purchase of insurance to address every conceivable hazard that might exist in a given location. Therefore, we intend to implement this aspect of IHP consistent with this thinking.

We also pointed out in the proposed rule that there was an inconsistency between the flood insurance purchase mandate relating to the purchase of housing units that FEMA sells under subsection 408(d)(2) of the Stafford Act, 42 U.S.C. 5174(d)(2). 42 U.S.C. 5174(d)(2)(A)(iv) and (d)(2)(B)(ii)(II) mandate that when FEMA sells housing units to disaster victims, States, local governments, and voluntary organizations, these entities must agree to purchase and maintain flood insurance on the housing units. That flood insurance purchase mandate is not explicitly imposed in the context of sales of housing units to “other persons” under 42 U.S.C. 5174(d)(2)(B). In addition, the IHP provision relating to replacement housing grants, as opposed to FEMA’s sale of housing units, only requires the purchase of flood insurance when such housing is located within mapped flood prone areas. We proposed to interpret these flood insurance purchase mandates consistent with one another—*i.e.*, to require the purchase of flood insurance on all three of these types of housing, but only when the housing is to be located in designated special flood hazard areas. The comments we received on this issue were all consistent with our proposal, so we drafted the interim final rule to ensure evenhanded application of the flood insurance purchase mandate. See 44 CFR 206.110(k)(1).

Group Flood Insurance Policy

When we published the IHP rule in January we described our proposal to eliminate the Group Flood Insurance Policy (GFIP). FEMA established the GFIP in the mid-1990s to address the need for recipients of Individual and Family Grant (IFG) assistance under section 411 of the Stafford Act to purchase flood insurance as a condition of their receipt of IFG assistance. The regulation concerning the GFIP appears at 44 CFR 206.131(d)(2), which, in turn, relates to a regulation that was published by FEMA's Federal Insurance Administration (which is now a part of FEMA's Federal Insurance and Mitigation Administration, or FIMA) and which appears at 44 CFR 61.17. Under the IFG program, disaster victims who were eligible for IFG assistance received GFIP coverage that was paid for out of their IFG benefits.

Most of the States which commented on our proposal to eliminate the GFIP expressed support for continuation of that program. The basis for the support of the program relates to the fact that disaster victims who qualified for IFG assistance generally had low incomes and were not as able to afford to pay flood insurance premiums as could other disaster victims. Because the penalty for failing to purchase and maintain flood insurance as a condition of receiving disaster assistance under the old IFG program and under the new IHP is a denial of future disaster assistance, most of the States that commented on our proposal believed that it would be imprudent not to continue providing GFIP coverage for low income disaster victims.

We have decided to retain the GFIP under the interim final rule which we are publishing today. GFIP coverage will be provided to recipients of "Other Needs" assistance pursuant to subsections 408(e) and (f) of the Stafford Act, 42 U.S.C. 5174(e) and (f). As indicated in the interim final rule (*See* 44 CFR 206.119(d) of the rule), GFIP premiums are considered to be a necessary expense for the purposes of "Other Needs" Assistance. The amount of coverage under the GFIP policies which are issued will be equivalent to the maximum grant amount established under section 408 of the Stafford Act. We will coordinate with FEMA's Federal Insurance and Mitigation Administration in our efforts to implement the GFIP under the "Other Needs" Assistance authority.

Privacy Act Issues

When we published the IHP proposed rule we discussed that paragraph (2) of

subsection 408(f) of the Act, 42 U.S.C. 5174(f)(2), contains an explicit authorization to provide to States "access to the electronic records of individuals and households receiving assistance under this section in order for the States to make available any additional State and local assistance to the individuals and households." We received a number of comments relating to this new statutory provision and the proposed rule, and all of these comments were supportive of the new and clarified authorization to share such information. Therefore, we have retained this provision in the interim final rule. *See* 206.110(j).

Financial Management Guidance

We have added to the proposed rule a new section relating to financial management issues and the administration of "Other Needs" Assistance. This new section appears at section 206.120 of the interim final rule. Previously we had intended to address the financial management aspects of the new program in the Memorandum of Understanding that was to be used in the course of our coordination with the States on IHP activities. However, based upon comments we received on the proposed rule, we decided that it would be appropriate to include in the rule a brief discussion of the financial management principles that we will be using to implement IHP. These issues are especially important in the context of decision-making by the States concerning the role they will play in the administration of IHP (Other Needs Assistance) activities. Because this provision of the interim final rule is new, we are taking this opportunity to draw attention to it and to solicit comment on section 206.120.

Perhaps the most fundamental issue that we would like to point out relates to the distinction in State Administrative Plans (SAP) between an administrative option and an administrative plan. *See* 206.120(b). The administrative options describe the degree of State and/or FEMA involvement in administering Other Needs Assistance. Due to the systematic constraints to support each of these administrative options, the ability of a State to amend its chosen administrative option *after a declaration of a disaster* is severely limited. The systematic limitations, however, are less significant when considering amendments to the administrative plan. *See* 206.120(c)(3)(ii). The administrative plan is only required when a State chooses to administer Other Needs Assistance. The ability of a State to amend and alter the State administrative plan may, in

general, be done without altering the administrative option. This is primarily because changes to a State's administrative plan (completed and provided to FEMA when the State chooses to administer Other Needs Assistance) will not significantly impact the administrative option selected by the State to process a disaster as long as the State continues to administer Other Needs Assistance.

Conforming Changes to 44 CFR Part 206

We are also making several changes to the other Stafford Act regulations which appear at 44 CFR Part 206 to ensure consistency between those regulations and the interim final rule that we are publishing today. The first change appears at 44 CFR 206.44(a), and it reflects the fact that on limited occasions FEMA may begin providing housing assistance under the Individuals and Households Program before a FEMA-State Agreement has been executed. The second change appears at 44 CFR 206.62(f), and it reflects that the full range of IHP assistance may be provided in both Presidentially-declared emergencies and major disasters. The third change relates to 44 CFR 206.101, and that change indicates that the Temporary Housing Assistance authority remains in place for emergencies and major disasters that were declared on or before October 14, 2002. The fourth change relates to 44 CFR 206.131, and that change indicates that the Individual and Family Grant Program authority remains in place for major disasters that were declared on or before October 14, 2002. The final conforming change appears at 44 CFR 206.191(d)(2), and that change updates the Stafford Act's individual assistance duplication of benefits regulation to reflect the new IHP authority.

Administrative Procedure Act Determination

We are publishing this interim final rule even though we had published a notice of proposed rule making. In accordance with 5 U.S.C. 553(d)(3), we find that there is good cause for the interim final rule to take effect upon publication in the **Federal Register** in order to comply with Public Law 106-390, which establishes a deadline for implementation of the Individuals and Households Program. We invite comments from the public on this interim final rule. In particular we invite comments from states, communities or members of the public who have been impacted by major disasters and who have received assistance under this new program. Please send comments to FEMA in

writing on or before April 15, 2003. After we have reviewed and evaluated the comments we will publish a final rule.

National Environmental Policy Act (NEPA)

We explained when we published the proposed rule that FEMA's rules implementing NEPA exempt this rule from the preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). See 44 CFR 10.8(d)(2)(xix)(D) and (F). The development of our IHP regulations is exempt from NEPA because they reflect administrative changes to the program that would have no effect on the environment.

Although no one disagreed with our determination that this rule is exempt from the preparation of an EA or an EIS, one commenter suggested that a statement under the NEPA discussion in the proposed rule was misleading. We stated that "we would perform an environmental review under 44 CFR part 10 on any proposed project that we would fund and implement under the authorities covered by this rule." The commenter pointed out that this statement could be read more broadly than we intended and could be interpreted to suggest that FEMA would routinely perform an EA or EIS in the context of providing IHP assistance. This is not our intention, and we hope to soon revise our list of categorical exclusions at 44 CFR 10.8(d)(2) to reflect the enactment and implementation of the new IHP program.

Paperwork Reduction Act of 1995

This interim final rule contains a collection of information that is subject to the Paperwork Reduction Act of 1995 (4 U.S.C. Chapter 35) and has been approved by the Office of Management and Budget (OMB) under OMB control number 3067-0296. OMB approval expires March 31, 2005. In the proposed rule published in the **Federal Register** on January 23, 2002, we asked for comments on the proposed collection of information but did not receive any. Under the Paperwork Reduction Act, a person may not be penalized for failing to comply with an information collection that does not display a currently valid OMB control number.

In addition to the collection of information approved under OMB control number 3067-0296, FEMA had already obtained approval for the information collection "Disaster Assistance Registration/Application for Disaster Assistance," under OMB control number 3067-0009. It expires July 28, 2003. The information from the

application form is used to implement the current versions of sections 408 and 411 of the Stafford Act. FEMA is taking steps to reduce the information collection burden independent of the recent amendment to section 408 of the Stafford Act, to the recent repeal of section 411 of the Stafford Act, and the information collection requirements contained in this interim final rule.

The following collection of information requirements are approved under OMB control number 3067-0296:

Applicants

Title: Request for Approval of Late Application, 8,000 respondents at 45 minutes per response equals 6,000 annual burden hours. FEMA will accept late registrations for an additional 60 days after the registration period ends and will process late registrations for those applicants who provide written justification for the delay in their registration.

Title: Request for Continued Assistance (Housing and Medical), 2,000 respondents at 30 minutes per response equals 1,000 annual burden hours. After the initial assistance, FEMA may provide continued Housing and Medical reimbursement based on need. Applicants must submit a written request and information about their permanent housing plans or receipts (bills) for medical expenses.

Title: Appeal of Program Decision (to include review and use of supplemental guidance), 30,000 responses at 45 minutes per response equals 22,500 annual burden hours. Under the provisions of section 423 of the Stafford Act, applicants for assistance from FEMA may appeal any eligibility determination by submitting a written request and explanation for the appeal.

States

Title: Review Memorandum of Understanding (MOU) and Guidance Supplemental, 56 responses at 3 hours per response equals 168 annual burden hours. The Governor may request the authority to participate in the administration or management of the Individuals and Households Program (IHP). A State must sign an agreement, which establishes a partnership with FEMA for the delivery of the assistance. The agreement identifies the State's proposed level of support and participation during disaster recovery.

Title: Development of State Administrative Plans for Financial Assistance to Address Other Needs (to include Financial Agreement), 56 responses at 3 hours per response equals 168 annual burden hours. The Governor may request a grant from FEMA to

provide financial assistance to individuals and households in the State under the IHP. So that FEMA may effectively account for the program costs, the State must provide an administrative plan that addresses the financial and grants management mandates that all applicable Federal laws, regulations and circulars impose, including 44 CFR parts 11 and 13.

Addresses: We ask that you submit any written comments on this collection of information to the Desk Officer for the Federal Emergency Management Agency, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503 on or before October 30, 2002.

For Further Information Contact: Requests for additional information or copies of the collection of information should be made to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities Management and Services Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472, telephone number (202) 646-2625, FAX number (202) 646-3347, or e-mail address: *muriel.anderson@fema.gov*.

Regulatory Planning and Review

Regulatory Flexibility Act

When we published the proposed rule we expressed our determination that there is no need for FEMA to prepare an initial regulatory impact analysis under the Regulatory Flexibility Act. Section 3 of that Act, 5 U.S.C. 603, requires agencies that promulgate regulations under the Administrative Procedure Act to prepare and make available for public comment an initial regulatory flexibility analysis. Agencies are required in these analyses to describe the impact of regulatory activities on "small entities", which the Act defines as "small business concerns" (under section 3 of the Small Business Act), "small organizations" (which is defined as independently owned and operated non-profit entities that are not dominant in their fields), and "small governmental jurisdictions" (which means governments of cities, counties, towns, townships, villages, school districts, or special districts that have populations of less than 50,000). See 5 U.S.C. 601. All of the comments we received on this aspect of the IHP rule were in accord with our determination, so we remain of the opinion that there is no need for FEMA to prepare a

regulatory impact analysis relating to this interim final rule.

Executive Order 12866—Regulatory Planning and Review

In addition, pursuant to Executive Order 12866 we examined whether this rule would be a “significant regulatory action”, as that term is defined at section 3(f) of the Executive Order. E.O. 12866 requires agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects. A regulatory impact analysis must be prepared for major rules with economically significant effects (\$100,000,000 in any one year).

Section 3(f) of E.O. 12866 defines “significant regulatory action” as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100,000,000 or more or adversely affect in a material way the economy* * *; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs* * *; or (4) Raise novel legal or policy issues* * *.” We noted in January that this rule does not meet the criteria under paragraphs 2, 3, or 4 of this provision of the Executive Order. In addition, we noted our determination that this rule is not likely to adversely affect the economy (under paragraph 1 of this provision of the Executive Order). Finally, we also noted that because it is likely that FEMA will pay out in excess of \$100,000,000 in most fiscal years under IHP, the rule is “significant” pursuant to the definition at section 3(f)(1) of the Executive Order.

Therefore we prepared an economic impact analysis relating to the rule when it was published in January. We noted in our analysis that pursuant to the implementation of IHP there will be a positive impact on disaster victims, the economies of local and tribal governments, the economies of States in which disasters occur, and generally on the health and safety of communities that are struck by disasters. We did not receive any comments on the economic impact analysis, which we published along with the proposed IHP rule, so we remain of the opinion that our analysis remains accurate. The Office of Management and Budget has reviewed this interim final rule under Executive Order 12866.

Assessment of Regulation on Families

We noted when we published the proposed IHP rule that the provision of assistance under IHP would have a positive impact on families under section 654 of the Treasury and General Government Appropriations Act of 1999, which requires agencies to assess the impact of proposed agency actions on family well-being, the stability and safety of families, and the performance of family functions. No commenter disagreed with our determinations that implementation of IHP would have a positive impact on families. One commenter did point out that our proposal to repeal the Group Flood Insurance Program might create a fiscal burden on IHP recipients who would be required to purchase flood insurance using their own funds in the event that they received IHP assistance for insurable real and personal property which is located in designated special flood hazard areas (*i.e.*, mapped flood prone areas). Our discussion to retain the Group Flood Insurance Program addresses this comment. Therefore, we have not revised our earlier determination that the IHP rule is consistent with section 654 of the Treasury and General Government Appropriations Act of 1999 and that FEMA’s implementation of IHP would help to stabilize family circumstances in the aftermath of major disasters.

Executive Orders 11988 and 11990, Floodplain Management and Protection of Wetlands

We pointed out when we published the proposed IHP rule that most forms of financial assistance that will be provided pursuant to IHP will not involve providing either Federal financial assistance relating to construction and property improvements or conducting Federal programs that will affect land use. However, we also noted that there are some activities authorized by the IHP authority that may trigger the requirements of Executive Orders 11988 and 11990. For example, the use of Federal funds to construct housing pursuant to subsections 408(c)(3) and (4) of the Stafford Act, 42 U.S.C. 5174(c)(3) and (4), could trigger the process described in the Executive Orders and FEMA’s implementing regulation, which appears at 44 CFR Part 9. In addition, if Federal funds were used pursuant to subsection 408(c)(1) of the Act, 42 U.S.C. 5174(c)(1), to construct group sites for the placement of mobile homes or readily fabricated dwellings for the use of disaster victims, then FEMA would follow the process

described in the Executive Order and our implementing regulation. We received no comments on this aspect of the IHP rule, so we are finalizing this rule in accordance with our earlier explanation of the relationship between the rule and the Executive Orders.

Executive Order 13132, Federalism

Executive Order 13132 sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications and in the development of regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” The Executive Order requires Federal agencies to examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable must consult with State and local officials before implementing any such action. As we indicated when we published the proposed rule relating to this new disaster assistance program, we met with a number of State representatives as we were developing the proposed rule, and we have continued to consult with those representatives in the course of our development of this interim final rule.

We noted when we published the proposed IHP rule that it does not have “substantial direct effects on the States”, and no commenter disagreed with that determination. Indeed, most of the commenters expressed support for FEMA’s decision to give States the discretion to participate in the administration of IHP. Therefore, we remain of the opinion that our issuance of this interim final rule is not in conflict with Executive Order 13132.

Executive Order 12898, Environmental Justice

Under Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”, we incorporate environmental justice into our policies and programs. The Executive Order requires each Federal agency to conduct its programs, policies and activities that substantially affect human health or the environment in a manner that ensures those programs, policies and activities do not have the effect of excluding persons from participation in, denying persons the benefits of, or subjecting persons to discrimination because of their race, color, or national origin.

We stated when we published the proposed IHP rule that we did not anticipate that actions under the rule would have a disproportionately high and adverse human health effect on any segment of the population. No commenter disagreed with this determination, so at this time we reiterate our earlier determination that the requirements of this Executive Order do not apply to this rule.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13175, FEMA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal government or we consult with those governments. FEMA is required by statute to issue this rule, and, as we stated when we published the proposed rule, we do not believe that the rule will significantly and uniquely affect the communities of Indian tribal governments. Nor do we believe that the rule will impose substantial direct compliance costs on those communities. Therefore, we do not believe that the requirements of this Executive Order apply in the context of our publication of this rule.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Community facilities, Disaster Assistance, Grant programs, Loan programs, Reporting and recordkeeping requirements.

Accordingly, amend 44 CFR part 206 as follows:

PART 206—FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR AFTER NOVEMBER 23, 1988

1. The authority citation of Part 206 continues to read:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206; Reorganization Plan No. 3 of 1978, 43 F.R. 41943; 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 F.R. 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 F.R. 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 F.R. 12571, 3 CFR, 1989 Comp., p. 214.

2. Revise Subpart D as follows.

Subpart D—Federal Assistance to Individuals and Households

Sec.

- 206.110 Federal assistance to individuals and households.
- 206.111 Definitions.
- 206.112 Registration period.
- 206.113 Eligibility factors.
- 206.114 Criteria for continued assistance.
- 206.115 Appeals.
- 206.116 Recovery of funds.
- 206.117 Housing assistance.
- 206.118 Disposal of housing units.
- 206.119 Financial assistance to address other needs.
- 206.120 State administration of other needs assistance.

Subpart D—Federal Assistance to Individuals and Households

§ 206.110 Federal assistance to individuals and households.

(a) *Purpose.* This section implements the policy and procedures set forth in section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5174, as amended by the Disaster Mitigation Act of 2000. This program provides financial assistance and, if necessary, direct assistance to eligible individuals and households who, as a direct result of a major disaster or emergency, have uninsured or under-insured, necessary expenses and serious needs and are unable to meet such expenses or needs through other means.

(b) *Maximum amount of assistance.* No individual or household will receive financial assistance greater than \$25,000 under this subpart with respect to a single major disaster or emergency. FEMA will adjust the \$25,000 limit annually to reflect changes in the Consumer Price Index (CPI) for All Urban Consumers that the Department of Labor publishes.

(c) *Multiple types of assistance.* One or more types of housing assistance may be made available under this section to meet the needs of individuals and households in the particular disaster situation. FEMA shall determine the appropriate types of housing assistance to be provided under this section based on considerations of cost effectiveness, convenience to the individuals and households and the suitability and availability of the types of assistance. An applicant is expected to accept the first offer of housing assistance; unwarranted refusal of assistance may result in the forfeiture of future housing assistance. Temporary housing and repair assistance shall be utilized to the fullest extent practicable before other types of housing assistance.

(d) *Date of eligibility.* Eligibility for Federal assistance under this subpart will begin on the date of the incident that results in a presidential declaration that a major disaster or emergency exists, except that reasonable lodging

expenses that are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this chapter.

(e) *Period of assistance.* FEMA may provide assistance under this subpart for a period not to exceed 18 months from the date of declaration. The Associate Director (AD) may extend this period if he/she determines that due to extraordinary circumstances an extension would be in the public interest.

(f) *Assistance not counted as income.* Assistance under this subpart is not to be counted as income or a resource in the determination of eligibility for welfare, income assistance or income-tested benefit programs that the Federal Government funds.

(g) *Exemption from garnishment.* All assistance provided under this subpart is exempt from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release or waiver. Recipients of rights under this provision may not reassign or transfer the rights. These exemptions do not apply to FEMA recovering assistance fraudulently obtained or misapplied.

(h) *Duplication of benefits.* In accordance with the requirements of section 312 of the Stafford Act, 42 U.S.C. 5155, FEMA will not provide assistance under this subpart when any other source has already provided such assistance or when such assistance is available from any other source. In the instance of insured applicants, we will provide assistance under this subpart only when:

- (1) Payment of the applicable benefits are significantly delayed;
- (2) Applicable benefits are exhausted;
- (3) Applicable benefits are insufficient to cover the housing or other needs; or
- (4) Housing is not available on the private market.

(i) *Cost sharing.*

(1) Except as provided in paragraph (i)(2) of this section, the Federal share of eligible costs paid under this subpart shall be 100 percent.

(2) Federal and State cost shares for “Other Needs” assistance under subsections 408 (e) and (f) of the Stafford Act will be as follows;

(i) The Federal share shall be 75 percent; and

(ii) The non-federal share shall be paid from funds made available by the State. If the State does not provide the non-Federal share to FEMA before FEMA begins to provide assistance to individuals and households under subsection 408(e) of the Stafford Act, FEMA will still process applications. The State will then be obliged to reimburse FEMA for the non-Federal

cost share of such assistance on a monthly basis. If the State does not provide such reimbursement on a monthly basis, then FEMA will issue a Bill for Collection to the State on a monthly basis for the duration of the program. FEMA will charge interest, penalties, and administrative fees on delinquent Bills for Collection in accordance with the Debt Collection Improvement Act. Cost shared funds, interest, penalties and fees owed to FEMA through delinquent Bills for Collections may be offset from other FEMA disaster assistance programs (*i.e.* Public Assistance) from which the State is receiving, or future grant awards from FEMA or other Federal Agencies. Debt Collection procedures will be followed as outlined in 44 CFR part 11.

(j) *Application of the Privacy Act.*

(1) All provisions of the Privacy Act of 1974, 5 U.S.C. 552a, apply to this subpart. FEMA may not disclose an applicant's record except:

(i) In response to a release signed by the applicant that specifies the purpose for the release, to whom the release is to be made, and that the applicant authorizes the release;

(ii) In accordance with one of the published routine uses in our system of records; or

(iii) As provided in paragraph (j)(2) of this section.

(2) Under section 408(f)(2) of the Stafford Act, 42 U.S.C. 5174(f)(2), FEMA must share applicant information with States in order for the States to make available any additional State and local disaster assistance to individuals and households.

(i) States receiving applicant information under this paragraph must protect such information in the same manner that the Privacy Act requires FEMA to protect it.

(ii) States receiving such applicant information shall not further disclose the information to other entities, and shall not use it for purposes other than providing additional State or local disaster assistance to individuals and households.

(k) Flood Disaster Protection Act requirement.

(1) The Flood Disaster Protection Act of 1973, Public Law 93-234, as amended (42 U.S.C. 4106), imposes certain restrictions on federal financial assistance for acquisition and construction purposes. For the purpose of this paragraph, *financial assistance for acquisition or construction purposes* means assistance to an individual or household to buy, receive, build, repair or improve insurable portions of a home and/or to purchase or repair insurable contents. For a discussion of what

elements of a home and contents are insurable, *See* 44 CFR part 61, Insurance Coverage and Rates.

(2) Individuals or households that are located in a special flood hazard area may not receive Federal Assistance for National Flood Insurance Program (NFIP)—insurable real and/or personal property, damaged by a flood, unless the community in which the property is located is participating in the NFIP (*See* 44 CFR part 59.1), or the exception in 42 U.S.C. 4105(d) applies. However, if the community in which the damaged property is located qualifies for and enters the NFIP during the six-month period following the declaration, the Governor's Authorized Representative may request a time extension for FEMA (*See* § 206.112) to accept registrations and to process assistance applications in that community.

(3) Flood insurance purchase requirement:

(i) As a condition of the assistance and in order to receive any Federal assistance for future flood damage to any insurable property, individuals and households named by FEMA as eligible recipients under section 408 of the Stafford Act who receive assistance, due to flood damages, for acquisition or construction purposes under this subpart must buy and maintain flood insurance, as required in 42 U.S.C. 4012a, for at least the assistance amount. This applies only to real and personal property that is in or will be in a designated Special Flood Hazard Area and that can be insured under the National Flood Insurance Program.

(A) If the applicant is a homeowner, flood insurance coverage must be maintained at the address of the flood-damaged property for as long as the address exists. The flood insurance requirement is reassigned to any subsequent owner of the flood-damaged address.

(B) If the applicant is a renter, flood insurance coverage must be maintained on the contents for as long as the renter resides at the flood-damaged rental unit. The restriction is lifted once the renter moves from the rental unit.

(C) When financial assistance is used to purchase a dwelling, flood insurance coverage must be maintained on the dwelling for as long as the dwelling exists and is located in a designated Special Flood Hazard Area. The flood insurance requirement is reassigned to any subsequent owner of the dwelling.

(ii) FEMA may not provide financial assistance for acquisition or construction purposes to individuals or households who fail to buy and maintain flood insurance required under paragraph (k)(3)(i) of this section

or required by the Small Business Administration.

(l) *Environmental requirements.*

Assistance provided under this subpart must comply with the National Environmental Policy Act (NEPA) and other environmental laws and Executive Orders, consistent with 44 CFR part 10.

(m) *Historic preservation.* Assistance provided under this subpart generally does not have the potential to affect historic properties and thus is exempted from review in accordance with section 106 of the National Historic Preservation Act, with the exception of ground disturbing activities and construction related to §§ 206.117(b)(1)(ii) (Temporary housing), 206.117(b)(3) (Replacement housing), and 206.117(b)(4) (Permanent housing construction).

§ 206.111 Definitions.

Adequate, alternate housing means housing that accommodates the needs of the occupants; is within the normal commuting patterns of the area or is within reasonable commuting distance of work, school, or agricultural activities that provide over 50 percent of the household income; and is within the financial ability of the occupant.

Alternative housing resources means any housing that is available or can quickly be made available in lieu of permanent housing construction and is cost-effective when compared to permanent construction costs. Some examples are rental resources, mobile homes and travel trailers.

Applicant means an individual or household who has applied for assistance under this subpart.

Assistance from other means includes monetary or in-kind contributions from voluntary or charitable organizations, insurance, other governmental programs, or from any sources other than those of the applicant.

Dependent means someone who is normally claimed as such on the Federal tax return of another, according to the Internal Revenue Code. It may also mean the minor children of a couple not living together, where the children live in the affected residence with the parent or guardian who does not actually claim them on the tax return.

Displaced applicant means one whose primary residence is uninhabitable, inaccessible, made unavailable by the landlord (to meet their disaster housing need) or not functional as a direct result of the disaster and has no other housing available in the area, *i.e.*, a secondary home or vacation home.

Effective date of assistance means the date that the applicant was determined eligible for assistance.

Eligible hazard mitigation measures are home improvements that an applicant can accomplish in order to reduce or prevent future disaster damages to essential components of the home.

Fair market rent means housing market-wide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition. The fair market rent rates applied are those identified by the Department of Housing and Urban Development as being adequate for existing rental housing in a particular area.

Financial ability means the applicant's capability to pay housing costs. If the household income has not changed subsequent to or as a result of the disaster then the determination is based upon the amount paid for housing before the disaster. If the household income is reduced as a result of the disaster then the applicant will be deemed capable of paying 30 percent of gross post disaster income for housing. When computing financial ability, extreme or unusual financial circumstances may be considered by the Regional Director.

Financial assistance means cash that may be provided to eligible individuals and households, usually in the form of a check or electronic funds transfer.

Functional means an item or home capable of being used for its intended purpose.

Household means all persons (adults and children) who lived in the pre-disaster residence who request assistance under this subpart, as well as any persons, such as infants, spouse, or part-time residents who were not present at the time of the disaster, but who are expected to return during the assistance period.

Housing costs means rent and mortgage payments, including principal, interest, real estate taxes, real property insurance, and utility costs.

Inaccessible means as a result of the incident, the applicant cannot reasonably be expected to gain entry to his or her pre-disaster residence due to the disruption, or destruction, of access routes or other impediments to access, or restrictions placed on movement by a responsible official due to continued health, safety or security problems.

In-kind contributions mean something other than monetary assistance, such as goods, commodities or services.

Lodging expenses means expenses for reasonable short-term accommodations that individuals or households incur in the immediate aftermath of a disaster. Lodging expenses may include but are

not limited to the cost of brief hotel stays.

Manufactured housing sites means those sites used for the placement of government or privately owned mobile homes, travel trailers, and other manufactured housing units, including:

(1) *Commercial site*, a site customarily leased for a fee, which is fully equipped to accommodate a housing unit;

(2) *Private site*, a site that the applicant provides or obtains at no cost to the Federal Government, complete with utilities; and

(3) *Group site*, a site provided by the State or local government that accommodates two or more units and is complete with utilities.

Necessary expense means the cost associated with acquiring an item or items, obtaining a service, or paying for any other activity that meets a serious need.

Occupant means a resident of a housing unit.

Owner-occupied means that the residence is occupied by:

(1) The legal owner;

(2) A person who does not hold formal title to the residence and pays no rent, but is responsible for the payment of taxes or maintenance of the residence; or

(3) A person who has lifetime occupancy rights with formal title vested in another.

Permanent housing plan means a realistic plan that, within a reasonable timeframe, puts the disaster victim back into permanent housing that is similar to the victim's pre-disaster housing situation. A reasonable timeframe includes sufficient time for securing funds, locating a permanent dwelling, and moving into the dwelling.

Primary residence means the dwelling where the applicant normally lives, during the major portion of the calendar year; or the dwelling that is required because of proximity to employment, including agricultural activities, that provide 50 percent of the household's income.

Reasonable commuting distance means a distance that does not place undue hardship on an applicant. It also takes into consideration the traveling time involved due to road conditions, e.g., mountainous regions or bridges out and the normal commuting patterns of the area.

Safe means secure from disaster-related hazards or threats to occupants.

Sanitary means free of disaster-related health hazards.

Serious need means the requirement for an item, or service, that is essential to an applicant's ability to prevent, mitigate, or overcome a disaster-related hardship, injury or adverse condition.

Significantly delayed means the process has taken more than 30 days.

Uninhabitable means the dwelling is not safe, sanitary or fit to occupy.

We, our, and us mean FEMA.

§ 206.112 Registration period.

(a) *Initial period.* The standard FEMA registration period is 60 days following the date that the President declares an incident a major disaster or an emergency.

(b) *Extension of the registration period.* The regional director or his/her designee may extend the registration period when the State requests more time to collect registrations from the affected population. The Regional Director or his/her designee may also extend the standard registration period when necessary to establish the same registration deadline for contiguous counties or States.

(c) *Late registrations.* After the standard or extended registration period ends, FEMA will accept late registrations for an additional 60 days. We will process late registrations for those registrants who provide suitable documentation to support and justify the reason for the delay in their registration.

§ 206.113 Eligibility factors.

(a) *Conditions of eligibility.* In general, FEMA may provide assistance to individuals and households who qualify for such assistance under section 408 of the Stafford Act and this subpart. FEMA may only provide assistance:

(1) When the individual or household has incurred a disaster-related necessary expense or serious need in the state in which the disaster has been declared, without regard to their residency in that state;

(2) In a situation where the applicant has insurance, when the individual or household files a claim with their insurance provider for all potentially applicable types of insurance coverage and the claim is denied;

(3) In a situation where the applicant has insurance, when the insured individual or household's insurance proceeds have been significantly delayed through no fault of his, her or their own, and the applicant has agreed to repay the assistance to FEMA or the State from insurance proceeds that he, she or they receive later;

(4) In a situation where the applicant has insurance, when the insured individual or household's insurance proceeds are less than the maximum amount of assistance FEMA can authorize and the proceeds are insufficient to cover the necessary expenses or serious needs;

(5) In a situation where the applicant has insurance, when housing is not available on the private market;

(6) In a situation where the applicant has insurance, when the insured individual or household has accepted all assistance from other sources for which he, she, or they are eligible, including insurance, when the insured individual or household's insurance proceeds and all other assistance are less than the maximum amount of assistance FEMA can authorize and the proceeds are insufficient to cover the necessary expense or serious needs;

(7) When the applicant agrees to refund to FEMA or the State any portion of the assistance that the applicant receives or is eligible to receive as assistance from another source;

(8) With respect to housing assistance, if the primary residence has been destroyed, is uninhabitable, or is inaccessible; and

(9) With respect to housing assistance, if a renter's primary residence is no longer available as a result of the disaster.

(b) *Conditions of ineligibility.* We may not provide assistance under this subpart:

(1) For housing assistance, to individuals or households who are displaced from other than their pre-disaster primary residence;

(2) For housing assistance, to individuals or households who have adequate rent-free housing accommodations;

(3) For housing assistance, to individuals or households who own a secondary or vacation residence within reasonable commuting distance to the disaster area, or who own available rental property that meets their temporary housing needs;

(4) For housing assistance, to individuals or households who evacuated the residence in response to official warnings solely as a precautionary measure and who are able to return to the residence immediately after the incident;

(5) For housing assistance, for improvements or additions to the pre-disaster condition of property, except those required to comply with local and State ordinances or eligible mitigation measures;

(6) To individuals or households who have adequate insurance coverage and where there is no indication that insurance proceeds will be significantly delayed, or who have refused assistance from insurance providers;

(7) To individuals or households whose damaged primary residence is located in a designated special flood hazard area, and in a community that is

not participating in the National Flood Insurance Program, except that financial assistance may be provided to rent alternate housing and for medical, dental, funeral expenses and uninsurable items to such individuals or households. However, if the community in which the damaged property is located qualifies for and enters the NFIP during the six-month period following the declaration then the individual or household may be eligible;

(8) To individuals or households who did not fulfill the condition to purchase and maintain flood insurance as a requirement of receiving previous Federal disaster assistance;

(9) For business losses, including farm businesses and self-employment; or

(10) For any items not otherwise authorized by this section.

§ 206.114 Criteria for continued assistance.

(a) FEMA expects all recipients of assistance under this subpart to obtain and occupy permanent housing at the earliest possible time. FEMA may provide continued housing assistance during the period of assistance, but not to exceed the maximum amount of assistance for the program, based on need, and generally only when adequate, alternate housing is not available or when the permanent housing plan has not been fulfilled through no fault of the applicant.

(b) Additional criteria for continued assistance.

(1) All applicants requesting continued rent assistance must establish a realistic permanent housing plan no later than the first certification for continued assistance. Applicants will be required to provided documentation showing that they are making efforts to obtain permanent housing.

(2) Applicants requesting continued rent assistance must submit rent receipts to show that they have exhausted the FEMA rent funds, and provide documentation identifying the continuing need.

(3) FEMA generally expects that pre-disaster renters will use their initial rental assistance to obtain permanent housing. However, we may certify them, during the period of assistance, for continued rent assistance when adequate, alternate housing is not available, or when they have not realized a permanent housing plan through no fault of their own.

(4) FEMA may certify pre-disaster owners for continued rent assistance, during the period of assistance, when adequate, alternate housing is not available, or when they have not

realized a permanent housing plan through no fault of their own.

(5) Individuals or households requesting additional repair assistance will be required to submit information and/or documentation identifying the continuing need.

(6) Individuals or households requesting additional assistance for personal property, transportation, medical, dental, funeral, moving and storage, or other necessary expenses and serious needs will be required to submit information and/or documentation identifying the continuing need.

§ 206.115 Appeals.

(a) Under the provisions of section 423 of the Stafford Act, applicants for assistance under this subpart may appeal any determination of eligibility for assistance made under this subpart. Applicants must file their appeal within 60 days after the date that we notify the applicant of the award or denial of assistance. Applicants may appeal the following:

(1) Eligibility for assistance, including recoupment;

(2) Amount or type of assistance;

(3) Cancellation of an application;

(4) The rejection of a late application;

(5) The denial of continued assistance under § 206.114, Criteria for continued assistance;

(6) FEMA's intent to collect rent from occupants of a housing unit that FEMA provides;

(7) Termination of direct housing assistance;

(8) Denial of a request to purchase a FEMA-provided housing unit at the termination of eligibility;

(9) The sales price of a FEMA-provided housing unit they want to purchase; or

(10) Any other eligibility-related decision.

(b) Appeals must be in writing and explain the reason(s) for the appeal. The applicant or person who the applicant authorizes to act on his or her behalf must sign the appeal. If someone other than the applicant files the appeal, then the applicant must also submit a signed statement giving that person authority to represent him, her or them.

(c) Applicants must appeal to the Regional Director or his/her designee for decisions made under this subpart, unless FEMA has made a grant to the State to provide assistance to individuals and households under § 206.111(a), State administration of other needs assistance; then the applicant must appeal to the State.

(d) An applicant may ask for a copy of information in his or her file by writing to FEMA or the State as

appropriate. If someone other than the applicant is submitting the request, then the applicant must also submit a signed statement giving that person authority to represent him or her.

(e) The appropriate FEMA or State program official will notify the applicant in writing of the receipt of the appeal.

(f) The Regional Director or his/her designee or appropriate State official will review the original decision after receiving the appeal. FEMA or the State, as appropriate, will give the appellant a written notice of the disposition of the appeal within 90 days of the receiving the appeal. The decision of the appellate authority is final.

§ 206.116 Recovery of funds.

(a) The applicant must agree to repay to FEMA (when funds are provided by FEMA) and/or the State (when funds are provided by the State) from insurance proceeds or recoveries from any other source an amount equivalent to the value of the assistance provided. In no event must the amount repaid to FEMA and/or the State exceed the amount that the applicant recovers from insurance or any other source.

(b) An applicant must return funds to FEMA and/or the State (when funds are provided by the State) when FEMA and/or the State determines that the assistance was provided erroneously, that the applicant spent the funds inappropriately, or that the applicant obtained the assistance through fraudulent means.

§ 206.117 Housing assistance.

(a) *Purpose.* FEMA may provide financial or direct assistance under this section to respond to the disaster-related housing needs of individuals and households.

(b) *Types of housing assistance.*

(1) *Temporary housing assistance.*

(i) *Financial assistance.* Eligible individuals and households may receive financial assistance to rent alternate housing resources, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings. FEMA may also provide assistance for the reasonable cost of any transportation, utility hookups, or installation of a manufactured housing unit or recreational vehicle to be used for housing. This includes reimbursement for reasonable short-term lodging expenses that individuals or households incur in the immediate aftermath of a disaster.

(A) FEMA will include all members of a pre-disaster household in a single registration and will provide assistance for one temporary housing residence,

unless the Regional Director or his/her designee determines that the size or nature of the household requires that we provide assistance for more than one residence.

(B) FEMA will base the rental assistance on the Department of Housing and Urban Development's current fair market rates for existing rental units. FEMA will further base the applicable rate on the household's bedroom requirement and the location of the rental unit.

(C) All utility costs and utility security deposits are the responsibility of the occupant except where the utility does not meter utility services separately and utility services are a part of the rental charge.

(D) The occupant is responsible for all housing security deposits. In extraordinary circumstances, the Regional Director or his/her designee may authorize the payment of security deposits; however, the owner or occupant must reimburse the full amount of the security deposit to the Federal Government before or at the time that the temporary housing assistance ends.

(i) *Direct assistance.*

(A) FEMA may provide direct assistance in the form of purchased or leased temporary housing units directly to individuals or households who lack available housing resources and would be unable to make use of the assistance provided under paragraph (b)(1)(i) of this section.

(B) FEMA will include all members of a pre-disaster household in a single application and will provide assistance for one temporary housing residence, unless the Regional Director or his/her designee determines that the size or nature of the household requires that we provide assistance for more than one residence.

(C) Any site upon which a FEMA-provided housing unit is placed must comply with applicable State and local codes and ordinances, as well as 44 CFR part 9, Floodplain Management and Protection of Wetlands, and 44 CFR part 10, Environmental Considerations, and all other applicable environmental laws and Executive Orders.

(D) All utility costs and utility security deposits are the responsibility of the occupant except where the utility does not meter utility services separately and utility services are a part of the rental charge.

(E) FEMA-provided or funded housing units may be placed in the following locations:

(1) A commercial site that is complete with utilities; when the Regional Director or his/her designee determines

that the upgrading of commercial sites, or installation of utilities on such sites, will provide more cost-effective, timely and suitable temporary housing than other types of resources, then Federal assistance may be authorized for such actions.

(2) A private site that an applicant provides, complete with utilities; when the Regional Director or his/her designee determines that the cost of installation or repairs of essential utilities on private sites will provide more cost effective, timely, and suitable temporary housing than other types of resources, then Federal assistance may be authorized for such actions.

(3) A group site that the State or local government provides that accommodates two or more units and is complete with utilities; when the Regional Director or his/her designee determines that the cost of developing a group site provided by the State or local government, to include installation or repairs of essential utilities on the sites, will provide more cost effective, timely, and suitable temporary housing than other types of resources, then Federal assistance may be authorized for such actions.

(4) A group site provided by FEMA, if the Regional Director or his/her designee determines that such a site would be more economical or accessible than one that the State or local government provides.

(F) After the end of the 18-month period of assistance, FEMA may begin to charge up to the fair market rent rate for each temporary housing unit provided. We will base the rent charged on the number of bedrooms occupied and needed by the household. When establishing the amount of rent, FEMA will take into account the financial ability of the household.

(G) We may terminate direct assistance for reasons that include, but are not limited to, the following:

(1) The period of assistance expired under § 206.119(e) and has not been extended;

(2) Adequate alternate housing is available to the occupant(s);

(3) The occupant(s) obtained housing assistance through either misrepresentation or fraud;

(4) The occupant(s) failed to comply with any term of the lease/rental agreement or other rules of the site where the unit is located.

(5) The occupant(s) does not provide evidence documenting that they are working towards a permanent housing plan.

(H) FEMA will provide a 15 day written notice when initiating the termination of direct assistance that we

provide under our lease agreements. This notice will specify the reasons for termination of assistance and occupancy, the date of termination, the procedure for appealing the determination, and the occupant's liability for such additional charges as the Regional Director or his/her designee deems appropriate after the termination date, including fair market rent for the unit.

(I) Duplication of benefits may occur when an applicant has additional living expense insurance benefits to cover the cost of renting alternate housing. In these instances, FEMA may provide a temporary housing unit if adequate alternate housing is not available, or if doing so is in the best interest of the household and the government. We will establish fair market rent, not to exceed insurance benefits available.

(2) *Repairs.*

(i) FEMA may provide financial assistance for the repairs of uninsured disaster-related damages to an owner's primary residence. The funds are to help return owner-occupied primary residences to a safe and sanitary living or functioning condition. Repairs may include utilities and residential infrastructure (such as private access routes, privately owned bridge, wells and/or septic systems) damaged by a major disaster.

(ii) The type of repair FEMA authorizes may vary depending upon the nature of the disaster. We may authorize repair of items where feasible or replacement when necessary to insure the safety or health of the occupant and to make the residence functional.

(iii) FEMA may also provide assistance for eligible hazard mitigation measures that reduce the likelihood of future damage to damaged residences, utilities or infrastructure.

(iv) Eligible individuals or households may receive up to \$5,000 under this paragraph, adjusted annually to reflect changes in the CPI, to repair damages to their primary residence without first having to show that the assistance can be met through other means, except insurance proceeds.

(v) The individual or household is responsible for obtaining all local permits or inspections that applicable State or local building codes may require.

(3) *Replacement.* FEMA may provide financial assistance under this paragraph to replace the primary residence of an owner-occupied dwelling if the dwelling was damaged by the disaster and there was at least \$10,000 of damage (as adjusted annually to reflect changes in the CPI). The

applicant may either replace the dwelling in its entirety for \$10,000 (as adjusted annually to reflect changes in the CPI) or less, or may use the assistance toward the cost of acquiring a new permanent residence that is greater in cost than \$10,000 (as adjusted annually to reflect changes in the CPI). All replacement assistance awards must be individually approved by the Associate Director. The Associate Director may approve replacement assistance for applicants whose damages are less than \$10,000 in extraordinary circumstances where replacement assistance is more appropriate than other forms of housing assistance.

(4) *Permanent housing construction.* FEMA may provide financial or direct assistance to applicants for the purpose of constructing permanent housing in insular areas outside the continental United States and in other remote locations when alternative housing resources are not available and the types of financial or direct temporary housing assistance described at paragraph (b)(1) of this section are unavailable, infeasible, or not cost-effective.

(c) *Eligible costs.*

(1) Repairs to the primary residence or replacement of items must be disaster-related and must be of average quality, size, and capacity, taking into consideration the needs of the occupant. Repairs to the primary residence are limited to restoration of the dwelling to a safe and sanitary living or functioning condition and may include:

(i) Repair or replacement of the structural components, including foundation, exterior walls, and roof;

(ii) Repair or replacement of the structure's windows and doors;

(iii) Repair or replacement of the structure's Heating, Ventilation and Air Conditioning System;

(iv) Repair or replacement of the structure's utilities, including electrical, plumbing, gas, water and sewage systems;

(v) Repair or replacement of the structure's interior, including floors, walls, ceilings, doors and cabinetry;

(vi) Repair to the structure's access and egress, including privately owned access road and privately owned bridge;

(vii) Blocking, leveling, and anchoring of a mobile home, and reconnecting or resetting mobile home sewer, water, electrical and fuel lines and tanks; and

(viii) Items or services determined to be eligible hazard mitigation measures.

(2) Replacement assistance, will be based on the verified disaster-related level of damage to the dwelling, or the statutory maximum, whichever is less.

(3) Permanent housing construction, in general, must be consistent with

current minimal local building codes and standards where they exist, or minimal acceptable construction industry standards in the area, including reasonable hazard mitigation measures, and federal environmental laws and regulations. Dwellings will be of average quality, size and capacity, taking into consideration the needs of the occupant.

§ 206.118 Disposal of housing units.

(a) FEMA may sell housing units purchased under § 206.117(b)(1)(ii), Temporary housing, direct assistance, as follows:

(1) Sale to an applicant.

(i) Sale to the individual or household occupying the unit, if the occupant lacks permanent housing, has a site that complies with local codes and ordinances and part 9 of this Title.

(ii) Adjustment to the sales price. FEMA may approve adjustments to the sales price when selling a housing unit to the occupant of a unit if the purchaser is unable to pay the fair market value of the home or unit and when doing so is in the best interest of the applicant and FEMA.

(iii) FEMA may sell a housing unit to the occupant only on the condition that the purchaser agrees to obtain and maintain hazard insurance, as well as flood insurance on the unit if it is or will be in a designated Special Flood Hazard Area.

(2) Other methods of disposal:

(i) FEMA may sell, transfer, donate, or otherwise make a unit available directly to a State or other governmental entity, or to a voluntary organization, for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies. As a condition of the sale, transfer, or donation, or other method of provision, the State, governmental entity, or voluntary organization must agree to:

(A) Comply with the nondiscrimination provisions of the Stafford Act, 42 U.S.C. 5151; and
(B) Obtain and maintain hazard insurance on the unit, as well as flood insurance if the housing unit is or will be in a designated Special Flood Hazard Area.

(ii) FEMA may also sell housing units at a fair market value to any other person.

(b) A unit will be sold "as is, where is", except for repairs FEMA deems necessary to protect health or safety, which are to be completed before the sale. There will be no implied warranties. In addition, FEMA will inform the purchaser that he/she may have to bring the unit up to codes and

standards that are applicable at the proposed site.

§ 206.119 Financial Assistance to Address Other Needs.

(a) *Purpose.* FEMA and the State may provide financial assistance to individuals and households who have other disaster-related necessary expenses or serious needs. To qualify for assistance under this section, an applicant must also:

(1) Apply to the United States Small Business Administration's (SBA) Disaster Home Loan Program for all available assistance under that program; and

(2) Be declined for SBA Disaster Home Loan Program assistance; or

(3) Demonstrate that the SBA assistance received does not satisfy their total necessary expenses or serious needs arising out of the major disaster.

(b) *Types of assistance.*

(1) Medical, dental, and funeral expenses. FEMA may provide financial assistance for medical, dental and funeral items or services to meet the disaster-related necessary expenses and serious needs of individuals and households.

(2) Personal property, transportation, and other expenses.

(i) FEMA may provide financial assistance for personal property and transportation items or services to meet the disaster-related necessary expenses and serious needs of individuals and households.

(ii) FEMA may provide financial assistance for other items or services that are not included in the specified categories for other assistance but which FEMA approves, in coordination with the State, as eligible to meet unique disaster-related necessary expenses and serious needs of individuals and households.

(c) *Eligible costs.*

(1) *Personal property.* Necessary expenses and serious needs for repair or replacement of personal property are generally limited to the following:

(i) Clothing;

(ii) Household items, furnishings or appliances;

(iii) Tools, specialized or protective clothing, and equipment required by an employer as a condition of employment;

(iv) Computers, uniforms,

schoolbooks and supplies required for educational purposes; and

(v) Cleaning or sanitizing any eligible personal property item.

(2) *Transportation.* Necessary expenses or serious needs for transportation are generally limited to the following:

(i) Repairing or replacing vehicles; and

(ii) Financial assistance for public transportation and any other transportation related costs or services.

(3) *Medical expenses.* Medical expenses are generally limited to the following:

(i) Medical costs;

(ii) Dental costs; and

(iii) Repair or replacement of medical equipment.

(4) *Funeral expenses.* Funeral expenses are generally limited to the following

(i) Funeral services;

(ii) Burial or cremation; and

(iii) Other related funeral expenses.

(5) *Moving and storage expenses.*

Necessary expenses and serious needs related to moving and storing personal property to avoid additional disaster damage generally include storage of personal property while disaster-related repairs are being made to the primary residence, and return of the personal property to the individual or household's primary residence.

(6) *Other.* Other disaster-related expenses not addressed in this section may include:

(i) The purchase of a Group Flood Insurance Policy as described in paragraph (d) of this section.

(ii) Other miscellaneous items or services that FEMA, in consultation with the State, determines are necessary expenses and serious needs.

(d) *Group Flood Insurance purchase.* Individuals identified by FEMA as eligible for "Other Needs" assistance under section 408 of the Stafford Act as a result of flood damage caused by a Presidentially-declared major disaster and who reside in a special flood hazard area (SFHA) may be included in a Group Flood Insurance Policy (GFIP) established under the National Flood Insurance Program (NFIP) regulations at 44 CFR 61.17.

(1) The premium for the GFIP is a necessary expense within the meaning of this section. FEMA or the State shall withhold this portion of the Other Needs award and provide it to the NFIP on behalf of individuals and households who are eligible for coverage. The coverage shall be equivalent to the maximum assistance amount established under section 408 of the Stafford Act.

(2) FEMA or the State IHP staff shall provide the NFIP with records of individuals who received an "Other Needs" award and are to be insured through the GFIP. Records of "Other Needs" applicants to be insured shall be accompanied by payments to cover the premium amounts for each applicant for the 3-year policy term. The NFIP will then issue a Certificate of Flood

Insurance to each applicant. Flood insurance coverage becomes effective on the 30th day following the receipt of records of GFIP insureds and their premium payments from the State or FEMA, and such coverage terminates 36 months from the inception date of the GFIP, which is 60 days from the date of the disaster declaration.

(3) Insured applicants would not be covered if they are determined to be ineligible for coverage based on a number of exclusions established by the NFIP. Therefore, once applicants/policyholders receive the Certificate of Flood Insurance that contains a list of the policy exclusions, they should review that list to see if they are ineligible for coverage. Those applicants who fail to do this may find that their property is, in fact, not covered by the insurance policy when the next flooding incident occurs and they file for losses. Once the applicants find that their damaged buildings, contents, or both, are ineligible for coverage, they should notify the NFIP in writing in order to have their names removed from the GFIP, and to have the flood insurance maintenance requirement expunged from the data-tracking system.

§ 206.120 State administration of other needs assistance.

(a) *State administration of other needs assistance.* A State may request a grant from FEMA to provide financial assistance to individuals and households in the State under § 206.119. The State may also expend administrative costs not to exceed 5 percent of the amount of the grant in accordance with section 408(f)(1)(b) of the Stafford Act. Any State that administers the program to provide financial assistance to individuals and households must administer the program consistent with § 206.119 and the State Administrative Option and the State Administrative Plan that we describe at paragraph (b) and (c) of this section.

(b) *State administrative options.* The delivery of assistance under § 206.119 is contingent upon the State choosing an administrator for the assistance. The State may either request that FEMA administer the assistance or the State may request a grant from FEMA for State administration. The Governor or designee will execute the State Administrative Option annually. During non-disaster periods the State may submit any proposed amendments to the administrative option in writing to the FEMA Regional Director. FEMA shall review the request and respond to the Governor or his/her designee within

45 days of receipt of the proposed amendment;

(c) *State Administrative Plan (SAP)*. The delivery of assistance by a State under this section is contingent upon approval of a SAP, which describes the procedures the State will use to deliver assistance under section 408 of the Stafford Act, 42 U.S.C. 5174, when a State requests a grant to administer Other Needs assistance. All implementation procedures must be in compliance with Federal laws and requirements, State laws and procedures, and paragraphs (c) and (d) of this section.

(1) *Timeframe for submission of SAP*. A signed SAP, or renewal, must be provided to the FEMA Regional Director prior to November 30 of each year. A SAP shall be effective for at least one year, and must be resubmitted in full every three years.

(2) *Renewals*. Annual updates/revisions to the SAP must be submitted by November 30 of each year for FEMA's review and approval by December 31. If the SAP does not need to be updated/revised, a letter from the State stating the SAP is still current must be submitted by November 30 to document the SAP submission requirement.

(3) *Amendments*. The State may request amendments to the SAP at any time. An amendment is effective upon signature by the FEMA Regional Director and the Governor or his/her designee. The State may request an amendment to the administrative plan as follows:

(i) *During non-disaster periods*. The State may submit any proposed amendments to the SAP in writing to the FEMA Regional Director. FEMA shall review the request and respond to the Governor or his/her designee within 45 days of receipt of the proposed amendment;

(ii) *During Presidentially-declared disasters*. The State shall submit any proposed amendments to the SAP in writing to FEMA within three days after disaster declaration. FEMA shall review the request and respond to the Governor or his/her designee within three days of receipt.

(d) *State administrative plan requirements*. The State shall develop a plan for the administration of the Other Needs assistance that describes, at a minimum, the following items:

(1) Assignment of grant program responsibilities to State officials or agencies.

(2) Staffing Schedule that identifies the position, salary and percent of time for each staff person assigned to

program administration and/or implementation.

(3) Procedures for interaction with applicants:

(i) Procedures for notifying potential applicants of the availability of the program, to include the publication of application deadlines, pertinent program descriptions, and further program information on the requirements which must be met by the applicant in order to receive assistance;

(ii) Procedures for registration and acceptance of applications, including late applications, up to the prescribed time limitations as described in § 206.112;

(iii) Procedures for damage inspection and/or other verifications.

(iv) Eligibility determinations.

(A) *Under a cooperative agreement*: The procedure for eligibility determinations when the FEMA application and inspection systems are used by the State but additional eligibility criteria are necessary to make State eligibility determinations.

(B) *Under a grant*: The procedure for eligibility determinations when the FEMA application and inspection systems are not used by the State, including the method for determination of costs for personal property and provision of a standard list for personal property items with allowable costs identified for each item.

(v) Procedures for checking compliance for mandated flood insurance in accordance with § 206.110(k);

(vi) Procedures for notifying applicants of the State's eligibility decision;

(vii) Procedures for disbursement of funds to applicants;

(viii) Procedures for applicant appeal processing. Procedures must provide for any appealable determination as identified in § 206.115(a);

(ix) Procedures for expeditious reporting of allegations of fraud, waste or abuse to FEMA Office of Inspector General.

(x) Capacity to investigate allegations of waste, fraud and abuse independently if requested by FEMA OIG, or in conjunction with FEMA OIG.

(xi) Provisions for safeguarding the privacy of applicants and the confidentiality of information, in accordance with § 206.110(j).

(xii) Provisions for complying with § 206.116(b), Recovery of funds.

(4) Procedures for financial management, accountability and oversight.

(i) Procedures for verifying by random sample that assistance funds are meeting applicants' needs, are not

duplicating assistance from other means, and are meeting flood insurance requirements.

(ii) Provisions for specifically identifying, in the accounts of the State, all Federal and State funds committed to each grant program; and for immediately returning, upon discovery, all Federal funds that are excess to program needs.

(iii) Provisions for accounting for cash in compliance with State law and procedure and the Cash Management Improvement Act of 1990, as amended.

(iv) Reports.

(A) Procedures for preparing and submitting quarterly and final Financial Status Reports in compliance with 44 CFR 13.41.

(B) Procedures for submitting Program Status Reports in compliance with paragraph (f)(2)(iii) of this section.

(C) Procedures for preparing and submitting the PSC 272, Federal Cash Transactions Report.

(v) Procedures for inventory control, including a system for identifying and tracking placement of equipment purchased with grant funds or loaned by FEMA to the State for purposes of administering the Individuals and Households Program.

(vi) Procedures for return of funds to FEMA.

(vii) State criteria and requirements for closing out Federal grants.

(viii) Process for retention of records.

(e) Application for assistance procedure. This section describes the procedures that must be followed by the State to submit an application to administer the Individuals and Households Program through a Grant Award or a Cooperative Agreement.

(1) The State must submit an Other Needs assistance application to the Regional Director within 72 hours of the major disaster declaration before IHP assistance may be provided. FEMA will work with the State to approve the application or to modify it so it can be approved.

(2) The application shall include:

(i) Standard Form (SF) 424,

Application for Federal Assistance;

(ii) FEMA Form (FF) 20-20 Budget Information—Non Construction Programs;

(iii) Copy of approved indirect cost rate from a Federal cognizant agency if indirect costs will be charged to the grant. Indirect costs will be included in the administrative costs of the grant allowed under paragraph (a) of this section; and

(iv) Disaster specific changes to the State Administrative Plan, if applicable.

(f) Grants management oversight.

(1) Period of assistance. All costs must be incurred within the period of

assistance, which is 18 months from the date of the disaster declaration. This period of assistance may be extended if requested in writing by the State and approved in writing by the FEMA Associate Director. The State must include a justification for an extension of the assistance period.

(2) Reporting requirements.

(i) The State shall provide financial status reports, as required by 44 CFR 13.41.

(ii) The State shall provide copies of PSC 272, Federal Cash Transactions Report to FEMA. The PSC 272 is required quarterly by the Department of Health and Human Services from users of its SMARTLINK service.

(iii) The State shall provide weekly program status reports which include the number and dollar amount of applications approved, the amount of assistance disbursed and the number of appeals received.

(3) Ineligible costs. Funds provided to the State for the administrative costs of administering Other Needs assistance shall not be used to pay regular time for State employees, but may be used to pay overtime for those employees.

(4) Closeout. The State has primary responsibility to closeout the tasks approved under the Grant Award. In compliance with the period of assistance, as identified in the award, the State must reconcile costs and payments, resolve negative audit findings, and submit final reports within 90 days of the end of the period of assistance. The State must also provide an inventory of equipment purchased with grant funds and loaned to it by FEMA for purposes of administering IHP, which lists the items, dates, and costs of equipment purchased.

(5) Recovery of funds. The State is responsible for recovering assistance awards from applicants obtained fraudulently, expended for unauthorized items or services, expended for items for which assistance is received from other means, and awards made in error.

(i) Adjustments to expenditures will be made as funding is recovered and will be reported quarterly on the Financial Status Report.

(ii) A list of applicants from whom recoveries are processed will be submitted on the quarterly progress report to allow FEMA to adjust its program and financial information systems.

(iii) The State will reimburse FEMA for the Federal share of awards not recovered through quarterly financial adjustments within the 90 day close out liquidation period of the grant award.

(iv) If the State does not reimburse FEMA within the 90 day close out liquidation period, a bill for collection will be issued. FEMA will charge interest, penalties, and administrative fees on delinquent bills for collection in accordance with the Debt Collection Improvement Act. Recovered funds, interest, penalties, and fees owed to FEMA through delinquent bills for collection may be offset from other FEMA disaster assistance programs from which the State is receiving funds or future grant awards from FEMA or other Federal agencies. Debt collection procedures will be followed as outlined in 44 CFR part 11.

(6) Audit requirements. Pursuant to 44 CFR 13.26, uniform audit requirements apply to all grants provided under this subpart.

(7) Document retention. Pursuant to 44 CFR 13.42, States are required to retain records, including source documentation, to support expenditures/costs incurred against the grant award, for 3 years from the date of submission to FEMA of the final Financial Status Report. The State is responsible for resolving questioned costs that may result from an audit conducted during the three-year record retention period and for returning disallowed costs from ineligible activities.

3. Revise the last sentence of 44 CFR 206.44(a) to read as follows:

“No FEMA funding will be authorized or provided to any grantees or other recipients, nor will direct Federal assistance be authorized by mission assignment, until such time as this Agreement for the Presidential declaration has been signed, except where it is deemed necessary by the Regional Director to begin the process of providing essential emergency services or housing assistance under the Individuals and Households Program.”;

4. Revise 44 CFR 206.62(f) to read as follows:

§ 206.62 Available assistance.

* * * * *

(f) Provide assistance in accordance with section 408 of the Stafford Act; and

* * * * *

5. Revise the heading of 44 CFR 206.101 to read:

§ 206.101 Temporary housing assistance for emergencies and major disasters declared on or before October 14, 2002.

6. 44 CFR 206.101(a) is amended by adding the following phrase at the end of paragraph (a):

“for Presidentially-declared emergencies and major disasters

declared on or before October 14, 2002 (Note that the reference to section 408 of the Stafford Act refers to prior legislation amended by the Disaster Mitigation Act 2000).”

7. Revise the heading of 44 CFR 206.131 to read as follows:

“Individual and Family Grant Program for major disasters declared on or before October 14, 2002.”

8. Amend 44 CFR 206.131(a) by adding the following phrase at the end of the first sentence: “for Presidentially-declared major disasters declared on or before October 14, 2002 (Note that the reference to section 411 of the Stafford Act refers to prior legislation amended by the Disaster Mitigation Act 2000).”

9. Revise 44 CFR 206.191(d)(2)(ii) & (iv) to read as follows:

§ 206.191 Duplication of benefits.

* * * * *

(d) * * *

(2) * * *

(ii) Housing assistance pursuant to section 408 of the Stafford Act.

* * * * *

(iv) Other Needs assistance, pursuant to section 408 of the Stafford Act or its predecessor program, the Individual and Family Grant Program.

* * * * *

Dated: September 25, 2002.

John R. D’Araujo, Jr.,

Assistant Director, Response and Recovery Directorate.

[FR Doc. 02-24733 Filed 9-27-02; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 61

RIN 3067-AD31

National Flood Insurance Program (NFIP); Group Flood Insurance Policy (GFIP)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim final rule.

SUMMARY: We (the Federal Insurance and Mitigation Administration of FEMA) are amending the Group Flood Insurance Policy (GFIP), as a result of the consolidation of sections 408 and 411 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) by the Disaster Mitigation Act of 2000, which created a new disaster assistance program.

DATES: *Effective Date:* This rule is effective September 30, 2002.

Applicability Date: This rule applies to Emergencies and Major Disasters declared on or after October 15, 2002.

Comment Date: Please submit written comments on or before April 15, 2003.

ADDRESSES: Please send your comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472, (facsimile) 202-646-4536, or (e-mail) rules@fema.gov.

FOR FURTHER INFORMATION CONTACT: Suzan M. Krowel, Federal Emergency Management Agency, Federal Insurance Administration, (202) 646-3423, (facsimile) (202) 646-4327, or (e-mail) Suzan.Krowel@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA established the GFIP in the mid-1990's to address the need for recipients of Individual and Family Grant (IFG) disaster assistance under section 411 of the Stafford Act to purchase flood insurance as a condition of their receipt of the IFG assistance.

The purpose of the GFIP was to provide a temporary mechanism for the recipients of the IFG grants—generally low-income persons—to have flood insurance coverage for a period of thirty-seven months following a flood loss so that they would have time to recover from the disaster and be in better position to buy flood insurance for themselves after the expiration of the GFIP.

Section 408 of the Stafford Act, 42 U.S.C. 5174, entitled "Temporary Housing Assistance," and section 411 of the Stafford Act, 42 U.S.C. 5178, entitled "Individual and Family Grant Programs," have been effectively combined into a revised section 408 of the Stafford Act by section 206 of the Disaster Mitigation Act of 2000, Pub. L. 106-390, to establish a single program called the Federal Assistance to Individuals and Households Program (IHP). The maximum IFG assistance was \$14,800. The maximum IHP assistance is \$25,000. Therefore, we (the Federal Insurance and Mitigation Administration of FEMA) must make revisions to the GFIP.

The coverage will now be in the amount of \$25,000. The premium for this coverage will be a flat fee of \$600. The deductible will remain at \$200, which is applicable separately to real property (building) and personal property (contents). The GFIP term will be 36 months. Previously the term had been increased to 37 months, because one state needed additional time to work with its GFIP certificate holders to make arrangements to buy and maintain flood insurance beyond the GFIP term of

36 months. The extra time is no longer necessary.

The purpose of the new GFIP policy is the same as the previous GFIP policy: to provide a temporary mechanism for the recipients of the IHP grants—generally low-income persons—to have flood insurance coverage for a period of three years following a flood loss so that they will have time to recover from the disaster and be in a better position to buy flood insurance for themselves after the expiration of their three-year policy term.

We intend to continue analyzing the GFIP to make further adjustments in premium charges as warranted.

FEMA is considering allowing the states to renew the GFIP policy after the 36 month expiration, provided the states pay the premium. We invite comments on this proposal.

National Environmental Policy Act

This interim final rule falls within the exclusion category 44 CFR Part 10.8(d)(2)(ii), which addresses the preparation, revision, and adoption of regulations, directives, and other guidance documents related to actions that qualify for categorical exclusions. Qualifying for this exclusion and because no other extraordinary circumstances have been identified, this interim final rule will not require the preparation of either an environmental assessment or environmental impact statement as defined by the National Environmental Policy Act.

Executive Order 12866, Regulatory Planning and Review

We have prepared and reviewed this rule under the provisions of E.O. 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines

"significant regulatory action" as one that is likely to result in a rule that may:

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

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

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

(4) raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in the Executive Order.

For the reasons that follow we have concluded that this rule is neither an economically significant nor a significant regulatory action under the Executive Order.

The rule will accomplish one primary purpose: revise the GFIP as a result of the changes in the Stafford Act. The Office of Management and Budget has not reviewed this rule under the principles of Executive Order 12866.

Paperwork Reduction Act

This interim final rule does not contain a collection of information and it is therefore not subject to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Executive Order 13132, Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this rule under E.O. 13132 and have concluded that the rule does not have federalism implications as defined by the Executive Order. We have determined that the rule does not significantly affect the rights, roles, and responsibilities of States, and involves no preemption of State law nor does it limit State policymaking discretion.

Executive Order 12778, Civil Justice Reform

This final rule meets the applicable standards of § 2(b)(2) of E.O. 12778.

Administrative Procedure Act Statement

In general, FEMA publishes a rule for public comment before issuing a final rule, under the Administrative Procedure Act, 5 U.S.C. 533 and 44 CFR 1.12. The Administrative Procedure Act, however, provides an exception from that general rule where the agency for good cause finds the procedures for comment and response contrary to public interest. Section 206 of the Disaster Mitigation Act of 2000 has

combined sections 408 and 411, respectively, of the Stafford Act, into a revised section 408. The grant amount has been increased to \$25,000 and a single grant program has been established, titled the Federal Assistance to Individuals and Households Grant Program (IHP).

The GFIP was established to provide flood insurance for all individuals named by the State as recipients under the Stafford Act grant program award for flood damage as a result of a major disaster declaration by the President. This interim final rule revises the GFIP to meet the new limits stated in the revised Stafford Act grant program. The revisions to the GFIP must coincide with the revisions to the Stafford Act.

The public benefit of this rule is the continuation of the GFIP without interruption, the increase in the amount of coverage provided, and the deductible remaining at \$200.

Therefore, we believe it is contrary to the public interest to delay the benefits of this rule. In accordance with the Administrative Procedure Act, 5 U.S.C. 553 (d)(3), we find that there is good cause for the interim final rule to take effect immediately upon publication in the **Federal Register** in order to coincide with the revisions to the Stafford Act.

In addition, we believe that, under the circumstances, delaying the effective date of this rule until after a comment

period would not further the public interest. For these reasons, we believe we have good cause to publish an interim final rule.

List of Subjects in 44 CFR Part 61

Flood insurance.

Accordingly, we amend 44 CFR Part 61 as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Revise paragraphs (a) (b) (c) (d) and (h) of § 61.17 to read as follows:

§ 61.17 Group Flood Insurance Policy.

(a) A Group Flood Insurance Policy (GFIP) is a policy covering all individuals named by a State as recipients under section 408 of the Stafford Act (42 U.S.C. 5174) of an Individuals and Households Program (IHP) award for flood damage as a result of major disaster declaration by the President.

(b) The premium for the GFIP is a flat fee of \$600 per insured. We may adjust the premium to reflect NFIP loss

experience and any adjustment of benefits under the IHP program.

(c) The amount of coverage is equivalent to the maximum grant amount established under section 408 of the Stafford Act (42 U.S.C. 5174).

(d) The term of the GFIP is for 36 months and begins 60 days after the date of the disaster declaration.

* * * * *

(h) We will send a notice to the GFIP certificate holders approximately 60 days before the end of the thirty-six month term of the GFIP. The notice will encourage them to contact a local insurance agent or producer or a private insurance company selling NFIP policies under the Write Your Own program of the NFIP Standard Flood Insurance Policy, and advise them as to the amount of coverage they must maintain in order not to jeopardize their eligibility for future disaster assistance. The IHP program will provide the NFIP the amount of flood insurance coverage to be maintained by certificate holders.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance"; No. 83.516, "Disaster Assistance")

Dated: September 25, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02-24734 Filed 9-27-02; 8:45 am]

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Federal Register

**Monday,
September 30, 2002**

Part V

The President

**Order of September 26, 2002—
Designation Under Executive Order 12958**

Title 3—

Order of September 26, 2002

The President

Designation Under Executive Order 12958

In accordance with the provisions of section 1.4 of Executive Order 12958 of April 17, 1995, entitled “Classified National Security Information,” I hereby designate the Secretary of Agriculture to classify information originally as “Secret.”

Any delegation of this authority shall be in accordance with section 1.4(c) of Executive Order 12958.

This order shall be published in the **Federal Register**.



THE WHITE HOUSE,
September 26, 2002.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P.L.U.S." (Public Laws Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/fedreg/plawcurr.html>.

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H.R. 3287/P.L. 107-225

To redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., as the "Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center".

(Sept. 24, 2002; 116 Stat. 1344)

H.R. 3917/P.L. 107-226

Flight 93 National Memorial Act (Sept. 24, 2002; 116 Stat. 1345)

H.R. 5207/P.L. 107-227

To designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the "Thomas E. Burnett, Jr. Post Office Building". (Sept. 24, 2002; 116 Stat. 1349)

Last List September 24, 2002

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-048-00001-1)	9.00	Jan. 1, 2002
3 (1997 Compilation and Parts 100 and 101)	(869-048-00002-0)	59.00	¹ Jan. 1, 2002
4	(869-048-00003-8)	9.00	⁴ Jan. 1, 2002
5 Parts:			
1-699	(869-048-00004-6)	57.00	Jan. 1, 2002
700-1199	(869-048-00005-4)	47.00	Jan. 1, 2002
1200-End, 6 (6 Reserved)	(869-048-00006-2)	58.00	Jan. 1, 2002
7 Parts:			
1-26	(869-048-00001-1)	41.00	Jan. 1, 2002
27-52	(869-048-00008-9)	47.00	Jan. 1, 2002
53-209	(869-048-00009-7)	36.00	Jan. 1, 2002
210-299	(869-048-00010-1)	59.00	Jan. 1, 2002
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900-999	(869-048-00014-3)	58.00	Jan. 1, 2002
1000-1199	(869-048-00015-1)	25.00	Jan. 1, 2002
1200-1599	(869-048-00016-0)	58.00	Jan. 1, 2002
1600-1899	(869-048-00017-8)	61.00	Jan. 1, 2002
1900-1939	(869-048-00018-6)	29.00	Jan. 1, 2002
1940-1949	(869-048-00019-4)	53.00	Jan. 1, 2002
1950-1999	(869-048-00020-8)	47.00	Jan. 1, 2002
2000-End	(869-048-00021-6)	46.00	Jan. 1, 2002
8	(869-048-00022-4)	58.00	Jan. 1, 2002
9 Parts:			
1-199	(869-048-00023-2)	58.00	Jan. 1, 2002
200-End	(869-048-00024-1)	56.00	Jan. 1, 2002
10 Parts:			
1-50	(869-048-00025-4)	58.00	Jan. 1, 2002
51-199	(869-048-00026-7)	56.00	Jan. 1, 2002
200-499	(869-048-00027-5)	44.00	Jan. 1, 2002
500-End	(869-048-00028-3)	58.00	Jan. 1, 2002
11	(869-048-00029-1)	34.00	Jan. 1, 2002
12 Parts:			
1-199	(869-048-00030-5)	30.00	Jan. 1, 2002
200-219	(869-048-00031-3)	36.00	Jan. 1, 2002
220-299	(869-048-00032-1)	58.00	Jan. 1, 2002
300-499	(869-048-00033-0)	45.00	Jan. 1, 2002
500-599	(869-048-00034-8)	42.00	Jan. 1, 2002
600-End	(869-048-00035-6)	61.00	Jan. 1, 2002
13	(869-048-00036-4)	47.00	Jan. 1, 2002

Title	Stock Number	Price	Revision Date
14 Parts:			
1-59	(869-048-00037-2)	60.00	Jan. 1, 2002
60-139	(869-048-00038-1)	58.00	Jan. 1, 2002
140-199	(869-048-00039-9)	29.00	Jan. 1, 2002
200-1199	(869-048-00040-2)	47.00	Jan. 1, 2002
1200-End	(869-048-00041-1)	41.00	Jan. 1, 2002
15 Parts:			
0-299	(869-048-00042-9)	37.00	Jan. 1, 2002
300-799	(869-048-00043-7)	58.00	Jan. 1, 2002
800-End	(869-048-00044-5)	40.00	Jan. 1, 2002
16 Parts:			
0-999	(869-048-00045-3)	47.00	Jan. 1, 2002
1000-End	(869-048-00046-1)	57.00	Jan. 1, 2002
17 Parts:			
1-199	(869-048-00048-8)	47.00	Apr. 1, 2002
200-239	(869-048-00049-6)	55.00	Apr. 1, 2002
240-End	(869-048-00050-0)	59.00	Apr. 1, 2002
18 Parts:			
1-399	(869-048-00051-8)	59.00	Apr. 1, 2002
400-End	(869-048-00052-6)	24.00	Apr. 1, 2002
19 Parts:			
1-140	(869-048-00053-4)	57.00	Apr. 1, 2002
141-199	(869-048-00054-2)	56.00	Apr. 1, 2002
200-End	(869-048-00055-1)	29.00	Apr. 1, 2002
20 Parts:			
1-399	(869-048-00056-9)	47.00	Apr. 1, 2002
400-499	(869-048-00057-7)	60.00	Apr. 1, 2002
500-End	(869-048-00058-5)	60.00	Apr. 1, 2002
21 Parts:			
1-99	(869-048-00059-3)	39.00	Apr. 1, 2002
100-169	(869-048-00060-7)	46.00	Apr. 1, 2002
170-199	(869-048-00061-5)	47.00	Apr. 1, 2002
200-299	(869-048-00062-3)	16.00	Apr. 1, 2002
300-499	(869-048-00063-1)	29.00	Apr. 1, 2002
500-599	(869-048-00064-0)	46.00	Apr. 1, 2002
600-799	(869-048-00065-8)	16.00	Apr. 1, 2002
800-1299	(869-048-00066-6)	56.00	Apr. 1, 2002
1300-End	(869-048-00067-4)	22.00	Apr. 1, 2002
22 Parts:			
1-299	(869-048-00068-2)	59.00	Apr. 1, 2002
300-End	(869-048-00069-1)	43.00	Apr. 1, 2002
23	(869-048-00070-4)	40.00	Apr. 1, 2002
24 Parts:			
0-199	(869-048-00071-2)	57.00	Apr. 1, 2002
200-499	(869-048-00072-1)	47.00	Apr. 1, 2002
500-699	(869-048-00073-9)	29.00	Apr. 1, 2002
700-1699	(869-048-00074-7)	58.00	Apr. 1, 2002
1700-End	(869-048-00075-5)	29.00	Apr. 1, 2002
25	(869-048-00076-3)	68.00	Apr. 1, 2002
26 Parts:			
§§ 1.0-1.60	(869-048-00077-1)	45.00	Apr. 1, 2002
§§ 1.61-1.169	(869-048-00078-0)	58.00	Apr. 1, 2002
§§ 1.170-1.300	(869-048-00079-8)	55.00	Apr. 1, 2002
§§ 1.301-1.400	(869-048-00080-1)	44.00	Apr. 1, 2002
§§ 1.401-1.440	(869-048-00081-0)	60.00	Apr. 1, 2002
§§ 1.441-1.500	(869-048-00082-8)	47.00	Apr. 1, 2002
§§ 1.501-1.640	(869-048-00083-6)	44.00	⁷ Apr. 1, 2002
§§ 1.641-1.850	(869-048-00084-4)	57.00	Apr. 1, 2002
§§ 1.851-1.907	(869-048-00085-2)	57.00	Apr. 1, 2002
§§ 1.908-1.1000	(869-048-00086-1)	56.00	Apr. 1, 2002
§§ 1.1001-1.1400	(869-048-00087-9)	58.00	Apr. 1, 2002
§§ 1.1401-End	(869-048-00088-7)	61.00	Apr. 1, 2002
2-29	(869-048-00089-5)	57.00	Apr. 1, 2002
30-39	(869-048-00090-9)	39.00	Apr. 1, 2002
40-49	(869-048-00091-7)	26.00	Apr. 1, 2002
50-299	(869-048-00092-5)	38.00	Apr. 1, 2002
300-499	(869-048-00093-3)	57.00	Apr. 1, 2002
500-599	(869-048-00094-1)	12.00	⁵ Apr. 1, 2002
600-End	(869-048-00095-0)	16.00	Apr. 1, 2002
27 Parts:			
1-199	(869-048-00096-8)	61.00	Apr. 1, 2002

Title	Stock Number	Price	Revision Date	Title	Stock Number	Price	Revision Date
200-End	(869-048-00097-6)	13.00	Apr. 1, 2002	100-135	(869-048-00151-4)	42.00	July 1, 2002
28 Parts:				136-149	(869-044-00152-7)	55.00	July 1, 2001
0-42	(869-048-00098-4)	58.00	July 1, 2002	150-189	(869-044-00153-5)	52.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001	190-259	(869-044-00154-3)	34.00	July 1, 2001
29 Parts:				260-265	(869-048-00155-7)	47.00	July 1, 2002
0-99	(869-044-00100-4)	45.00	July 1, 2001	*266-299	(869-048-00156-5)	47.00	July 1, 2002
100-499	(869-048-00101-8)	21.00	July 1, 2002	300-399	(869-044-00157-8)	41.00	July 1, 2001
*500-899	(869-048-00102-6)	58.00	July 1, 2002	400-424	(869-044-00158-6)	51.00	July 1, 2001
900-1899	(869-048-00103-4)	35.00	July 1, 2002	425-699	(869-044-00159-4)	55.00	July 1, 2001
1900-1910 (§§ 1900 to 1910.999)	(869-048-00104-2)	58.00	July 1, 2002	700-789	(869-044-00160-8)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869-044-00105-5)	42.00	July 1, 2001	790-End	(869-044-00161-6)	44.00	July 1, 2001
1911-1925	(869-044-00106-3)	20.00	July 1, 2001	41 Chapters:			
1926	(869-048-00107-7)	47.00	July 1, 2002	1, 1-1 to 1-10		13.00	³ July 1, 1984
1927-End	(869-044-00108-0)	55.00	July 1, 2001	1, 1-11 to Appendix, 2 (2 Reserved)		13.00	³ July 1, 1984
30 Parts:				3-6		14.00	³ July 1, 1984
1-199	(869-044-00109-8)	52.00	July 1, 2001	7		6.00	³ July 1, 1984
200-699	(869-044-00110-1)	45.00	July 1, 2001	8		4.50	³ July 1, 1984
700-End	(869-044-00111-7)	53.00	July 1, 2001	9		13.00	³ July 1, 1984
31 Parts:				10-17		9.50	³ July 1, 1984
0-199	(869-048-00112-3)	35.00	July 1, 2002	18, Vol. I, Parts 1-5		13.00	³ July 1, 1984
200-End	(869-044-00113-6)	56.00	July 1, 2001	18, Vol. II, Parts 6-19		13.00	³ July 1, 1984
32 Parts:				18, Vol. III, Parts 20-52		13.00	³ July 1, 1984
1-39, Vol. I		15.00	² July 1, 1984	19-100		13.00	³ July 1, 1984
1-39, Vol. II		19.00	² July 1, 1984	1-100	(869-044-00162-4)	22.00	July 1, 2001
1-39, Vol. III		18.00	² July 1, 1984	*101	(869-048-00163-8)	43.00	July 1, 2002
1-190	(869-044-00114-4)	51.00	⁶ July 1, 2001	102-200	(869-044-00164-1)	33.00	July 1, 2001
191-399	(869-044-00115-2)	57.00	July 1, 2001	201-End	(869-044-00165-9)	24.00	July 1, 2001
400-629	(869-048-00116-6)	47.00	July 1, 2002	42 Parts:			
630-699	(869-048-00117-4)	37.00	July 1, 2002	1-399	(869-044-00166-7)	51.00	Oct. 1, 2001
700-799	(869-044-00118-7)	42.00	July 1, 2001	400-429	(869-044-00167-5)	59.00	Oct. 1, 2001
800-End	(869-044-00119-5)	44.00	July 1, 2001	430-End	(869-044-00168-3)	58.00	Oct. 1, 2001
33 Parts:				43 Parts:			
1-124	(869-044-00120-9)	45.00	July 1, 2001	1-999	(869-044-00169-1)	45.00	Oct. 1, 2001
125-199	(869-044-00121-7)	55.00	July 1, 2001	1000-end	(869-044-00170-5)	56.00	Oct. 1, 2001
200-End	(869-044-00122-5)	45.00	July 1, 2001	44	(869-044-00171-3)	45.00	Oct. 1, 2001
34 Parts:				45 Parts:			
1-299	(869-044-00123-3)	43.00	July 1, 2001	1-199	(869-044-00172-1)	53.00	Oct. 1, 2001
300-399	(869-044-00124-1)	40.00	July 1, 2001	200-499	(869-044-00173-0)	31.00	Oct. 1, 2001
400-End	(869-048-00125-5)	59.00	July 1, 2002	500-1199	(869-044-00174-8)	45.00	Oct. 1, 2001
35	(869-048-00126-3)	10.00	⁶ July 1, 2002	1200-End	(869-044-00175-6)	55.00	Oct. 1, 2001
36 Parts:				46 Parts:			
1-199	(869-048-00127-1)	36.00	July 1, 2002	1-40	(869-044-00176-4)	43.00	Oct. 1, 2001
200-299	(869-048-00128-0)	35.00	July 1, 2002	41-69	(869-044-00177-2)	35.00	Oct. 1, 2001
300-End	(869-044-00129-2)	55.00	July 1, 2001	70-89	(869-044-00178-1)	13.00	Oct. 1, 2001
37	(869-044-00130-6)	45.00	July 1, 2001	90-139	(869-044-00179-9)	41.00	Oct. 1, 2001
38 Parts:				140-155	(869-044-00180-2)	24.00	Oct. 1, 2001
0-17	(869-044-00131-4)	53.00	July 1, 2001	156-165	(869-044-00181-1)	31.00	Oct. 1, 2001
18-End	(869-044-00132-2)	55.00	July 1, 2001	166-199	(869-044-00182-9)	42.00	Oct. 1, 2001
39	(869-044-00133-1)	40.00	July 1, 2002	200-499	(869-044-00183-7)	36.00	Oct. 1, 2001
40 Parts:				500-End	(869-044-00184-5)	23.00	Oct. 1, 2001
1-49	(869-048-00134-4)	57.00	July 1, 2002	47 Parts:			
50-51	(869-044-00135-7)	38.00	July 1, 2001	0-19	(869-044-00185-3)	55.00	Oct. 1, 2001
52 (52.01-52.1018)	(869-044-00136-5)	50.00	July 1, 2001	20-39	(869-044-00186-1)	43.00	Oct. 1, 2001
52 (52.1019-End)	(869-044-00137-3)	55.00	July 1, 2001	40-69	(869-044-00187-0)	36.00	Oct. 1, 2001
53-59	(869-048-00138-7)	29.00	July 1, 2002	70-79	(869-044-00188-8)	58.00	Oct. 1, 2001
60 (60.1-End)	(869-044-00139-0)	53.00	July 1, 2001	80-End	(869-044-00189-6)	55.00	Oct. 1, 2001
60 (Apps)	(869-044-00140-3)	51.00	July 1, 2001	48 Chapters:			
61-62	(869-048-00141-7)	38.00	July 1, 2002	1 (Parts 1-51)	(869-044-00190-0)	60.00	Oct. 1, 2001
63 (63.1-63.599)	(869-044-00142-0)	53.00	July 1, 2001	1 (Parts 52-99)	(869-044-00191-8)	45.00	Oct. 1, 2001
63 (63.600-63.1199)	(869-044-00143-8)	44.00	July 1, 2001	2 (Parts 201-299)	(869-044-00192-6)	53.00	Oct. 1, 2001
63 (63.1200-End)	(869-044-00144-6)	56.00	July 1, 2001	3-6	(869-044-00193-4)	31.00	Oct. 1, 2001
64-71	(869-044-00145-4)	26.00	July 1, 2001	7-14	(869-044-00194-2)	51.00	Oct. 1, 2001
72-80	(869-044-00146-2)	55.00	July 1, 2001	15-28	(869-044-00195-1)	53.00	Oct. 1, 2001
81-85	(869-044-00147-1)	45.00	July 1, 2001	29-End	(869-044-00196-9)	38.00	Oct. 1, 2001
86 (86.1-86.599-99)	(869-044-00148-9)	52.00	July 1, 2001	49 Parts:			
86 (86.600-1-End)	(869-044-00149-7)	45.00	July 1, 2001	1-99	(869-044-00197-7)	55.00	Oct. 1, 2001
87-99	(869-044-00150-1)	54.00	July 1, 2001	100-185	(869-044-00198-5)	60.00	Oct. 1, 2001
				186-199	(869-044-00199-3)	18.00	Oct. 1, 2001
				200-399	(869-044-00200-1)	60.00	Oct. 1, 2001
				400-999	(869-044-00201-9)	58.00	Oct. 1, 2001
				1000-1199	(869-044-00202-7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
1200-End	(869-044-00203-5)	21.00	Oct. 1, 2001
50 Parts:			
1-199	(869-044-00204-3)	63.00	Oct. 1, 2001
200-599	(869-044-00205-1)	36.00	Oct. 1, 2001
600-End	(869-044-00206-0)	55.00	Oct. 1, 2001
CFR Index and Findings			
Aids	(869-044-00047-0)	59.00	Jan. 1, 2002
Complete 2001 CFR set		1,195.00	2001
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
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Complete set (one-time mailing)		247.00	1999

¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

³ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁴ No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

⁵ No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

⁶ No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

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.