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Title 3—

The President

Proclamation 7611 of October 17, 2002

Year of Clean Water, 2002–2003

By the President of the United States of America

A Proclamation

On October 18, 2002, our Nation marks the 30th anniversary of the Clean Water Act and begins the Observance of the Year of Clean Water. This landmark environmental legislation has been central to the important progress we have made as a Nation in improving the quality of our drinking water and the health of our waters, wetlands, and watersheds. During this time, we renew our commitment to building on these successes and to developing new approaches and partnerships to meet our environmental challenges.

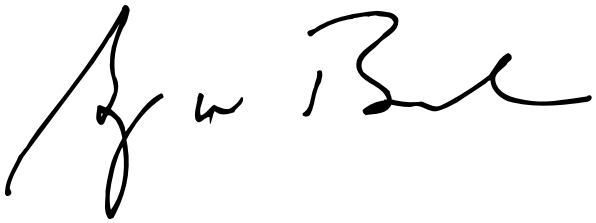
The Clean Water Act of 1972 and the Safe Drinking Water Act of 1974 have helped our citizens enjoy one of the safest and cleanest water supplies in the world. Under the Clean Water Act, the Federal Government has provided more than $80 billion in wastewater assistance to the States and localities. This fundamentally important investment has ensured that 165 million citizens now benefit from modern sewage treatment, up from 86 million in 1968. The important advances in waste water treatment since the Clean Water Act's passage constitute one of the major achievements in modern American public health.

In the last 30 years, the overall health of our marine waters, lakes, rivers, streams, and wetlands has also dramatically improved. The Federal Government has cooperated with States, tribes, local communities, businesses, and concerned individuals to reduce significantly all forms of water pollution, making our waters better suited for recreation and other pursuits and more hospitable to aquatic life. Recent studies show that we are close to achieving our goal of halting overall wetlands loss, and we are hopeful that in the near future we will begin increasing the overall function and value of our wetlands. As we look to the challenges ahead, the Clean Water Act will be an important mainstay and tool for further progress.

As part of our Nation's long-term commitment to protecting our environment and natural resources, we must continue to focus on cleaner air, water, and land; healthier citizens, and vibrant ecosystems. We will continue to collaborate with private organizations, landowners, and all levels of government to encourage the development of new technologies and innovative approaches to protecting our environment. Through policies and programs that recognize regional differences, employ market forces, and empower individuals to be good stewards of the earth, we can and will meet the environmental challenges of the future.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the year beginning October 18, 2002, as the Year of Clean Water in commemoration of the 30th anniversary of the Clean Water Act. I call upon all Americans to observe this year with appropriate programs, ceremonies, and activities, and to join in setting good examples of environmental stewardship in our daily lives.

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



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Federal Register

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

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

RIN 3245–AE88

Small Business Investment Companies

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: This final rule allows a Small Business Investment Company (SBIC) to assume control over a small business concern, without notice to the SBA, and to retain such control for a period of up to seven years, or longer with SBA approval. The final rule also allows an SBIC to sell equity securities in a portfolio concern to a competitor of that portfolio concern.

DATES: This rule is effective on November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Carol Fendler, Director, Office of Licensing and Program Standards, Investment Division, Office of Capital Access, (202) 205–7559 or *carol.fendler@sba.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Small Business Investment Corrections Act of 2000, Public Law 106–554, Title IV, section 402, amended section 103(5)(A)(i) of the Small Business Investment Act (Act) to clarify that a small business concern controlled by venture capital firms, including licensed small business investment companies (SBICs), does not for that reason cease to qualify as independently owned and operated. Under the statute, a business would be considered a small business concern ''regardless of the allocation of control during the investment period under any investment agreement between the business concern and the entity making the investment.'' (15 U.S.C. 662(5)(A)(i)).

On May 17, 2002, SBA published in the **Federal Register** a proposed rule (67 FR 35055) to simplify its regulation governing control of a small business and bring it into conformity with the Act, as amended in 2000. The proposed rule also removed a regulatory restriction on the right of an SBIC to sell securities of a small business to a competitor of that business.

SBA received six comments on the proposed rule. These are discussed in the following section-by-section analysis.

II. Section-by-Section Analysis

SBA amends § 107.865 by revising the heading. This change recognizes that SBICs are now allowed to exercise control over a Small Business.

SBA amends paragraph (a) of § 107.865 to allow an SBIC to exercise control over a Small Business. The period of control is limited to the seventh anniversary of the date on which control was initially acquired. This is a change from the proposed rule, which would have permitted control for up to five years.

SBA received six comments on the proposed rule. Four of those submitted comments supported the proposed rule as drafted. The other two that commented supported the concept that SBICs should be permitted to take control of portfolio companies but indicated that the proposed five year period of control was insufficient. One proposed that a seven year time frame would be more appropriate, particularly where investments are in seed stage companies. This commenter indicated that such investments typically have a 4–7 year investment horizon. SBA recognizes that some investments, particularly earlier stage investments, may require additional time for the investment to mature. Recent historical experience indicates that the percentage of SBIC investments in start-up businesses has ranged from approximately 30 percent to 45 percent. By including add-on investments in companies that were originally financed as start-ups by SBICs, the percentage increases to over 50 percent. In view of this investing pattern and the potential need to grow and support start-up businesses, SBA has modified the rule to allow for control to be exercised for a period of seven years.

The final commenter stated that a ten year period would be more appropriate than the proposed five year term, for a number of reasons. First, the commenter pointed out that market conditions may require SBICs to seek extensions of the control period beyond five years. The commenter expected that SBA would likely grant these extension requests, but suggested that SBA would be spared the expenditure of scarce resources needed to address such requests by adopting the ten year period at the outset. SBA believes that extension requests will be considerably less frequent with the change to a seven-year control period, and believes that it has the resources to respond to those requests that will be received.

The commenter also noted that a ten-year term would be consistent with the regulations promulgated by the Board of Governors of the Federal Reserve System and the Department of Treasury in implementing the Gramm-Leach-Bliley Act (GLB), Public Law 106–102. The commenter suggested that a differing time period for the exercise of control between SBA's regulations and those implementing GLB may result in the SBIC program being less attractive to banks and may limit their participation in the program.

SBA believes that the SBIC program will continue to be an attractive option for banks interested in making equity investments. Although the regulations promulgated under GLB do permit control for a period of up to ten years, the restrictions on the exercise and scope of that control are greater than in the SBIC program. For example, banks taking controlling positions in a portfolio company under GLB are prohibited from managing or operating that portfolio company. SBICs, however, are not subject to that same type of restriction.

SBA also believes that banks will remain interested in the SBIC program for reasons other than the ability to take controlling positions in their investments. Many banks find the SBIC program to be an attractive option since investment in an SBIC by a bank is presumed to meet the standards for a qualified investment for purposes of investment performance under the Community Reinvestment Act regulations. Furthermore, many banks continue to invest in SBICs that obtain

financial assistance from SBA at favorable rates.

In adopting seven years as the allowable control period, SBA also considered the structure of the SBIC program and SBICs. For most SBICs, the projected investment cycle is a 3–5 year investing program with exits anticipated after a 3–5 year holding period. Since SBICs typically do not expect to hold investments for ten years, a control period of that length should not generally be necessary. Although SBA recognizes that company and market conditions may impact the ability to exit an investment, SBA believes that a seven year control period should be sufficient.

SBA amends § 107.865(b) to clarify that this paragraph, which sets forth conditions that create a presumption of control over a small business concern, relates only to control based on ownership of voting securities. Control may still exist by other means as outlined in § 107.865 (a). No comments were received on this change.

SBA amends § 107.865(d) to allow for extension of the control period in certain circumstances, with SBA's approval. One commenter indicated that the reasons for granting an extension should be expanded to allow for consideration of the financial stability of the SBIC in addition to the financial stability of the portfolio concern. SBA recognizes that relinquishment of control may be difficult to accomplish; however, SBA also recognizes that the financial stability of the SBIC may have no relationship to its control position in a particular portfolio concern and that allowing control to continue may be viewed as being adverse to the interests of the portfolio concern. SBA will consider the reasons why divestiture cannot be completed within seven years when reviewing the request for an extension, and will consider the best interests of both the SBIC and the small business concern. SBA believes the regulations as promulgated have sufficient breadth to allow for a number of considerations. Therefore, SBA does not believe that the financial stability of the SBIC should be a specifically enunciated consideration.

SBA amends § 107.865 by deleting paragraphs (e) and (f) and redesignating paragraph (g) as (e). The deleted paragraphs are no longer necessary.

SBA amends § 107.885 by removing paragraph (b) and removing the designation ''(a)''. This change allows a SBIC to sell its interests in a portfolio concern to a competitor of that portfolio concern. This change recognizes that in the venture capital industry a likely exit for an investment is the sale of an interest in a portfolio concern to a competitor of the portfolio concern. Three commenters addressed this provision directly, all favorably.

Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Compliance With Executive Order 12866

The Office of Management and Budget (OMB) did not review this rule as a ''significant'' regulatory action under Executive Order 12866. The rule implements technical corrections to the SBIC program. The rule will not have an annual effect on the economy of $100 million or more, adversely affect the economy in a material way, create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of loan programs or other governmental programs, or raise novel legal or policy issues arising out of legal mandates or the President's priorities.

Compliance With Executive Order 12988

For purposes of Executive Order 12988, the SBA has determined that this rule was drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that order.

Compliance With Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that the rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, SBA has determined that the rule does not have sufficient federalism implications warranting the preparation of a Federalism Assessment.

Compliance with Paperwork Reduction Act, 44 U.S.C. Ch. 35

The rule does not impose any new information collection requirements from SBA which require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

Compliance with the Regulatory Flexibility Act, 5 U.S.C. 601–612

SBA determined that the rule will not have a significant impact on a substantial number of small entities. SBA invited comments on this determination but received none.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs-business, Reporting and recordkeeping requirements, Small Businesses.

For the reasons stated in the preamble, amend part 107 of title 13 of the Code of Federal Regulations as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

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

Authority: 15 U.S.C. 681 *et seq.*, 683, 687(c), 687b, 687d, 687g, and 687m.

2. In § 107.865, revise the section heading and paragraphs (a), (b), and (d), remove paragraphs (e) and (f), and redesignate paragraph (g) as paragraph (e) to read as follows:

§ 107.865 Control of a small business by a licensee.

(a) *In general.* You, or you and your Associates (in the latter case, the ''Investor Group''), may exercise Control over a Small Business for purposes connected to your investment, through ownership of voting securities, management agreements, voting trusts, majority representation on the board of directors, or otherwise. The period of such Control will be limited to the seventh anniversary of the date on which such Control was initially acquired, or any earlier date specified by the terms of any investment agreement.

(b) *Presumption of control.* Control over a Small Business based on ownership of voting securities will be presumed to exist whenever you or the Investor Group own or control, directly or indirectly:

(1) At least 50 percent of the outstanding voting securities, if there are fewer than 50 shareholders; or

(2) More than 25 percent of the outstanding voting securities, if there are 50 or more shareholders; or

(3) At least 20 percent of the outstanding voting securities, if there are 50 or more shareholders and no other party holds a larger block.

* * * * *

(d) *Extension of Control.* With SBA's prior written approval you, or the Investor Group, may retain Control for such additional period as may be reasonably necessary to complete divestiture of Control or to ensure the financial stability of the portfolio company.

* * * * *

§ 107.885 [Amended]

3. Amend § 107.885 by removing paragraph (b) and removing the paragraph designation ''(a)''.

Dated: October 10, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–26546 Filed 10–21–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–06–AD; Amendment 39–12918; AD 2002–21–12]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Agusta S.p.A. (Agusta) helicopters that requires establishing or reducing the life limits of various parts listed in the airworthiness limitations section (ALS) of the maintenance manual. This amendment is prompted by the results of fatigue tests and analysis to determine life limits for various parts. The actions specified by this AD are intended to establish or reduce the life limits to prevent failure of specified parts and subsequent loss of control of the helicopter.

DATES: Effective November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Carroll Wright, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5120, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the Agusta Model A109E helicopters was published in the **Federal Register** on July 15, 2002 (67 FR 46425). That action proposed to require establishing or reducing the life limits of specified parts of the main transmission assembly and supports, the tail rotor assemblies, the main rotor control bolt, and the fuselage left-hand elevator, and revising the ALS of the maintenance manual accordingly.

This helicopter model is manufactured in Italy and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. The FAA has reviewed all available information and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

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

The FAA estimates that this AD will affect 31 helicopters of U.S. registry. The total cost of the 11 parts listed in Table 1 of this AD is approximately $41,294. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,280,114, assuming that all 11 parts are replaced on each helicopter in the entire fleet. There will be no additional labor costs because the parts will be replaced during the normal maintenance process.

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

For the reasons discussed above, I certify that this action: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–21–12 Agusta S.p.A.: Amendment 39–12918. Docket No. 2002–SW–06–AD.

Applicability: Model A109E helicopters, certificated in any category.

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

Compliance: Required within 100 hours time-in-service (TIS), unless accomplished previously.

To prevent failure of specified parts of the main transmission assembly and supports, the tail rotor assemblies, the main rotor control bolt, or the fuselage left-hand elevator, and subsequent loss of control of the helicopter, accomplish the following:

(a) Replace each part listed in Table 1 with an airworthy part on or before reaching the specified hours TIS as shown in Table 1 of this AD as follows:

TABLE 1

Part Name	Part Number	Hours TIS
(1) Main transmission gear pinion	109–0403–05–111	6,100
(2) Main transmission gear driver	109–0403–04–3	8,300
(3) Main transmission shaft assembly	109–0405–76–107	25,000
(4) Tail rotor retention strap assembly	109–8131–07–1	1,800
(5) Tail rotor hub assembly	109–0131–06–7	3,000
(6) Tail rotor 90-degree gearbox pinion gear	109–0433–01–107	6,100

Part Name	Part Number	Hours TIS
(7) Tail rotor 90-degree gearbox crown gear	109–0443–01–103	11,700
(8) Main rotor control bolt	109–0110–90–103	5,000
(9) Fuselage left-hand elevator	109–0200–02–93	4,400
(10) Main transmission support aft rod	109–0325–03–113	35,000
(11) Main transmission support lower fitting	109–0325–08–1	30,000

(b) This AD revises the airworthiness limitations section of the maintenance manual by establishing or reducing the life limit as specified in Table 1 of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(d) Special flight permits will not be issued.

(e) This amendment becomes effective on November 26, 2002.

Issued in Fort Worth, Texas, on October 10, 2002.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–26665 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–25–AD; Amendment 39–12905; AD 2002–20–08]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Jetstream Model 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes AD 2000–09–13, which currently requires you to inspect the fuel quantity indication system for damage to the insulation of the wiring within the fuel tanks on British Aerospace Jetstream Model 3201 airplanes and requires you to repair or replace damaged wiring. This AD retains the actions of AD 2000–09–13 and requires you to replace the fuel quantity indication system wiring harness with improved design parts, inspect the fuel boost pump area for damage, and replace any damaged component. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to detect, correct, and prevent damage to the insulation of the wiring within the fuel tanks of the fuel quantity indication system. If not detected, corrected, and prevented, such damaged wiring could result in damage to the fuel boost pump and a malfunction in the cockpit indicators and/or electrical sparking inside the fuel tank with consequent fire or explosion.

DATES: This AD becomes effective on December 18, 2002.

The Director of the Federal Register previously approved the incorporation by reference of British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; and British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999, Revision No. 1: November 12, 1999, as of June 23, 2000 (65 FR 30863, May 15, 2000).

The Director of the Federal Register approved the incorporation by reference of British Aerospace Jetstream Service Bulletin 28–JM8226, Original Issue: March 11, 2002, as of December 18, 2002.

ADDRESSES: You may get the service information referenced in this AD from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 672345; facsimile: (01292) 671625. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–25–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

Reports of damage to the insulation of the wiring within the wing fuel tanks of the fuel quantity indication system on two British Aerospace Jetstream Model 3201 airplanes caused us to issue AD 2000–09–13, Amendment 39–11722 (65 FR 30863, May 15, 2000). This AD requires you to accomplish the following on all British Aerospace Jetstream Model 3201 airplanes:

—Inspect the fuel quantity indication system for damage to the insulation of the wiring within the fuel tanks; and

—Repair or replace damaged wiring.

These actions must be accomplished in accordance with British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; or British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; Revision No. 1: November 12, 1999.

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified FAA that an unsafe condition may continue to exist in the fuel quantity insulation wiring area on all British Aerospace Jetstream Model 3201 airplanes. The CAA reports that the existing fuel quantity indication system wiring harness is composed of ''equipment grade'' wiring instead of ''aircraft grade'' wiring. This ''equipment grade'' wiring has a thinner insulation wall and will eventually deteriorate regardless of whether repaired as required by AD 2000–09–13.

In addition, the current wiring configuration can rub on the components in the fuel boost pump area and cause consequent damage.

What Is the Potential Impact if FAA Took No Action?

If not detected, corrected, and prevented, damage to the insulation of the wiring within the fuel tanks of the fuel quantity indication system could result in the following:

—Damage to the fuel boost pump;

—A malfunction in the cockpit indicators and/or electrical sparking inside the fuel tank; and
—A consequent fire or explosion.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all British Aerospace Jetstream Model 3201 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 9, 2002 (67 FR 51797). The NPRM proposed to supersede Airworthiness Directive (AD) 2000–09–13, which currently requires you to inspect the fuel quantity indication system for damage to the insulation of the wiring within the fuel tanks on British Aerospace Jetstream Model 3201 airplanes and requires you to repair or replace damaged wiring. This proposed AD would retain the actions of AD 2000–09–13 and require you to replace the fuel quantity indication system wiring harness with improved design parts, inspect the fuel boost pump area for damage, and replace any damaged component.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

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

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and
—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 200 airplanes in the U.S. registry.

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

We estimate the following costs to accomplish the inspection and replacement:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
130 workhours × $60 = $7,800	$1,200 per airplane	$9,000	$9,000 × 200 = $1,800,000

The FAA has no method of determining the number of repairs each owner/operator would incur based on the results of the proposed inspections. We have no way of determining the number of airplanes that may need such repair. The extent of damage would vary on each airplane.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2000–09–13, Amendment 39–11722 (65 FR 30863, May 15, 2000) and adding a new AD to read as follows:

2002–20–08 British Aerospace: Amendment 39–12905; Docket No. 2002–CE–25–AD; Supersedes AD 2000–9–13, Amendment 39–11722.

(a) *What airplanes are affected by this AD?* This AD affects Jetstream Model 3201 airplanes, all serial numbers, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect, correct, and prevent damage to the insulation of the wiring within the fuel tanks of the fuel quantity indication system. If not detected, corrected, and prevented, such damaged wiring could result in damage to the fuel boost pump and a malfunction in the cockpit indicators and/or electrical sparking inside the fuel tank with consequent fire or explosion.

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

Actions	Compliance	Procedures
(1) Inspect the fuel quantity indication system for damage to the insulation of the wiring within the fuel tanks. Damage is defined as corrosion (indicated by a dark stain), cuts, or nicks.	At whichever of the following occurs first, unless already accomplished: within the next 200 hours time-in-service (TIS) after June 23, 2002 (the effective date AD 200–09–13); or on or before August 21, 2000 (60 days after the effective date of AD 2000–09–13).	In accordance with either British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; or British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999, Revision No. 1: November 12, 1999.
(2) Replace or repair any damaged wiring	Prior to further flight after the inspection required by paragraph (d)(1) of this AD.	In accordance with either British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; or British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999, Revision No. 1: November 12, 1999.
(3) Inspect the fuel boost pump area for damage and replace any damaged component.	Inspect within the next 12 months after December 18, 2002 (the effective date of this AD), unless already accomplished. Replace any damaged component prior to further flight after the inspection.	In accordance with British Aerospace Jetstream Service Bulletin 28–JM8226, Original Issue: March 11, 2002.
(4) Replace the fuel quantity indication system wiring harness with improved design parts and reroute the wiring harness installation. This replacement incorporates Jetstream Modification JM8226.	Within the next 12 months after December 18, 2002 (the effective date of this AD), unless already accomplished.	In accordance with British Aerospace Jetstream Service Bulletin 28–JM8226, Original Issue: March 11, 2002.
(5) Only install a fuel quantity indication system wiring harness that incorporates Jetstream Modification JM8226 (or FAA–approved equivalent parts).	As of December 18, 2002 (the effective date of this AD).	Not applicable.

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

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

(2) The Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

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

(h) *Are any service bulletins incorporated into this AD by reference?* (1) Actions required by this AD must be done in accordance with British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999, Revision No. 1: November 12, 1999; and British Aerospace Jetstream Service Bulletin 28–JM8226, Original Issue: March 11, 2002.

(i) The Director of the Federal Register approved the incorporation by reference of British Aerospace Jetstream Service Bulletin 28–JM8226, Original Issue: March 11, 2002, under 5 U.S.C. 552(a) and 1 CFR part 51.

(ii) The Director of the Federal Register previously approved the incorporation by reference of British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; and British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999, Revision No. 1: November 12, 1999, as of June 23, 2000 (66 FR 30863, May 15, 2000).

(2) You may get copies from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 672345; facsimile: (01292) 671625. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on December 18, 2002.

Note 2: The subject of this AD is addressed in CAA AD 001–03–2002, as specified in British Aerospace Jetstream Service Bulletin 28–JM8226, Original Issue: March 11, 2002.

Issued in Kansas City, Missouri, on October 8, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–26370 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–CE–37–AD; Amendment 39–12919; AD 94–20–04 R1]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A and V35B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 94–20–04, which currently requires ruddervator inspections, modifications, and operating limitations on certain Raytheon Aircraft Company (Raytheon) Beech Models 35, 35R, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B airplanes. This AD is the result of information received from the field on the ability to accomplish and understand the existing AD. This AD will condense and clarify information presented in AD 94–20–04 and will remove Beech Models 35, 35R, A35, and B35 airplanes from the applicability of AD 94–20–04. We are incorporating the actions that apply to Beech Models 35, 35R, A35, and B35 airplanes into another AD action. The actions specified by this AD are intended to prevent structural failure of the V-tail, which could result in loss of control of the airplane.

DATES: This AD becomes effective on December 10, 2002.

The Director of the Federal Register previously approved the incorporation by reference of certain publications listed in the regulations as of November 28, 1994 (59 FR 49785, September 30, 1994).

ADDRESSES: You may get the service information referenced in this AD from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043 or (316) 676–4556. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 93–CE–37–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. T.N. Baktha, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4155; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

Has FAA Taken Any Action on the Raytheon Airplane Ruddervator System to This Point?

The following paragraphs describe ADs that FAA issued to address the V-tail structure on Raytheon Beech 35 series airplanes.

AD 94–20–04, Amendment 39–9032 (59 FR 49785, September 30, 1994), currently requires the following on certain Beech Models 35, 35R, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B airplanes:

—Checking the ruddervator static balance and rebalancing the ruddervators when the balance is not in accordance with manufacturer's specifications or anytime the ruddervators are repaired or repainted;
—Repetitively inspecting the fuselage bulkheads for damage and replacing any damaged parts;
—Installing stabilizer reinforcements for some airplane models, as applicable;
—Fabricating and installing airspeed limitation placards;
—Incorporating certain airspeed limitations into the airplane flight manual/pilot's operating handbook (AFM/POH);
—inspecting the empennage, aft fuselage, and ruddervator control system for damage and replacing or repairing any damaged parts; and
—Ensuring the accuracy of the airplane basic weight and balance information and immediately correcting any discrepancies.

Accomplishment of these actions is required in accordance with the instructions to either Beech Kit No. 35–4016–3, 35–4016–5, 35–4016–7, or 35–4016–9, as applicable and as specified in Beech Service Bulletin (SB) No. 2188, dated May, 1987, and the applicable maintenance and shop manuals.

AD 98–13–02, Amendment 39–10590 (63 FR 31916, June 11, 1998), currently requires operating limitations in order to address ruddervator problems on Beech Models 35, A35, B35, and 35R airplanes.

What Has Happened Since AD 94–20–04 and AD 98–13–02 To Initiate This Action?

AD 94–20–04 contains minor errors and FAA receives periodic calls from the public for clarification.

In addition, Raytheon has issued Recommended Service Bulletin No. SB 27–3358, Issued: February, 2000, which includes procedures for inspecting the aft fuselage, ruddervator, and related systems for acceptable condition and rebalancing the ruddervators to new specifications (upper limit reduced from 19.8 to 18 inch-pounds (tail heavy)). Accomplishing these inspections will eliminate the need for the operating limitations of AD 98–13–02.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Beech Models C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 26, 2001 (66 FR 16422). The NPRM proposed to revise AD 94–20–04, Amendment 39–9032, to condense and clarify the information presented in that AD, and to remove Beech Models 35, 35R, A35, and B35 airplanes from the Applicability of AD 94–20–04. The NPRM also proposed to incorporate the actions applicable to Beech Models 35, 35R, A35, and B35 airplanes into another AD action.

The operating limitations from AD 94–20–04 for the Beech Models C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B airplanes are not included in this AD because the other actions retained from AD 94–20–04 make them unnecessary.

The repetitive inspections currently required by AD 94–20–04 for Beech Models 35, 35R, A35, and B35 airplanes will be incorporated into another AD action.

Was the Public Invited To Comment?

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

Comment Issue No. 1: Correct Typographical Error in NPRM

What Is the Commenter's Concern?

One commenter points out that the phrase ''airplane basic weight'' is referred to as ''airplane basis weight'' in the **Federal Register**.

What Is FAA's Response to the Concern?

The FAA concurs. The original documents that FAA submitted to the Office of the Federal Register were correct. The Government Printing Office (GPO) made a typographical error. We will ensure that this is corrected in the final rule.

Comment Issue No. 2: Clarify When To Set Elevator Controls, Rudder and Tab System Controls, Cable Tensions, and Rigging

What Is the Commenter's Concern?

One commenter states that it is unclear when to set the elevator controls, rudder and tab system controls, cable tensions, and rigging. The commenter specifically asks whether this is necessary at every required 100-hour TIS inspection or

only when repair or replacement is necessary.

What Is FAA's Response to the Concern?

The FAA concurs that the way it is currently written could be confusing. You should accomplish these actions at every 100-hour TIS inspection. We will rewrite this section of the AD to clarify this.

Comment Issue No. 3: Should This AD or Similar Action Affect Models 35, 35R, A35, and B35 Airplanes

What Is the Commenter's Concern?

The commenter asks whether the actions of Raytheon Service Bulletin 27–3358 should be incorporated on Models 35, 35R, A35, and B35 airplanes.

What Is FAA's Response to the Concern?

The actions of Raytheon Service Bulletin 27–3358 should be incorporated on Models 35, 35R, A35, and B35 airplanes. This is required in another AD action. The following is taken from Note 1 of the NPRM:

> Beech Models 35, 35R, A35, B35 airplanes were included in the Applicability of AD 94–20–04 . We have removed Beech Models 35, 35R, A35, and B35 airplanes from the Applicability section of this AD and incorporated the actions applicable to these airplanes into another AD action.

We will add a statement about Raytheon Service Bulletin 27–3358 to this note in the final rule AD action.

FAA's Determination

What Is FAA's Final Determination on This Issue?

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

—Will not change the meaning of the AD; and

—Will not add any additional burden upon the public than was already proposed.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 10,200 airplanes in the U.S. registry.

What is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the initial inspections. These cost figures are exactly the same as what is currently required by AD 94–20–04. This AD presents no new costs upon the public:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
40 workhours × $60 per hour = $2,400	Not Applicable	$2,400	$24,480,000.

The above figures are based only on the initial inspections and do not take into account the cost of repetitive inspections or adjustments, repairs, or replacements that will be necessary based on the results of the inspections. We have no way of determining the number of repetitive inspections each owner/operator of the affected airplanes will incur or what adjustments, repairs, or replacements will be necessary based on the results of the inspections.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 94–20–04, Amendment 39–9032 (59 FR 49785, September 30, 1994), and by adding a new AD to read as follows:

94–20–04 R1 Raytheon Aircraft Company (Beech Aircraft Corporation formerly held Type Certificate (TC) No. A–777 and TC No. 3A15): Amendment 39–12919; Docket No. 93–CE–37–AD; Revises AD 94–20–04, Amendment 39–9032.

(a) *What airplanes are affected by this AD?* This AD affects the following airplanes that are certificated in any category:

(1) Beech Models C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, and P35 airplanes, all serial numbers; and

(2) Beech Models S35, V35, V35A, and V35B airplanes, all serial numbers, that do not have the straight tail conversion modification incorporated in accordance with Supplemental Type Certificate (STC) SA2149CE.

Note 1: Beech Models 35, 35R, A35, B35 airplanes were included in the Applicability of AD 94–20–04 . We have removed Beech Models 35, 35R, A35, and B35 airplanes from the Applicability section of this AD and incorporated the actions applicable to these airplanes into another AD action. Part of this other AD action is the incorporation of Raytheon Service Raytheon Service Bulletin 27–3358.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraphs (a), (a)(1), and (a)(2) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent structural failure of the V-tail, which could result in loss of control of the airplane.

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

Actions	Compliance	Procedures
(1) Verify that the ruddervator balance is within the manufacturer's specified limits as defined in the applicable shop or maintenance manual and balance the ruddervator control surfaces, as necessary	Within the next 100 hours TIS after November 28, 1994 (the effective date of AD 94–20–04) and thereafter prior to further flight after the ruddervators are repaired or repainted (even if stripes are added or paint is touched up)	Verify in accordance with the applicable shop or maintenance manual. Balance the ruddervator control surfaces in accordance with Section 3 of Beech Shop Manual 35–590096B19, or subsequent revisions.
(2) Visually inspect the empennage, aft fuselage, and ruddervator control system for damage (i) Repair or replace any damaged parts; and (ii) Set the elevator controls, rudder and tab system controls, cable tensions, and rigging	Inspect and set the controls, tension, and rigging within the next 100 hours TIS after November 28, 1994 (the effective date of AD 94–20–04) and thereafter at intervals not to exceed 100 hours TIS. Accomplish any repairs and replacements prior to further flight after the applicable inspection	In accordance with the procedures and as specified in the instructions to Beech Kit 35–4017–1 ''Kit Information Empennage and Aft Fuselage Inspection'', as specified in Beech Service Bulletin No. 2188, dated May, 1987.
(3) Remove all external stabilizer reinforcements installed during incorporation of either Supplemental Type Certificate (STC) SA845GL, STC SA846GL, STC SA1650CE, STC SA2286NM, or STC SA2287NM, as applicable (i) Seal or fill any residual holes with appropriate size rivets (ii) The internal stub spar incorporated through STC SA1649CE and STC SA1650CE may be retained (iii) The external angles incorporated through STC SA1649CE may also be retained by properly trimming the leading edges section to permit installation of the stabilizer reinforcement referenced in paragraph (d)(4)(i) of this AD (iv) For the Beech Models S35, V35, V35A, and V35B airplanes, you may retain and use the tail-safe external angles that were installed in accordance with STC SA1649CE instead of the stabilizer reinforcement specified in paragraph (d)(4)(i) of this AD.	Within the next 100 hours TIS after November 28, 1994 (the effective date of AD 94–20–04), unless already accomplished	In accordance with the applicable maintenance information.
(4) Accomplish the following: (i) Install stabilizer reinforcements; (ii) Set the elevator nose-down trim; and (iii) Replace the ruddervator tab control cables with larger diameter cables	Within the next 100 hours TIS after November 28, 1994 (the effective date of AD 94–20–04), unless already accomplished	In accordance with the instructions to RAC Kit No. 35–4016–3, 35–4016–5, 35–4016–7, or 35–4016–9, as applicable and as specified in Beech SB No. 2188, dated May, 1987.
(5) Verify the accuracy of the airplane basic weight and balance information and correct any discrepancies	Accomplish the airplane basic weight and balance accuracy verification within the next 100 hours TIS after November 28, 1994 (the effective date of AD 94–20–04), unless already accomplished. Correct any discrepancies prior to further flight after the verification	Use the procedures contained in the Appendix to this AD.

(e) *Can I comply with this AD in any other way?* (1) You may use an alternative method of compliance or adjust the compliance time if:

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

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

(2) Alternative methods of compliance approved in accordance with AD 94–20–04, which is revised by this AD, are approved as alternative methods of compliance with this AD.

Note 2: This AD applies to each airplane identified in paragraphs (a), (a)(1), and (a)(2) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mr. T.N. Baktha, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4155; facsimile: (316) 946–4407.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Beech Kit No. 35–4016–3, 35–4016–5, 35–4016–7, or 35–4016–9, and the instructions to Beech Kit 35–4017–1 ''Kit Information Empennage & Aft Fuselage Inspection'', as applicable and specified in Beech Service Bulletin No. 2188, dated May 1987. The Director of the Federal Register previously approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51 as of November 28, 1994 (59 FR 49785, September 30, 1994). You may get copies from the Raytheon Aircraft Company, PO Box 85, Wichita, Kansas 67201–0085. You may view copies at FAA, Central Region, Office of

the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *Does this AD action affect any existing AD actions?* This amendment revises AD 94–20–04, Amendment 39–9032.

(j) *When does this amendment become effective?* This amendment becomes effective on December 10, 2002.

Appendix to AD 94–20–04 R1

Weight and Balance Accuracy Method No. 1

1. Review existing weight and balance documentation to assure completeness and accuracy of the documentation from the most recent FAA-approved weighing or from factory delivery to date of compliance with this AD.

2. Compare the actual configuration of the airplane to the configuration described in the weight and balance documentation.

3. If equipment additions or deletions are not reflected in the documentation or if modifications affecting the location of the center of gravity (e.g., paint or structural repairs) are not documented, determine the accuracy of the airplane weight and balance data in accordance with Method No. 2.

Weight and Balance Information Accuracy Method No. 2

1. Determine the basic empty weight and center of gravity (CG) of the empty airplane using the Weighing Instructions in the Weight and Balance section of the airplane flight manual/pilot's operating handbook (AFM/POH).

2. Record the results in the airplane records, and use these new values as the basis for computing the weight and CG information as specified in the Weight and Balances section of the AFM/POH.

Issued in Kansas City, Missouri, on October 15, 2002.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–26667 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–53–AD; Amendment 39–12922; AD 2002–21–15]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. TPE331 Series Turboprop and TSE331–3U Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Honeywell International Inc. (formerly AlliedSignal Inc., Garrett Engine Division, Garrett Turbine Engine Company, and AiResearch Manufacturing Company of Arizona) TPE331 series turboprop and TSE331–3U series turboshaft engines. This amendment requires replacing second stage turbine stator assemblies, part numbers (P/N's) 894528–1, –2, –3, –5, –6, –10, and –11, with serviceable turbine stator assemblies. This amendment is prompted by reports of six uncontained separations of the second stage turbine wheels associated with obstructed internal cooling holes or passage in the vanes of the second stage turbine stator which may result in contact and rub into the turbine rotor. The actions specified by this AD are intended to prevent uncontained turbine rotor separation and damage to the aircraft.

DATES: Effective November 26, 2002.

ADDRESSES: Information regarding this action may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Federal Aviation Administration, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, CA 90712–4137; Telephone (562) 627–5246, Fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Honeywell International Inc. (formerly AlliedSignal Inc., Garrett Engine Division, Garrett Turbine Engine Company, and AiResearch Manufacturing Company of Arizona) TPE331 series turboprop and TSE331–3U series turboshaft engines was published in the **Federal Register** on February 19, 2002 (67 FR 7318). That action proposed to require replacing second stage turbine stator assemblies, P/N's 894528–1, –2, –3, –5, –6, –10, and –11, with serviceable turbine stator assemblies.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

One commenter states that the proposal incorrectly identifies some of the areas of fatigue damage as the second and third stage turbine wheels, and instead should have identified the first and second stage turbine wheels. The FAA agrees and has corrected the final rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Analysis

There are approximately 4,700 engines of the affected design in the worldwide fleet. The FAA estimates that 2,350 engines installed on aircraft of U.S. registry would be affected by this AD, that it would take approximately 4.0 work hours per engine to do the actions, and that the average labor rate is $60 per work hour. Required replacement parts will cost approximately $8,000 per engine. Based on these figures, the total cost of the AD on U.S. operators is estimated to be $14,958,000.

Regulatory Analysis

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

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–21–15 Honeywell International Inc.: Amendment 39–12922. Docket No. 99–NE–53–AD.

Applicability: This airworthiness directive (AD) is applicable to Honeywell International Inc. (formerly AlliedSignal Inc., Garrett Engine Division, Garrett Turbine Engine Company, and AiResearch Manufacturing Company of Arizona) TPE331–1, –2, –2UA, –3U, –3UW, –5, –5A, –5AB, –5B, –6, and –6A series turboprop and TSE331–3U series turboshaft engines with second stage turbine stator assemblies, part numbers (P/N's) 894528–1, –2, –3, –5, –6, –10, and –11. These engines are installed on, but not limited to Ayres S–2R series; Beech 18 and 45 series and model JRB–6, 3N, 3NM, 3TM, and B100 airplanes; Construcciones Aeronauticas, S.A. (CASA) C–212; De Havilland DH104 series 7AXC (Dove); Dornier 228 series; Fairchild SA226 series (Swearingen Merlin and Metro series); Grumman American G–164 series; Mitsubishi MU–2 and MU–2B series; Pilatus PC–6 series (Fairchild Porter and Peacemaker); Prop-Jets, Inc. Model 400; Rockwell Commander S2–R; Schweizer G–164 series; Shorts Brothers and Harland, Ltd. SC7 (Skyvan); and Twin Commander 680 and 690 series (Jetprop Commander) airplanes; and Sikorsky S–55 series (Helitec Corp. S55T) helicopters.

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

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

To reduce fatigue damage of the second stage turbine stator inner seal support, rotating knife seal, and the first and second stage turbine wheels which may result in an uncontained rotor failure and damage to the aircraft, do the following:

(a) Replace second stage turbine stator assemblies, P/N's 894528–1, –2, –3, –5, –6, –10, and –11, with a new or reworked second stage turbine stator assembly at the next removal of the second stage turbine stator assembly from the engine or at the next turbine section inspection, but do not exceed 3,100 engine operating hours since last turbine section inspection. Information for replacing second stage turbine stator assemblies is available in Honeywell International Inc. Alert Service Bulletin (ASB) TPE331–A72–2082 dated May 16, 2001. Information for reworking second stage turbine stator assemblies is available in Honeywell International Inc. SB TPE331–72–2085RWK dated May 16, 2001.

(b) After the effective date of this AD, do not install any second stage turbine stator assembly P/N's 894528–1, –2, –3, –5, –6, –10, and –11.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the LAACO.

Special Flight Permits

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

Effective Date

(e) This amendment becomes effective on November 26, 2002.

Issued in Burlington, Massachusetts, on October 15, 2002.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–26790 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, 25, 31, 53, 54, 56, and 301

[TD 9017]

RIN 1545–BB32

Tax Shelter Disclosure Statements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: These temporary regulations modify the rules relating to the filing by certain taxpayers of a disclosure statement with their Federal tax returns under section 6011(a) and include conforming changes to the rules relating to the registration of confidential corporate tax shelters under section 6111(d). These regulations affect taxpayers participating in reportable transactions and persons responsible for registering confidential corporate tax shelters. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These temporary regulations are effective January 1, 2003.

Applicability Date: For dates of applicability, see § 1.6011–4T(h), § 20.6011–4T(b), § 25.6011–4T(b), § 31.6011–4T(b), § 53.6011–4T(b), § 54.6011–4T(b), § 56.6011–4T(b), and § 301.6111–2T(h).

FOR FURTHER INFORMATION CONTACT: Tara P. Volungis, Danielle M. Grimm, or Charlotte Chyr, 202–622–3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control numbers 1545–1685 and 1545–1687. Responses to these collections of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

For further information concerning these collections of information, and where to submit comments on the collections of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document amends 26 CFR parts 1 and 301 to provide modified rules relating to the disclosure of reportable transactions by certain taxpayers on their Federal income tax returns under section 6011 and includes conforming changes to the rules regarding the registration of confidential corporate tax shelters under section 6111. This document also amends 26 CFR parts 20, 25, 31, 53, 54, and 56 to provide rules for purposes of estate, gift, employment, and pension and exempt organizations excise taxes requiring the disclosure of listed transactions by certain taxpayers on their Federal tax returns under section 6011.

On February 28, 2000, the IRS issued temporary and proposed regulations regarding sections 6011 and 6111 (TD 8877, REG–103735–00; TD 8876, REG–110311–98)) (the February 2000 regulations). The February 2000 regulations were published in the **Federal Register** (65 FR 11205, 65 FR 11269; 65 FR 11215, 65 FR 11272) on March 2, 2000. On August 11, 2000, the IRS issued temporary and proposed regulations modifying the rules under sections 6011 and 6111 (TD 8896, REG–103735–00, REG–110311–98) (the August 2000 regulations). The August 2000 regulations were published in the **Federal Register** (65 FR 49909, 65 FR 49955) on August 16, 2000. On August 2, 2001, the IRS issued temporary and proposed regulations modifying the rules under sections 6011 and 6111 (TD 8961, REG–103735–00, REG–110311–98) (the August 2001 regulations). The August 2001 regulations were published in the **Federal Register** (66 FR 41133, 66 FR 41169) on August 7, 2001. On June 14, 2002, the IRS issued temporary and proposed regulations modifying the rules under sections 6011 and 6111 (TD 9000, REG–103735–00, REG–110311–98) (the June 2002 regulations). The June 2002 regulations were published in the **Federal Register** (67 FR 41324, 67 FR 41362) on June 18, 2002.

The rules under sections 6011, 6111, and 6112 for disclosure, registration, and list maintenance are intended to provide the IRS and Treasury with information needed to evaluate potentially abusive transactions. The IRS and Treasury have considered and evaluated compliance with those rules, and have determined that certain additional changes to the current temporary and proposed regulations are necessary to improve compliance and to carry out the purposes of sections 6011, 6111, and 6112. On March 20, 2002, Treasury released its Plan to Combat Abusive Tax Avoidance Transactions (PO–2018), which describes changes to the rules under sections 6011, 6111, and 6112 that will establish a more effective disclosure regime and improve compliance. *See http://www.treas.gov/press/releases/po2018.htm.*

The amended temporary regulations under section 6011 revise the categories of transactions that must be disclosed on returns. Certain conforming changes are being made to the temporary regulations under section 6111. Concurrent with these amended temporary regulations under sections 6011 and 6111, the IRS and Treasury are publishing elsewhere in this issue of the **Federal Register** amended temporary regulations under section 6112. The amendments to the temporary regulations under section 6112 generally require organizers and sellers (''material advisors'') to maintain lists of persons for transactions required to be registered under section 6111 and for reportable transactions subject to disclosure under § 1.6011–4T, § 20.6011–4T, § 25.6011–4T, § 31.6011–4T, § 53.6011–4T, § 54.6011–4T, or § 56.6011–4T.

Pending legislation would modify section 6111 to require registration of transactions that are required to be disclosed under section 6011. The IRS and Treasury intend to revise the regulations under section 6111 when such legislation is enacted.

Explanation of Provisions

1. In General

Section 1.6011–4T generally provides that certain taxpayers must disclose their direct or indirect participation in reportable transactions when they file their Federal income tax returns. Under the current temporary regulations, in the case of a partnership or an S corporation that participates in a listed transaction, that partnership or S corporation must disclose its participation and the partners and shareholders also must disclose their participation in the listed transaction. A reportable transaction is either: (1) A listed transaction, or (2) a transaction that meets two of five characteristics, satisfies a projected tax effect test, and does not satisfy any of the exceptions provided in the regulations. The IRS and Treasury have found that taxpayers are interpreting the five characteristics in an overly narrow manner and are interpreting the exceptions in an overly broad manner.

These new temporary regulations provide more objective rules. The regulations redefine a reportable transaction as a transaction that satisfies any one of six categories of transactions. The regulations also eliminate the projected tax effect test and the general exceptions. The six categories of reportable transactions are: listed transactions, confidential transactions, transactions with contractual protection, loss transactions, transactions with a significant book-tax difference, and transactions involving a brief asset holding period. Further, the new temporary regulations require disclosure of participation in reportable transactions by all direct and indirect participants. Disclosure must be made on Form 8886, ''Reportable Transaction Disclosure Statement'', which will be available when these regulations become effective.

A provision has been added to § 1.6011–4T allowing taxpayers to request a ruling as to whether a transaction must be disclosed under § 1.6011–4T. A transaction will not be considered a reportable transaction, or will be excluded from any individual category of reportable transaction, if the Commissioner makes a determination, by published guidance, individual ruling under § 1.6011–4T, or otherwise, that the transaction is not subject to the disclosure requirements of § 1.6011–4T. While some exceptions to the disclosure requirements are included in these regulations, the IRS and Treasury specifically request comments on particular types of transactions that should be either treated as not subject to the disclosure requirements of § 1.6011–4T or excluded from an individual category of reportable transaction.

The major changes to the categories of reportable transactions are discussed below.

2. Confidential Transactions

A confidential transaction is a transaction that is offered under conditions of confidentiality, unless the presumption in the regulations regarding written authorization to disclose the structure and tax aspects of the transaction is satisfied. These regulations clarify, however, that the presumption is available only in cases in which the written authorization to disclose is effective without limitation of any kind from the commencement of discussions.

3. Loss Transactions

A loss transaction is any transaction resulting in, or that is reasonably expected to result in, a loss under section 165 of at least: $10 million in any single taxable year or $20 million in any combination of taxable years for corporations; $5 million in any single taxable year or $10 million in any combination of taxable years for partnerships or S corporations, whether

or not any losses flow through to one or more partners or shareholders; $2 million in any single taxable year or $4 million in any combination of taxable years for individuals or trusts, whether or not any losses flow through to one or more beneficiaries; and $50,000 in any single taxable year for individuals or trusts, whether or not the loss flows through from an S corporation or partnership, if the loss arises with respect to a section 988 transaction (as defined in section 988(c)(1) relating to foreign currency transactions). In determining the monetary thresholds, the amount of a section 165 loss is adjusted for any salvage value and for any insurance or other compensation received. However, a section 165 loss does not take into account offsetting gains or other income or limitations.

A section 165 loss includes an amount deductible by virtue of a provision that treats a transaction as a sale or other disposition, or otherwise results in a deduction under section 165. A section 165 loss includes, for example, a loss resulting from a sale or exchange of a partnership interest under section 741 and a loss resulting from a section 988 transaction. Under these regulations, casualty losses and losses resulting from involuntary conversions are not subject to the disclosure requirements under § 1.6011–4T.

The IRS and Treasury also are considering adding two other exceptions. One exception would be for losses resulting from a sale of securities on an established securities market within the meaning of § 1.7701–1(b), but only if the amount of basis used in computing the amount of the loss is equal to the amount of cash paid by the taxpayer for the securities. The other potential exception would be for losses claimed under section 475(a) or section 1296(a). The IRS and Treasury specifically request comments on whether these or other exceptions should be added to the regulations.

4. Transactions With a Significant Book-Tax Difference

A transaction with a significant book-tax difference is a transaction where the treatment for Federal income tax purposes of any item or items from the transaction differs, or is reasonably expected to differ, by more than $10 million on a gross basis from the treatment of the item or items for book purposes in any taxable year. When making this determination, offsetting items are not netted for either tax or book purposes. Book income is determined by applying U.S. generally accepted accounting principles (GAAP) for worldwide income.

This category of transaction generally applies to taxpayers that are reporting companies under the Securities Exchange Act of 1934 (15 USCS 78a) (and related business entities) and to business entities that have $100 million or more in gross assets. Specific rules are provided for taxpayers that file consolidated returns, foreign persons, disregarded entities, partnerships, and shareholders of certain foreign corporations. For example, where a taxpayer is considered to participate in a transaction indirectly through a partnership or foreign corporation, items from the transaction that otherwise may be considered items of the partnership or foreign corporation (for tax or book purposes) are treated as items of the taxpayer (to the extent of the taxpayer's allocable share). The mere fact that an item may be reported by different persons for tax and book purposes (*e.g.*, on the taxpayer's U.S. tax return and on the entity's books and records), without more, is not considered a significant book-tax difference in such cases. Instead, the taxpayer must test such items for a book-tax difference in the same manner as items from a transaction in which the taxpayer participated directly.

The regulations provide various exceptions for this category of transaction. The IRS and Treasury specifically request comments on the exceptions and whether other exceptions should be provided.

5. Transactions Involving a Brief Asset Holding Period

A transaction involving a brief asset holding period is a transaction resulting in, or that is reasonably expected to result in, a tax credit exceeding $250,000 (including a foreign tax credit) if the underlying asset giving rise to the credit is held by the taxpayer for less than 45 days. For purposes of determining the holding period, the principles in section 246(c)(3) and (c)(4) apply.

6. Application of Section 6011 to Estate, Gift, Employment, and Pension and Exempt Organizations Excise Taxes

A listed transaction that involves Federal estate, gift, employment, or pension or exempt organizations excise taxes must be disclosed in accordance with published guidance identifying such transaction as a listed transaction.

Effective Date

These regulations apply to transactions entered into on or after January 1, 2003.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Tara P. Volungis, Danielle M. Grimm, and Charlotte Chyr, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate tax, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

26 CFR Part 54

Excise taxes, Pensions, Reporting and recordkeeping requirements.

26 CFR Part 56

Excise taxes, Lobbying, Nonprofit organizations, Reporting and recordkeeping requirements.

26 CFR Part 301

Administrative practice and procedure, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income

taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, 25, 31, 53, 54, 56, and 301 are amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.6011–4T is revised to read as follows:

§ 1.6011–4T Requirement of statement disclosing participation in certain transactions by taxpayers (temporary).

(a) *In general.* Every taxpayer that has participated, directly or indirectly, in a reportable transaction within the meaning of paragraph (b) of this section must attach to its return for the taxable year described in paragraph (e) of this section a disclosure statement in the form prescribed by paragraph (d) of this section. The fact that a transaction is a reportable transaction shall not affect the legal determination of whether the taxpayer's treatment of the transaction is proper.

(b) *Reportable transactions*—(1) *In general.* A reportable transaction is a transaction described in any of the paragraphs (b)(2) through (7) of this section. The term *transaction* includes all of the factual elements relevant to the expected tax treatment of any investment, entity, plan, or arrangement, and includes any series of steps carried out as part of a plan, and any series of substantially similar transactions entered into in the same taxable year. There are six categories of reportable transactions: listed transactions, confidential transactions, transactions with contractual protection, loss transactions, transactions with a significant book-tax difference, and transactions involving a brief asset holding period.

(2) *Listed transactions.* A listed transaction is a transaction that is the same as or substantially similar to one of the types of transactions that the Internal Revenue Service has determined to be a tax avoidance transaction and identified by notice, regulation, or other form of published guidance as a listed transaction.

(3) *Confidential transactions*—(i) *In general.* A confidential transaction is a transaction that is offered under conditions of confidentiality. All the facts and circumstances relating to the transaction will be considered when determining whether a transaction is offered under conditions of confidentiality, including the prior conduct of the parties. If a taxpayer's disclosure of the structure or tax aspects of the transaction is limited in any way by an express or implied understanding or agreement with or for the benefit of any person who makes or provides a statement, oral or written, (or for whose benefit a statement is made or provided) as to the potential tax consequences that may result from the transaction, a transaction is considered offered under conditions of confidentiality, whether or not such understanding or agreement is legally binding. A transaction also will be considered offered under conditions of confidentiality if the taxpayer knows or has reason to know that the taxpayer's use or disclosure of information relating to the structure or tax aspects of the transaction is limited in any other manner (such as where the transaction is claimed to be proprietary or exclusive) for the benefit of any person, other than the taxpayer, who makes or provides a statement, oral or written, (or for whose benefit a statement is made or provided) as to the potential tax consequences that may result from the transaction.

(ii) *Privilege.* A taxpayer's privilege to maintain the confidentiality of a communication relating to a reportable transaction in which the taxpayer might participate or has agreed to participate, including a taxpayer's confidential communication with the taxpayer's attorney, is not itself a condition of confidentiality.

(iii) *Securities law exception.* A transaction is not considered offered under conditions of confidentiality if disclosure of the structure or tax aspects of the transaction is subject to restrictions reasonably necessary to comply with federal or state securities laws and such disclosure is not otherwise limited.

(iv) *Presumption.* Unless the facts and circumstances indicate otherwise, a transaction is not considered offered under conditions of confidentiality if every person who makes or provides a statement, oral or written, (or for whose benefit a statement is made or provided) as to the potential tax consequences that may result from the transaction, provides express written authorization to the taxpayer permitting the taxpayer (and each employee, representative, or other agent of such taxpayer) to disclose to any and all persons, without limitation of any kind, the structure and tax aspects of the transaction, and all materials of any kind (including opinions or other tax analyses) that are provided to the taxpayer related to such structure and tax aspects. This presumption is available only in cases in which the written authorization to disclose is effective without limitation of any kind from the commencement of discussions.

(4) *Transactions with contractual protection.* A transaction with contractual protection is a transaction for which the taxpayer has obtained or been provided with contractual protection against the possibility that part or all of the intended tax consequences from the transaction will not be sustained, including, but not limited to, recission rights, the right to a full or partial refund of fees paid to any person, fees that are contingent on the taxpayer's realization of tax benefits from the transaction, insurance protection with respect to the tax treatment of the transaction, or a tax indemnity or similar agreement (other than a customary indemnity provided by a principal to the transaction that did not participate in the promotion or offering of the transaction to the taxpayer). Notwithstanding the foregoing, a transaction will not be considered to have contractual protection solely because the issuer of a debt instrument agrees to pay additional interest to compensate the holder of such debt instrument for withholding tax imposed on interest paid on the debt instrument, or because the requirement to pay such additional interest entitles the issuer to redeem the debt instrument.

(5) *Loss transactions*—(i) *In general.* A loss transaction is any transaction resulting in, or that is reasonably expected to result in, a taxpayer claiming a loss under section 165 of at least—

(A) $10 million in any single taxable year or $20 million in any combination of taxable years for corporations;

(B) $5 million in any single taxable year or $10 million in any combination of taxable years for partnerships or S corporations, whether or not any losses flow through to one or more partners or shareholders;

(C) $2 million in any single taxable year or $4 million in any combination of taxable years for individuals or trusts, whether or not any losses flow through to one or more beneficiaries; or

(D) $50,000 in any single taxable year for individuals or trusts, whether or not the loss flows through from an S corporation or partnership, if the loss arises with respect to a section 988 transaction (as defined in section 988(c)(1) relating to foreign currency transactions).

(ii) *Section 165 loss.* (A) For purposes of this section, in determining the

thresholds in paragraph (b)(5)(i) of this section, the amount of a section 165 loss is adjusted for any salvage value and for any insurance or other compensation received. See § 1.165–1(c)(4). However, a section 165 loss does not take into account offsetting gains or other income or limitations. For example, a section 165 loss does not take into account the limitation in section 165(d) (relating to wagering losses) or the limitations in sections 165(f), 1211, and 1212 (relating to capital losses).

(B) For purposes of this section, a section 165 loss includes an amount deductible by virtue of a provision that treats a transaction as a sale or other disposition, or otherwise results in a deduction under section 165. A section 165 loss includes, for example, a loss resulting from a sale or exchange of a partnership interest under section 741 and a loss resulting from a section 988 transaction.

(iii) *Exceptions.* Transactions that result in the following losses under section 165 are not loss transactions under this paragraph (b)(5)—

(A) A loss from fire, storm, shipwreck, or other casualty, or from theft, as defined in section 165(c)(3); or

(B) A loss from a compulsory or involuntary conversion as described in section 1231(a)(3)(A)(ii) and section 1231(a)(4)(B).

(6) *Transactions with a significant book-tax difference*—(i) *In general.* A transaction with a significant book-tax difference is a transaction where the treatment for Federal income tax purposes of any item or items from the transaction differs, or is reasonably expected to differ, by more than $10 million on a gross basis from the treatment of the item or items for book purposes in any taxable year. For purposes of this determination, offsetting items shall not be netted for either tax or book purposes. For purposes of this paragraph (b)(6), book income is determined by applying U.S. generally accepted accounting principles (GAAP) for worldwide income. Adjustments to any reserve for taxes are disregarded for purposes of determining the book-tax difference.

(ii) *Applicability*—(A) *In general.* This paragraph (b)(6) applies only to—

(*1*) Taxpayers that are reporting companies under the Securities Exchange Act of 1934 (15 USCS 78a) and related business entities (as described in section 267(b) or 707(b)); or

(*2*) Business entities that have $100 million or more in gross assets (the assets of all related business entities (as defined in section 267(b) or 707(b)) must be aggregated).

(B) *Consolidated returns.* For purposes of this paragraph (b)(6), in the case of taxpayers that are members of a group of affiliated corporations filing a consolidated return, transactions solely between or among members of the group will be disregarded. Moreover, where two or more members of the group participate in a transaction that is not solely between or among members of the group, items shall be aggregated (as if such members were a single taxpayer), but any offsetting items shall not be netted.

(C) *Foreign persons.* In the case of a taxpayer that is a foreign person (other than a foreign corporation that is treated as a domestic corporation for Federal tax purposes under section 269B, 953(d), 1504(d) or any other provision of the Internal Revenue Code), only assets that are U.S. assets under § 1.884–1(d) shall be taken into account for purposes of paragraph (b)(6)(ii)(A)(*2*) of this section, and only transactions that give rise to income that is effectively connected with the conduct of a trade or business within the United States (or to losses, expenses, or deductions allocated or apportioned to such income) shall be taken into account for purposes of this paragraph (b)(6).

(D) *Owners of disregarded entities.* In the case of an eligible entity that is disregarded as an entity separate from its owner for Federal tax purposes, items of income, loss, expense, or deduction that otherwise are considered items of the entity for book purposes shall be treated as items of its owner, and items arising from transactions between the entity and its owner shall be disregarded, for purposes of this paragraph (b)(6).

(E) *Partners of partnerships.* In the case of a taxpayer that is a member or a partner of an entity that is treated as a partnership for Federal tax purposes, items of income, loss, expense, or deduction that are allocable to the taxpayer for Federal tax purposes but otherwise are considered items of the entity for book purposes shall be treated as items of the taxpayer, for purposes of this paragraph (b)(6).

(F) *Shareholders of certain foreign corporations.* To the extent that a taxpayer is considered under paragraph (c)(3)(ii) of this section to have indirectly participated in a transaction to which a foreign corporation is a direct party, all items from the transaction that otherwise are considered items of the foreign corporation for Federal tax purposes or book purposes shall be considered items of the taxpayer for purposes of this paragraph (b)(6).

(iii) *Exceptions.* Items listed in paragraphs (b)(6)(iii)(A) through (M) of this section are not items for which reporting is required under this paragraph (b)(6).

(A) Items to the extent a book loss or expense is reported before or without a loss or deduction for Federal income tax purposes.

(B) Items to the extent income or gain for Federal income tax purposes is reported before or without book income or gain.

(C) Depreciation, depletion, and amortization relating solely to differences in methods, lives (for example, useful lives, recovery periods), or conventions.

(D) Bad debts or cancellation of indebtedness income.

(E) Federal, state, local, and foreign taxes.

(F) Compensation of employees and independent contractors, including stock options and pensions.

(G) Items that for Federal tax purposes cannot be deducted or capitalized, such as certain payments for meals and entertainment, and certain fines and penalties.

(H) Charitable contributions of cash or tangible property.

(I) Tax exempt interest, including municipal bond interest.

(J) Dividends, including amounts treated as dividends under section 78, distributions of previously taxed income under sections 959 and 1293, and income inclusions under sections 551, 951, and 1293.

(K) Items resulting from transactions under section 1033.

(L) Gains and losses arising under section 475 or section 1296.

(M) Section 481 adjustments.

(7) *Transactions involving a brief asset holding period.* A transaction involving a brief asset holding period is a transaction resulting in, or that is reasonably expected to result in, a tax credit exceeding $250,000 (including a foreign tax credit) if the underlying asset giving rise to the credit is held by the taxpayer for less than 45 days. For purposes of determining the holding period, the principles in section 246(c)(3) and (c)(4) apply.

(8) *Exceptions*—(i) *In general.* A transaction will not be considered a reportable transaction, or will be excluded from any individual category of reportable transaction under paragraphs (b)(2) through (7) of this section, if the Commissioner makes a determination, by published guidance, individual ruling under paragraph (f) of this section, or otherwise, that the transaction is not subject to the reporting requirements of this section.

(ii) *Special rules for RICs.* For purposes of this section, a regulated investment company as defined in section 851 is not required to disclose transactions described in paragraph (b)(5) or (6) of this section.

(c) *Definitions.* For purposes of this section, the following terms are defined as follows:

(1) *Taxpayer.* The term *taxpayer* means any person described in section 7701(a)(1), including S corporations. The term *taxpayer* also includes, unless specifically provided elsewhere in this section, an affiliated group of corporations that joins in the filing of a consolidated return under section 1501.

(2) *Corporation.* When used specifically in this section, the term *corporation* means an entity that is required to file a return for a taxable year on any 1120 series form, or successor form, excluding S corporations.

(3) *Indirect participation*—(i) *In general.* A taxpayer will have indirectly participated in a reportable transaction if the taxpayer's Federal tax liability is affected (or in the case of a partnership or an S corporation, if a partner's or shareholder's Federal tax liability is reasonably expected to be affected) by the transaction even if the taxpayer is not a direct party to the transaction (*e.g.*, the taxpayer participates as a partner in a partnership, as a shareholder in an S corporation, or through a trust or a controlled entity). Moreover, a taxpayer will have indirectly participated in a reportable transaction if the taxpayer knows or has reason to know that the tax benefits claimed from the taxpayer's transaction are derived from a reportable transaction.

(ii) *Shareholders of foreign corporations*—(A) *In general.* A taxpayer that is a shareholder in a foreign corporation will not be considered to have participated indirectly in a transaction to which the foreign corporation is a direct party merely because the taxpayer is a shareholder in the foreign corporation unless the taxpayer is a *reporting shareholder* (as defined in paragraph (c)(3)(ii)(B) of this section) and the transaction either is described in any of the paragraphs (b)(2) through (5) or in paragraph (b)(7) of this section, or reduces or eliminates an income inclusion that otherwise would be required under section 551, 951, or 1293.

(B) *Reporting shareholder.* For purposes of paragraph (c)(3)(ii)(A) of this section, the term *reporting shareholder* means a United States shareholder (as defined in section 551(a)) in a foreign personal holding company (as defined in section 552), a United States shareholder (as defined in section 951(b)) in a controlled foreign corporation (as defined in section 957), or a 10 percent shareholder (by vote or value) of a qualified electing fund (as defined in section 1295).

(iii) *Example.* The following example illustrates the provisions of paragraph (c)(3)(i) of this section:

Example. Notice 95–53 (1995–2 C.B. 334) (see § 601.601(d)(2) of this chapter), describes a lease stripping transaction in which one party (the transferor) assigns the right to receive future payments under a lease of tangible property and receives consideration which the transferor treats as current income. The transferor later transfers the property subject to the lease in a transaction intended to qualify as a substituted basis transaction, for example, a transaction described in section 351. In return, the transferor receives stock (with low value and high basis) from the transferee corporation. The transferee corporation claims the deductions associated with the high basis property subject to the lease. The transferor and transferee corporation have directly participated in the listed transaction. If the transferor subsequently transfers the high basis/low value stock to a taxpayer in another transaction intended to qualify as a substituted basis transaction and the taxpayer uses the stock to generate a loss, and if the taxpayer knows or has reason to know that the tax loss claimed was derived from the lease stripping transaction, then the taxpayer is indirectly participating in a reportable transaction. Accordingly, the taxpayer must disclose the reportable transaction and the manner of the taxpayer's indirect participation in the reportable transaction under the rules of this section.

(4) *Substantially similar.* The term *substantially similar* includes any transaction that is expected to obtain the same or similar types of tax consequences and that is either factually similar or based on the same or similar tax strategy. Receipt of an opinion regarding the tax consequences of the transaction is not relevant to the determination of whether the transaction is the same as or substantially similar to another transaction. Further, the term *substantially similar* must be broadly construed in favor of disclosure. The following examples illustrate situations where a transaction is the same as or substantially similar to a listed transaction under paragraph (b)(2) of this section. (Such transactions may also be reportable transactions under paragraphs (b)(3) through (7) of this section.) The following examples illustrate the provisions of this paragraph (c)(4):

Example 1. Notice 2000–44 (2000–2 C.B. 255) (see § 601.601(d)(2) of this chapter), sets forth a listed transaction involving offsetting options transferred to a partnership where the taxpayer claims basis in the partnership for the cost of the purchased options but does not adjust basis under section 752 as a result of the partnership's assumption of the taxpayer's obligation with respect to the options. Transactions using short sales, futures, derivatives or any other type of offsetting obligations to inflate basis in a partnership interest would be the same as or substantially similar to the transaction described in Notice 2000–44. Moreover, use of the inflated basis in the partnership interest to diminish gain that would otherwise be recognized on the transfer of a partnership asset would also be the same as or substantially similar to the transaction described in Notice 2000–44.

Example 2. Notice 2001–16 (2001–1 C.B. 730) (see § 601.601(d)(2) of this chapter), sets forth a listed transaction involving a seller (X) who desires to sell stock of a corporation (T), an intermediary corporation (M), and a buyer (Y) who desires to purchase the assets (and not the stock) of T. M agrees to facilitate the sale to prevent the recognition of the gain that T would otherwise report. Notice 2001–16 describes M as a member of a consolidated group that has a loss within the group or as a party not subject to tax. Transactions utilizing different intermediaries to prevent the recognition of gain would be the same as or substantially similar to the transaction described in Notice 2001–16. An example is a transaction in which M is a corporation that does not file a consolidated return but which buys T stock, liquidates T, sells assets of T to Y, and offsets the gain recognized on the sale of those assets with currently generated losses.

(d) *Form and content of disclosure statement.* The IRS will release Form 8886, ''Reportable Transaction Disclosure Statement'' (or a successor form), for use by taxpayers in accordance with this paragraph (d). A taxpayer required to file a disclosure statement under this section must file a completed Form 8886 in accordance with the instructions to the form. The form must be attached to the appropriate tax returns as provided in paragraph (e) of this section. If a copy of a disclosure statement is required to be sent to the Office of Tax Shelter Analysis (OTSA) under paragraph (e) of this section, it must be sent to: Internal Revenue Service LM:PFTG:OTSA, Large & Mid-Size Business Division, 1111 Constitution Ave., NW., Washington, DC 20224, or to such other address as provided by the Commissioner.

(e) *Time of providing disclosure*—(1) *In general.* The disclosure statement for a reportable transaction must be attached to the taxpayer's Federal income tax return for each taxable year for which the taxpayer's Federal income tax liability is affected by the taxpayer's participation in the transaction. In addition, a copy of the disclosure statement must be sent to OTSA at the same time that any disclosure statement

is first filed with the taxpayer's Federal income tax return. If a reportable transaction results in a loss which is carried back to a prior year, the disclosure statement for the reportable transaction must be attached to the taxpayer's application for tentative refund or amended Federal income tax return for that prior year. In the case of a taxpayer that is a partnership or S corporation, the disclosure statement for a reportable transaction must be attached to the partnership's or S corporation's Federal income tax return for each taxable year ending with or within the taxable year of any partner or shareholder whose income tax liability is affected or is reasonably expected to be affected by the partnership's or S corporation's participation in the transaction. If a transaction becomes a reportable transaction (*e.g.*, the transaction subsequently becomes one identified in published guidance as a listed transaction described in paragraph (b)(2) of this section, or there is a change in facts affecting the expected Federal income tax effect of the transaction such that the transaction is reportable under any of the paragraphs (b)(5) through (7)) on or after the date the taxpayer has filed the return for the first taxable year for which the transaction affected the taxpayer's or a partner's or a shareholder's Federal income tax liability, the disclosure statement must be filed as an attachment to the taxpayer's Federal income tax return next filed after the date the transaction becomes a reportable transaction (whether or not the transaction affects the taxpayer's or any partner's or shareholder's Federal income tax liability for that year). The taxpayer must disclose the transaction in the time and manner provided for under the provisions of this section regardless of whether the taxpayer also plans to disclose the transaction under other published guidance, for example, Rev. Proc. 94–69 (1994–2 C.B. 804) (see § 601.601(d)(2) of this chapter).

(2) *Example.* The following example illustrates the application of this paragraph (e):

Example. In January of 2003, F, a domestic calendar year corporation, enters into a transaction that F reasonably expects will result in an $8 million section 165 loss in a single year and a $15 million section 165 loss over a combination of years. Assume that the transaction is not a transaction described in any of the paragraphs (b)(2) through (7) of this section, and, therefore, is not a reportable transaction under paragraph (b) of this section. On March 1, 2005, the IRS publishes a notice identifying the transaction as a listed transaction described in paragraph (b)(2) of this section. Thus, upon issuance of the notice, the transaction becomes a reportable transaction described in paragraph (b) of this section. F is required to file Form 8886 for the transaction as an attachment to F's next filed Federal income tax return. If F's 2004 Federal income tax return has not been filed on or before the date the Service identifies the transaction as a listed transaction, the disclosure statement must be attached to F's 2004 return and at that time a copy of the form must be sent to OTSA.

(f) *Rulings and protective disclosures*—(1) *Requests for ruling.* If a taxpayer is uncertain whether a transaction must be disclosed under this section, that taxpayer may, on or before the date that disclosure would otherwise be required under this section, submit a request to the IRS for a ruling as to whether the transaction is subject to the disclosure requirements of this section. If the request fully discloses all relevant facts relating to the transaction, the potential obligation of that taxpayer to disclose the transaction will be suspended during the period that the ruling request is pending and, if the IRS subsequently concludes that the transaction is a reportable transaction subject to disclosure under this section, until the 60th day after the issuance of the ruling (or, if the request is withdrawn, 60 days after the date that the request is withdrawn).

(2) *Protective disclosures.* If a taxpayer is uncertain whether a transaction must be disclosed under this section, the taxpayer may disclose the transaction in accordance with the requirements of this section, and indicate on the disclosure statement that the taxpayer is uncertain whether the transaction is required to be disclosed under this section and that the disclosure statement is being filed on a protective basis.

(g) *Retention of documents.* The taxpayer must retain a copy of all documents and other records related to a transaction subject to disclosure under this section that are material to an understanding of the facts of the transaction, the expected tax treatment of the transaction, or the taxpayer's decision to participate in the transaction. Such documents must be retained until the expiration of the statute of limitations applicable to the final taxable year for which disclosure of the transaction was made in accordance with the requirements of this section. (This document retention requirement is in addition to any document retention requirements that section 6001 generally imposes on the taxpayer.) Such documents generally include, but are not limited to, the following: marketing materials related to the transaction; written analyses used in decision-making related to the transaction; correspondence and agreements between the taxpayer and any advisor, lender, or other party to the reportable transaction that relate to the transaction; documents discussing, referring to, or demonstrating the tax benefits arising from the reportable transaction; and documents, if any, referring to the business purposes for the reportable transaction.

(h) *Effective dates.* This section applies to Federal income tax returns filed after February 28, 2000. However, paragraphs (a) through (g) of this section apply to transactions entered into on or after January 1, 2003. The rules that apply with respect to transactions entered into on or before December 31, 2002, are contained in § 1.6011–4T in effect prior to January 1, 2003 (see 26 CFR part 1 revised as of April 1, 2002 and 2002–28 IRB 90 (see § 601.601(d)(2) of this chapter)).

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 3. The authority citation for part 20 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 4. Section 20.6011–4T is added to read as follows:

§ 20.6011–4T Requirement of statement disclosing participation in certain transactions by taxpayers (temporary).

(a) *In general.* If a transaction is identified as a ''listed transaction'' as defined in § 1.6011–4T of this chapter by the Commissioner in published guidance (see § 601.601(d)(2) of this chapter), and the listed transaction involves an estate tax under chapter 11 of subtitle B of the Internal Revenue Code, the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective date.* This section applies to transactions entered into on or after January 1, 2003.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 5. The authority citation for part 25 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 6. Section 25.6011–4T is added to read as follows:

§ 25.6011–4T Requirement of statement disclosing participation in certain transactions by taxpayers (temporary).

(a) *In general.* If a transaction is identified as a ''listed transaction'' as defined in § 1.6011–4T of this chapter by the Commissioner in published guidance (see § 601.601(d)(2) of this

chapter), and the listed transaction involves a gift tax under chapter 12 of subtitle B of the Internal Revenue Code, the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective date.* This section applies to transactions entered into on or after January 1, 2003.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 7. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 8. Section 31.6011–4T is added to read as follows:

§ 31.6011–4T Requirement of statement disclosing participation in certain transactions by taxpayers (temporary).

(a) *In general.* If a transaction is identified as a ''listed transaction'' as defined in § 1.6011–4T of this chapter by the Commissioner in published guidance (see § 601.601(d)(2) of this chapter), and the listed transaction involves an employment tax under chapters 21 through 25 of subtitle C of the Internal Revenue Code, the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective date.* This section applies to transactions entered into on or after January 1, 2003.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 9. The authority citation for part 53 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 10. Section 53.6011–4T is added to read as follows:

§ 53.6011–4T Requirement of statement disclosing participation in certain transactions by taxpayers (temporary).

(a) *In general.* If a transaction is identified as a ''listed transaction'' as defined in § 1.6011–4T of this chapter by the Commissioner in published guidance (see § 601.601(d)(2) of this chapter), and the listed transaction involves an excise tax under chapter 42 of subtitle D of the Internal Revenue Code (relating to private foundations and certain other tax-exempt organizations), the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective date.* This section applies to transactions entered into on or after January 1, 2003.

PART 54—PENSION EXCISE TAXES

Par. 11. The authority citation for part 54 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 12. Section 54.6011–4T is added to read as follows:

§ 54.6011–4T Requirement of statement disclosing participation in certain transactions by taxpayers (temporary).

(a) *In general.* If a transaction is identified as a ''listed transaction'' as defined in § 1.6011–4T of this chapter by the Commissioner in published guidance (see § 601.601(d)(2) of this chapter), and the listed transaction involves an excise tax under chapter 43 of subtitle D of the Internal Revenue Code (relating to qualified pension, etc., plans), the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective date.* This section applies to transactions entered into on or after January 1, 2003.

PART 56—PUBLIC CHARITY EXCISE TAXES

Par. 13. The authority citation for part 56 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 14. Section 56.6011–4T is added to read as follows:

§ 56.6011–4T Requirement of statement disclosing participation in certain transactions by taxpayers (temporary).

(a) *In general.* If a transaction is identified as a ''listed transaction'' as defined in § 1.6011–4T of this chapter by the Commissioner in published guidance (see § 601.601(d)(2) of this chapter), and the listed transaction involves an excise tax under chapter 41 of subtitle D of the Internal Revenue Code (relating to public charities), the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective date.* This section applies to transactions entered into on or after January 1, 2003.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 15. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 16. Section 301.6111–2T is amended as follows:

1. Paragraphs (a)(3) and (b)(3)(i) are revised.

2. Paragraph (c)(3) is amended by adding a sentence at the end of the paragraph.

3. Paragraph (h) is amended by revising the paragraph heading and removing the third sentence through the last sentence and adding two new sentences in their place.

The revisions and additions read as follows:

§ 301.6111–2T Confidential corporate tax shelters (temporary).

(a) * * *

(3) For purposes of this section, references to the term ''transaction'' include all of the factual elements relevant to the expected tax treatment of any investment, entity, plan, or arrangement, and include any series of steps carried out as part of a plan. For purposes of this section, the term ''substantially similar'' includes any transaction that is expected to obtain the same or similar types of tax consequences and that is either factually similar or based on the same or similar tax strategy. Receipt of an opinion regarding the tax consequences of the transaction is not relevant to the determination of whether the transaction is the same as or substantially similar to another transaction. Further, the term ''substantially similar'' must be broadly construed in favor of registration. For examples, see § 1.6011–4T(c)(4) of this chapter.

* * * * *

(b) * * *

(3) * * *

(i) The potential participant is expected to participate in the transaction in the ordinary course of its business in a form consistent with customary commercial practice (a transaction involving the acquisition, disposition, or restructuring of a business, including the acquisition, disposition, or other change in the ownership or control of an entity that is engaged in a business, or a transaction involving a recapitalization or an acquisition of capital for use in the taxpayer's business, shall be considered a transaction carried out in the ordinary course of a taxpayer's business); and

* * * * *

(c)

(3) * * * This presumption is available only in cases in which the written authorization to disclose is effective without limitation of any kind from the commencement of discussions.

* * * * *

(h) *Effective dates.* * * * However, paragraphs (a)(3), (b)(3)(i), and (c)(3) of this section apply to confidential corporate tax shelters in which any interests are offered for sale on or after January 1, 2003. The rules that apply to confidential corporate tax shelters in which any interests are offered for sale

after February 28, 2000, and on or before December 31, 2002, are contained in § 301.6111–2T in effect prior to January 1, 2003 (see 26 CFR part 301 revised as of April 1, 2002 and 2002–28 IRB 91 (see § 601.601(d)(2) of this chapter)).

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: October 15, 2002.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 02–26724 Filed 10–17–02; 3:10 pm]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9018]

RIN 1545–BB33

Requirement To Maintain a List of Investors in Potentially Abusive Tax Shelters

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: These temporary regulations relate to the preparation, maintenance, and furnishing of lists of persons in potentially abusive tax shelters under section 6112. These regulations apply to organizers and sellers of potentially abusive tax shelters. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These temporary regulations are effective January 1, 2003.

Applicability Date: For dates of applicability, see § 301.6112–1T(j).

FOR FURTHER INFORMATION CONTACT: Charlotte Chyr, Tara P. Volungis, or Danielle M. Grimm, 202–622–3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1686. Responses to these collections of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

For further information concerning these collections of information, and where to submit comments on the collections of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document amends 26 CFR part 301 regarding the requirement to maintain lists of persons for potentially abusive tax shelters under section 6112. Section 6708 provides penalties for failing to maintain a list under section 6112.

On February 28, 2000, the IRS issued temporary and proposed regulations regarding section 6112 (TD 8875, REG–103736–00). The February regulations were published in the **Federal Register** (65 FR 11211; 65 FR 11271) on March 2, 2000. On August 11, 2000, the IRS issued temporary and proposed regulations regarding section 6112 (TD 8896, REG–103736–00). The August 2000 regulations were published in the **Federal Register** (65 FR 49909; 65 FR 49955) on August 16, 2000, modifying the previous regulations.

The list maintenance rules under section 6112, along with the rules relating to disclosure of reportable transactions under section 6011 and the rules for registration of tax shelters under section 6111, are intended to provide the IRS and Treasury with information needed to evaluate potentially abusive transactions. The IRS and Treasury have considered and evaluated compliance with these rules and have determined that certain additional changes to the current temporary and proposed regulations are necessary to improve compliance and to carry out the purposes of sections 6011, 6111, and 6112. On March 20, 2002, Treasury released its Plan to Combat Abusive Tax Avoidance Transactions (PO–2018), which describes changes to the rules under sections 6011, 6111, and 6112 that will establish a more effective disclosure regime and improve compliance. *See http://www.treas.gov/press/releases/po2018.htm.*

These amendments to the temporary regulations under section 6112 generally require organizers and sellers (material advisors) to maintain lists of persons for transactions required to be registered under section 6111 and for reportable transactions defined in § 1.6011–4T(b) of the Income Tax Regulations.

Concurrent with these amended temporary regulations under section 6112, the IRS and Treasury are publishing elsewhere in this issue of the **Federal Register** amended temporary regulations under section 6011. The amended temporary regulations under section 6011 revise the categories of transactions that must be disclosed on returns.

Pending legislation would modify section 6111 to require registration of transactions that are required to be disclosed under section 6011. The IRS and Treasury intend to revise the regulations under section 6111 when such legislation is enacted.

Explanation of Provisions

A. Potentially Abusive Tax Shelter

Section 6112 provides that any person who organizes or sells any interest in a potentially abusive tax shelter must maintain a list identifying each person who was sold an interest in such shelter and containing any other information required by regulations. A potentially abusive tax shelter under section 6112 includes any tax shelter that is required to be registered with the IRS as a tax shelter under section 6111, and any transaction that has a potential for tax avoidance or evasion.

Under these regulations, a transaction has the potential for tax avoidance or evasion if it is a listed transaction or if a potential material advisor, at the time the transaction is entered into, knows or has reason to know that the transaction is otherwise a reportable transaction as defined in § 1.6011–4T. For purposes of section 6112, listed transactions that involve Federal estate, gift, employment, and pension and exempt organizations excise taxes are also potentially abusive tax shelters that require list maintenance. If a transaction that involves Federal income taxes becomes a listed transaction on or after January 1, 2003, it is a potentially abusive tax shelter for purposes of section 6112 and, whether or not the material advisor is already required to maintain a list, the material advisor must begin, at the time of listing, to

include on the list those persons who acquired an interest in the transaction after February 28, 2000.

B. Organizer and Seller (Material Advisor)

The regulations provide that a person is an organizer of, or a seller of any interest in, a transaction that is a potentially abusive tax shelter if that person is a material advisor with respect to that transaction. In general, a material advisor is any person who (i) receives, or expects to receive, at least a minimum fee in connection with a transaction that is a potentially abusive tax shelter, and (ii) who makes or provides any statement, oral or written, to any person as to the potential tax consequences of that transaction. The Internal Revenue Service and Treasury are considering whether the minimum fee requirement should be eliminated with respect to listed transactions.

The minimum fee is $250,000 for a transaction that is a potentially abusive tax shelter if all persons who acquire an interest, directly or indirectly, in the transaction are corporations (other than S corporations). The minimum fee for any other transaction that is a potentially abusive tax shelter is $50,000. In calculating the minimum fee, each transaction that is a potentially abusive tax shelter is evaluated separately to determine whether the minimum fee threshold is satisfied with respect to that particular transaction. If the minimum fee threshold is satisfied with respect to one transaction that is a potentially abusive tax shelter, but not with respect to another separate transaction (whether or not it is substantially similar), a person is a material advisor with respect to only the transaction for which the minimum fee threshold is satisfied. Accordingly, the list required to be maintained includes only those persons who are participants in the transaction for which the minimum fee threshold is satisfied.

C. Preparing, Maintaining and Furnishing Lists

In general, a material advisor must prepare and maintain a separate list of persons for each transaction that is a potentially abusive tax shelter. However, to ensure that the IRS is able to identify all of the persons who are participants in potentially abusive tax shelters that are substantially similar, the regulations further provide that the material advisor must keep one list for all transactions that are substantially similar and are potentially abusive tax shelters.

Any person to whom a material advisor makes or provides a statement, oral or written, as to the potential tax consequences of a transaction that is a potentially abusive tax shelter must be included on a list if the material advisor knows or has reason to know that the person, or any related party, participated or will participate in the transaction. A person (including any related party) is treated as having participated in a transaction that is a potentially abusive tax shelter if the material advisor knows or has reason to know that the person sold or transferred, or will sell or transfer to another person (subsequent participant) an interest in that type of transaction that, if entered into, would be a potentially abusive tax shelter. The material advisor also must list any subsequent participant if the material advisor knows or has reason to know the identity of that subsequent participant and the material advisor knows or reasonably expects that the subsequent participant will participate in, or sell or transfer to another subsequent participant an interest in that type of transaction that, if entered into, would be a potentially abusive tax shelter.

The required list must be maintained for ten years following the date on which the material advisor last made a statement, oral or written, as to the potential tax consequences that may result from the transaction that is a potentially abusive tax shelter. If a material advisor that is an entity dissolves or liquidates before the expiration of the ten-year period, the person responsible under state law for winding up the affairs of the material advisor is (or if state law does not specify any person, then each of the directors of the corporation, the general partners of the partnership, or the trustees, owners, or members of the entity are) responsible for preparing, maintaining, and furnishing the list, unless the dissolved or liquidated entity submits the list to the Office of Tax Shelter Analysis (OTSA) within 60 days after the dissolution or liquidation. The responsible person must also provide notice to OTSA of such dissolution or liquidation within 60 days after the dissolution or liquidation.

Each material advisor must, upon written request by the IRS, furnish the list of persons to the IRS within 20 business days after the date of the request. The list may be furnished to the IRS in any form that enables the IRS to determine without undue delay or difficulty the information required to be contained in the list.

As a general rule, the name of a participant in a transaction that is a potentially abusive tax shelter is not protected by either the attorney-client privilege or by the tax practitioner privilege under section 7525. No participant in a transaction that is a potentially abusive tax shelter should have a reasonable expectation of confidentiality with respect to that person's identity. Moreover, a claim of privilege that is not based on a reasonable belief that the privilege applies may subject the material advisor to penalties under section 6708.

D. Substantially Similar Transactions

For purposes of section 6112, a substantially similar transaction includes any transaction that is expected to obtain the same or similar types of tax consequences and that is either factually similar or based on the same or similar tax strategy. Receipt of an opinion regarding the tax consequences of a transaction is not relevant to the determination of whether that transaction is the same as or substantially similar to another transaction. Further, the term *substantially similar* must be broadly construed in favor of list maintenance.

E. Effective Date

These amended temporary regulations apply to transactions that are potentially abusive tax shelters entered into, or interests acquired therein, on or after January 1, 2003. However, these regulations shall apply to any transaction that was entered into, or in which an interest was acquired, after February 28, 2000, if the transaction becomes a listed transaction as defined in § 1.6011–4T on or after January 1, 2003, and is subject to disclosure under § 1.6011–4T.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Charlotte Chyr, Tara P. Volungis, and Danielle M. Grimm,

Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6112–1T is revised to read as follows:

§ 301.6112–1T Requirement to prepare, maintain, and furnish lists with respect to potentially abusive tax shelters (temporary).

(a) *In general.* Each organizer and seller, as described in paragraph (c) of this section, of a transaction that is a potentially abusive tax shelter, as described in paragraph (b) of this section, shall prepare and maintain a list of persons in accordance with paragraph (e) of this section and upon request shall furnish such list to the Internal Revenue Service in accordance with paragraph (g) of this section.

(b) *Potentially abusive tax shelters.* For purposes of this section, a potentially abusive tax shelter is any transaction that is a section 6111 tax shelter, as described in paragraph (b)(1) of this section, or that has a potential for tax avoidance or evasion, as described in paragraph (b)(2) of this section. The term ''transaction'' includes all of the factual elements relevant to support the expected tax treatment of any investment, entity, plan, or arrangement, and includes any series of steps carried out as part of a plan.

(1) *Transaction that is a section 6111 tax shelter.* A section 6111 tax shelter is any transaction that is required to be registered with the Internal Revenue Service under section 6111, regardless of whether that tax shelter is properly registered pursuant to section 6111.

(2) *Transaction that has a potential for tax avoidance or evasion.* A transaction that has a potential for tax avoidance or evasion is any transaction that is a listed transaction as defined in § 1.6011–4T of this chapter and is subject to disclosure under § 1.6011–4T, 20.6011–4T, 25.6011–4T, 31.6011–4T, 53.6011–4T, 54.6011–4T, or 56.6011–4T of this chapter, or any transaction that a potential material advisor knows or has reason to know, at the time the transaction is entered into or an interest is acquired, meets one of the categories of a reportable transaction under § 1.6011–4T(b)(3) through (7) of this chapter.

(i) The determination of whether a transaction has the potential for tax avoidance or evasion does not depend upon whether the transaction is properly disclosed pursuant to § 1.6011–4T, 20.6011–4T, 25.6011–4T, 31.6011–4T, 53.6011–4T, 54.6011–4T, or 56.6011–4T of this chapter.

(ii) If a transaction becomes a listed transaction as defined in § 1.6011–4T of this chapter and is subject to disclosure under § 1.6011–4T of this chapter, after the transaction is entered into or an interest in the transaction is acquired, this section shall apply with respect to any interests acquired after February 28, 2000. If a transaction becomes a listed transaction as defined in § 1.6011–4T of this chapter and is subject to disclosure under § 20.6011–4T, 25.6011–4T, 31.6011–4T, 53.6011–4T, 54.6011–4T, or 56.6011–4T of this chapter, after the transaction is entered into or an interest in the transaction is acquired, this section shall apply with respect to any interests acquired on or after January 1, 2003.

(c) *Organizer and seller*—(1) *In general.* A person is an organizer of, or a seller of an interest in, a transaction that is a potentially abusive tax shelter if that person is a material advisor, as described in paragraph (c)(2) of this section, with respect to that transaction.

(2) *Material advisor.* A material advisor is any person who (or through its employees, shareholders, partners, or agents) receives, or expects to receive, at least a minimum fee, as defined in paragraph (c)(3) of this section, in connection with a transaction that is a potentially abusive tax shelter and who makes or provides any statement, oral or written, to any person as to the potential tax consequences of that transaction. A person shall be treated as a material advisor if that person forms or avails of an entity with the purpose of avoiding the rules of section 6111 or 6112 or the penalties under section 6707 or 6708.

(3) *Minimum fee*—(i) *In general.* For purposes of this paragraph (c), the minimum fee is $250,000 for a transaction that is a potentially abusive tax shelter if all persons who acquire an interest, directly or indirectly, are corporations (other than S corporations), and $50,000 for any other transaction that is a potentially abusive tax shelter.

(ii) *Determination of fees.* In determining whether the minimum fee threshold is satisfied, all fees for advice (whether or not tax advice) regarding, or for implementation of, a transaction that is a potentially abusive tax shelter are taken into account. For purposes of this section, fees include consideration in whatever form paid, whether in cash or in kind, and whether paid or denominated as fees for tax advice or for some other function such as the preparation of documentation or tax return preparation. The Internal Revenue Service will scrutinize carefully all of the facts and circumstances in determining whether consideration received in connection with a transaction that is a potentially abusive tax shelter constitutes fees for purposes of this section.

(d) *Definitions.* For purposes of this section, the following terms are defined as follows:

(1) *Interest.* The term *interest* includes, but is not limited to, any right to participate in a transaction by reason of a partnership interest, a shareholder interest, or a beneficial interest in a trust; any interest in property (including a leasehold interest); the entry into a leasing arrangement or a consulting, management or other agreement for the performance of services; or any interest in any other investment, entity, plan, or arrangement. The term *interest* includes any interest that purportedly entitles the direct or indirect holder of the interest to any tax consequence (including, but not limited to, a deduction, loss, or adjustment to tax basis in an asset) arising from the transaction. An *interest* also includes the receipt of information or services regarding the organization or structure of the transaction if the information or services are relevant to the potential tax consequences of the transaction.

(2) *Substantially similar.* The term *substantially similar* includes any transaction that is expected to obtain the same or similar types of tax consequences and that is either factually similar or based on the same or similar tax strategy. Receipt of an opinion regarding the tax consequences of the transaction is not relevant to the determination of whether the transaction is the same as or substantially similar to another transaction. Further, the term *substantially similar* must be broadly construed in favor of list maintenance.

(3) *Person.* The term *person* means any person described in section 7701(a)(1), including an affiliated group of corporations that join in the filing of

a consolidated return under section 1501.

(4) *Related party.* A person is a related party with respect to another person if such person bears a relationship to such other person described in section 267 or 707.

(e) *Preparation and maintenance of lists*—(1) *In general.* A separate list of persons must be prepared and maintained for each transaction that is a potentially abusive tax shelter. However, one list must be maintained for substantially similar transactions that are potentially abusive tax shelters.

(2) *Persons required to be included on lists.* (i) A material advisor is required to list each person to whom the material advisor makes or provides a statement, oral or written, as to the potential tax consequences of a transaction that is a potentially abusive tax shelter, if the material advisor knows or has reason to know that the person or any related party participated in or will participate in the transaction (or a substantially similar transaction that is a potentially abusive tax shelter).

(ii) A material advisor shall treat a person (including any related party) as having participated in a transaction that is a potentially abusive tax shelter if the material advisor knows or has reason to know that the person sold or transferred, or will sell or transfer, to another person (subsequent participant) an interest in that type of transaction that, if entered into, would be a potentially abusive tax shelter. The material advisor also must list any subsequent participant if the material advisor knows or has reason to know the identity of that subsequent participant, and the material advisor knows or reasonably expects that the subsequent participant will participate in, or sell or transfer to another subsequent participant an interest in that type of transaction that, if entered into, would be a potentially abusive tax shelter.

(iii) The following examples illustrate the provisions of this section:

Example 1. An investment firm provides a statement describing the potential tax consequences of a type of transaction to three taxpayers: Corporation X, Corporation Y, and Corporation Z. Each taxpayer agrees to pay the investment firm $300,000 in connection with the transaction, and each taxpayer engages in a separate transaction (transaction X, transaction Y, and transaction Z, respectively). At the time the transactions are entered into, the investment firm knows, or has reason to know, that the transactions will result in a single taxable year loss of $9 million for Corporation X, $15 million for Corporation Y, and $12 million for Corporation Z. The transactions do not satisfy the definitions of a reportable transaction under § 1.6011–4T(b)(2), (3), (4), (6) or (7) of this chapter. All the persons who acquired an interest directly or indirectly in the transactions are C corporations.

(i) *Transaction X.* At the time transaction X is entered into, the investment firm does not know, or have reason to know, that the transaction is a reportable transaction, because the $9 million loss does not satisfy the $10 million threshold under § 1.6011–4T(b)(5) of this chapter (relating to loss transactions). Accordingly, transaction X is not a potentially abusive tax shelter. The investment firm is not required to maintain a list with respect to transaction X.

(ii) *Transactions Y and Z.* The investment firm satisfies the three requirements for being a material advisor with respect to transaction Y and with respect to transaction Z. First, both of the transactions are potentially abusive tax shelters with respect to the investment firm because the investment firm knows, or has reason to know, at the time the transactions are entered into, that the losses for each of Corporation Y and Z are expected to exceed the $10 million threshold and, thus, the transactions are reportable transactions under § 1.6011–4T(b)(5) of this chapter (relating to loss transactions). Second, the investment firm provides a statement as to the potential tax consequences of the transactions. Third, the investment firm receives $300,000 in connection with each transaction, which exceeds the minimum fee with respect to each transaction ($250,000). Accordingly, the investment firm must maintain a list with respect to transactions Y and Z. Because transactions Y and Z are based on the same or similar tax strategy, transactions Y and Z are substantially similar transactions, and the investment firm must keep one list with respect to both transactions. The list must contain information about Corporation Y and Corporation Z (see paragraph (e)(2)(i) of this section).

Example 2. (i) Corporation M provides a statement to Corporation N describing the potential tax consequences of a type of transaction. Corporation N pays Corporation M $90,000 for the information about that type of transaction. Corporation M knows that Corporation N will sell the information to Taxpayer O (a corporation) and Taxpayer P (an individual), and reasonably expects Taxpayer O and Taxpayer P to participate in transactions of the type that Corporation M described to Corporation N. Corporation N, in turn, provides a statement as to the potential tax consequences of that type of transaction to Taxpayer O and Taxpayer P. Each taxpayer agrees to pay Corporation N $80,000 in connection with their respective transactions, and each taxpayer engages in a separate transaction (transaction O and transaction P, respectively). At the time the transactions are entered into, both Corporation M and Corporation N know, or have reason to know, that the transactions are reportable transactions under § 1.6011–4T(b) of this chapter. All the persons who acquire an interest directly or indirectly in transaction O are C corporations.

(ii) Corporation N is not a material advisor with respect to transaction O because Corporation N receives only $80,000 in connection with transaction O, which is less than the minimum fee for that transaction ($250,000). Corporation N is a material advisor with respect to transaction P. First, at the time transaction P is entered into, Corporation N knows, or has reason to know, that transaction P is a reportable transaction and, thus, is a potentially abusive tax shelter. Second, Corporation N provides a statement as to the potential tax consequences of transaction P. Third, Corporation N receives $80,000 in connection with transaction P, which exceeds the minimum fee for that transaction ($50,000). Accordingly, Corporation N must keep a list with respect to transaction P. The list must contain information about Taxpayer P (see paragraph (e)(2)(ii) of this section).

(iii) Corporation M is not a material advisor with respect to transaction O because Corporation M receives only $90,000 in connection with transaction O, which is less than the minimum fee for that transaction ($250,000). Corporation M is a material advisor with respect to transaction P. First, at the time transaction P is entered into, Corporation M knows, or has reason to know, that transaction P is a reportable transaction and, thus, is a potentially abusive tax shelter. Second, Corporation M provides a statement as to the potential tax consequences of transaction P, and Corporation M receives $90,000 in connection with transaction P, which exceeds the minimum fee for that transaction ($50,000). Accordingly, Corporation M must keep a list with respect to transaction P. The list must contain information about Corporation N (see paragraph (e)(2)(ii) of this section) and Taxpayer P (see paragraph (e)(2)(ii) of this section).

(3) *Contents*—(i) *In general.* Each list must contain the following information—

(A) The name of each transaction that is a potentially abusive tax shelter and the registration number, if any, obtained under section 6111;

(B) The TIN (as defined in section 7701(a)(41)), if any, of each transaction;

(C) The name, address, and TIN of each person required to be on the list;

(D) If applicable, the number of units (i.e., percentage of profits, number of shares, etc.) acquired by each person required to be included on the list;

(E) The date on which each interest was acquired;

(F) The amount invested in each transaction by each person required to be included on the list;

(G) A detailed description of each transaction that describes both the structure and its expected tax consequences;

(H) A summary or schedule of the tax consequences that each person is intended or expected to derive from participation in each transaction, if known by the material advisor;

(I) Copies of any additional written materials, including tax analyses or

opinions, relating to each transaction that have been shown or provided to any person who acquired or may acquire an interest in the transactions, or to their representatives, tax advisors, or agents, by the material advisor or any related party or agent of the material advisor; and

(J) For each person, if the interest in the transaction was not acquired from the material advisor maintaining the list, the name of the person from whom the interest was acquired.

(ii) *Claims of privilege.* In any case in which an attorney or federally authorized tax practitioner within the meaning of section 7525 is required to maintain a list with respect to a transaction that is a potentially abusive tax shelter, and that person has a reasonable belief that information required to be disclosed under this paragraph (e)(3) is protected by the attorney-client privilege or by the confidentiality privilege of section 7525(a), the attorney or federally authorized tax practitioner must still maintain the list of persons pursuant to the requirements of this section. When the list is requested by the Internal Revenue Service, as provided in paragraph (g) of this section, the material advisor may assert a privilege claim subject to the requirements of this paragraph (e)(3)(ii).

(A) The claimed privilege must be supported by a statement that is signed by the attorney or federally authorized tax practitioner under penalties of perjury, must identify and describe (as set forth in paragraph (e)(3)(ii)(B) of this section) the nature of each document or category of information that is not produced which will allow the Service to determine the applicability of the privilege or protection claimed, without revealing the privileged information itself, and must include the following representations with respect to each document or category of information for which the privilege is claimed—

(*1*) Specifically represent that the information was a confidential practitioner-client communication and, in the case of information which a federally authorized tax practitioner claims is privileged under section 7525, that the omitted information was not part of tax advice that constituted the promotion of the direct or indirect participation of a corporation in any tax shelter (as defined in section 6662(d)(2)(C)(iii)); and

(*2*) Specifically represent that to the best of such person's knowledge and belief, all others in possession of the omitted information did not disclose the omitted information to any person whose receipt of such information would result in a waiver of the privilege.

(B) Identification and description of a document or category of information includes, but is not limited to—

(*1*) The date appearing on such document or, if it has no date, the date or approximate date that such document was created;

(*2*) The general nature, description and purpose of such document and the identity of the person who signed such document, and, if it was not signed, the identity of each person who prepared it; and

(*3*) The identity of each person to whom such document was addressed and the identity of each person, other than such addressee, to whom such document, or a copy thereof, was given or sent.

(f) *Retention of lists.* Each material advisor must maintain the list described in paragraph (e) of this section for ten years following the date on which the material advisor last made a statement, oral or written, as to the potential tax consequences of the transaction. If the material advisor required to prepare, maintain, and furnish the list is a corporation, partnership, or other entity (entity) that has dissolved or liquidated before completion of the ten-year period, the person responsible under state law for winding up the affairs of the entity must prepare, maintain and furnish the list on behalf of the entity, unless the entity submits the list to the Office of Tax Shelter Analysis (OTSA) within 60 days after the dissolution or liquidation. If state law does not specify any person as responsible for winding up the affairs, then each of the directors of the corporation, the general partners of the partnership, or the trustees, owners, or members of the entity are responsible for preparing, maintaining and furnishing the list on behalf of the entity, unless the entity submits the list to the Office of Tax Shelter Analysis (OTSA) within 60 days after the dissolution or liquidation. The responsible person must also provide notice to OTSA of such dissolution or liquidation within 60 days after the dissolution or liquidation. The list and the notice provided to OTSA may be sent to: Internal Revenue Service LM:PFTG:OTSA, Large & Mid-Size Business Division, 1111 Constitution Ave., NW., Washington, DC 20224, or to such other address as provided by the Commissioner.

(g) *Furnishing of lists.* Each material advisor and person responsible for maintaining a list of persons must, upon written request by the Internal Revenue Service, furnish the list to the Internal Revenue Service within 20 business days after the date of the request. The request is not required to be in the form of an administrative summons. The list may be furnished to the Internal Revenue Service on paper, card file, magnetic media, or in any other form, provided the method of furnishing the list enables the Internal Revenue Service to determine without undue delay or difficulty the information required in paragraph (e)(3) of this section.

(h) *Designation agreements.* If more than one material advisor is required to maintain a list of persons, in accordance with paragraph (e) of this section, for a potentially abusive tax shelter, the material advisors may designate by written agreement a single material advisor to maintain the list or a portion of the list. The designation of one material advisor to maintain the list does not relieve the other material advisors from their obligation to furnish the list to the Internal Revenue Service in accordance with paragraph (g) of this section. The fact that a material advisor is unable to obtain the list from any designated material advisor, the fact that any designated material advisor did not maintain a list, or the fact that the list maintained by any designated material advisor is not complete, will not relieve any material advisor from the requirements of this section.

(i) *Procedure for obtaining rulings.* A person may submit a request to the Internal Revenue Service for a ruling as to whether a transaction is a potentially abusive tax shelter for purposes of this section and whether that person is a material advisor with respect to that transaction. If the request fully discloses all relevant facts relating to the transaction (including all facts relevant to the person's relationship to such transaction), then the requirement to maintain a list shall be suspended for that person during the period that such ruling request is pending and for 60 days thereafter; however, if it is ultimately determined that the transaction is a potentially abusive tax shelter, the pendency of such a ruling request shall not affect the requirement to maintain the list, nor shall it affect the persons required to be included on the list (including persons who acquired interests in the potentially abusive tax shelter prior to and during the pendency of the ruling request), or the other information required to be included as part of the list.

(j) *Effective date.* This section applies to any transaction that is a potentially abusive tax shelter entered into, or any interest acquired therein, on or after January 1, 2003. However, this section shall apply to any transaction that was entered into, or in which an interest was

acquired, after February 28, 2000, if the transaction becomes a listed transaction as defined in § 1.6011–4T of this chapter on or after January 1, 2003, and is subject to disclosure under § 1.6011–4T of this chapter. Otherwise, the rules that apply with respect to any other transaction that is a potentially abusive tax shelter entered into, or any interest acquired therein, on or before December 31, 2002, are contained in § 301.6112–1T in effect prior to December 31, 2002 (see 26 CFR part 301 revised as of April 1, 2002).

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: October 15, 2002.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 02–26726 Filed 10–17–02; 3:10 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–116]

RIN 2115–AE47

Drawbridge Operation Regulations; Passaic River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operation regulations that govern the Routes 1 & 9 (Lincoln Highway) Bridge, at mile 1.8, across the Passaic River at Newark, New Jersey. This temporary change to the drawbridge operation regulations will allow the bridge to remain in the closed position from 9 p.m. on Friday through 5 a.m. on Monday, for twelve weeks, beginning Friday, October 25, 2002 through Monday, January 13, 2003. This action is necessary to facilitate maintenance at the bridge.

DATES: This rule is effective from October 25, 2002 through January 13, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (CGD01–02–116) and are available for inspection or copying at the First Coast Guard District, Bridge Administration Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110–3350, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

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

The bridge deck is severely deteriorated and must be replaced with all due speed. The deck repairs must be performed on weekends because heavy vehicular traffic during the weekdays prohibits the necessary lane closures required to perform the deck repairs. The Coast Guard believes the weekend closures are reasonable because the bridge normally does not open during the months from October through January.

Due to the critical need to perform these emergency deck repairs, any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to perform these repairs.

Background and Purpose

The Route 1 & 9 (Lincoln Highway) Bridge has a vertical clearance of 40 feet at mean high water and 45 feet at mean low water. The existing regulations at 33 CFR 117.739(b) require the draw to open on signal after at least a four-hour advance notice is given.

The bridge owner, the New Jersey Department of Transportation, asked the Coast Guard to temporarily change the drawbridge operation regulations to allow the bridge to remain in the closed position on weekends from 9 p.m. on Friday through 5 a.m. on Monday, beginning Friday October 25, 2002 through January 13, 2003, to facilitate the replacement of the open grid deck at the bridge. The deck is severely deteriorated and must be replaced with all due speed. The work will be performed on weekends because vehicular traffic is extremely heavy during the weekdays, prohibiting the necessary lane closures required to perform the repair work. The bridge normally has no requests to open October through January. The Coast Guard believes the bridge closures are reasonable due to the critical need to repair the bridge decking and the lack of vessel traffic.

Discussion of Rule

In § 117.739 paragraph (b) will be suspended and a new paragraph (q) will be added to allow the Route 1 & 9 (Lincoln Highway) Bridge to remain in the closed position from 9 p.m. on Friday through 5 a.m. on Monday, from October 25, 2002 through January 13, 2003.

Regulatory Evaluation

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

This conclusion is based on the fact that the bridge has historically had no requests to open during the effective period of this temporary final rule.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the bridge has historically had no requests to open during the effective period of this temporary final rule.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

§ 117.739 [Amended]

2. From October 25, 2002 through January 13, 2003, in § 117.739, paragraph (b) is suspended and a new paragraph (q) is added, to read as follows:

§ 117.739 Passaic River.

* * * * *

(q) The draw of the Routes 1 & 9 (Lincoln Highway) Bridge, mile 1.8, at Newark, shall open on signal if at least a four-hour advance notice is given; except that, from 9 p.m. on Friday through 5 a.m. on Monday, from October 25, 2002 through January 13, 2003, the draw need not open for the passage of vessel traffic.

Dated: October 4, 2002.

J.L. Grenier,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 02–26719 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–092]

RIN 2115–AA97

Security Zone; Seabrook Nuclear Power Plant, Seabrook, New Hampshire

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent security zone around the Seabrook Nuclear Power Plant in Seabrook, New Hampshire. This security zone will close off public access to all land and waters within 250-yards of the waterside property boundary of the plant. This action is necessary to ensure public safety and prevent sabotage or terrorist acts. Entry into this security zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

DATES: This rule is effective November 15, 2002.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD01–02–092 and will be available for inspection or copying at Marine Safety Office Portland between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) R. F. Pigeon, Port Operations Department, Marine Safety Office Portland at (207) 780–3092.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 31, 2002, we published a notice of proposed rulemaking (NPRM) entitled ''Security Zone; Seabrook Nuclear Power Plant, Seabrook, NH'' in the **Federal Register** (67 FR 49643). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

This final rule will make permanent a temporary security zone entitled ''Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire'' published on December 31, 2001 in the **Federal Register** (66 FR 67487). That temporary rule established a security zone with identical boundaries to this rule. That temporary rule originally was effective until June 15, 2002. The effective period was extended until August 15, 2002 by a

rulemaking with the same title published on May 8, 2002 in the **Federal Register** (67 FR 30807). The effective date was further extended until November 15, 2002 by a rulemaking with the same title published on August 13, 2002 in the **Federal Register** (67 FR 52607).

Under 5 U.S.C. 553(d)(3), we find that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by the temporary final rule and this rule are intended to prevent possible terrorist attacks against the Seabrook Nuclear Power Plant and are needed to protect the facility, persons at the facility, the public and the surrounding communities from subversive activity, sabotage or possible terrorist attacks, either from the water or by access to the facility by utilizing public trust lands between the low and high water tide lines. Without an effective date for this rule of November 15, 2002, no measure would be in place to provide such protection for Seabrook Nuclear Power Plant, and another extension of the temporary rule would be required. Accordingly, in order to ensure continued protection of Seabrook Nuclear Power Plant, this rule must take effect upon expiration of the temporary rule.

Background and Purpose

On September 11, 2001, terrorists launched attacks on commercial and public structures (airplanes, the World Trade Center in New York and the Pentagon in Arlington, Virginia) killing large numbers of people and damaging properties of national significance. Based on warnings given by national security and intelligence officials that there is an increased risk that further subversive or terrorist activity may be launched against the United States, a permanent security zone is being established to safeguard the Seabrook Nuclear Power Plant, persons at the facility, the public and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. The Seabrook Nuclear Power Plant presents a possible target of terrorist attack due to the potential catastrophic impact nuclear radiation would have on the surrounding area, its large destructive potential if struck, and its proximity to a population center. This security zone prohibits entry into or movement within the specified area.

This final rule establishes a security zone in all land and waters within 250 yards of the waterside property boundary of Seabrook Nuclear Power Plant identified as follows: beginning at position 42°53′58″ N, 070°51′06″ W then running along the property boundaries of Seabrook Nuclear Power Plant to its position 42°53′46″ N, 070°51′06″ W. This final rule is necessary to provide permanent protection of the waterfront areas of the Seabrook Nuclear Power Plant.

No person or vessel may enter or remain in the prescribed security zone at any time without the permission of the Captain of the Port, Portland, Maine. Each person or vessel in a security zone shall obey any direction or order of the Captain of the Port or designated Coast Guard representative on-scene. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port.

Any violation of this security zone herein is punishable by, among others, civil penalties (not to exceed $25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than $250,000), in rem liability against the offending vessel, and license sanctions.

Discussion of Comments and Changes

No changes have been made to the rule as published in the notice of proposed rulemaking.

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 final rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary for the following reasons: there is ample room for vessels to navigate around the zone, notifications will be made to the local maritime community, and signs will be posted informing the public of the boundaries of the zone. No comments or letters have been received from the public or any governmental agencies concerning the temporary security zones currently in effect.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this final 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 final rule will not have a significant economic impact on a substantial number of small entities. For the reasons enumerated in the Regulatory Evaluation section above, we feel that this security zone will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.106 to read as follows:

§ 165.106 Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire.

(a) *Location.* The following area is a security zone: All land and waters within 250 yards of the waterside property boundary of Seabrook Nuclear Power Plant identified as follows: beginning at position 42°53′58″ N, 070°51′06″ W then running along the property boundaries of Seabrook Nuclear Power Plant to position 42°53′46″ N, 070°51′06″ W. All coordinates reference 1983 North American Datum (NAD 83).

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Portland, Maine (COTP).

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, Portland, Maine or designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state and federal law enforcement vessels.

(3) No person may swim upon or below the surface of the water within the boundaries of this security zone.

Dated: October 9, 2002.

M.P. O'Malley,

Commander, U.S. Coast Guard, Captain of the Port, Portland, Maine.

[FR Doc. 02–26818 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket WA–02–001; FRL–7397–1]

Finding of Attainment for PM_{10}; Wallula PM_{10} Nonattainment Area, Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has determined that the Wallula nonattainment area in Washington has attained the National Ambient Air Quality Standards for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers as of December 31, 2001, as required by the Clean Air Act.

DATES: This rule will become effective on November 21, 2002.

ADDRESSES: Copies of all information supporting this action are available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Pacific Standard Time at EPA Region 10, Office of Air Quality, 10th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, Office of Air Quality, EPA Region 10, 1200 Sixth Avenue, Seattle Washington, 98101, (206) 553–6706.

SUPPLEMENTARY INFORMATION:

I. Background

On September 3, 2002, EPA solicited public comment on a proposal to find that the Wallula nonattainment area had attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to 10 microns (PM_{10}) by the attainment date of December 31, 2001, as required by the Clean Air Act. *See* 67 FR 56249.

The Wallula area was designated nonattainment for PM_{10} and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act upon enactment of the Clean Air Act Amendments of 1990 (Act or CAA) with an attainment date of December 31, 2001. *See* 40 CFR 81.348 (PM_{10} Initial

Nonattainment Areas); *see also* 56 FR 56694 (November 6, 1991). EPA later granted the area a temporary waiver of the moderate area attainment date, which extended the attainment date to December 31, 1997. *See* 62 FR 3800 (January 27, 1997).

On February 9, 2001, EPA made a final determination that the Wallula area had not attained the PM_{10} standard by the moderate area attainment date of December 31, 1997. *See* 66 FR 9663 (February 9, 2001) (final action); (65 FR 69275 (November 16, 2000) (proposed action). EPA made this determination based on air quality data for calendar years 1995, 1996, and 1997. As a result of that finding, the Wallula PM_{10} nonattainment area was reclassified by operation of law as a serious PM_{10} nonattainment area effective March 12, 2001, with an attainment date of December 31, 2001. *See* sections 188(b)(2)(A) and 188(c)(2).

Pursuant to sections 179(c) of the CAA, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM_{10} nonattainment areas attained the PM_{10} NAAQS by the attainment date. Determinations under section 179(c)(1) of the Act are to be based upon the area's ''air quality as of the attainment date.'' Three consecutive years of air quality data are generally required to show attainment of the annual and 24-hour standards for PM_{10}. *See* 40 CFR part 50 and appendix K.

As discussed in the proposal, the Wallula monitor recorded no violations of the annual PM_{10} standard for the three-year period from 1999 though 2001. EPA therefore proposed to determine that the Wallula area attained the annual PM_{10} standard as of the serious area attainment date of December 31, 2001. *See* 67 FR 56250.

With respect to the 24-hour PM_{10} standard, there were two exceedences of the 24-hour PM_{10} standard recorded at the Wallula monitor during the period of 1999 through 2001: A concentration of 297 $\mu g/m^3$ on June 23, 1999, and a concentration of 215 $\mu g/m^3$ on August 10, 2000.[1] Washington flagged both of these exceedances as attributable to high wind ''natural events.'' Under section 107(d)(4)(B)(ii) of the CAA and 40 CFR part 50, appendix K, section 2.4, specific exceedances due to uncontrollable natural events, such as unusually high winds, may be discounted or excluded entirely from decisions regarding an area's air quality status in appropriate circumstances. *See* Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled ''Areas Affected by Natural Events,'' dated May 30, 1996 (EPA's Natural Events Policy). EPA has stated that it will treat ambient PM_{10} exceedances caused by dust raised by unusually high winds as due to uncontrollable natural events (and thus excludable from attainment determinations) if either (1) the dust originated from nonanthropogenic sources or (2) the dust originated from anthropogenic sources controlled with best available control measures (BACM). *See* Natural Events Policy, pp. 4–5.

As discussed in detail in the proposal, based on information submitted by Washington and other information available to EPA, EPA proposed to find that the exceedances that occurred on June 23, 1999 and August 10, 2000, as well as two previous exceedances on June 21, 1997 and July 10, 1998 (which had also been flagged by Washington as high wind events), qualify as high wind natural events under EPA's Natural Events Policy. Therefore, EPA proposed to exclude the 1999 and 2000 exceedences from consideration in determining whether the Wallula PM_{10} nonattainment area attained the 24-hour as of December 31, 2001 and to find that the area had attained the 24-hour PM_{10} standard as of that date. *See* 67 FR 56250–56252. EPA noted, however, that identification and application of BACM for agricultural lands is evolving and that EPA expects Washington to continue efforts in identifying and implementing BACM on sources of agricultural windblown dust in the Wallula area in order for future exceedances caused by high winds to be characterized as ''natural events'' and excluded in attainment determinations. *See* 67 FR 56252. EPA received no comments in response to its September 3, 2002 proposal.

II. Final Action

EPA has determined that the Wallula PM_{10} nonattainment area attained the PM_{10} NAAQS as of the serious area attainment date of December 31, 2001 and that the exceedances that occurred on June 21, 1997, July 10, 1998, June 23, 1999, and August 10, 2000 qualify as high wind natural events under EPA's Natural Events Policy.

Consistent with CAA section 188, the Wallula nonattainment area will remain a serious PM_{10} nonattainment area, but will avoid the additional planning requirements that apply to serious PM_{10} nonattainment areas that fail to meet the attainment date under section 189(d) of the CAA. This finding of attainment should not be confused with a redesignation to attainment under CAA section 107(d). Washington has not submitted a serious area plan for the Wallula area that meets the requirements of section 189(b) of the CAA. In addition, Washington has not submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignations to attainment. The designation status in 40 CFR part 81 will remain serious nonattainment for the Wallula PM_{10} nonattainment area until such time as Washington meets the CAA requirements for redesignations to attainment.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely makes a determination based on air quality data and does not impose any requirements. Accordingly, the Administrator certifies that this finding 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 finding does not impose any 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 finding also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely makes a determination based on air quality data and does not alter the relationship or the distribution of power

[1] Because the Wallula monitor is scheduled to sample only once every six days, each measured exceedance is generally counted as six expected exceedances and would generally represent a violation of the 24-hour PM_{10} standard.

and responsibilities established in the Clean Air Act. This finding also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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 because this action does not involve technical standards. This finding does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 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* CAA section 307(b)(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: October 10, 2002.

Ronald A. Kreizenbech,

Acting Regional Administrator, Region 10.

[FR Doc. 02–26847 Filed 10–21–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2508; MB Docket No. 02–105; RM–10396]

Radio Broadcasting Services; Boonville, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 67 FR 39935 (June 11, 2002), this document substitutes Channel 300A for the vacant Channel 241A allotment at Boonville, California, thus allowing Station KRSH(FM) to increase its power to maximum Class A (equivalent) FM facilities on Channel 240A at Healdsburg, California. The coordinates for Channel 300A at Boonville are 39–01–33 North Latitude and 123–29–33 West Longitude, with a site restriction of 11.2 kilometers (7 miles) west of Boonville.

DATES: Effective November 19, 2002.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–105, adopted September 25, 2002, and released October 4, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202 863–2893. facsimile 202 863–2898, or via e-mail: *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 300A at Boonville, and removing Channel 241A at Boonville.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–26775 Filed 10–21–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2507; MB Docket No.02–185; RM–10463]

Radio Broadcasting Services; Balmorhea, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 283C to Balmorhea, Texas, in response to a petition filed by Linda Crawford. *See* 67 FR 50850, August 6, 2002. The coordinates for Channel 283C at Balmorhea are 31–08–42 and 103–36–54. There is a site restriction 21.7 kilometers (13.5 miles) northeast of the community. Concurrence of the Mexican Government has been received for the allotment of Channel 283C at Balmorhea. With this action, this proceeding is terminated. A filing window for Channel 283C at Balmorhea will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

DATES: Effective November 18, 2002.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MB Docket No. 02–185, adopted September 25, 2002, and released October 4, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 863–2893, facsimile (202) 863–2898, or via e-mail: *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Balmorhea, Channel 283C.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–26776 Filed 10–21–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2224; MM Docket No. 00–18, RM–9790]

Radio Broadcasting Services; Barnwell, SC, and Douglas, East Dublin, Pembroke, Pulaski, Statesboro, Swainsboro, Twin City, and Willacooche, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule; grant of petition for reconsideration.

SUMMARY: This document grants a Petition for Reconsideration filed by Multi-Service Corporation Small directed to the *Report and Order* in this proceeding which substituted Channel 257C1 for Channel 256C3 at Barnwell, South Carolina, reallotted Channel 257C1 to Pembroke, Georgia, and modified the license of Station WBAW to specify operation on Channel 257C1 at Pembroke. The *Report and Order* also allotted Channel 256C3 to Barnwell as a replacement service. *See* 66 FR 55596, November 2, 2001. Specifically, this document modified the Report and Order to the extent of withholding program test authority for the Channel 257C1 allotment in Pembroke until the ultimate permittee of the Channel 256C3 allotment at Barnwell commences operation. With this action, the proceeding is terminated.

DATES: Effective October 22, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 00–18, adopted September 4, 2002, and released October 4, 2002. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals ll, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualixint@aol.com.*

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–26778 Filed 10–21–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2002–12065]

RIN 2127–AI88

Federal Motor Vehicle Safety Standards; Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: This document amends our child restraint standard to facilitate the safe transportation of preschool and special needs children through the manufacture and use of vests that hold the children in place during a crash. Vests and other types of child restraints are currently prohibited by the standard from having any means designed for attaching the system to a vehicle seat back. Effective immediately, all vests that are manufactured for use on school bus seats are excluded from the prohibition. Effective February 1, 2003, the exclusion is limited to the vests that bear a warning label informing users that the vest must be used only on school bus seats, and that the entire seat directly behind the child wearing the seat-mounted vest must be either unoccupied or occupied by restrained passengers. The agency also requests comments on this amendment.

This document responds to a petition for rulemaking from a vest manufacturer. NHTSA has determined that the requested amendment would facilitate the safe transportation of preschool and special needs children.

NHTSA is making the amendment final by this document on an interim basis because of the pressing need to permit, early in the school year, the manufacture and sale of restraints that can be used to transport these children. The exclusion terminates on December 1, 2003. After reviewing the comments received on this document, NHTSA will decide whether to exclude these vests from the prohibition on a permanent basis.

DATES: This rule is effective October 22, 2002 and expires on December 1, 2003. Comments must be received by December 23, 2002.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document. You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Mr. Tewabe Asebe, Office of Rulemaking, NVS–113, telephone (202) 366–2365. For legal issues: Ms. Deirdre Fujita, Office of Chief Counsel, NCC–112, telephone (202) 366–2992. Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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V. Submission of Comments

I. Introduction

This document amends Standard No. 213, ''Child Restraint Systems'' (49 CFR § 571.213), to modify S5.3.1 of the standard on an interim basis. This document also solicits comments on this amendment.

This rulemaking involves a type of child restraint system that is commonly known as a ''vest.'' A vest restraint system consists primarily of flexible material, such as straps, webbing or similar material, and that does not include a rigid seating structure for the child. Vest restraints are also called ''harnesses.'' Standard No. 213 uses the term ''harness'' in specifying requirements for this type of child restraint system. We consider the terms ''vest'' and ''harness'' to be interchangeable. We use the term ''vest'' in this notice to the extent that a manufacturer uses the term in naming its product, or when a member of the public uses the term to describe a restraint. In the regulatory text for this interim final rule, we have a definition of ''harness,'' since ''harness'' is already used in the standard rather than ''vest.'' Again, however, the terms are synonymous.

II. Background

On August 31, 2001, NHTSA issued a letter to Ms. Kathy Durkin (Hold Me Tight Products), interpreting Standard No. 213 with respect to a passenger support vest for use on school buses. Ms. Durkin had asked whether her product was a child restraint. The product was a vest that had straps that ''wrap the seat back and are independent of the seat belt.'' In the course of explaining that the product was a ''child restraint system'' subject to the standard, NHTSA discussed S5.3.1, which states: ''Except for components designed to attach to a child restraint anchorage system, each add-on child restraint system shall not have any means designed for attaching the system to a vehicle seat cushion or vehicle seat back * * *.'' Child restraints are prohibited from attaching to the vehicle seat back because they will load the seat back in a crash. The seat back might not be able to withstand the additional load applied to it by an attached, occupied child restraint. NHTSA concluded the letter by stating that child restraints that are designed to attach to a vehicle seat back do not meet S5.3.1.

After it issued the interpretation letter, NHTSA was informed by many school districts and school bus operators that they were already using products that wrap around the vehicle seat back (''seat-mounted vests''). They told NHTSA that the vests were widely used to transport many different populations of children, including preschoolers,[1] children who need help sitting upright, and children who need to be physically restrained because of physical or behavioral needs. The vests were popular with the pupil transportation administrators and operators because the restraints do not use a seat belt to attach to the vehicle. Thus, they can be used on large, compartmentalized school buses notwithstanding the absence of seat belts. (Compartmentalization provides passenger crash protection without the need for seat belts by surrounding passengers with sturdy, high-backed and well-padded seats.) The administrators and operators said that if seat-mounted vests were unavailable, they would have great difficulty in transporting their children. They might have to replace some of the bus seats in their fleet with seats that have belts, purchase additional school buses, or purchase conventional child safety seats (and train personnel on installing them and find storage space for storing them), all at considerable cost. Some indicated that if seat-mounted vests were unavailable, they might not restrain their children with any kind of child restraint system at all.

On March 4, 2002, Ms. Constance S. Murray, president of E–Z–ON, submitted a petition for rulemaking requesting NHTSA to amend S5.3.1 of Standard No. 213 to allow the manufacture and sale of seat-mounted vests for school buses. Petitioner informed NHTSA that E–Z–ON has been selling its seat-mounted vest, the Camwrap, since 1982. E–Z–ON estimated that between January 1, 1988 and June 25, 2002, it sold more than 230,000 Camwraps.

Petitioner stated that school districts and pupil transporters that have purchased seat-mounted vests are in danger of losing funds and incurring additional costs because of the vests' inability to meet S5.3.1, even though the industry ''has used Seat-Mounted Safety Vests and Harnesses to safely transport children of all sizes and physical and behavioral needs. * * * Seat-Mounted CRS [child restraint systems] offer a safe, easy and affordable way to add upper body support and safe restraint to children on school buses.'' Petitioner also submitted a document that summarized the results of an on-line survey that E–Z–ON apparently conducted to assess respondents' use of seat-mounted vests or harnesses in school buses, respondents' knowledge of a school bus crash in which a seat-mounted vest or harness was being used and whether a child properly secured in a seat-mounted vest or harness was seriously injured, and whether seat-mounted vests or harnesses should be ''removed from school buses.'' (Petitioner did not explain the methodology of the survey, *e.g.*, who was contacted to respond, selection of respondents, etc., and did not provide the actual results.) According to the petitioner, there were 61 respondents, 54 of whom currently use seat-mounted vests or harnesses in school buses. Petitioner stated that four had personal knowledge of a school bus crash in which a seat-mounted vest or harness was used and that there were no injuries reported or described.

Subsequent to NHTSA's receipt of the petition, a number of pupil transporters wrote identical ''petitions'' to NHTSA in support of that of E–Z–ON. These were Joy E. Winnie, Marlon Carter, Richard Rodriquez, Marcia Hahn, and Kathy Potts. Copies of all of these petitions have been placed in the docket.

III. Issues

a. Safety

NHTSA believes that sanctioning the manufacture and sale of seat-mounted vests for use on school buses will enhance the safe transportation of preschool and special needs children, provided that certain conditions are met to ensure that the seat back would not be overloaded and subject to failure. These conditions are that the entire school bus seat directly rearward of a child restrained in a seat-mounted vest is vacant or occupied by restrained children. This interim final rule is premised on those conditions being met by way of a warning label on the vests, informing school administrators and school bus drivers about those conditions.

Between 1996 and 1998, the agency conducted a series of sled tests on safety vests at the agency's Vehicle Research and Test Center (VRTC). The tests were conducted as part of the research program that developed the agency's guideline for safely transporting preschool age children in school buses (footnote 1, supra). The testing program evaluated the performance of E–Z–ON's Camwrap (a seat-mounted vest) and other restraints. A summary report of the tests titled: ''School Bus Compartmentalization and Preschool

[1] NHTSA recommends that preschool age children transported in school buses be transported in child restraint systems. ''Guideline for the Safe Transportation of Pre-School Age Children in School Buses,'' NHTSA, February 1999.

Age Transportation—Vest and Harness Test Results'' is available in Docket NHTSA–1998–4573–51.

The tests were conducted using the FMVSS No. 213 crash pulse (30 mile per hour (mph) velocity change with a peak acceleration of 24 g). This pulse represented a 30 mph small school bus crash with a vehicle of comparable mass traveling at the same speed. Hybrid II 3-year-old child dummies were restrained in the vests in a front school bus bench seat (front row), with Hybrid III 50th percentile male dummies seated in a bench seat immediately behind the front row (''second row''). The male dummies weighed approximately 172 pounds. The male dummies in the second row were belted in some tests, and unbelted in others. The Camwrap was wrapped around the school bus seat back (per E–Z–ON's installation instructions). The vests performed adequately when the male dummies in the second row were belted. Head injury criterion (HIC) values for the 3-year-old dummies restrained in the vests were below 800. However, in the tests with the unbelted male dummies, the HIC values for three out of four child dummies were above 1000. The seats were standard non-reinforced school bus seats. The test results are summarized in the table below:

VRTC TEST RESULTS FOR HIC VALUES FOR HYBRID II 3-YEAR-OLD DUMMIES RESTRAINED BY HARNESSES WITH CAMWRAP

Rear seat 50th percentile male dummies	Standard school bus seat spacing (inches)	Dummy seating position (HIC values)	
		Aisle	Sidewall
Unbelted	20	1460	2137
	24	1381	483
Belted	20	722	794
	24	219	185

b. Amendments

The VRTC test data indicate that seat-mounted vests can be a suitable means of restraining children on school buses, provided that the seats behind a child restrained in the vest are empty or are occupied by restrained passengers.[2] NHTSA believes that school bus operators and bus transportation administrators can exercise sufficient oversight over the seating of children on school buses to ensure that these seats are empty or that their occupants are restrained.

This rule therefore excludes vests (harnesses) manufactured and sold for use on school bus seats from the requirement of S5.3.1, thereby sanctioning the manufacture and sale of seat-mounted vests for pupil and Head Start transportation. Effective February 1, 2003, the devices must bear a permanent warning label to be excluded. See Figure 12, infra. The label must be placed on the part of the restraint that attaches the vest to the vehicle seat back, and must be visible when the harness is installed. It must contain a pictogram and the following statements: ''WARNING! This restraint must only be used on school bus seats. Entire seat directly behind must be unoccupied or have restrained occupants.'' Comments are requested on the requirements for the label.

The label must state that the restraint is manufactured for use only on ''school bus seats'' rather than on ''school buses.'' A final rule issued by the Department of Health and Human Services on January 18, 2001 (66 FR 5296) requires Head Start agencies to transport Head Start children in vehicles built to Federal school bus structural standards beginning in 2006. These vehicles must be school buses, or alternate vehicles that have all the structural features of a school bus except for certain school bus crash avoidance features (*e.g.*, the flashing lights and stop arms of a school bus). The reference in today's rule to ''school bus seats'' accommodates the possible use of seat-mounted vests on these alternate vehicles, which are not school buses, but which have school bus seats. A school bus seat is a seat in a vehicle that meets FMVSS No. 222, ''School Bus Seating and Crash Protection'' (49 CFR 571.222).

To implement the exclusion, we are adding a definition of ''harness'' to the standard. The definition of a harness is ''a combination pelvic and upper torso child restraint system that consists primarily of flexible material, such as straps, webbing or similar material, and that does not include a rigid seating structure for the child.'' In developing the definition, we considered the definition of a Type 3 seat belt assembly that Standard No. 209 once had.[3] The definition was as follows: ''a combination pelvic and upper torso restraint for persons weighing not more than 50 pounds or 23 kilograms and capable of sitting upright by themselves, that is children in the approximate range of 8 months to 6 years.'' As noted previously, we consider the term ''harness,'' to be interchangeable with the term ''vest,'' which is commonly used to describe seat-mounted restraints.

This rule also makes several other amendments to Standard No. 213 relating to the exclusion. It amends S5.3.2 and an accompanying table in Standard No. 213, which specify the means by which child restraint systems must be capable of being attached to a vehicle seat. The table in S5.3.2 is modified to provide that harnesses designed for use on school bus seats be capable of attaching to the bus seat by a seat mount. This interim final rule also amends the table to S5.1.3.1(a) of the standard, which specifies the head and knee excursion requirements that add-on child restraints must meet. The table showed that harnesses must meet the requirements when attached to the test seat assembly using a lap belt and tether. The table is amended for harnesses for use on school bus seats, to show that these restraints are attached to the seat assembly using the harness's seat back mount.

In addition, the dynamic test procedures of the standard are amended to specify procedures for testing seat-mounted harnesses. The procedures had reflected attachment of add-on child restraints by a lap belt, lap belt and tether, lap and shoulder belt, and child restraint anchorage system. Seat-

[2] This amendment affects seat-mounted vests that are recommended for children weighing up to 50 pounds (maximum weight limit covered by Standard No. 213). E–Z–On states that its vest is designed for children and adults who weigh between 20 and 164 pounds. Our test data do not address the performance of seat-mounted vests when restraining children above 40 pounds.

[3] The definition was removed in 1981, when the requirements for child harnesses were moved to Standard No. 213.

mounted harnesses are not attached by those means. Accordingly, S6.1.2(a)(1)(i)(A) and S6.1.2(d)(1)(ii) are revised to include specifications appropriate for the manner in which seat-mounted harnesses are attached. Comments are requested on these revisions.

This rule also amends Standard No. 213 by adding a requirement (S5.6.1.11) that beginning February 1, 2003, the printed instructions accompanying these harnesses must include the warning statements described above. (These statements are: ''WARNING! This restraint must only be used on school bus seats. Entire seat directly behind must be unoccupied or have restrained occupants.'') The purpose of this requirement is to increase the likelihood that the seat back will not be overloaded during a frontal crash by unrestrained passengers sitting in the seat immediately behind the child restrained in a harness.

c. Interim Final Justification

This amendment will relieve a restriction currently imposed by Standard No. 213 and will facilitate the transportation of preschool and special needs children. With the start of the new school year, many pupil transportation administrators need to transport preschool, Head Start and special needs children on school buses. For many administrators, there is no reasonable alternative to restraining these children other than by means of seat-mounted vests. Various pupil transportation administrators have stated that they will not use the seat-mounted vests that they have already purchased unless and until the standard is amended. Others want to purchase new seat-mounted vests to restrain these children, but will not do so unless the standard is amended. Accordingly, NHTSA has determined that it is in the public interest to make the changes effective immediately on an interim basis (until December 1, 2003). After reviewing the comments received on this document, NHTSA will decide whether to amend the standard permanently.

IV. Rulemaking Analyses and Notices

a. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be ''nonsignificant'' under the Department of Transportation's regulatory policies and procedures. The agency concludes that the impacts of the amendments are so minimal that preparation of a full regulatory evaluation is not required. The rule will not impose any new requirements or costs on manufacturers, but instead will permit manufacturers to produce a type of harness if the harness bears a label regarding how the restraint should be used.

b. Regulatory Flexibility Act

NHTSA has also considered the impacts of this document under the Regulatory Flexibility Act. I hereby certify that this rule does not have a significant economic impact on a substantial number of small entities. The rule will not impose any new requirements or costs on manufacturers, but instead will permit manufacturers to produce a type of harness if the harness bears a label regarding how the restraint should be used. NHTSA has learned of two harness restraint manufacturers, both of which are small businesses. The agency believes that this rule will not have a significant impact on these businesses. Adding a warning label to the harness strap would cost approximately eight cents per device. This rule enables the sale of seat-mounted harnesses to school districts and to other pupil transportation providers. Since the cost of the label is minimal, purchasers will not be substantially affected by the rule.

c. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This rule does not contain any collection of information requirements requiring review under the Paperwork Reduction Act.

d. National Environmental Policy Act

NHTSA has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

e. Executive Order 13132 (Federalism)

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

We have analyzed this interim rule in accordance with the principles and criteria set forth in Executive Order 13132 and have determined that this rule does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The rule will not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

f. Civil Justice Reform

This rule will not have any retroactive effect. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule will not preempt the states from adopting laws or regulations on the same subject, except that it will preempt a state regulation that is in actual conflict with the Federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

g. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling

procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The agency searched for, but did not find any voluntary consensus standards relevant to this final rule.

h. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $ 100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted. This interim final rule will not impose any unfunded mandates under the Unfunded Mandates Reform Act of 1995. This rule will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

V. Submission of Comments

How Can I Influence NHTSA's Thinking on This Rule?

In developing this interim final rule, we tried to address the concerns of all our stakeholders. Your comments will help us improve this rulemaking action. We invite you to provide different views on the approaches we adopted, new approaches we haven't considered, new data, how this interim rule may affect you, or other relevant information. We welcome your views on all aspects of this interim final rule, but request comments on specific issues throughout this document. Your comments will be most effective if you follow the suggestions below:

—Explain your views and reasoning as clearly as possible.
—Provide solid technical and cost data to support your views.
—If you estimate potential costs, explain how you arrived at the estimate.
—Tell us which parts of the interim final rule you support, as well as those with which you disagree.
—Provide specific examples to illustrate your concerns.
—Offer specific alternatives.
—Refer your comments to specific sections of the document, such as the units or page numbers of the preamble, or the regulatory sections.
—Be sure to include the name, date, and docket number with your comments.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR § 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web Site at Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (http://dms.dot.gov/search/), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–2002–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further,

some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as set forth below.

1. The authority citation for Part 571 continues to read as follows:

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

§ 571.213 [Amended]

2. Section 571.213 is amended by:

(a) Amending S4 by adding, in alphabetical order, a definition of ''harness'';

(b) Revising the ''Table to S5.1.3.1(a)-Add-On Forward-Facing Child Restraints,'' and revising S5.3.1 and S5.3.2 (including the table in S5.3.2);

(c) Adding S5.6.1.11;

(d) Revising S6.1.2(a)(1)(i)(A) and S6.1.2(d)(1)(ii); and

(e) Adding Figure 12 at the end of § 571.213.

The revised and added sections read as follows:

§ 571.213 Standard No. 213

* * * * *

S4. *Definitions.*

* * * * *

Harness means a combination pelvic and upper torso child restraint system that consists primarily of flexible material, such as straps, webbing or similar material, and that does not include a rigid seating structure for the child.

* * * * *

S5.1.3.1 * * *

TABLE TO S5.1.3.1(A)—ADD-ON FORWARD-FACING CHILD RESTRAINTS

When this type of child restraint	Is tested in accordance with—	These excursion limits apply	**Explanatory note:** In the test specified in 2nd column, the child restraint is attached to the test seat assembly in the manner described below, subject to certain conditions
Harnesses, backless booster seats and restraints designed for use by physically handicapped children.	S6.1.2(a)(1)(i)(A)	Head 813 mm; Knee 915 mm	Attached with lap belt; in addition, it a tether is provided, it is attached.
Harnesses labeled per S5.3.1(b)(1) through S5.3.1(b)(3) and Figure 12.	S6.1.2(a)(1)(i)(A)	Head 813 mm; Knee 915 mm	Attached with seat back mount.
Belt-positioning seats	S6.1.2(a)(1)(ii)	Head 813 mm; Knee 915 mm	Attached with lap and shoulder belt; no tether is attached.
All other child restraints, manufactured before September 1, 1999.	S6.1.2(a)(1)(i)(B)	Head 813 mm; Knee 915 mm	Attached with lap belt; no tether is attached.
All other child restraints, manufactured on or after September 1, 1999.	S6.1.2(a)(1)(i)(B)	Head 813 mm; Knee 915 mm	Attached with lap belt; no tether is attached.
	S6.1.2(a)(1)(i)(D) (beginning September 1, 2002).		Attached to lower anchorages of child restraint anchorage system; no tether is attached.
	S6.1.2(a)(1)(i)(A)	Head 720 mm; Knee 915 mm	Attached with lap belt; in addition, if a tether is provided it is attached.
	S6.1.2(a)(1)(i)(C) (beginning September 1, 2002).		Attached to lower anchorages of child restraint anchorage system; in addition, if a tether is provided, it is attached.

* * * * *

S5.3.1 Add-on child restraints shall meet either (a) or (b), as appropriate.

(a) Except for components designed to attach to a child restraint anchorage system, each add-on child restraint system must not have any means designed for attaching the system to a vehicle seat cushion or vehicle seat back and any component (except belts) that is designed to be inserted between the vehicle seat cushion and vehicle seat back. Harnesses manufactured before February 1, 2003 that are manufactured for use on school bus seats are excluded from S5.3.1(a).

(b) Harnesses manufactured on or after February 1, 2003, but before December 1, 2003, for use on school bus seats must meet S5.3.1(a) of this standard, unless a label that conforms in content to Figure 12 and to the requirements of S5.3.1(b)(1) through S5.3.1(b)(3) of this standard is permanently affixed to the part of the harness that attaches the system to a vehicle seat back. Harnesses that are not labeled as required by this paragraph must meet S5.3.1(a).

(1) The label must be plainly visible when installed and easily readable.

(2) The message area must be white with black text. The message area must be no less than 20 square centimeters.

(3) The pictogram shall be gray and black with a red circle and slash on a white background. The pictogram shall be no less than 20 mm in diameter.

S5.3.2 Each add-on child restraint system shall be capable of meeting the requirements of this standard when installed solely by each of the means indicated in the following table for the particular type of child restraint system:

Type of add-on child restraint system	Means of Installation				
	Type 1 seat belt assembly	Type 1 seat belt assembly plus a tether anchorage, if needed	Child restraint anchorage system (effective September 1, 2002)	Type II seat belt assembly	Seat back mount
Harness labeled per S5.3.1(b)(1) through S5.3.1(b)(3) and Figure 12					X
Other harnesses		X			
Car beds	X				
Rear-facing restraints	X		X		
Belt-positioning seats				X	
All other child restraints	X	X	X		

* * * * *

S5.6.1.11 For harnesses that are manufactured on or after February 1, 2003, but before December 1, 2003, for use on school bus seats, the instructions must include the following statements:

WARNING! This restraint must only be used on school bus seats. Entire seat directly behind must be unoccupied or have restrained occupants.

* * * * *

S6.1.2 Dynamic test procedure.

(a) * * *

(1) * * *

(i) * * *

(A) Install the child restraint system at the center seating position of the standard seat assembly, in accordance with the manufacturer's instructions provided with the system pursuant to S5.6.1, except that the standard lap belt is used and, if provided, a tether strap may be used. For harnesses that bear the label shown in Figure 12 and that meet S5.3.1(b)(1) through S5.3.1(b)(3), attach the harness in accordance with the manufacturer's instructions provided with the system pursuant to S5.6.1, *i.e.*, the seat back mount is used.

* * * * *

(d) * * *

(1) * * *

(ii) All Type 1 belt systems used to attach an add-on child restraint system to the standard seat assembly, and any provided additional anchorage belt (tether), are tightened to a tension of not less than 53.5 N and not more than 67 N, as measured by a load cell used on the webbing portion of the belt. All belt systems used to attach a harness that bears the label shown in Figure 12 and that meets S5.3.1(b)(1) through S5.3.1(b)(3) are also tightened to a tension of not less than 53.5 N and not more than 67 N, by measurement means specified in this paragraph.

* * * * *

BILLING CODE 4910–59–P

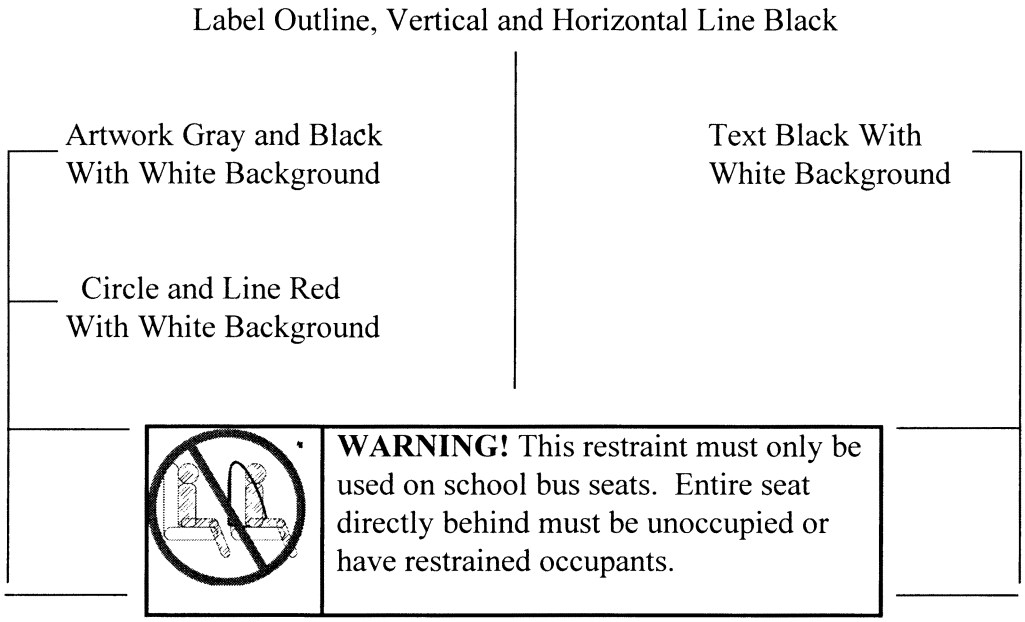

Figure 12. Label on Harness Component That Attaches to School Bus Seat Back.

Issued on October 16, 2002.

Annette M. Sandberg,

Deputy Administrator.

[FR Doc. 02–26824 Filed 10–17–02; 4:00 pm]

BILLING CODE 4910–59–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011004242–2005–02; I.D. 101102E]

Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Quota Harvested for Maine Mahogany Quahog Fishery

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

ACTION: Commercial quota harvested for Maine mahogany quahog.

SUMMARY: NMFS announces that the annual quota for the Maine mahogany quahog fishery has been harvested. Commercial vessels operating under a Maine mahogany quahog permit may not harvest Maine mahogany quahogs from the Maine mahogany quahog zone for the remainder of the fishing year (through December 31, 2002). Regulations governing the Maine mahogany quahog fishery require publication of this notification to advise the public of this closure.

DATES: Effective 0001 hrs local time, October 24, 2002, through 2400 hrs local time, December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Douglas W. Christel, 978–281–9141; fax 978–281–9135; e-mail *Douglas.Christel@noaa.gov*.

SUPPLEMENTARY INFORMATION: The regulations governing the Maine mahogany quahog fishery appear at 50 CFR part 648. The regulations establish the annual quota for the harvest of mahogany quahogs within the Maine mahogany quahog zone at 100,000 Maine bushels (35,150 hL). The quota may be revised annually by the Mid-Atlantic Fishery Management Council (Council) within the range of 17,000 and 100,000 Maine bu (5,975 and 35,150 hL, respectively). The Maine mahogany quahog zone is defined as the area bounded on the east by the U.S.-Canada maritime boundary, on the south by a straight line at 43 50' N. lat., and on the north and west by the shoreline of Maine.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial Maine mahogany quahog quota for each fishing year using dealer and other available information to determine when the quota is projected to have been harvested. NMFS is required to publish a notification in the **Federal Register** notifying commercial vessel permit holders that, effective upon a specific date, the Maine mahogany quahog quota has been harvested and no commercial quota is available for harvesting mahogany quahogs by vessels possessing a Maine mahogany quahog permit for the remainder of the year, from within the Maine mahogany quahog area.

The Regional Administrator has determined, based upon dealer reports and other available information, that the 2002 Maine mahogany quahog quota has been harvested. Therefore, effective 0001 hrs local time, October 24, 2002, further landings of Maine mahogany quahogs harvested from within the Maine mahogany quahog area by vessels possessing a Maine mahogany quahog Federal fisheries permit are prohibited through December 31, 2002. The 2003 fishing year for Maine mahogany quahog harvest will open on January 1, 2003.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: October 15, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–26694 Filed 10–16–02; 3:59 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 101002A]

Fisheries of the Northeastern United States; Tilefish Fishery; Continuation of Specifications for the 2003 Fishing Year

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

ACTION: Notification of continuation of specifications.

SUMMARY: NOAA Fisheries announces that it will continue the 2002 quota specifications for the golden tilefish fishery for the 2003 fishing year. Accordingly, the total allowable landings (TAL) for the 2003 fishing year will remain at 1.995 million lb (905,172 kg). The intent of this action is to notify the public that there will be no change in the fishery specifications for tilefish for the fishing year beginning November 1, 2002.

DATES: Effective from November 1, 2002, through October 31, 2003.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NOAA Fisheries, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Continuation of Specifications for the Golden Tilefish Fishery.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Doug Christel, 978–281–9141; fax 978–281–9135; e-mail *Douglas.Christel@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The final rule implementing the Tilefish Fishery Management Plan (FMP) became effective on November 1, 2001 (66 FR 49136, September 26, 2001). Pursuant to the tilefish regulations at 50 CFR 648.290, the Tilefish FMP Monitoring Committee (Monitoring Committee) will meet after the completion of each stock assessment, or at the request of the Mid-Atlantic Fishery Management Council (Council) Chairman, to review tilefish landings information and any other relevant available data to determine if the annual quota requires modification to respond to changes to the stock's biological reference points or to ensure that the rebuilding schedule is maintained. Additional management measures or revisions to existing measures could also be considered at this time to ensure that the TAL would not be exceeded. Furthermore, up to 3 percent of the TAL could be set aside for a given fishing year for the purpose of funding research. In the event that a new stock assessment was not completed or the Council Chairman does not request that the Monitoring Committee meet, the regulations further specify that the previous year's specifications will remain effective and that NOAA Fisheries will issue notification in the **Federal Register** informing the public of such.

A new tilefish stock assessment is not scheduled to occur until 2004, and the

Council Chairman did not request that the Monitoring Committee meet to determine if the annual quota requires modification to respond to stock conditions. Furthermore, the Council voted on October 3, 2002, not to establish a research set-aside allocation for the upcoming fishing year. Therefore, NOAA Fisheries informs the public that the 2002 quota specifications of 1.995 million lb (905,172 kg) for the golden tilefish fishery will remain in effect for the 2003 fishing year (November 1, 2002, through October 31, 2003). Thus, 2002 TAL allocations for each Federal tilefish permit category will remain in effect for the 2003 fishing year.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et. seq.

Dated: October 16, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–26871 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020402077–01; I.D. 101502B]

Fisheries Off West Coast States and in the Western Pacific;Pacific Coast Groundfish Fishery; Whiting Closure for the Catcher/Processor Sector

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces closure of the 2002 catcher/processor fishery for Pacific whiting (whiting) at 0000 local time (l.t.) October 16, 2002, because the allocation for the catcher/processor sector will be reached by that time. This action is intended to keep the harvest of whiting within the 2002 allocation levels.

DATES: Effective from 0000 l.t. October 16, 2002, until the start of the 2003 primary season for the catcher/processor sector, unless modified, superseded or rescinded in which case it will be announced in the **Federal Register**. Comments will be accepted through November 6, 2002.

ADDRESSES: Submit comments to D. Robert Lohn, Administrator,

Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206–526–6110

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On April 15, 2002 (67 FR 18117), the levels of allowable biological catch (ABC), the optimum yield (OY) and the commercial OY (the OY minus the tribal allocation) for U.S. harvests of whiting were announced in the **Federal Register**. For 2002, the whiting ABC is 166,000 metric tons (mt), the OY is 129,600 mt, and the commercial OY is 106,920 mt.

Regulations at 50 CFR 660.323(a)(4) divide the commercial OY into separate allocations for the non-tribal catcher/processor, mothership, and shore-based sectors of the whiting fishery. The catcher/processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships, and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest. The shoreside sector is composed of vessels that harvest whiting for delivery to shoreside processors. Each of these sectors receives a portion of the commercial OY. In 2001, the catcher/processors received 34 percent, motherships received 24 percent, and the shore-based sector received 42 percent. When applied to the commercial OY for 2002, this resulted in the following allocations: 36,353 mt for the catcher/processors, 25,661 mt for the motherships, and 44,906 mt for the shore-based sector.

Regulations at 50 CFR 660.323(a)(3)(i) describe the primary season for catcher/processors as the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector. When each sector's allocation is reached, the primary season for that sector is ended.

NMFS Action

This action announces achievement of the allocation for the catcher/processor sector only. The best available information on October 15, 2002, indicated that the 36,353 mt catcher/processor allocation would be reached by 0000 l.t. October 16, 2002, at which time the primary season for the catcher/processor sector ends.

For the reasons stated here and in accordance with the regulations at 50 CFR 660.323(a)(4)(iii)(A), NMFS herein announces: Effective 0000 l.t. October 16, 2002, further taking and retaining, receiving or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. NMFS finds good cause to waive the requirement to provide prior notice and comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and opportunity for comment would be impracticable. It would be impracticable because if this closure were delayed in order to provide notice and comment, the fishery could be expected to exceed the sector allocation. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. NMFS also find good cause under 5 U.S.C. 553 (d)(3) to waive the 30 day delay in the effective date of this rule. Such a delay would allow the catcher/processor sector of the whiting fishery to continue harvesting whiting and thus exceed its 2002 allocation of whiting. This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(A) and is exempt from review under Executive Order 12866.

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

Dated: October 16, 2002.

John H. Dunnigan,

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

[FR Doc. 02–26693 Filed 10–16–02; 4:00 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 204
Tuesday, October 22, 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 94

[Docket No. 02–036–1]

Add Yucatan Peninsula to the List of Regions Considered Free of Exotic Newcastle Disease

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, and Yucatan to the list of regions considered free of exotic Newcastle disease. We have conducted a risk evaluation and have determined that these three Yucatan Peninsula States have met our requirements for being recognized as free of this disease. This proposed action would allow importation into the United States of poultry and poultry products from these regions and would eliminate restrictions that no longer appear necessary.

DATES: We will consider all comments that we receive on or before December 23, 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. 02–036–1, 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. 02–036–1. 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. 02–036–1'' 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 § 94.6 by adding the Mexican States of Campeche, Quintana Roo, and Yucatan to the lists of regions considered free of exotic Newcastle disease (END). This proposed rule would allow importation into the United States of poultry and poultry products from these regions and would eliminate restrictions that no longer appear necessary.

We are also proposing to amend § 94.15, which, among other things, sets out requirements for transit through the United States of poultry carcasses, parts, or products that are otherwise ineligible for entry into the United States under part 94. Because these requirements would no longer apply to poultry carcasses, parts, or products from Campeche, Quintana Roo, and Yucatan, references to these States in § 94.15(c) would be removed.

Risk Evaluation

Using information submitted to us by the Federal Government of Mexico through the Secretariat for Agriculture, Livestock, Rural Development, Fisheries, and Food Safety (SAGARPA), as well as information gathered during a site visit by APHIS staff to the Yucatan Peninsula in March 2001, we have reviewed and analyzed the animal health status of these States relative to END. 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

SAGARPA conducts sanitary and phytosanitary programs in conjunction with State and industry groups under a commission structure. Examples of programs under the authority of SAGARPA and of the Directorate for Animal Health (DGSA), which operates under SAGARPA, are animal disease control or eradication activities, including quarantine and movement restrictions; accreditation of professionals to perform program activities; disease reporting; emergency response; disease diagnosis; and animal depopulation. International seaport and airport border control for animal and plant and products is under the authority of SAGARPA and the Directorate for Phyto- and Zoosanitary Inspection (DGIF).

Each State has a Federal Delegate and other Federal personnel assigned to conduct the 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.

Each Federal delegate works with the State animal health officials to administer the joint Federal/State animal health programs. A peninsular animal health council, which is made up of the Federal regional coordinator, State animal health officials, and SAGARPA delegates, meets every few months to evaluate and determine the funding needs for the animal health activities of the region. For these programs, a significant joint budget is managed by the Federal, regional, and State officials.

Results of our evaluation indicate that animal health officials in Campeche, Quintana Roo, and Yucatan have the legal authority to enforce Federal and State regulations pertaining to END and the necessary veterinary infrastructure to carry out END surveillance and control activities. No specific factors were identified in the evaluation that might present a risk to the United States if poultry or poultry products were to be imported from these three Yucatan Peninsula States.

Disease History and Surveillance

The Government of Mexico recognized the State of Yucatan as free of END in July 1996. The last reported focus of infection was detected and eradicated in May 1984. Similarly, Quintana Roo was declared free in December of 1997, the last focus having been detected and eradicated in September 1990. Campeche, which has had no history of END, was officially recognized by the Mexican Government as free of the disease in December 1997.

Because the three Yucatan Peninsula States are considered to be free of END by Mexico, surveillance for animal disease must comply with the dictates of program manuals for END. In general terms, within free States, active and passive surveillance are performed every year.

Active Surveillance. Each year, a census is submitted to the DGSA's risk analysis and international reporting unit in Mexico City. That unit responds with instructions for the active surveillance to be performed in each State. Active surveillance data collected in 1999 and 2000 are shown below in tables 1 and 2.

TABLE 1.—SURVEILLANCE TESTING IN YUCATAN PENINSULA FOR NEWCASTLE DISEASE, 1999

State	Commercial flocks sampled	Samples per commercial flock	Backyard flocks sampled	Samples per backyard flock
Campeche	32	59	299	5
Quintana Roo	11	59	299	5
Yucatan	212	29	299	5

TABLE 2.—SURVEILLANCE TESTING IN YUCATAN PENINSULA FOR NEWCASTLE DISEASE, 2000

State	Commercial flocks sampled	Samples per commercial flock	Backyard flocks sampled	Samples per backyard flock
Campeche	*58	59	350	5
Quintana Roo	*20	36–69	348	5
Yucatan	*225	29	356	5

*The discrepancy in the number of flocks compared to 1999 may be due to collections from separate houses on same farm.

Selection of flocks for testing is done in each State by program officials. All commercial flocks (*i.e.*, flocks set up for commerce, with appropriate fencing and biosecurity to isolate the unit) are sampled once a year. Birds are selected at random from within the selected flocks.

There is a special high-risk zone in Campeche, adjacent to the State of Tabasco, which is in the control phase for END; this zone consists of the area within 50 km of the Tabasco border and is delineated by peninsular officials, not by the national program. Additional backyard poultry premises are tested annually from the high-risk zone, above the number of samples outlined by the national program. To test for END and salmonella in poultry, samples are collected from approximately 60 extra premises.

Passive Surveillance. Cases of concern are reported by and to various personnel. Once a problem is reported to an official, the mandated response time is 24 hours. Quarantine of a premises is based on presumptive clinical signs, and appropriate samples must be collected. Officials may take more definitive action when they have certain presumptive results from the local laboratory. For END and other poultry diseases that occur in portions of Mexico, samples generally go to a regional laboratory. Positive samples are

sent to the national laboratories in Mexico City for confirmation. Table 3 below shows the numbers of passive surveillance samples submitted to the Yucatan Peninsula's regional laboratory in Merida, Yucatan, for Newcastle disease diagnosis during 2000. All samples were negative for END.

TABLE 3.—TOTAL NUMBERS OF SAMPLES RUN FOR NEWCASTLE DISEASE DIAGNOSIS (PROGRAM AND OTHER), 2000

State	Number of flocks represented	Number of samples
Campeche	470	3,003
Quintana Roo	387	4,457
Yucatan	598	15,053

Results of our evaluation indicate that authorities in the Yucatan Peninsula are conducting an adequate level of END surveillance to detect the disease if it were to be reintroduced into the peninsula.

Diagnostic Capabilities

There are two laboratories that provide veterinary diagnostic services to the poultry industry in the Yucatan Peninsula. One is a small regional laboratory located in Chetumal in the State of Quintana Roo, which provides general microbiological services to local producers but does not conduct diagnostic tests for program diseases. The second is a full-service regional laboratory located in Merida, Yucatan. The Merida laboratory also provides support for hazard analysis and critical control point (HACCP) programs for Federally inspected (TIF) processing plants in the region.

Tests for END are conducted using chick embryos from commercial sources. The plate hemagglutination test (HA) is used to test for the presence of the virus. Any samples that test positive at the Yucatan lab are sent to the central laboratories in Mexico City (CENASA) for confirmation, and tissues of any suspect animals are sent to the Exotic Animal Disease Commission (EADC) Laboratory in Mexico City for virus isolation.

The Yucatan Regional Laboratory in Merida meets the Office of International Epizootics' recommendations for equipment and training. An APHIS team visited the laboratory in 2001 and deemed the facilities and personnel adequate for the END surveillance program. 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 on the Yucatan Peninsula are sufficient to support the END surveillance activities.

Vaccination Status

Vaccination against Newcastle disease is currently being practiced on commercial farms on the Yucatan Peninsula, as it is in all other Mexican States, in accordance with Mexican Federal regulations. APHIS concluded that vaccinated birds do not constitute a significant risk factor for introducing END into the United States.

Disease Status of Adjacent Regions

Yucatan is bordered to the west by Campeche, and by Quintana Roo to the east and south. Tabasco is the only Mexican State bordering the Yucatan Peninsula and shares the western border of the peninsula. 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.

The State of Tabasco is in the control phase for END. There were 3 foci of END infection in Tabasco in 2000, out of 50 in all of Mexico.

The United States considers the countries of Belize and Guatemala to be affected with END. Officials of the Regional International Organization for Agricultural Health informed APHIS that Belize has gone without reporting a case of END for several years, and that there are very few poultry in the Petén region of Guatemala bordering the Yucatan Peninsula. Cases are more likely to be reported in southern Guatemala. Guatemala apparently is entering into an eradication program for several poultry diseases, including END.

Although there are continuing END outbreaks in the adjacent Mexican State of Tabasco and the adjacent country of Guatamala, APHIS considers that the control point activities (described in the section ''Movement Across Borders'') in place between the Yucatan Peninsula States and their neighbors are sufficient to reduce substantially the risk from END. In addition, surveillance and eradication activity for diseases considered exotic is diligent and sufficient for rapid control of outbreaks of the type observed in the past.

Degree of Separation from Adjacent Regions

The State of Yucatan is northwest of Quintana Roo, and 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, 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 follows a river for a significant distance. In Campeche's southern part, bordering Guatemala, sits the Calakmul Biosphere Reserve.

The area of higher risk closest to the Yucatan Peninsula is the State of Tabasco, which, as indicated above, had three outbreaks of END in 2000. APHIS concluded that the peninsula had sufficient separation from areas with higher risk.

Movement Across Borders

There is a system of interstate and zonal agricultural and animal health checkpoints operating throughout Mexico. SAGARPA generally has overall authority for these activities. The Mexican National Agricultural Quarantine System represents the strategic base for the implementation of foreign and domestic quarantine services. These services focus on preventing the entry of exotic diseases and pests; assisting in the prevention and the control and eradication of such diseases, if they should occur; and supporting the phyto/zoosanitary campaigns at the national levels to maintain zones that are free of diseases and pests.

The primary means for preventing reintroduction of END into the Yucatan Peninsula is through regulations controlling the movement of land and air traffic. Movement of birds and bird products that enter the peninsula are subject to zoosanitary certificates issued by local organizations under SAGARPA's control.

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. Animal and plant products detected during vehicle searches are confiscated and incinerated. Movement of livestock and poultry between States is prohibited without proper movement authorization/documentation, and the unauthorized transport of live animals from Tabasco is strictly prohibited.

There are two international airports on the peninsula, one in Merida and one in Cancun. There are national airports in Campeche and Quintana Roo. The site visit team visited the international airport at Merida, Yucatan. Program officials inspect all incoming flights, both passenger and cargo flights, for unpermitted agricultural products, including food wastes and stores.

The maritime port of Progreso primarily handles shipments of grain. Animals and animal products are allowed entry if the proper health certificate and permit requirements are met. There are four full-time inspectors at the port, including two veterinarians.

Officials on the Yucatan Peninsula have the authority, procedures, and infrastructure to enforce effectively the system of permits, inspection, quarantines, and treatments that the peninsula has in place to control animals and animal products. APHIS did not identify any specific limitations in the system that might pose a risk to the United States.

Livestock Demographics and Marketing Practices

In recent years, the Yucatan Peninsula has seen a significant growth in production of poultry, swine, and cattle. In 2000, the State of Yucatan produced 82,099 metric tons of broilers, 76,530 metric tons of eggs, and 1,512 metric tons of turkey meat. The peninsula has evolved into an agriculture exporting region, supplying poultry products to other parts of Mexico, as well as to foreign markets. Disease control and surveillance programs are in place for poultry, swine, and cattle, as well as for bee pests. For poultry, control programs target END, avian influenza, and salmonella.

Site visit team members reviewed census information for poultry in the States on the Yucatan Peninsula. The population of chickens and proportion on commercial and backyard premises, based on the 2000 census, are shown in table 4.

TABLE 4.—POULTRY POPULATION AND PROPORTION ON COMMERCIAL FARMS, 2000 CENSUS

State	Commercial farms			Backyard farms		
	Number of farms	Number of poultry	Percentage of total birds	Number of farms	Number of poultry	Percentage of total birds
Campeche	30	1,243,181	82.1	21,595	271,500	17.9
Quintana Roo	2	2,139,706	92	25,639	185,212	8
Yucatan	226	*13,000,000	92	58,501	1,132,828	8

* = 1999 figures.

About 60 percent of the peninsula's poultry production is for regions outside the peninsula. Most of the birds and poultry products that come into Quintana Roo and Campeche originate in the State of Yucatan. A site visit was made to the third largest broiler-producing company in the Yucatan, located near Merida. This was a first-class operation that would rival the best production facilities in the United States. However, it appeared that many other operations consisted of two to six house units with passive air systems and chicken houses often located close to heavily traveled roads. Most houses appeared to be 15 or more years of age.

For both economic and health reasons, the poultry industry on the Yucatan Peninsula is committed to the production of quality products and the maintenance of END-free status. Industry leaders demonstrated an awareness of animal disease control measures needed to maintain a healthy and productive animal industry. Industry groups contribute funds to develop and improve sanitary operations to maintain the END-free status of their respective States.

APHIS did not identify any factors in this category that might pose a risk to the United States if poultry or poultry products were to be imported from the Yucatan Peninsula.

Detection and Eradication of Disease

END has been effectively controlled and eradicated from Quintana Roo and Yucatan, and has no known history in Campeche. Accordingly, END is now considered an exotic disease on the Yucatan Peninsula. Therefore, while there are no active disease control programs, the States do maintain both active and passive disease surveillance, ongoing animal movement controls, and an emergency response system in case END is again detected in the Yucatan Peninsula States. According to Mexican regulations, in the event of any cases of END in a free zone, a sanitary slaughter policy would be implemented, along with cleaning and disinfection of affected premises. APHIS did not identify specific limitations in this system that would pose a risk to the United States.

Results of our evaluation indicate that the Federal Government of Mexico and the State Governments of Campeche, Quintana Roo, and Yucatan have the laws, policies, and infrastructure to detect, respond to, and eliminate any reoccurrence of END.

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, and Yucatan are free of END. Therefore, we are proposing to recognize the Mexican States of Campeche, Quintana Roo, and Yucatan as free of END; add them to the list in § 94.6 of regions where END is not known to exist; and amend § 94.15 to remove restrictions on the movement of poultry carcasses, parts, or products from these States that 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 by adding the Mexican States of Campeche, Quintana Roo, and Yucatan to the list of regions considered free of END and removing END-related restrictions on the movement of poultry carcasses, parts, or products from these States into the United States that would no longer apply.

A number of factors could influence how much of the poultry produced in the Yucatan Peninsula might be exported to the United States as a result of this proposed rule. These factors include domestic and international supply of, and demand for, poultry and poultry substitutes, U.S. grain prices, exchange rates, freight rates, the structure (number of large integrated operations versus the number of traditional and semi-traditional operations) of the poultry industry in the Yucatan Peninsula, and the ability of Yucatan producers/packers consistently to ship cuts that meet U.S. market specifications.

As shown in table 5, Yucatan Peninsula poultry production peaked at roughly 100,000 metric tons (MTs) in 1997 and consistently accounted for about 8 percent of Mexico's total poultry production from 1992 until 1999, the last year for which data were available.

TABLE 5.—YUCATAN POULTRY PRODUCTION BY STATE 1992–1999 (MTS)

Year	1992	1993	1994	1995	1996	1997	1998	1999
Campeche	4,152	5,821	6,322	6,438	6,679	7,440	6,604	6,784
Quintana Roo	5,124	5,940	5,810	7,043	5,490	5,865	4,685	5,374
Yucatan	63,027	74,311	77,841	83,311	86,485	89,698	79,900	81,470
Total	72,303	86,072	89,884	96,792	98,654	103,003	91,189	93,628
Percentage of Mexico's production	8.05	8.28	7.98	7.54	7.80			

Source: Centro de Estadistica Agropecuaria/SAGARPA.

Our analysis of poultry production in the Yucatan Peninsula suggests 100,000 MTs as the upper limit for poultry and poultry products that could be made available for export to the United States at this time. The Yucatan Peninsula is a grain and oilseed deficit area. Most of the grains and oilseeds used in poultry production (the single largest and most expensive input in poultry production) are imported from the United States. This dependence on imported grains and oilseeds will tend to limit the growth of the Yucatan Peninsula's poultry production and, consequently, the amount of poultry and poultry products available for export to the United States.

It is far more likely that the actual amount of poultry and poultry products that would be exported to the United States from the Yucatan Peninsula States in the near term as a result of this rulemaking would be significantly less than 100,000 MTs. A general analysis of Mexican poultry production systems suggests that a maximum of 60 to 70 percent of Yucatan Peninsula poultry production might meet U.S. import standards.[1] According to Foreign Agricultural Service attaché reports and Economic Research Service (ERS) analysts, most Yucatan Peninsula production would probably be consumed locally or diverted to the local tourist industry. Because of shipping costs, it is likely that Mexican producers would only find it profitable to ship breast cuts to the United States. Table 6 shows high and low estimates for possible exports of poultry and poultry products from the Yucatan Peninsula to the United States. As shown in the table, between 18,000 and 52,500 MTs of Yucatan Peninsula poultry could be available for export to the United States, depending on domestic consumption, a factor that is very difficult to gauge or predict. Based on these figures, the amount of breast meat cuts available for export to the United States could range from roughly 5,786 to 16,875 MTs.[2]

TABLE 6.—ESTIMATED YUCATAN PENINSULA POULTRY AND POULTRY PRODUCTS AVAILABLE FOR EXPORT TO THE UNITED STATES (IN MTS)

Potential exports	High estimate	Low estimate
Total	100,000	100,000
Acceptable for U.S. import	70,000	60,000
Acceptable for U.S. import and available for export (not consumed domestically)	52,500	18,000
Estimated breast meat available for export to U.S.	16,875	5,786

Source: Centro de Estadística Agropecuaria/SAGARPA statistics provided by Leland Southard of USDA/ERS.

These amounts would make up a minuscule share of the U.S. market. The United States is the world's largest producer and exporter of poultry meat. In 1999, U.S. poultry meat production totaled 35.3 billion pounds (159,090,909 MTs), of which 83 percent was broiler meat, 15 percent was turkey meat, and 2 percent was other chicken meat. The total farm value of U.S. poultry production in 1999 was $22.4 billion. Broiler production accounted for the majority of the value at $15.1 billion, followed by eggs at $4.3 billion, turkey at $2.8 billion, and other chicken at $68 million. The high estimate of 52,500 MTs of Yucatan Peninsula poultry and poultry parts available for export to the United States would translate to 0.033 percent of U.S. poultry production based on the 1999 figures. The low

[1] "Outlook for Mexican Poultry Industry and U.S.-Mexican Poultry Trade," by Milton Madison and David Harvey. USDA/ERS Livestock, Dairy, and Poultry Report, July 17, 1998, LDP–52.

[2] A 42-ounce processed broiler carcass is comprised of 12.5 to 14 ounces of breast meat, or roughly 32 percent breast meat.

estimate of 18,000 MTs available for export would equal 0.0113 percent of 1999 U.S. production. The percentages for estimated breast meat exports would, of course, be even smaller.

The Regulatory Flexibility Act requires that agencies specifically consider the economic impact of their rules on small entities. Among the small entities that could be affected by this proposed rule are U.S. producers of poultry and poultry products, U.S. freight forwarders, and U.S. trucking and shipping firms. All of these categories are comprised primarily of small entities. Table 7 provides a breakdown.

TABLE 7.—NUMBER AND TYPE OF SMALL BUSINESSES POTENTIALLY AFFECTED BY PROPOSED RULE

Type of business	Total U.S. entities	Small entities
Local and long distance U.S. trucking firms (refrigerated)	13,815	13,529
U.S. freight forwarders	5,771	5,674
Deep sea freight transport	431	273
Poultry farms	63,246	53,530

The U.S. poultry industry is dominated by contract growing arrangements. A small number of very large, vertically integrated poultry companies own most poultry in the United States. The poultry are raised to a marketable size by farmers under contract arrangements. The vertically integrated companies do not qualify as small entities under the Small Business Administration's standard for small poultry enterprises-no more than $750,000 in annual revenues. Most contract poultry growers do qualify as small entities, however.[3] The 1997 Census of Agriculture (the most recent data on the composition of poultry industry by size) reported a total of 63,246 farms in the United States that raised poultry or poultry products, producing poultry and poultry products valued at over $22 billion. According to Census of Agriculture data, approximately 53,530 or 85 percent of the farms raising poultry were ''small'' farms in 1997.[4]

In theory, imported Yucatan poultry would increase the available supply of poultry in the United States, increase competition, and reduce prices. Such a development, while benefitting U.S. consumers, could negatively affect net revenues of U.S. producers. Due to the relatively small tonnage of poultry and poultry products expected to be exported from the Yucatan Peninsula to the United States, however, this proposed rule would be unlikely to have a measurable effect on U.S. poultry and poultry-product supplies, poultry prices, or poultry producer revenues.

The other affected small entities—U.S. freight forwarding, trucking, or transport firms that could transport Mexican poultry from U.S. land border ports or U.S. maritime ports—could benefit from increased economic activity as a result of this proposed rule. As is the case with poultry producers, however, these effects are likely to be very small due to the limited amount of poultry and poultry products that would be exported to the United States from the Yucatan Peninsula States.

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.

§ 94.6 [Amended]

2. In § 94.6, paragraph (a)(2) would be amended by adding the words ''Mexico (States of Campeche, Quintana Roo, and Yucatan),'' after the word ''Luxembourg,'.

3. In § 94.15, the introductory text of paragraph (c) and paragraph (c)(2) would be revised to read as follows:

§ 94.15 Animal products and materials; movement and handling.

* * * * *

(c) Poultry carcasses, parts, or products (except eggs and egg products) from Baja California, Baja California Sur, Chihuahua, Nuevo Leon, Sinaloa, Sonora, or Tamaulipas, Mexico, that are not eligible for entry into the United States in accordance with the regulations in this part may transit the United States via land ports for immediate export if the following conditions are met:

* * * * *

(2) The poultry carcasses, parts, or products are packaged at a Tipo Inspección Federal plant in Baja California, Baja California Sur, Chihuahua, Nuevo Leon, Sinaloa, Sonora, or Tamaulipas, Mexico, in leakproof containers with serially numbered seals of the Government of Mexico, and the containers remain sealed during the entire time they are in

[3] *http://www.sba.gov,* NAICS Code 112320, poultry production.

[4] 1997 Census of Agriculture-United States data, table 50, summary by market value of agricultural products sold.

transit across Mexico and the United States.

* * * * *

Done in Washington, DC, this 16th day of October 2002 .

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–26811 Filed 10–21–02; 8:45 am]

BILLING CODE 3410–34–P

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AC05

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Capital Adequacy

AGENCY: Farm Credit Administration (FCA).

ACTION: Proposed rule.

SUMMARY: The FCA proposes to amend its capital adequacy regulations to add a definition of total liabilities for the net collateral ratio calculation; limit the amount of term preferred stock that may count as total surplus; clarify the circumstances in which we may waive disclosure requirements for an issuance of equities by a Farm Credit System (FCS, Farm Credit or System) institution; and make several nonsubstantive technical changes. These amendments will update, modify, and clarify certain capital requirements.

DATES: Please send your comments to us by November 21, 2002.

ADDRESSES: You may send comments by electronic mail to *reg-comm@fca.gov* or through the Pending Regulations section of FCA's Web site, *http://www.fca.gov*. You may also send comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by fax to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, FCA.

FOR FURTHER INFORMATION CONTACT: Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4479; TTY (703) 883–4434; or Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–2020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of our proposal are to:

- Limit the effect of Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities* (SFAS 133), on the net collateral ratio;
- Ensure that Farm Credit institutions do not overly rely on term preferred stock to meet regulatory capital requirements;
- Explain how the FCA may include other debt or equity in the definition of permanent capital;
- Clarify the requirements for the FCA to consider waiving disclosure requirements for issuances of stock to more than a single sophisticated investor; and
- Make several nonsubstantive technical changes to our capital regulations.

II. Introduction

The FCA is proposing changes to the capital adequacy regulations in order to update, modify, and clarify certain requirements. We propose revising the net collateral ratio calculation to limit the effect of new accounting rules for derivatives. This is in response to a petition we received last year from two System banks. We also propose limiting the amount of term preferred stock that can be counted in total surplus.

Additionally, we propose excluding term preferred stock from liabilities in the calculation of the net collateral ratio for System banks to the extent that the stock is counted as total surplus. This latter proposed amendment reflects the capital treatment of term preferred stock issuances we recently reviewed for two System banks. As a result of our review of those recent stock issuances, we also identified a need to clarify certain requirements and make additional technical corrections. The proposed amendments are more fully described in the section-by-section analysis below.

III. Section-by-Section Analysis

Section 615.5201(e)—Definition of Direct Lender Institution

We propose amending § 615.5201(e) by removing the phrase ''loan of lease'' and adding, in its place, the phrase ''loan or lease'' to correct a typographical error.

Section 615.5201(l)—Definition of Permanent Capital

We propose adding a new paragraph (8) to the definition of permanent capital in § 615.5201(l). This proposed amendment reflects a statutory change to section 4.3A of the Farm Credit Act of 1971, as amended, by the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act). The 1992 Act added section 4.3A(a)(1)(E), which includes in permanent capital any debt or equity instrument or other account that the FCA determines appropriate to be considered as permanent capital. The proposed amendment states that we may include a debt or equity instrument in permanent capital in whole or in part, and on a permanent or temporary basis. The language of this proposal is similar to language in existing § 615.5301(b)(1)(iv) and (i)(5), which states that we may include additional items in core or total surplus when we deem their inclusion to be appropriate. The inclusion of additional items would give institutions more flexibility in meeting their capital requirements.

We considered proposing that term subordinated debt could be counted as permanent capital in much the same way that we currently allow term preferred stock to be counted. However, since no System institution has issued subordinated debt, we have decided to consider the inclusion of subordinated debt in permanent capital on a case-by-case basis, should we receive a specific proposal by a System institution.

Section 615.5250(c)(5)—Waiver of Disclosure Requirements

We propose amending § 615.5250(c)(5) to clarify the circumstances in which we may waive any or all of the disclosures we require institutions to make to potential investors in stock issuances. The existing waiver language has been interpreted by some institutions to apply only when a single investor acquires all the equities of an entire class issued by an institution. Our revision clarifies that we may waive disclosure requirements when the following conditions are met: (1) Equities are sold only to sophisticated investors; (2) equities are sold in blocks of $100,000 or more; and (3) purchasers of equities agree that any subsequent sale or transfer must be in blocks of $100,000 or more. Any subsequent sale or transfer of equities that is less than $100,000 must receive our prior written approval.

We also propose to correct the reference to paragraph (b) in existing paragraph (c)(5). The reference should be to the disclosure requirements in paragraph (c)(1).

Section 615.5301(i)—Definition of Total Surplus

We propose to add a new paragraph (4) to the definition of total surplus in § 615.5301(i) to limit the amount of term preferred stock that may be included in total surplus to 25 percent of permanent

capital. Conforming changes are proposed to paragraph (3).

Our existing regulations include term preferred stock in total surplus without limit. We are proposing a limitation equal to 25 percent of permanent capital, to ensure that System institutions do not overly rely on this type of capital in their operations. This limitation is generally comparable to the treatment of intermediate-term preferred stock in the regulatory capital requirements for commercial banks. Commercial banks' Federal financial regulators exclude term preferred stock from Tier 1 capital and limit the amount of intermediate-term preferred stock that can count as Tier 2 capital to an amount equal to 50 percent of Tier 1 capital.[1] In addition, the amount a commercial bank may count as Tier 2 capital can be no greater than its Tier 1 capital. This means, in effect, that no more than 25 percent of a commercial bank's minimum total regulatory (Tier 1 + Tier 2) capital may consist of term preferred stock.[2] We believe a similar limit to that imposed on commercial banks is also appropriate for System institutions and, therefore, are proposing a limitation on the total surplus ratio.

We note that the proposal would not prohibit System institutions from issuing preferred stock in excess of what may be counted as total surplus, but such excess amounts would not qualify as total surplus. The preferred stock would, however, be treated as permanent capital to the extent permitted in the permanent capital calculation.

New Section 615.5301(j)—Definition of Total Liabilities

In May 2001, two System banks petitioned us to revise the net collateral ratio calculation requirements in § 615.5301 in response to the new accounting requirements for derivatives in SFAS 133, as promulgated by the Financial Accounting Standards Board (FASB). The banks asserted that the accounting changes imposed by SFAS 133 reduced their net collateral ratios in a way they believe was unintended.

In response to the banks' petition, we are proposing a new § 615.5301(j) to define ''total liabilities'' for the purpose of calculating the net collateral ratio. The net collateral ratio is a bank's net collateral, as defined in § 615.5301(c), divided by the bank's total liabilities. Proposed § 615.5301(j)(1) specifies that total liabilities are valued in accordance with generally accepted accounting principles (GAAP), with the following exclusions for the effects of SFAS 133: (1) Adjustments to the carrying amount[3] of any liability that is designated as being hedged; and (2) any derivative recognized as a liability that is designated as a hedging instrument.

Prior to SFAS 133, GAAP allowed many derivative instruments to be treated by System banks as off-balance sheet items. However, with the adoption of SFAS 133, System banks must now recognize all derivative instruments at their fair value as either an asset or a liability on the balance sheet. If a derivative instrument qualifies as a designated hedge,[4] System banks may be required to adjust the carrying value of certain assets or liabilities.

As a result of SFAS 133, System banks that use derivatives may have to recognize an increase in the amount of total liabilities when calculating their net collateral ratios. These increases in total liabilities have resulted in lower net collateral ratios than what the banks would have had under the previous accounting requirements for derivative instruments.

Under SFAS 133, a System bank's total liabilities will often increase for a derivative instrument designated as hedged. This resulting increase in the bank's liabilities from a derivative instrument designated as a hedge has no offsetting equivalent increase in the collateral amount used in the computation of its net collateral ratio because of the way net collateral is defined in § 615.5301(c). Thus, a derivative instrument used by a bank to hedge against interest rate risk can often result in an unintended decline in the bank's net collateral ratio.

We believe a bank's net collateral ratio should not be negatively affected by derivative instruments appropriately used to hedge against interest rate risk or other types of market risks. Appropriate use of derivatives as hedges protects System banks against a true economic decline in their net collateral. Accordingly, our proposed amendments would exclude the effect of SFAS 133 on the calculation of the net collateral ratio for derivative instruments that qualify as hedges under SFAS 133.

Conversely, we believe derivative instruments that are not designated to hedge specific assets or liabilities do not provide adequate protections for interest rate or other market risks. Therefore, our definition of total liabilities *includes* derivative instruments that do not qualify as designated hedges.

Proposed § 615.5301(j)(2) would also exclude from total liabilities the amount of term preferred stock that is eligible to be counted as total surplus in the numerator of a bank's calculation of its total surplus ratio. In the absence of such exclusion, our existing rule could require certain forms of term preferred stock to be considered liabilities. The proposed exclusion would eliminate the potential inconsistency of treating a particular balance sheet item as a liability for net collateral purposes but as capital for the total surplus ratio.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

For the reasons stated in the preamble, we propose to amend part 615 of chapter VI, title 12 of the Code of Federal Regulations as follows:

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

1. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12);

[1] *See* 12 CFR part 325, app. A (I.A.2(d)) (Federal Deposit Insurance Corporation); 12 CFR part 3, app. A (2(b)(4)) (Comptroller of the Currency); and 12 CFR part 208, app. A (II.A.2(iv)) (Board of Governors of the Federal Reserve System).

[2] This example assumes that a commercial bank has Tier 2 capital equal in amount to its Tier I capital.

[3] GAAP define the carrying amount of a liability as the face amount of a liability increased or decreased by any applicable accrued interest payable and any applicable unamortized premium, discount, finance charges, or issue costs.

[4] Under SFAS 133, derivative instruments designated as hedges routinely reduce an entity's exposure to changes in the fair value of an asset or liability (*i.e.,* fair value hedge) or changes in expected future cash flows (*i.e.,* cash flow hedge) attributable to a particular risk. For Farm Credit banks, derivative instruments are routinely used to reduce their exposure to (hedge against) changes in market interest rates.

sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

Subpart H—Capital Adequacy

2. Amend § 615.5201 as follows:

a. Remove the words ''loan of lease'' in paragraph (e) and add in their place, the words ''loan or lease''; and

b. Add a new paragraph (l)(8).

§ 615.5201 Definitions.

(l) * * *

(8) Any other debt or equity instruments or other accounts the FCA has determined are appropriate to be considered permanent capital. The FCA may permit one or more institutions to include all or a portion of such instrument, entry, or account as permanent capital, permanently or on a temporary basis, for purposes of this part.

* * * * *

Subpart I—Issuance of Equities

3. Amend § 615.5250 by revising paragraph (c)(5) to read as follows:

§ 615.5250 Disclosure requirements.

(c) * * *

(5) For a class of stock, the FCA may waive any or all of the disclosure requirements of paragraph (c)(1) of this section when each investor acquires at least $100,000 of the stock if the sophistication of the purchaser warrants, provided that subsequent transfers of the stock in amounts of less than $100,000 must receive the prior written approval of the FCA.

* * * * *

Subpart K—Surplus and Collateral Requirements

4. Amend § 615.5301 as follows:

a. Redesignate paragraphs (i)(4) through (i)(7) as paragraphs (i)(5) through (i)(8);

b. Remove the reference ''§ 615.5201(j)(4)(iv)'' in paragraph (i)(2) and add in its place, the reference ''§ 615.5201(l)(4)(iv)'';

c. Revise paragraph (i)(3);

d. Add a new paragraph (i)(4); and

e. Add a new paragraph (j).

§ 615.5301 Definitions.

(i) * * *

(3) Common and perpetual preferred stock (other than allocated stock) that is not purchased or held as a condition of obtaining a loan, provided that the institution has no established plan or practice of retiring such stock;

(4) Term preferred stock that is not purchased or held as a condition of obtaining a loan, up to a maximum of 25 percent of the institution's permanent capital (as calculated after deductions required in the permanent capital ratio computation). The amount of includible term stock must be reduced by 20 percent (net of redemptions) at the beginning of each of the last 5 years of the term of the instrument;

* * * * *

(j) *Total liabilities* means liabilities valued in accordance with generally accepted accounting principles (GAAP), except that total liabilities shall exclude the following:

(1) As set forth in Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities,* as promulgated by the Financial Accounting Standards Board—

(i) Adjustments to the carrying amount of any liability designated as being hedged; and

(ii) Any derivative recognized as a liability that is designated as a hedging instrument.

(2) Term preferred stock to the extent such stock is included as total surplus in the computation of the bank's total surplus ratio pursuant to § 615.5301(i).

Dated: October 16, 2002.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 02–26697 Filed 10–21–02; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375 and 388

[Docket No. RM02–4, PL02–1–000]

Critical Energy Infrastructure Information

October 9, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; extension of time.

SUMMARY: On September 5, 2002, the Commission issued a notice of proposed rulemaking to revise its regulations to restrict public availability of critical energy (67 FR 57994, September 13, 2002) date for filing comments is being extended at the request of American Rivers and members of the Hydropower Reform Coalition.

DATES: Comments are due on or before November 14, 2002.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Carol C. Johnson, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8521.

SUPPLEMENTARY INFORMATION:

Policy Statement on the Treatment of Previously Public Documents; Notice of Extension of Time

On October 8, 2002, American Rivers and members of the Hydropower Reform Coalition (HRC) filed a request for a 30-day extension of time to file comments in response to the Commission's Notice of Proposed Rulemaking issued September 5, 2002 and published in the **Federal Register** on September 13, 2002 in Docket Nos. RM02–4–000 and PL02–1–000. The request states that the issues addressed in the NOPR are of significant importance to the HRC, and notes that the HRC is the largest cooperative public interest entity in the hydropower licensing field, and its members are working on approximately 75% of the Commission's open licensing cases. According to the request, additional time is needed to consult with other concerned organizations and to permit the HRC to prepare meaningful comments on the NOPR.

Upon consideration, notice is hereby given that an extension of time for filing responses to the Commission's September 5, 2002, NOPR is granted to and including November 14, 2002, as requested by the HRC.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26489 Filed 10–21–02; 8:45 am]

BILLING CODE 6718–01–M

DEPARTMENT OF HEALTH SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. 02N–0370]

Neurological Devices; Classification of Human Dura Mater

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify human dura mater intended to repair defects in human dura mater into class II (special controls). The agency is publishing the recommendations of

FDA's Neurological Devices Panel (the Panel) regarding the classification of this device. After considering public comments on the proposed classification, FDA will publish a final regulation classifying this device. This action is being taken to establish sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of a guidance document that FDA intends to serve as the special control for this device.

DATES: Submit written or electronic comments by January 21, 2003.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Charles N. Durfor, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3090.

SUPPLEMENTARY INFORMATION:

I. Background

A. Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et. seq.*), as amended by the Medical Device Admendments of 1976 (the 1976 amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629), and the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval). Under the 1976 amendments, class II devices were defined as those devices for which there is insufficient information to show that general controls themselves will ensure safety and effectiveness, but for which there is sufficient information to establish performance standards to provide such assurance.

The SMDA broadened the definition of class II devices to mean those devices for which there is insufficient information to show that general controls themselves will ensure safety and effectiveness, but for which there is sufficient information to establish special controls to provide such assurance. Special controls may include performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and any other appropriate actions the agency considers necessary (section 513(a)(1)(B) of the act).

Under section 513 of the act, devices that were in commercial distribution prior to May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution before May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by the FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations.

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Consistent with the act and the regulations, FDA consulted with the Panel, an FDA advisory committee, regarding the classification of this device.

B. Regulatory History

Human dura mater derived and processed from human cadavers and intended for use in neurosurgical procedures to repair defects in the cranial and spinal cord dura mater caused by trauma and tumor resection was in commercial distribution before the enactment of the 1976 amendments. Human dura mater is currently regulated as an unclassified medical device via premarket notification.

In February 1987, the first of three United States cases of iatrogenic Creutzfeldt-Jacob Disease (CJD), a rare, degenerative, fatal disease of the central nervous system was reported (Ref. 1). It was associated with the implantation of Lyodura, an imported processed human dura mater manufactured in Germany that was never cleared for use in the United States. In April 1987, FDA issued a safety alert that warned of the potential risk of transmitting CJD through this imported dura mater product, and in June 1987, FDA issued an import alert banning its use in the United States.

On July 14, 1989, and on February 2, 1990, the Panel heard testimony on the processing and use of human dura mater in the United States (Refs. 2 and 3). At the 1990 meeting, in accordance with FDA's device classification regulations, the Panel recommended that human dura mater be classified into class II.

On June 26, 1990, FDA made available the ''Guide for 510(k) Review of Processed Human Dura Mater.'' The guide was based on testimony heard at the 1989 and 1990 Panel meetings. It recommended donor selection and rejection criteria, manufacturing controls, and other safeguards to minimize the risk of iatrogenic transmission of CJD. On November 14, 1990, FDA also notified distributors of human dura mater of the requirement to register and list their products with the agency and of the requirement for premarket notification clearance to market new human dura products.

On March 27, 1997, the World Health Organization (WHO) recommended that human dura mater no longer be used, especially for neurosurgery, unless no other alternative was available. WHO issued this recommendation because of over 50 cases of CJD associated with use of human dura mater (Ref. 4) . Most of these cases were associated with the dura mater product that was never cleared in the United States and that was under import alert in the United States. WHO also recommended that if human dura mater is used, it should be

from nonpooled sources from carefully screened donors and it should be inactivated by a validated method.

On March 31, 1997, FDA announced that it would not restrict the distribution of FDA-cleared human dura mater because of the previously established safeguards and guidelines that were in effect to minimize the possibility of CJD transmission by human dura mater implantation. This decision also reflected the absence of any confirmed cases of CJD transmission in the United States that were related to human dura mater implants that were cleared for commercial distribution. In addition, FDA decided to hold public meetings of the agency's Transmissible Spongiform Encephalopathies Advisory Committee (TSEAC) to re-evaluate the safety of human dura mater with respect to CJD transmission.

On October 6, 1997, the TSEAC made recommendations on the use of human dura mater in the context of the risks to health associated both with the use of human dura mater and with the use of the available dura mater substitute products (animal, synthetic, and patient's own tissue) (Ref. 5). The TSEAC also made recommendations for additional safeguards to minimize iatrogenic CJD transmission. On March 6, 1998, FDA transmitted the 1997 TSEAC recommendations in a letter to manufacturers of human dura mater. On April 16, 1998, the TSEAC again deliberated on iatrogenic CJD transmission associated with the use of human dura mater and made additional recommendations to minimize CJD transmission.

On December 14, 1998, FDA issued a tracking order (21 CFR part 821 and section 519(e) of the act (21 U.S.C. 360i(e)) for human dura mater. This tracking order requires each manufacture of human dura mater to develop and implement a program that enables the manufacturer to locate patients implanted with human dura mater until device explantation or death.

In parallel with the Center for Devices and Radiological Health's (CDRH's) efforts to ensure the safety and effectiveness of human dura mater, FDA has considered the appropriate way to regulate all human cellular and tissue-based products (HCT/Ps). In the **Federal Register** of March 4, 1997 (62 FR 9721), FDA proposed a comprehensive approach to regulate all HCT/Ps, including human dura mater, under the authority of section 361 of the Public Health Act. To implement this approach, FDA published the following three proposed rules: (1) ''Establishment Registration and Listing for Manufacturers of Human Cellular and Tissue-Based Products'' (63 FR 26744, May 14, 1998); (2) ''Suitability Determination for Donors of Human Cellular and Tissue-Based Products'' (64 FR 52696, September 30, 1999); and (3) ''Current Good Tissue Practice for Manufacturers of Human Cellular and Tissue-Based Products; Inspection and Enforcement'' (65 FR 1508, January 8, 2001).

In the **Federal Register** of January 19, 2001 (66 FR 5447), FDA issued a final rule for establishment registration and listing of human cellular and tissue-based products (HCT/Ps). This regulation became effective on April 4, 2001, except for 21 CFR 207.20(f) (registration of drug products), 21 CFR 807.20(d) (registration of medical devices), and § 1271.3(d)(2) (21 CFR 127.3(d)(2)) (definitions), which will become effective on January 21, 2003. Section 1271.3(d)(2) also states that human dura mater is an HCT/P. In the final rule, the agency recognized that unanticipated delays in completing the rulemaking for the remainder of 21 CFR part 1271 could occur and that it could become necessary to delay the effective dates for some or all HCT/Ps.

On August 15, 2001, Public Citizen's Health Research Group submitted a petition (docket number 01P–0354) requesting that the agency ban the sale of human cadaveric dura mater and recall all unimplanted human cadaveric dura mater. On February 11, 2002, FDA denied the petitioner's requests in a letter because the agency determined that information in the petition did not meet the statutory requirements to ban or recall a medical device under sections 516(a)(1) and (a)(2) and 518(e)(1) of the act (21 U.S.C. 360f(a)(1) and (a)(2) and 360h(e)(1)).

FDA is now proposing to classify human dura mater into class II. The agency is also proposing that the guidance document entitled ''Class II Special Controls Guidance Document: Human Dura Mater; Guidance for Industry and FDA'' be the special control to reasonably ensure the safety and effectiveness of the device until such time as the regulatory authority for this product is transferred from CDRH to the Center for Biologics Evaluation and Research. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of this draft guidance document.

II. Recommendations of the Panel

A. Device Identification

The Panel adopted the following device identification based on the agency's recommendation: Human dura mater is human pachymeninx tissue intended to repair defects in human dura mater.

B. Recommended Classification of the Panel

During a public meeting on February 2, 1990, the Panel recommended that human dura mater be classified into class II (Ref. 3). The Panel also identified the following risks to health associated with the device: Prion infection, infection in general, leakage of cerebral spinal fluid (CSF), and adverse tissue reaction. New information about the safety and effectiveness of the device became available after 1990, however, and a second Panel meeting was held on September 16 and 17, 1999. At this meeting the Panel again recommended that the device be classified into class II (Ref. 6). The Panel recommended the following as potential special controls to provide reasonable assurance of safety and effectiveness: (1) FDA guidances, (2) postmarket surveillance, (3) patient registries, (4) device tracking, and (5) restrictions on donor selection.

C. Summary of the Reasons for the Recommendation

After reviewing the information provided by FDA, and after consideration of the open discussions during the Panel meeting(s) and the Panel members' personal knowledge of and clinical experience with the device system, the Panel gave the following reasons in support of its recommendation to classify the generic type human dura mater for use in repairing defects in human dura mater into class II .

The Panel believes that human dura mater should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance.

D. Summary of the Data Upon Which the Recommendation Is Based

In addition to the potential risks associated with the use of the human dura mater described in section V of this document, there is reasonable knowledge of the benefits of the device. Specifically, this long-term implanted device provides mechanical support and protection of the brain, as well as less leakage of CSF after neurosurgery. The use of human dura mater rather than the use of a dura substitute device or a graft prepared from the patient is also

preferred by some neurosurgeons (Refs. 5 and 6).

E. Risks to Health

After considering the Panel's deliberations, as well as the published literature and medical device reports (MDRs), FDA has evaluated the risks to health associated with the use of human dura mater intended to repair defects in human dura mater. FDA now believes the following are risks to health associated with the use of the device: Infection related to patient condition and treatment, transmission of spongiform encephalopathies, leakage of CSF, and adverse tissue reaction:

1. Infection Related to Patient Condition and Treatment

Bacterial, fungal, and viral infection is a risk to health associated with all surgical procedures and implanted devices. Regarding human dura mater implantation, infection may occur because the device was improperly sterilized or because of a pre-existing patient condition (i.e., whether the wound is clean, contaminated, or infected). After the implantation of human dura mater, the probability of infection that may occur has been reported to vary from 1.9 percent to 19 percent (Refs. 7 to 9).

2. Transmission of Spongiform Encephalopathies

Transmission of CJD and related diseases can occur from either inadequate donor selection or inappropriate human dura mater processing (Refs. 10 to 12). As of July 2000, the worldwide incidence of iatrogenic CJD associated with the use of implanted human dura mater was reported to be 114 cases, including three United States cases (Ref. 13). Most of these cases were related to the use of implanted Lyodura, a product that is not cleared for use in the United States.

3. Leakage of CSF

Leakage of CSF after neurosurgery may occur due to device failure or the incomplete repair of suture holes in the patient's dura mater created during implantation of human dura mater. Leakage of CSF can cause secondary complications, such as meningitis or encephalitis, pneumocephalus, and chronic subdural hematoma. Persistent accumulation of CSF may require additional surgical intervention and can be a significant cause of morbidity and mortality (Ref. 14).

4. Adverse Tissue Reaction

Human dura mater implantation may elicit an undesirable immunological reaction (Ref. 15) and an inflammatory or cytotoxic tissue reaction (Ref. 16). These reactions may result in adverse clinical outcomes, such as adhesion formation, hydrocephalus, foreign body reactions, and seizure (Ref. 17).

F. Special Controls

Based on the available information, FDA believes that the FDA guidance document entitled ''Class II Special Controls Guidance Document: Human Dura Mater; Guidance for Industry and FDA'' in addition to general controls, can provide reasonable assurance of the safety and effectiveness of the device. FDA agrees with the Panel that careful donor selection and testing guidelines are appropriate special controls to address the risks to health described in section II.E of this document. In addition, as noted below, device tracking, prescription labeling, and a form of postmarket surveillance that are already in effect provide additional controls to reasonably ensure the safety and effectiveness of human dura mater.

FDA notes that this proposed special control guidance document updates and will supersede the ''Guidance for the Preparation of a Premarket Notification Application for Processed Human Dura Mater'' issued on July 31, 1999, and reissued in October 1999.

1. Guidance Document

FDA believes that the guidance document addresses the Panel's concerns on donor selection and testing guidelines.

a. *Infection related to patient condition and treatment.* Adherence to the sections in the guidance document on: (1) Donor qualification; (2) qualification of other components; (3) manufacturing processing methods; (4) manufacturing controls; and (5) final sterilization may control the risk of bacterial, fungal, and viral infection by helping to ensure that the device is sterile and safe for long-term implantation.

b. *Transmission of spongiform encephalopathies.* Adherence to the sections in the guidance document on: (1) Donor qualification, (2) qualification of other components, (3) manufacturing processing methods, (4) manufacturing controls, and (5) labeling may control the risk of spongiform encephalopathy transmission by helping ensure the preparation of devices that have a lower risk of CJD transmission and can remind users of potential risks and alternative products.

c. *Leakage of CSF.*Adherence to the sections in the guidance document on: (1) Manufacturing processing methods, and (2) manufacturing controls can control the risk of CSF leakage by having the manufacturer demonstrate that the device is safe for long-term implantation.

d. *Adverse tissue reactions.* Adherence to the sections in the guidance document on: (1) Manufacturing processing methods, (2) manufacturing controls, and (3) final sterilization can control the risk of adverse tissue reactions by having the manufacturer demonstrate that the device is safe for long-term implantation.

2. Device Tracking

The Panel also identified device tracking as a potential special control for human dura mater. Tracking is a compliance mechanism to facilitate notification and recall actions in the event of a serious risk to health presented by a device. FDA notes that the agency has already issued a tracking order for human dura mater on December 14, 1998. Because device tracking is a regulatory control already in effect for human dura mater, it is not necessary that tracking also be considered a special control necessary to provide reasonable assurance of the safety and effectiveness of the device.

3. Postmarket Surveillance and Patient Registries

The Panel stated that it was important to track adverse device outcomes through postmarket surveillance. FDA agrees with the Panel that adverse device outcomes should be reported to FDA. However, FDA believes that the existing mandatory MDR system is an appropriate mechanism to report such adverse events. Therefore, it is not necessary that postmarket surveillance be designated a special control.

The Panel also recommended patient registries as a special control for the device. Because the tracking regulation already requires manufacturers to develop and implement programs to locate patients implanted with human dura mater until device explantation or death, it is not necessary that patient registries be designated as a special control.

4. Prescription Labeling

The Panel also recommended that the prescription statement be a special control for the device. Prescription labeling is already required for human dura mater under 21 CFR 801.109. Therefore, it is not necessary that the prescription statement be designated a special control.

III. Proposed Classification

FDA concurs with the Panel's recommendation that human dura mater should be classified into class II. FDA believes that the special control described in section II.F of this document, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance.

The agency proposes to amend § 882.1 by adding paragraph (e) to provide availability information for guidance documents.

IV. Environmental Impact

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

V. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

FDA has also examined the impact of the proposed rule under the Regulatory Flexibility Act. The purpose of this proposed rule is to change the classification of human dura mater from an unclassified medical device into a class II medical device subject to special controls. As an unclassified device, this device is already subject to premarket notification and the general labeling provisions of the act. There are currently five to seven manufacturers of human dura mater medical devices. All of the firms meet the Small Business Administration's definition of a small entity (fewer than 500 employees). FDA believes that manufacturers presently marketing this device generally conform to the proposed special controls guidance document. New manufacturers of human dura mater will only need to submit 510(k)s, as the statute now requires them to do, and demonstrate that they meet the recommendations of the guidance or in some way provide equivalent assurances of safety and effectiveness. In addition, biocompatibility and structural testing recommendations are eliminated from the proposed guidance, which will decrease the premarket notification costs for manufacturers introducing new human dura mater devices into commercial distribution. The agency therefore certifies that this proposed rule, if finalized, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

VI. Paperwork Reduction Act of 1995

The premarket notification information collections addressed in the guidance document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) under OMB control number 0910–0120. The labeling provisions addressed in the guidance have been approved by OMB under the PRA under OMB control number 0910–0485.

VII. Submission of Comments and Proposed Dates

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this proposal. You must submit two copies of any mailed comments except that individuals may submit one copy. You must identify comments with the docket number found in brackets in the heading of this document. You may see any comments received in the Dockets Management Branch between 9 a.m and 4 p.m., Monday through Friday. FDA proposes that any final rule that may issue based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

VIII. References

The following references have been placed on display in the Dockets Management Branch (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Centers for Disease Control, ''Rapidly Progressive Dementia in a Patient Who Received a Cadaveric Dura Mater Graft,'' *Morbidity and Mortality Weekly Report*, 36:49–50, 1987.
2. Neurological Devices Panel meeting, transcript, July 14, 1989, pp. 1–141.
3. Neurological Devices Panel meeting, transcript, February 2, 1990, pp. 5–111.
4. Centers for Disease Control, ''Creutzfeldt-Jakob Disease Associated With Cadaveric Dura Mater Grafts–Japan, January 1979–May 1996,'' *Morbidity and Mortality Weekly Report*, 46: 1066–1069, 1997.
5. Transmissible Spongiform Encephalopathies Advisory Committee meeting, transcript, October 6 and 7, 1997, pp. 210–269.
6. Neurological Devices Panel meeting, transcript, September 16, 1999, pp. 1–3 and 77–99, and September 17, 1999, pp. 9–11 and 17–101.
7. Abbott, W. M. and E. L. Dupree, ''Clinical Results of Lyophilized Human Cadaver Dura Transplantation,'' *Journal of Neurosurgery*, 34: 770–773, 1971.
8. Cantore, G., G. B. Guidetti, and R. Delfini, ''Neurosurgical Use of Human Dura Mater Sterilized by Gamma Rays and Stored in Alcohol: Long-Term Results,'' *Journal of Neurosurgery*, 66: 93–95, 1987.
9. Laun, A., J. C. Tonn, and C. Jerusalem, ''Comparative Study of Lyophilized Human Dura Mater and Lyophilized Bovine Pericardium as Dural Substitutes in Neurosurgery,'' *Acta Neurochirurgica* (Wien), 107: 1621, 1990.
10. Thadani, V., P. L. Penar, J. Partington, R. Kalb, R. Janssen, L. B. Schonberger, C. S. Rabkin, and J. W. Prichard, ''Creutzfeldt-Jakob Disease Probably Acquired From a Cadaveric Dura Mater Graft, Case Report,'' *Journal of Neurosurgery*, 69: 766–769, 1988.
11. Lang, C. J., J. G. Heckman, and B. Neundorfer, ''Creutzfeldt-Jakob Disease Via Dural and Corneal Transplants,'' *Journal of Neurological Science*, 160: 128–139, 1998.
12. Dobbins, J. G., E. D. Belay, J. Malecki, B. E. Buck, M. Bell, J. Cobb, and L. B. Schonberger, ''Creutzfeldt-Jakob Disease in a Recipient of a Dura Mater Graft Processed in the U.S.: Cause or Coincidence?'' *Neuroepidemiology*, 19: 62–66, 2000.
13. Brown, P., M. Preece, J. P. Brandel, T. Sato, L. McShane, I. Zerr, A. Fletcher, R. G. Will, M. Pocchiari, N. R. Cashman, J. H. d'Aignaux, L. Cervenakova, J. Fradkin, L. B. Schonberger, and S. J. Collins, ''Iatrogenic Creutzfeldt-Jacob Disease at the Millenium,'' *Neurology*, 55: 1075–1081, 2000.
14. Sawamura, Y., K. Asaoka, S. Terasaka, M. Tada, and T. Uchida, ''Evaluation of Application Techniques of Fibrin Sealant to Prevent Cerebrospinal Fluid Leakage: A New Device for the Application of Aerosolized Fibrin Glue,'' *Neurosurgery*, 44: 332–337, 1999.
15. Alleyne, C. H. and D. L. Barrow, ''Immune Response in Hosts With Cadaveric Dural Grafts,'' *Journal of Neurosurgery,* 81: 610–613, 1994.
16. Rosomoff, H. L. and T. I. Malinin, ''Freeze-Dried Allografts of Dura Mater—20 Years Experience,'' *Transplantation*

Proceedings, VIII: No. 2 Supplement 1, 133–138, 1976.

17. Sharkey, P. C., F. C. Usher, R. C. L. Robertson, and C. Pollard, ''Lyophilized Human Dura Mater as a Dural Substitute, '' *Journal of Neurosurgery*, 15: 192–198, 1958.

List of Subjects in 21 CFR Part 882

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 882 be amended as follows:

PART 882—NEUROLOGICAL DEVICES

1. The authority citation for 21 CFR part 882 continues to read as follows:

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

2. Section 882.1 is amended by adding paragraph (e) to read as follows:

§ 882.1 Scope.

* * * * *

(e) Guidance documents in this part may be obtained on the Internet at http://www.fda.gov/cdrh/guidance.html.

3. Section 882.5975 is added to subpart F to read as follows:

§ 882.5975 Human dura mater.

(a) *Identification*. Human dura mater is human pachymeninx tissue intended to repair defects in human dura mater.

(b) *Classification*. Class II (special controls). The special control for this device is FDA's ''Class II Special Controls Guidance Document: Human Dura Mater; Guidance for Industry and FDA.'' (See § 882.1 for availability information for guidances.)

Dated: September 30, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–26816 Filed 10–21–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, 25, 31, 53, 54, 56, and 301

[REG–103735–00; REG–154117–02; REG–154116–02; REG–154115–02; REG–154429–02; REG–154423–02; REG–154426–02; REG–110311–98]

RIN 1545–AX81; RIN 1545–BB49; RIN 1545–BB50; RIN 1545–BB48; RIN 1545–BB53; RIN 1545–BB51; RIN 1545–BB52; RIN 1545–AW26

Tax Shelter Disclosure Statements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations; notice of public hearing.

SUMMARY: These proposed rules provide the public with additional guidance needed to comply with the disclosure rules under section 6011(a). The rules also make conforming changes to the registration requirements under section 6111(d). The proposed rules affect taxpayers participating in certain reportable transactions. In the rules and regulations portion of this issue of the **Federal Register**, the IRS is issuing temporary regulations that modify the rules relating to the requirement that certain taxpayers file a statement with their Federal tax returns under section 6011(a) for certain transactions, including transactions involving Federal income, estate, gift, employment, and pension or exempt organizations excise taxes. The temporary regulations also make conforming changes to the rules relating to the registration of tax shelters under section 6111(d). The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests to speak and outlines of topics to be discussed at the public hearing scheduled for December 11, 2002, at 10 a.m., must be received by December 2, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–103735–00; REG–154117–02; REG–154116–02; REG–154115–02; REG–154429–02; REG–154423–02; REG–154426–02; REG–110311–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–103735–00; REG–154117–02; REG–154116–02; REG–154115–02; REG–154429–02; REG–154423–02; REG–154426–02; REG–110311–98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at *http://www.irs.gov/regs.* The public hearing will be held in room 6718, Internal Revenue Building, 1111 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tara P. Volungis, Danielle M. Grimm, or Charlotte Chyr, 202–622–3080 (not a toll-free number); concerning submissions, Sonya Cruse, 202–622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224. Comments on the collection of information should be received by December 23, 2002. Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collections of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collections of information in this proposed regulation are in § 1.6011–4T(a), (d), (e), (f), and (g), and in § 301.6111–2T(b), (e), and (f). This information is required to provide the IRS with notice of transactions that are potentially abusive. This information will be used to ensure compliance with the Federal tax laws. The collections of information are mandatory. The likely respondents and recordkeepers are individuals, business or other for-profit institutions, and small businesses or organizations.

The burden for the collection of information in § 1.6011–4T will be reflected on Form 8886, ''Reportable Transaction Disclosure Statement''. The burden for the collection of information in § 301.6111–2T is reflected on Form 8264, ''Application for Registration of a Tax Shelter'.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

The temporary regulations amend the rules in 26 CFR parts 1, 20, 25, 31, 53, 54, and 56 regarding the filing and records requirements of certain taxpayers under section 6011. The temporary regulations also amend the rules in 26 CFR part 301 regarding the registration of confidential corporate tax shelters under section 6111. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that these notices of proposed rulemaking are not significant regulatory actions as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the time required to prepare or retain the disclosure or registration is not lengthy and will not have a significant impact on those small entities that are required to provide disclosure or to register. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these notices of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) or electronically generated comments that are submitted timely to the IRS. The IRS and Treasury request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 11, 2002, beginning at 10 a.m. in room 6718 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 606.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by December 2, 2002. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Tara P. Volungis, Danielle M. Grimm, and Charlotte Chyr, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate tax, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

26 CFR Part 54

Excise taxes, Pensions, Reporting and recordkeeping requirements.

26 CFR Part 56

Excise taxes, Lobbying, Nonprofit organizations, Reporting and recordkeeping requirements.

26 CFR Part 301

Administrative practice and procedure, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301, which were proposed to be amended at 67 FR 41362 (June 18, 2002), are proposed to be further amended and 26 CFR parts 20, 25, 31, 53, 54, and 56 are proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

2. Section 1.6011–4, as proposed to be added at 66 FR 41169 (August 7, 2001) and amended at 67 FR 41362 (June 18, 2002), is revised to read as follows:

§ 1.6011–4 Requirement of statement disclosing participation in certain transactions by taxpayers.

[The text of the revision of this proposed section is the same as the text of the revision of § 1.6011–4T published elsewhere in this issue of the **Federal Register**.]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

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

Authority: 26 U.S.C. 7805 * * *

4. Section 20.6011–4 is added to read as follows:

§ 20.6011–4 Requirement of statement disclosing participation in certain transactions by taxpayers.

[The text of this proposed section is the same as the text of § 20.6011–4T published elsewhere in this issue of the **Federal Register**.]

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

5. The authority citation for part 25 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

6. Section 25.6011–4 is added to read as follows:

§ 25.6011–4 Requirement of statement disclosing participation in certain transactions by taxpayers.

[The text of this proposed section is the same as the text of § 25.6011–4T published elsewhere in this issue of the **Federal Register**.]

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

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

Authority: 26 U.S.C. 7805 * * *

8. Section 31.6011–4 is added to read as follows:

§ 31.6011–4 Requirement of statement disclosing participation in certain transactions by taxpayers.

[The text of this proposed section is the same as the text of § 31.6011–4T published elsewhere in this issue of the **Federal Register**.]

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

9. The authority citation for part 53 continues to read as follows:

Authority: 26 U.S.C. 7805.

10. Section 53.6011–4 is added to read as follows:

§ 53.6011–4 Requirement of statement disclosing participation in certain transactions by taxpayers.

[The text of this proposed section is the same as the text of § 53.6011–4T published elsewhere in this issue of the **Federal Register**.]

PART 54—PENSION EXCISE TAXES

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

Authority: 26 U.S.C. 7805 * * *

12. Section 54.6011–4 is added to read as follows:

§ 54.6011–4 Requirement of statement disclosing participation in certain transactions by taxpayers.

[The text of this proposed section is the same as the text of § 54.6011–4T published elsewhere in this issue of the **Federal Register**.]

PART 56—PUBLIC CHARITY EXCISE TAXES

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

Authority: 26 U.S.C. 7805 * * *

14. Section 56.6011–4 is added to read as follows:

§ 56.6011–4 Requirement of statement disclosing participation in certain transactions by taxpayers.

[The text of this proposed section is the same as the text of § 56.6011–4T published elsewhere in this issue of the **Federal Register**.]

PART 301—PROCEDURE AND ADMINISTRATION

15. The authority citation for part 301 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 301.6111–2 also issued under 26 U.S.C. 6111. * * *

16. Section 301.6111–2, as proposed to be added at 66 FR 41169 (August 7, 2001) and amended at 67 FR 41363 (June 18, 2002), is amended as follows:

1. Paragraphs (a)(3) and (b)(3)(i) are revised.

2. Paragraph (c)(3) is amended by adding a sentence at the end of the paragraph.

3. Paragraph (h) is amended by revising the paragraph heading and removing the third sentence through the last sentence and adding two new sentences in their place.

The revisions and additions read as follows:

§ 301.6111–2 Confidential corporate tax shelters.

[The text of the amendments to this proposed section is the same as the text of the amendments to § 301.6111–2T published elsewhere in this issue of the **Federal Register**.]

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 02–26725 Filed 10–17–02; 3:10 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–103736–00]

RIN 1545–AX79

Requirement To Maintain a List of Investors in Potentially Abusive Tax Shelters

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations; notice of public hearing.

SUMMARY: These proposed rules relate to the preparation, maintenance, and furnishing of lists of persons in potentially abusive tax shelters under section 6112. These regulations apply to sellers and organizers, collectively known as material advisors, of potentially abusive tax shelters. In the rules and regulations portion of this issue of the **Federal Register**, the IRS is issuing temporary regulations modifying the rules relating to the list maintenance requirements under section 6112. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests to speak and outlines of topics to be discussed at the public hearing scheduled for December 11, 2002, at 10 a.m., must be received by December 2, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–103736–00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–103736–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at *www.irs.gov/regs.* The public hearing will be held in room 6718, Internal Revenue Building, 1111 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charlotte Chyr, Tara P. Volungis, or Danielle M. Grimm, 202–622–3080 (not a toll-free number); concerning submissions, Sonya Cruse, 202–622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224. Comments on the collection of information should be received by December 23, 2002. Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collections of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collections of information in this proposed regulation are in § 301.6112–1T(a), (e), (f) and (i). This information is required to comply with the list maintenance requirement of section 6112. Section 6708 provides penalties for failing to maintain a list under section 6112. This information will be used to ensure compliance with the Federal tax laws. The collections of information are mandatory. The likely respondents and recordkeepers are individuals, business or other for-profit and not for-profit institutions, and small businesses or organizations.

Estimated total annual reporting and/or recordkeeping burden: 15,000 hours.

Estimated average annual burden hours per respondent and/or recordkeeper: 100 hours.

Estimated number of respondents and/or recordkeepers: 150.

Estimated annual frequency of responses: On occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

The temporary regulations amend 26 CFR part 301 regarding rules relating to the list maintenance requirements under section 6112. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the number of respondents is small, those persons responsible for maintaining the list described in the regulations are principally sophisticated businesses, including accounting firms and law firms and very few respondents, if any, are likely to be small businesses. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) or electronically generated comments that are submitted timely to the IRS. The IRS and Treasury request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 11, 2002, beginning at 10 a.m., in room 6718 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 606.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by December 2, 2002. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Charlotte Chyr, Tara P. Volungis, and Danielle M. Grimm, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301, which was proposed to be amended at 65 FR 49955 (August 16, 2000), is proposed to be further amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 301.6112–1 also issued under 26 U.S.C. 6112. * * *

2. Section 301.6112–1, as proposed to be amended at 65 FR 49957 (August 16, 2000), is revised to read as follows:

§ 301.6112–1 Requirement to prepare, maintain, and furnish lists with respect to potentially abusive tax shelters.

[The text of the revision of this proposed section is the same as the text of the revision of § 301.6112–1T published elsewhere in this issue of the **Federal Register**.]

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 02–26727 Filed 10–17–02; 3:10 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 15

[CIV 102P; AG Order No. 2621–2002]

RIN 1105–AA62

Certification and Decertification in Connection With Certain Suits Based Upon Acts or Omissions of Federal Employees and Other Persons

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: In cases where employees of the Federal Government are sued for money damages based on alleged torts, if the Attorney General certifies that the employees (and certain non-employees) were acting within the scope of their office or employment at the time of the incident out of which the suit arose, the suit would be deemed an action against the United States under the Federal Tort Claims Act. This proposed rule conforms Department regulations on this subject to the provisions of the Federal Employees Liability Reform and Tort Compensation Act that expanded the tort protections for Federal employees (and certain non-employees).

DATES: Submit comments on or before December 23, 2002.

ADDRESSES: Address all comments concerning this proposed rule to Jeffrey Axelrad, Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Jeffrey Axelrad, Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20044.

SUPPLEMENTARY INFORMATION: In 1961 Congress passed the Federal Drivers Act, Public Law 87–258, 75 Stat. 539, which immunized Federal employees from liability for money damages based on torts involving the operation of motor vehicles within the scope of their employment. In the event that a Federal employee was sued in such a case, the statute authorized the Attorney General to issue a certification that the employee was acting within the scope of his or her employment at the time of the incident out of which the suit arose, and the suit thereafter would be deemed a tort action against the United States pursuant to the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671–2680.

In ensuing years, Congress enacted a number of similar certification statutes to protect medical and legal personnel employed by certain Federal agencies from tort liability for professional malpractice arising within the scope of their employment. *E.g.,* 10 U.S.C. 1054 (Department of Defense legal personnel); 10 U.S.C. 1089 (Department of Defense medical personnel); 22 U.S.C. 2509(j) (Peace Corps medical personnel); 22 U.S.C. 2702 (Department of State medical personnel); 38 U.S.C. 7316 (Department of Veterans Affairs medical personnel); 42 U.S.C. 233 (Public Health Service medical personnel); 42 U.S.C. 2458a (National Aeronautics and Space Administration medical personnel).

Most recently, the Federal Employees Liability Reform and Tort Compensation Act, 28 U.S.C. 2679(b)–(e), became law. This certification statute, which replaced the less comprehensive Federal Drivers Act, extended immunity from liability for money damages to Federal employees for all common law torts committed within the scope of their employment.

A number of certification statutes also have been enacted to protect certain non-employees from tort liability arising out of certain Federal programs. As part of the National Swine Flu Immunization Program of 1976, Public Law 94–380, 90 Stat. 1113, Congress authorized the Attorney General to issue certifications in suits brought against certain agencies, organizations, and individuals that participated in the manufacture, distribution, and administration of the swine flu vaccine. Similar authority has been conferred on the Attorney General with respect to certain suits against fiduciaries of the Federal Retirement Thrift Savings Fund (5 U.S.C. 8477(e)(4)); atomic weapons testing contractors (42 U.S.C. 2212); and certain individuals enrolled as volunteers in National Volunteer Programs (42 U.S.C. 5055(f)).

Finally, several statutes, without expressly providing for certification, confer Federal employee status on certain persons who would not otherwise be encompassed within the Federal Tort Claims Act's definition of an ''employee of the government'' as that term is defined by 28 U.S.C. 2671. *E.g.,* 5 U.S.C. 3102 (persons employed to assist handicapped federal employees in performing duties); 5 U.S.C. 3111 (unpaid student volunteers); 7 U.S.C. 2272 (volunteers to Department of Agriculture); 10 U.S.C. 1588 (volunteers to Armed Services); 16 U.S.C. 18i (volunteers to National Park Service); 16 U.S.C. 558c (volunteers to Forest Service); 22 U.S.C. 2504 (Peace Corps volunteers); 29 U.S.C. 2897 (Job Corps enrollees); 33 U.S.C. 569c (volunteers to Army Corps of Engineers); 42 U.S.C. 3788 (volunteers to Office of Justice Programs, Bureau of Justice Assistance, National Institute of Justice Assistance, and Bureau of Justice Statistics).

Part 15 has not been revised since the enactment of the Federal Employees Liability Reform and Tort Compensation Act. The regulations were initially promulgated after passage of the Federal Drivers Act, 26 FR 11420 (1961), and revised as additional certification statutes were enacted. See 40 FR 4910 (1975); 42 FR 15409 (1977); 44 FR 9379 (1979); 49 FR 44995 (1984). As last revised, Part 15 comprises three sections (15.1, 15.2, and 15.3) and an appendix. Each section in turn is subdivided into three subsections that govern suits subject to: (1) The Federal Drivers Act and the malpractice certification statutes; (2) the swine flu statute; and (3) the atomic weapons testing statute.

This proposed rule revises Part 15 to conform it to the provisions of the Federal Employees Liability Reform and Tort Compensation Act, and to delete references to specific certification statutes. Section 15.1 is new and sets forth definitions of the terms ''appropriate Federal agency,'' ''Federal employee,'' and ''covered person.'' Sections 15.2, 15.3, and 15.4 cover the same subjects that were covered by the prior versions of sections 15.1, 15.2, and 15.3, respectively, except that rather than the former tripartite subdivision, each section is subdivided into two paragraphs, one of which governs suits against Federal employees, and the other which governs suits against covered persons. Under the proposed rule, the procedures governing actions against Federal employees continue to apply in actions against estates of Federal employees. The appendix is removed.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review.'' The Department of Justice has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and

accordingly this rule has been reviewed by the Office of Management and Budget.

Clarity of the Regulations

The Attorney General invites comments on how to make these proposed regulations easier to understand. Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to Federal employees and certain non-employees against whom civil actions are filed under circumstances in which the remedy against the United States under the Federal Tort Claims Act has been made exclusive of the remedy against such Federal employees and non-employees. The regulation requires Federal employees in those circumstances promptly to deliver the process and pleadings in such actions to their employing Federal agency, and the agency to send a report concerning the matter to the appropriate United States Attorney and the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice. The regulation further requires covered non-employees in those circumstances promptly to deliver the process and pleadings in such actions to the appropriate Federal agency, and the agency to send a report concerning the matter to the appropriate United States Attorney and the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice. The rule's economic impact is minimal.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 15

Authority delegations (Government agencies), Tort claims.

For the reasons stated in the preamble, the Department of Justice proposes to amend 28 CFR part 15 as follows:

1. Part 15 is revised to read as follows:

PART 15—CERTIFICATION AND DECERTIFICATION IN CONNECTION WITH CERTAIN SUITS BASED UPON ACTS OR OMISSIONS OF FEDERAL EMPLOYEES AND OTHER PERSONS

Sec.
15.1 General provisions.
15.2 Expeditious delivery of process and pleadings.
15.3 Agency report.
15.4 Removal and defense of suits.

Authority: 5 U.S.C. 301, 8477(e)(4); 10 U.S.C. 1054, 1089; 22 U.S.C. 2702; 28 U.S.C. 509, 510, and 2679; 38 U.S.C. 7316; 42 U.S.C. 233, 2212, 2458a, and 5055(f); and the National Swine Flu Immunization Program of 1976, Pub. L. 84–380, 90 Stat. 1113 (1976).

§ 15.1 General provisions.

(a) This part contains the regulations of the Department of Justice governing the application for and the issuance of statutory certifications and decertifications in connection with certain suits based upon the acts or omissions of Federal employees and certain other persons as to whom the remedy provided by the Federal Tort Claims Act, 28 U.S.C. 1346(b) and 2672, is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against such Federal employees and other persons.

(b) As used in this part:

(1) *Appropriate Federal agency* means the Federal agency most closely associated with the program out of which the claim or suit arose. When it cannot be ascertained which Federal agency is the most closely associated with the program out of which the claim or suit arose, the responsible Director of the Torts Branch, Civil Division, Department of Justice, shall be consulted and will thereafter designate the appropriate Federal agency.

(2) *Federal employee* means ''employee of the government'' as that term is defined by 28 U.S.C. 2671.

(3) *Covered person* means any person other than a Federal employee or the estate of a Federal employee as to whom Congress has provided by statute that the remedy provided by 28 U.S.C. 1346(b) and 2672 is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against such person.

§ 15.2 Expeditious delivery of process and pleadings.

(a) Any Federal employee against whom a civil action or proceeding is brought for money damages for loss or damage to property, or personal injury or death, on account of any act or omission in the scope of the employee's office or employment with the Federal Government, shall promptly deliver all process and pleadings served on the employee, or an attested true copy thereof, to the employee's immediate superior or to whomever is designated by the head of the employee's department or agency to receive such papers. In addition, if prior to the employee's receipt of such process or pleadings, the employee receives information regarding the commencement of such a civil action or proceeding, he shall immediately so advise his superior or the designee. If the action is brought against the employee's estate this procedure shall apply to the employee's personal representative. The superior or designee shall provide the United States Attorney for the district embracing the place where the action or proceeding is brought and the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice, information concerning the commencement of such action or proceeding, and copies of all process and pleadings.

(b) Any covered person against whom a civil action or proceeding is brought

for money damages for loss or damage to property, or personal injury or death, on account of any act or omission, under circumstances in which Congress has provided by statute that the remedy provided by the Federal Tort Claims Act is the exclusive remedy, shall promptly deliver to the appropriate Federal agency all process and pleadings served on the covered person, or an attested true copy thereof. In addition, if prior to the covered person's receipt of such process or pleadings, the covered person receives information regarding the commencement of such a civil action or proceeding, he shall immediately so advise the appropriate Federal agency. The appropriate Federal agency shall provide to the United States Attorney for the district embracing the place where the action or proceeding is brought, and to the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice, information concerning the commencement of such action or proceeding, and copies of all process and pleadings.

§ 15.3 Agency report.

(a) The Federal employee's employing Federal agency shall submit to the United States Attorney for the district embracing the place where the civil action or proceeding is brought a report that fully addresses whether the employee was acting within the scope of his office or employment with the Federal Government at the time of the incident out of which the suit arose. The employing Federal agency shall send a copy of the report to the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice.

(b) The appropriate Federal agency shall submit to the United States Attorney for the district embracing the place where the civil action or proceeding is brought a report that fully addresses whether the person was acting as a covered person at the time of the incident out of which the suit arose. The appropriate Federal agency shall send a copy of the report to the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice.

(c) A report under this section shall be submitted at the earliest possible date, or within such time as shall be determined upon request by the United States Attorney or the responsible Branch Director of the Torts Branch.

§ 15.4 Removal and defense of suits.

(a) The United States Attorney for the district where the civil action or proceeding is brought, or any Director of the Torts Branch, Civil Division, Department of Justice, is authorized to make the statutory certification that the Federal employee was acting within the scope of his office or employment with the Federal Government at the time of the incident out of which the suit arose.

(b) The United States Attorney for the district where the civil action or proceeding is brought, or any Director of the Torts Branch, Civil Division, Department of Justice, is authorized to make the statutory certification that the person was acting as a covered person at the time of the incident out of which the suit arose under circumstances in which Congress has provided by statute that the remedy provided by the Federal Tort Claims Act is the exclusive remedy.

(c) A certification under this section may be withdrawn if a further evaluation of the relevant facts or the consideration of new or additional evidence calls for such action. The making, withholding, or withdrawing of certifications, and the removal and defense of, or refusal to remove or defend, such civil actions or proceedings shall be subject to the instructions and supervision of the Assistant Attorney General in charge of the Civil Division or his designee.

Dated: October 16, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02–26832 Filed 10–21–02; 8:45 am]

BILLING CODE 4410–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7396–7]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the West Virginia Ordnance Works Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete six areas of the West Virginia Ordnance Works (WVOW) National Priorities List (NPL) site from the NPL and requests public comment on this action. The areas are the Operable Unit 11 (OU–11) Sellite Plant, the OU–12 North and South Powerhouses and Vicinity, the Environmental Mitigation Area 6 (ENV–6), the Expanded Site Investigation 3 (ESI–3) Tract 21, the ESI–5 Refueling Depot, and the ESI–9 Main and Outgoing Classification Yards. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

This proposal for partial deletion pertains only to OU–11, OU–12, ENV–6, ESI–3, ESI–5, and ESI–9. The U.S. Army Corps of Engineers (USACE), together with EPA, issued no further action Records of Decision (RODs) for OU–11 and OU–12. Wetlands were restored at ENV–6 in accordance with mitigation agreements, which were approved and signed by USACE and the West Virginia Division of Natural Resources (WVDNR). USACE and EPA issued no further action Decision Documents for ESIs–3, –5, and –9, which were concurred upon by the West Virginia Department of Environmental Protection (WVDEP). EPA bases its proposal to delete these six areas at WVOW on the determination by EPA, USACE, and WVDEP that all appropriate actions under CERCLA have been implemented to protect human health and the environment at OUs–11 and –12, ENV–6, and ESIs–3, –5, and –9.

This partial deletion pertains only to these areas of the WVOW site and does not include any other ESI or any OU. All other ESIs and OUs will remain on the NPL, and investigation and response activities will continue at those ESIs and OUs.

DATES: EPA will accept comments concerning its proposal for partial deletion for thirty (30) days after publication of this document in the **Federal Register** and publication of a notice of availability of this document in a newspaper of record.

ADDRESSES: Comments may be submitted to Mr. Jack Potosnak, PE, Remedial Project Manager, U.S. EPA, Region III (3HS13), 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, Telephone: (215) 814–3362.

Information Repositories: Comprehensive information on the WVOW site, information specific to this proposed partial deletion, the Administrative Record and the Deletion Docket for this partial deletion are available for review at the following WVOW site document/information repositories:

Mason County Public Library, 508 Viand Street, Point Pleasant, WV 25550, (304) 675–0894, Hours of Operation: Monday through Saturday 10 a.m.-5 p.m.

U.S. EPA Region III Library, 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–5254, Hours of Operation: Monday through Friday 8 a.m.–5p.m.

U.S. Army Corps of Engineers, Huntington District, 502 8th Street, Huntington, WV 25701, (800) 822–8413 or (304) 529–5388, Hours of Operation: Monday through Friday 8 a.m.–4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Potosnak, PE, Remedial Project Manager, U.S. EPA Region III (3HS13), 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–3362.

SUPPLEMENTARY INFORMATION:

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

I. Introduction

The United States Environmental Protection Agency (EPA) Region III announces its intent to delete a portion of the West Virginia Ordnance Works site (WVOW site) located in Mason County, West Virginia, from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this proposal. This proposal for partial deletion pertains to OU–11, OU–12, ENV–6, ESI–3, ESI–5, and ESI–9.

The WVOW site is located on the east bank of the Ohio River, approximately six miles north of Point Pleasant, Mason County, West Virginia. Contamination of the WVOW site originated from the operation of a trinitrotoluene (TNT) manufacturing facility during World War II. Nitroaromatic (explosive) compounds are the primary contaminants of concern at the WVOW site.

The WVOW site, as added to the NPL in 1983 encompassed an entire area of approximately 8,323 acres. In 1994, after 11 years of investigation and other activities at the WVOW site that helped to determine where contamination at the site existed, EPA, USACE and WVDEP worked together to clarify the boundary of the WVOW site by developing a site boundary map delineating areas of known or suspected contamination. This clarification of the site boundary was undertaken in accordance with EPA's interpretation of ''facility,'' which was defined by Congress in section 101(9)(B) of CERCLA, 42 U.S.C. 9601(9)(B), as ''any site or area where a hazardous substance has been deposited, stored, disposed of, or placed or otherwise come to be located * * *'' EPA has routinely explained how site boundaries are determined when notifying the public regarding additions to the NPL. See, *e.g.*, National Priorities List for Uncontrolled Hazardous Waste Sites, 67 FR 56757, 56759, September 5, 2002. The current WVOW site boundary, as delineated in the 1994 mapping, encompasses approximately 2,700 acres.

All six areas proposed for deletion from the NPL are located within the current boundary for the WVOW site. The Clifton F. McClintic Wildlife Management Area (MWMA) occupies 2,788 acres of the 1983 site, and most of the MWMA is also within the current NPL boundary.

OU–11: Sellite Plant

In April 1990, a surface and subsurface investigation was undertaken at the Sellite Manufacturing Area. The results of this investigation indicated that neither nitroaromatic compounds nor organic compounds were detected. However, during a July 1990 sampling event, 2,4-dinitrotoluene was detected in a well but at a level below risk-based concentrations. A focused remedial investigation (RI) was conducted at OU–11 from January to March 1994 to verify and expand upon the April 1990 investigation.

One groundwater contaminant (bis(2-ethylhexyl)phthalate [DEHP]) found at OU–11 was present at a concentration exceeding the maximum contaminant level (MCL); however, according to the risk assessment, the risk to human health associated with DEHP was within an acceptable limit. In addition, lead was found in groundwater at OU–11 at a concentration exceeding EPA's action level; however, contamination was detected in only three out of seven monitoring wells and the lead level was above the action level for only one unfiltered sample. Filtration of this same sample resulted in a lead level below the action level. According to the risk assessment, the mean lead level was less than the mean background level of lead at the WVOW site and the mean lead level was found to correspond to an acceptably low probability that blood lead levels of any receptor would exceed a level of concern. For these reasons, neither DEHP nor lead were found to be contaminants of concern at OU–11.

After the RI, a risk assessment was performed. For groundwater, the site-related risk and hazards were found to be within the acceptable limits. For surface soil, aluminum, arsenic, beryllium and manganese were determined to be present due to background rather than site-related activities.

In 1999, as a removal action, EPA disposed of 10 drums of hazardous and non-hazardous waste and excavated and disposed of 25 tons of non-hazardous waste soil. The drums of waste material disposed of as hazardous waste contained material contaminated with caustics or corrosives or with lead, likely from waste paints or coatings.

In May 2000, USACE and EPA issued a ROD for OU–11, which was concurred upon by WVDEP, finding that no remedial action was required at OU–11; however, the ROD stipulated that annual groundwater monitoring would be conducted over a period of 5 years to evaluate the trend of the concentrations of DEHP and lead to ensure that they remain within an acceptable range. The results of the monitoring thus far indicate that MCLs are no longer being exceeded.

OU–12: North and South Powerhouses and Vicinity

In 1994 and 1995, USACE undertook a removal to demolish both powerhouse buildings. An RI was conducted in 1995 at OU–12 to identify and evaluate the source, nature, and extent of environmental contamination in subsurface soil, groundwater, surface water, and sediment. Additional sampling of surface soil was conducted in December 1997 and November 2000.

Based on analyses of the samples and a risk assessment, it was determined that cancer and non-cancer risks were within acceptable levels for all receptors. Iron found in subsurface soil was found unlikely to induce adverse effects in receptors exposed to subsurface soil. The highest iron ingestion rate for any OU–12 receptor was projected to be approximately 10 times less than the dose that is known to cause signs of mild toxicity in children who have ingested large quantities of supplemental iron tablets and 100 times less than a lethal dose. Moreover, the risk assessment deduced that the forms of iron in subsurface soil would likely be less toxic than iron found in nutritional supplements.

USACE and EPA issued a ROD in June 2002, which was concurred upon by the WVDEP, documenting the conclusion that no contaminants present in the soil, sediment, surface water or groundwater at OU–12 pose a threat to human health. The ROD also concluded that no remedial action was required at OU–12.

ENV–6: Wetlands Mitigation Area

Investigation in this area did not reveal any contamination in connection

with activities undertaken at WVOW. ENV–6 designates an area where wetlands were restored to mitigate for the loss of wetlands elsewhere within the WVOW site during remedial activities. In 2000, the wetlands restoration was completed, and no further work is required at ENV–6.

ESI–3: Tract 21

Extensive sampling and risk assessments were undertaken at ESI–3 and, except for an outdoor asbestos removal, no CERCLA response action was necessary. Based on these investigations, on September 28, 2000, USACE, EPA and WVDEP executed a Decision Document for ESI–3 stating that no further action is necessary to protect human health and the environment except for removal of asbestos-containing materials. The removal was completed in April 2001.

ESI–5: Refueling Depot

Based on the results of a geophysical survey, trenching, and soil and groundwater investigation, it was determined that ESI–5 does not pose an unacceptable risk to human health or the environment. This determination is based upon the following findings: (a) Chemicals in site soils were detected at background concentrations and/or at concentrations which do not present a risk to human health or ecological receptors; (b) ecological receptors are unlikely to contact subsurface soil; (c) site-related contaminants in the groundwater samples were detected at concentrations which do not present a risk to human health.

EPA, WVDEP and USACE executed a Decision Document on September 28, 2000 finding that no remedial action is required at ESI–5 because contaminant concentrations detected in the soil and groundwater do not present a significant risk to human health or ecological receptors.

ESI–9: Main and Outgoing Classification Yards

Environmental studies were conducted at ESI–9 in 1996, which included collection and analysis of surface and subsurface soil samples and groundwater samples from the main classification yard (MCY), surface water and sediment samples from water near the MCY, and subsurface soil samples from the outgoing classification yard (OCY). A human health risk evaluation was also conducted in 1996 based on analytical results of the sampling.

No unacceptable human health or environmental risks were identified for environmental media at the MCY or the OCY based on the risk evaluation and a repeat analysis of the risk evaluation. It was determined that the only contaminant detected in groundwater underlying the OCY is likely attributable to the Red Water Reservoir, which is located to the south of ESI–9 and is being addressed as OU–4.

On July 12, 2001, USACE, EPA and WVDEP issued a Decision Document for ESI–9, which found that no further action was necessary. Unacceptable human health risks identified for the MCY groundwater were shown to be attributed to WVOW background conditions and not to WVOW activities. Contaminants at ESI–9, present due to WVOW activities, do not present a significant risk to human health and the environment.

II. NPL Deletion Criteria

This partial deletion of the WVOW site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55446 (Nov. 1, 1995).

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

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

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

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

Deletion of a portion of a site from the NPL does not preclude eligibility for subsequent CERCLA actions at the area deleted if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that CERCLA actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities at areas not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke a person's rights or obligations. The NPL is designed primarily for informational purposes and to assist agency management. The following procedures were used for the proposed deletion of OUs–11 and –12, ENV–6, and ESIs–3, –5, and –9 at the WVOW site:

1. EPA has recommended the partial deletion and USACE has prepared the relevant documents.
2. The State of West Virginia through the West Virginia Department of Environmental Protection concur with this partial deletion.
3. Concurrent with this national Notice of Intent for Partial Deletion, a notice has been published in a newspaper of record and has been distributed to appropriate federal, state, and local officials, and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this notice in the **Federal Register** and publication of a notice of availability of this notice in a newspaper of record.
4. EPA and USACE have made all relevant documents available at the information repositories listed previously.

This **Federal Register** document, and a concurrent notice in a newspaper of record, announce the initiation of a thirty (30) day public comment period and the availability of the Notice of Intent for Partial Deletion. The public is asked to comment on EPA's proposal to delete OUs–11 and –12, ENV–6, and ESIs–3, –5, and –9 of the WVOW site from the NPL. All critical documents needed to evaluate EPA's decision are included in the Deletion Docket and are available for review at the information repositories.

Upon completion of the thirty (30) day comment period, EPA will evaluate all comments received before issuing the final decision on the partial deletion. EPA will prepare a Responsiveness Summary for comments received during the public comment period and will address concerns presented in the comments. The Responsiveness Summary will be made available to the public at the information repositories listed previously. Members of the public are encouraged to contact EPA Region III to obtain a copy of the Responsiveness Summary. If, after review of all public comments, EPA determines that the

partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the **Federal Register**. Deletion of the areas does not actually occur until the final Notice of Partial Deletion is published in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following provides EPA's rationale for deletion of OU–11, OU–12, ENV–6, ESI–3, ESI–5, and ESI–9 from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied.

Background

The WVOW site is located on the east bank of the Ohio River, approximately six miles north of Point Pleasant, Mason County, West Virginia. The WVOW site, as added to the NPL in 1983, encompassed a land mass of approximately 8,323 acres. As explained in section I, earlier in this Notice, the NPL boundary was clarified in 1994, and the WVOW site now encompasses approximately 2,700 acres. The Clinton F. McClintic Wildlife Management Area (MWMA) occupies 2,788 acres of the original site, and is mostly included in the current site boundary. Contamination of the WVOW site originated from the operation of a trinitrotoluene (TNT) manufacturing facility during World War II. Nitroaromatic (explosive) compounds are the primary contaminants of concern at the WVOW site. To expedite CERCLA response actions at this large site, the WVOW site is divided into 13 Operable Units (OUs) and 10 Expanded Site Investigations (ESIs):

OU–1: TNT Manufacturing Area, Burning Grounds, and Waste Water Process Lines
OU–2: Red Water Reservoir
OU–3: Yellow Water Reservoir
OU–4: Groundwater Extraction and Treatment for OUs 2 and 3
OU–5: Pond 13/Wet Well Area
ENV–6: Wetlands Mitigation Area
OU–7: Point Pleasant Landfill
OU–8: TNT Manufacturing Area Soils
OU–9: TNT Manufacturing Area Groundwater
OU–10: South Acids Area and Toluene Storage Areas
OU–11: Sellite Plant
OU–12: North and South Powerhouses
OU–13: Pantasote Plant
ESI–1: Magazine Area
ESI–2: Acid Dock
ESI–3: Tract 21
ESI–4: Red Water Sewer Outfall
ESI–5: Refueling Depot
ESI–6: Motorpool and Maintenance Area
ESI–7: Sewage Treatment Plant Outfall
ESI–8: Dump Site Adjacent to the TNT Manufacturing Area
ESI–9: Classification Yards
ESI–10: Various Areas of Concern

USACE has been investigating and conducting human health risk evaluations and assessments for each OU and ESI separately. Once investigations and assessments are complete, USACE and EPA together have made CERCLA response action decisions, with the concurrence of WVDEP.

The WVOW was established in 1942 as a government-owned, contractor-operated plant for the manufacture of TNT from toluene, nitric acid, and sulfuric acid. The WVOW plant was operated by the General Defense Corporation of New York from October 1942 through August 1945. The plant had the capacity to produce 720,000 pounds of TNT each day, utilizing 12 manufacturing lines; however, it has been reported that only lines 1 through 10 were operated, and the plant never reached full capacity.

The facility was constructed on approximately 5,800 acres, of which more than 2,000 acres were used as a safety zone between the plant and other properties. The plant includes the 12 TNT manufacturing lines; two acid manufacturing areas; two coal-fired power plants; a Sellite manufacturing plant; pumping stations; a sewage treatment plant; 100 concrete TNT storage magazines; and various administrative, shop, and housing facilities.

In 1945, the production of TNT ceased, and shutdown of the WVOW plant was initiated. The production of TNT had resulted in soil contamination from nitroaromatic compounds in the manufacturing areas, process facilities, and wastewater disposal facilities. Partial decontamination actions were performed, such as flashing the TNT lines and draining and capping the Red and Yellow Water Reservoirs, and the property was transferred from the U.S. War Department to the U.S. War Assets Administration in late 1946.

Numerous site visits and investigations beginning in 1947 and continuing through the 1950s determined that additional contamination not previously identified was present at the site. In addition, several tracts of land that had received decontamination certificates were determined to be contaminated. Because the site could not be completely decontaminated, a portion of the site was not released for private ownership and was transferred to the State of West Virginia as a wildlife management area in 1949.

In 1981, a red water seepage was discovered at Pond 13, later designated as OU–5. Subsequent investigations led the State of West Virginia to nominate the WVOW site for inclusion on the NPL; ultimately the WVOW site was ranked as 84th. A memorandum of understanding was signed in 1983 between EPA Headquarters and the Department of Defense to establish responsibilities for remediating the site. For the Department, the U.S. Army Toxic and Hazardous Materials Agency began the first remedial investigation and feasibility study in 1984. Initially, only two operable units were established, and Records of Decision (RODs) and Interagency Agreements (IAGs) were signed to address these areas. Later, more operable units were created until the current total of thirteen was reached.

Construction of the OU–1 remedy was completed in 1988 before the site was transferred from the U.S. Army Toxic and Hazardous Materials Agency to USACE, Baltimore District, in 1991. OU–1 remediation included capping of the burning grounds and the 10 TNT manufacturing lines that had been operated in the 1940s and excavation and flaming of process waste water lines. Construction on OU–2, which included draining and capping of the Red and Yellow Water Reservoirs, was completed in 1992 before the site administration was transferred to USACE, Huntington District, where it remains. Portions of OU–2 were later divided into OU–3, OU–4, and OU–5 to simplify management. The construction of the OU–4 remedy was completed in 1997, and the two groundwater treatment plants are currently operational. OU–6 was re-designated as ENV–6, and construction of wetlands has been completed. OU–7 and OU–13, the Point Pleasant landfill and the Pantasote plant, respectively, have been designated by EPA as potentially responsible party sites, and EPA is the lead agency for addressing these areas. Buildings were demolished and debris removed at OU–11 and OU–12. Asbestos-containing material has been removed from ESI–3, which was the only hazard posed on that area. An underground storage tank (UST) was removed from ESI–6. Asbestos materials and other debris were removed and capped at ESI–8.

OU–11: Sellite Plant

The former Sellite manufacturing area is centrally located in the WVOW site and lies northwest of the former TNT manufacturing area. OU–11 is situated

on the south side of County Road 12 (Wadsworth Road), approximately 1.5 miles southeast of State Route 62. Sellite (sodium sulfite) was manufactured at the Sellite Manufacturing Plant from 1942 to 1945 by the U.S. Army. Supporting facilities consisted of the soda ash storage building and a sulfur storage facility. In addition, a box factory and storage facility were located at OU–11.

During the manufacture of TNT at WVOW, Sellite was used for the washing and purification of tri-oil as one of the final steps in producing TNT. Sellite was manufactured by combining soda ash and sulfur, which involved the use of a sulfur melting pit and a sulfur furnace. The materials were combined in two batch tanks within the Sellite plant, and the liquor produced was pumped to two Sellite storage tanks located southeast of the plant.

During the initial operation of WVOW, Sellite solution was transported from the storage tanks to the TNT Manufacturing Area by truck. However, because of the inefficiencies of this operation, a 4-inch-diameter steel line was installed in 1944 to supply Sellite to the washer/flaker houses in the TNT Manufacturing Area, and the trucks were taken out of service.

Since the suspension of TNT manufacturing at WVOW in August of 1945, and the declaration of the WVOW site as surplus in December of 1945, the former Sellite Manufacturing Area has had several uses. OU–11 was initially used by the Mason Furniture Company for the manufacture of furniture from 1948 through the mid-1970s. The property was most recently leased from the landowner by the West Virginia Mulch Company for the manufacture of mulch. Site activities included the receipt of raw materials, manufacture and storage of mulch, packaging of mulch, and the loading of tractor trailers for transport of packaged mulch. These operations ceased in 1996, and the property is currently vacant. In 1999, EPA discovered drums of unknown materials on the property. EPA removed 10 drums of hazardous and non-hazardous materials and 25 tons of contaminated soil.

A focused remedial investigation (RI) was conducted at OU–11 from January to March 1994 to verify and expand the database established in the April 1990.

After the RI, a risk assessment was performed. For groundwater, the site-related risk and hazard are within the acceptable limits of the background risk and hazard. For surface soil, aluminum, arsenic, beryllium and manganese were determined to be present due to background rather than site-related activities. Total residential cancer risk and noncancer hazard from exposure to groundwater and soil were found to be within acceptable limits. On May 9, 2000, USACE and EPA issued a ROD, concurred upon by WVDEP, finding that actual or threatened releases of hazardous substances from OU–11 were not found to be an imminent and substantial or future endangerment to public health and welfare or the environment and that no remedial action was required at OU–11. In addition, the ROD stipulated that annual groundwater monitoring would be conducted over a period of 5 years to evaluate the trend of the concentrations of bis(2-ethylhexyl)phthalate and lead to assure that they remain within an acceptable range. The monitoring program is nearly complete and all results indicate that maximum contaminant levels are no longer being exceeded.

OU–12: North and South Powerhouses and Vicinity

OU–12 encompasses the former North and South Powerhouses. The North Powerhouse (NPH) site is located northeast of and adjacent to the Mason County Fairgrounds in the northeast part of the administrative/maintenance area of the WVOW in the upland area above the Ohio River floodplain. The South Powerhouse (SPH) site is located in the southwest part of the former administrative/maintenance area of the WVOW. It is southwest of and adjacent to the Mason County Fairgrounds. Both the NPH and SPH sites are on property currently owned by Mason County, West Virginia.

The two powerhouses were operational from 1942 through 1945 in support of the manufacture of TNT. They were primarily used for the production of low-pressure and high-pressure steam for industrial purposes and heating at the WVOW but were also reportedly used as standby sources of electrical power. Power-generating equipment was removed after WVOW shut down in 1945, and the two areas have had no known use since that time. Both powerhouse buildings were removed during a removal action carried out by the USACE in 1994 and 1995. Each powerhouse had an associated coal storage area and ash disposal area. The ash disposal pits were used to dispose of ash from the coal-fired boilers and were situated on the east side of each powerhouse. Part of the ash pit for the SPH is currently a pond. It is the only pond located at OU–12 and is designated as Pond 2.

An RI was conducted in 1995 at OU–12 to identify and evaluate the source, nature, and extent of environmental contamination in subsurface soil, groundwater, surface water, and sediment. At the request of EPA Region III, additional subsurface soil and sediment samples were collected from the former ash pit in December 1997. Samples of the various media were collected and analyzed in the vicinity of both the NPH and SPH. Initially, surface soil samples were not collected because the original surface soil was replaced with clean fill during removal of the powerhouse buildings. However, surface soil samples were collected in November 2000 in response to concerns raised by WVDEP.

During the RI, soil samples, groundwater and surface water samples, and sediment samples were analyzed for likely contaminants and a risk assessment was performed using the outcome of the sampling analysis. Cancer risks were found to be within acceptable limits for all receptors at OU–12. Exposure to groundwater, surface water, or sediment does not pose any site-related risks. Elevated levels of iron were found in OU–12 subsurface soils; however, the conclusion of the risk assessment was that iron is not expected to induce adverse effects in receptors exposed to subsurface soil. On June 14, 2002, USACE and EPA issued a ROD for OU–12, which was concurred upon by WVDEP, making the finding that no remedial action was necessary at OU–12.

ENV–6: Wetlands Mitigation Area

ENV–6 is located near the eastern boundary of the McClintic Wildlife Management Area along Oldtown Creek, just south of County Route 12. The area includes Ponds 21 through 23 and other areas (Pond 6 and a portion of Pond 17A) that are not areas of environmental concern.

During remedial activity for OU–1, Pond 16 was drained and could not be refilled because the pond dam had been damaged, which resulted in loss of wetlands in and around Pond 16. As a separate event, during remedial activity for OU–2, Ponds 1 and 2 (which were the Red Water Reservoir) were drained and capped, also resulting in loss of wetlands. To compensate for these two separate losses of wetlands, USACE and the State together decided that it would be more efficient, due to other remedial activity ongoing at the WVOW site, to construct a dam at Ponds 21 through 23 rather than re-construct the Pond 16 dam. USACE performed pre-construction testing of the areas proposed to be made into aquatic habitat or wetlands to ensure that, when flooded, contaminants in the soil (if

any) would not leach into the wetlands and contaminate the ponds. The pre-construction sampling and analysis indicated that the soil was not contaminated and could be flooded. USACE provided partial funding to the State for a replacement dam and fish lost at Pond 16. Investigation in this area did not reveal any concerns about contamination related to WVOW activity.

ESI–3: Tract 21

ESI–3 is bounded on the north by Camp Conley Road, on the south by Oldtown Creek, and on the east and west by privately-owned properties. Historic records from the operation of WVOW indicate no activities conducted at the Tract 21 area, which covers approximately 36 acres. However, after the closure of WVOW, disposal of WVOW waste and possibly civilian waste may have occurred on approximately 15 acres of Tract 21. This area of probable disposal was designated as AOC–16. ESI–3 is now privately-owned and includes an agricultural field, a wooded area, and a small family cemetery.

Pre-remedial investigation activities were conducted at ESI–3 in 1995. Because the current use of the site is agricultural, activities such as tilling have disrupted the surface soil. Thus, field investigations consisted of sampling and analysis of soil beneath the zone of agricultural disruption; the investigations also included sampling of groundwater and seep water at Tract 21 and surface water and sediment from Oldtown Creek, which borders Tract 21 to the south. The samples were analyzed for the presence of possible contaminants. The data from these field investigations and analyses were screened to evaluate whether the site presented unacceptable risk to human health and/or the environment. Subsequent human health risk evaluations were performed to assess contaminant levels and pathways for potential risk to human receptors, and an ecological risk assessment was performed to evaluate contaminant levels and pathways for potential risk to ecological receptors.

Based on the outcome of the evaluations and assessment, EPA, WVDEP, and USACE issued a Decision Document on September 28, 2000, finding that ESI–3 required an asbestos removal action where the disposal activities likely occurred, but otherwise no further CERCLA response action. The removal action for potentially friable asbestos-containing material on the ground surface at ESI–3 was completed in April 2001.

ESI–5: Refueling Depot

ESI–5 is a 6.3-acre parcel located northeast of the Sellite Manufacturing Area (OU–11) on the north side of County Road 12 (Wadsworth Road); most of ESI–5 is located within the MWMA. During the operation of WVOW, the ESI–5 was used as a gasoline refueling station and probably contained an underground storage tank for storing gasoline.

In 1994, an initial investigation was conducted which included a geophysical survey and subsurface soil sample collection. Surficial soil samples were not collected at ESI–5 because petroleum products evaporate over time and, thus, would not remain in surface soils more than 50 years after any potential release. The purpose of the geophysical survey was to locate and map underground storage tanks, if any. In 1997, groundwater samples were collected and analyzed for petroleum-related hazardous substances and other contaminants. In 1999, a supplemental investigation was undertaken to further investigate magnetic anomalies detected in the 1994 geophysical survey and to otherwise confirm whether any underground storage tanks existed at ESI–5. Certain locations within ESI–5 were trenched to physically search for underground storage tanks, but none were found.

On September 28, 2000, USACE, EPA and WVDEP issued a Decision Document which concluded that ESI–5 does not pose an unacceptable risk to human health or the environment. This conclusion was based on the following investigation findings: (a) Chemicals found in ESI–5 soils were detected at background concentrations and/or at concentrations which do not present a risk to human health or ecological receptors; (b) ecological receptors are unlikely to contact subsurface soil; (c) site-related contaminants found in groundwater were detected at concentrations which do not present a risk to human health.

ESI–9: Main and Outgoing Classification Yards

From 1942 to 1945, when WVOW was in operation, the Main Classification Yard (MCY) and the Outgoing Classification Yard (OCY) consisted primarily of railroad sidings where incoming and outgoing freight were inventoried. In the mid-1960s, the railroad tracks were removed and construction of the Mason County Airport began. The airport became operational in 1967.

The MCY is located at the current Mason County Airport, southwest of the location of the former South Powerhouse (OU–12) and outside of the MWMA. The Mason County Airport runway and terminal area are located on the former MCY railbed.

Prior to the ESI–9 investigation, the following chemicals were of potential concern, based on historic use of the MCY: inorganics, volatile and semivolatile organic compounds, pesticides, polychlorinated biphenyls, and asbestos. Petroleum products and other associated chemicals used by Mason County Airport and chemicals associated with agricultural activities conducted at ESI–9 after WVOW operations ceased and construction of the airport also may have contaminated the MCY.

The OCY is situated within the MWMA along Potters Creek Road (County Road 11), north of the former Red Water Reservoir and adjacent to the MWMA boundary. The OCY tracks ran parallel to Potters Creek Road. During WVOW operations, the OCY was used to facilitate loading of the finished product, TNT, to outgoing freight and had a capacity of 30 railcars per day. The only structure located in this area during WVOW operations was the track scale. The track scale pit has been filled in, and the tracks have been removed from the site. The Red Water Reservoir groundwater extraction wells, a component of the OU–4 groundwater extraction system, are currently located where the OCY used to be. Prior to site investigation, the following chemicals were of potential concern, based on historic use of the OCY: nitroaromatic compounds, inorganics, volatile and semi-volatile organic compounds, pesticides, PCBs, and asbestos.

In 1996, an investigation included collection of surface and subsurface soil samples from the MCY, collocated surface water and sediment samples from the MCY, groundwater samples from monitoring wells in conjunction with the study of the MCY, and subsurface soil samples from the OCY. After analysis of the sampling, a human health risk evaluation was conducted.

On July 12, 2001, USACE, EPA and WVDEP issued a Decision Document finding that: (a) no unacceptable risks were identified for MCY or OCY environmental media based on the human health risk evaluation or repeat evaluation; and (b) the only contaminant detected in groundwater underlying the OCY is likely attributable to the Red Water Reservoir, which is being addressed as OU–4.

Response Actions

At OU–11 and OU–12, building demolition and debris removal were

performed to eliminate hazards. Also, at OU–11, a removal action was taken to remove unsecured drums and some contaminated soil. At ESI–3, an asbestos removal was performed to remove asbestos-containing debris.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and Section 117, 42 U.S.C. 9617.

OU–11: Sellite Plant

A copy of the RI report and the Proposed Plan were placed in the public repository at the Mason County Public Library in Point Pleasant, West Virginia. Notice of the availability of the documents, the public comment period, and the public meeting were published in The Point Pleasant Register on April 8, 1999. USACE established a 30-day public comment period beginning April 15, 1999 and ending May 15, 1999. A public meeting was held on April 15, 1999 at the Army National Guard Armory in Point Pleasant, West Virginia to answer any questions concerning OU–11 and the selected remedy. Representatives of EPA, WVDEP, and USACE were present at the public meeting. No members of the public attended the meeting, nor were any comments received during the public comment period.

OU–12: North and South Powerhouses and Vicinity

A copy of the RI report and the Proposed Plan were placed in the public repository at the Mason County Public Library in Point Pleasant, West Virginia. Notice of the availability of the documents, the public comment period, and the public meeting were published in The Point Pleasant Register on October 31, 2001. USACE established a public comment period beginning November 6, 2001 and ending December 11, 2001. A public meeting was held on November 7, 2001 at the Mason County Public Library to answer any questions concerning OU–12 and the selected remedy. Representatives of EPA, WVDEP, and USACE were present at the public meeting. No comments were received during the public comment period.

ENV–6: Wetlands Mitigation Area

Periodic updates on wetland construction at ENV–6 were given during the WVOW site Restoration Advisory Board meetings. Because there was no environmental investigation, no other public involvement was required. The Restoration Advisory Board is a group consisting of USACE, State and EPA remedial project managers and interested local participants who meet as needed to discuss the ongoing environmental work and plans for future work at the WVOW site.

ESI–3: Tract 21

The ESI–3 Decision Document was released to the public on November 8, 2000. This document, as well as other documents and information EPA relied on or considered in concurring with USACE that no further action was necessary at ESI–3, were made available to the public on or before November 8, 2000 by placing the documents in the public repository at the Mason County Public Library, Point Pleasant, West Virginia. Notice of the availability of the Decision Document and supporting documents was published in The Point Pleasant Register on November 8, 2000. A public comment period was held from November 8, 2000 through December 19, 2000. A public meeting was held on November 8, 2000, to announce the release of the Decision Document and to summarize its conclusions. Representatives from EPA, WVDEP, and USACE were present to address any questions. No questions or comments on the Decision Document were received from the public.

ESI–5: Refueling Depot

The ESI–5 Decision Document was released to the public on November 8, 2000. This document as well as other documents and information EPA relied on or considered in concurring that no further action was necessary at ESI–5 were made available to the public on or before November 8, 2000 by placing the documents in the public repository at the Mason County Public Library, Point Pleasant, West Virginia. Notice of the availability of the Decision Document and supporting documents was published in The Point Pleasant Register on November 8, 2000. The public comment period was held from November 8, 2000 through December 19, 2000. A public meeting was held on November 8, 2000, to announce the release of the Decision Document and to summarize its conclusions. Representatives from EPA, WVDEP, and USACE were present to address any questions. No questions or comments on the Decision Document were received from the public.

ESI–9: Main and Outgoing Classification Yards

A copy of the Decision Document was placed in the public repository at the Mason County Public Library in Point Pleasant, West Virginia on or before November 6, 2001. Notice of the availability of the documents, the public comment period, and the public meeting were published in The Point Pleasant Register on October 31, 2001. USACE established a public comment period beginning November 6, 2001 and ending December 11, 2001. A public meeting was held on November 7, 2001 to answer any questions concerning the Main and Outgoing Classification Yards. Representatives of EPA, WVDEP, and USACE were available to the public at that meeting held at the Mason County Public Library. No comments were received during the public comment period.

Current Status

Removals at OU–11, OU–12 and ESI–3 and wetlands mitigation at ENV–6 have been successfully completed. No further response action is planned or scheduled for OU–12, ENV–6, ESI–3, ESI–5, or ESI–9. Pursuant to the NCP, a five-year review will not need to be performed at any of these five areas. Five annual groundwater sampling events at OU–11 have been completed; upon completion of the analysis of the last set of samples, no further response action is planned or scheduled for OU–11.

While EPA does not believe that any future response actions will be needed at these six areas, if future conditions warrant such action, the proposed deletion areas of the WVOW site remain eligible for future response actions. Furthermore, this partial deletion does not alter the status of any other OUs or ESIs at the WVOW site that are not proposed for deletion and remain on the NPL.

EPA, together with USACE and with concurrence from the State of West Virginia, has determined that all appropriate CERCLA response actions have been completed at OU–11, OU–12, ENV–6, ESI–3, ESI–5, and ESI–9 and protection of human health and the environment has been achieved in these areas. Therefore, EPA makes this proposal to delete OU–11, OU–12, ENV–6, ESI–3, ESI–5, and ESI–9 of the WVOW site from the NPL.

Dated: September 30, 2002.

Thomas Voltaggio,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 02–26710 Filed 10–21–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2506; MB Docket No. 02–316, RM–10542]

Radio Broadcasting Services; Cedar Bluff, VA and Gary, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Monterey Licenses, LLC, proposing the reallotment of Channel 299C3 from Cedar Bluff, Virginia to Gary, West Virginia, and the modification of Station WHQX(FM)'s license accordingly. Channel 299C3 can be reallotted to Gary in compliance with the Commission's minimum distance separation requirements at the petitioner's presently licensed site. The coordinates for Channel 299C3 at Gary are 37–08–00 North Latitude and 81–35–43 West Longitude. In accordance with section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest for the use of Channel 299C3 at Gary, West Virginia.

DATES: Comments must be filed on or before November 25, 2002, reply comments on or before December 10, 2002.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Paul A. Cicelski, Esq., Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037 (Counsel for Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–316, adopted September 25, 2002, and released October 4, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex, International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Cedar Bluff, Channel 299C3.

3. Section 73.202(b), the Table of FM Allotments under West Virginia, is amended by adding Gary, Channel 299C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–26777 Filed 10–21–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 021016236–2236–01; I.D. 082002A]

RIN 0648–AP74

Antarctic Marine Living Resources; CCAMLR Ecosystem Monitoring Permits; Vessel Monitoring System; Catch Documentation Scheme; Fishing Season; Registered Agent; and Disposition of Seized AMLR

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would lengthen the duration of the permit required to enter a Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) Ecosystem Monitoring Program (CEMP) site from 1 year to up to 5 years. The proposed rule would define the CCAMLR fishing season and require the use of an automated satellite-linked vessel monitoring system (VMS) for U.S. vessels harvesting Antarctic marine living resources (AMLR) in the area of the Convention on the Conservation of Antarctic Marine Living Resources (Convention). The proposed rule would also require foreign entities to designate and maintain a registered agent within the United States; prohibit the import of *Dissostichus species* (toothfish) identified as originating from certain high seas areas outside the Convention Area; incorporate into the Code of Federal Regulations the prohibition on the import of toothfish issued a Specially Validated Dissostichus Catch Document (SVDCD); and institute a pre-approval system for U.S. receivers and importers of *Dissostichus eleginoides* (Patagonian toothfish) and *Dissostichus mawsoni* (Antarctic toothfish). This proposed rule is intended to implement U.S. obligations as a Member of CCAMLR and to conserve Antarctic and Patagonian toothfish by preventing and discouraging unlawful harvest and trade in these species and streamlining the administration of the *Dissostichus* catch documentation scheme.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m., eastern standard time, on November 18, 2002.

ADDRESSES: Comments on the proposed rule should be submitted to Dean Swanson, International Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to Dean Swanson at 301–713–2313. Comments will not be accepted if submitted via e-mail or Internet. For copies of the Initial Regulatory Flexibility Analysis and the Environmental Assessment/Regulatory Impact Review (EA/RIR), call 301–713–2276, or write to Dean Swanson. Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule to Dean Swanson and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Dean Swanson at 301–713–2276, fax 301–713–2313.

SUPPLEMENTARY INFORMATION: Antarctic fisheries are managed under the authority of the Antarctic Marine Living Resources Convention Act of 1984 (Act) codified at 16 U.S.C. 2431 *et seq.* NMFS implements conservation measures developed by CCAMLR and adopted by the United States, through regulations at 50 CFR part 300, subpart G. Changes to the existing regulations are necessary to incorporate new conservation measures and to revise procedures to facilitate enforcement.

CEMP Permits

CCAMLR regulations require that persons proposing to enter a CEMP site or conduct research programs there submit a letter of request (application) for an entry permit. If issued a permit, the holder must abide by all the conditions in the permit, including submission of a report describing the activities conducted and any actions not in compliance with the site's Management Plan. In the event that a CEMP site is also listed as a specially protected site under the Antarctic Conservation Act of 1978 (ACA), current regulations redirect the applicant to the National Science Foundation and require application for a joint CEMP/ACA permit. Persons operating under a joint CEMP/ACA permit must report to each agency individually on areas within the agency's expertise. Under current regulations, these permits are valid for 1 year. This proposed rule would extend the period for valid permits to up to 5 years. Annual reporting requirements would continue in force.

CCAMLR Fishing Season

Consistent with a conservation measure adopted by CCAMLR at its 2001 meeting, this proposed rule would set the fishing season for all Convention Area species opened to harvesting by CCAMLR as December 1 through November 30, unless otherwise specified.

Vessel Monitoring System (VMS)

VMS is a system that allows a Flag State, through the installation of satellite-tracking devices on board its fishing vessels, to receive automatic transmission of certain information. This information generally includes the fishing vessel identification, location, date and time, and is collected by the Flag State to monitor its vessels effectively.

CCAMLR adopted a conservation measure in 1998 requiring Contracting Parties to the Convention to establish no later than March 1, 1999, an automated satellite-linked VMS to monitor, at least every 4 hours, the positions of their fishing vessels licensed to harvest marine living resources in the Convention Area for which catch limits, fishing seasons or area restrictions have been set by CCAMLR. To accommodate the objections of a few Members of CCAMLR, the conservation measure exempts vessels fishing exclusively for krill from the VMS requirement. All other vessels are covered by the measure. The United States supported the application of the measure to krill vessels, but CCAMLR decided to continue to exempt these vessels.

The CCAMLR VMS conservation measure was amended in 2001 to require that each Contracting Party, within 2 working days of receiving VMS information from its vessels, provide to the CCAMLR Secretariat the date and statistical area, subarea or division for each of the following movements of those vessels: (a) entering and leaving the Convention area; and (b) crossing boundaries between CCAMLR statistical areas, subareas and divisions.

CCAMLR adopted these measures as a means of managing fishing within the Convention Area with greater certainty and making it more difficult, in particular, for illegal, unregulated and unreported (IUU) fishing in the Convention Area to be misreported as catch from outside the Convention Area. CCAMLR agreed that its CCAMLR System of Inspection could be improved by obtaining positional information including movements by vessels in and out of the Convention Area and CCAMLR statistical areas, in as close to real time as possible, and noted that positional information on movements would enable Members to deploy CCAMLR inspectors in the Convention Area and to use available inspection potential in the most effective way. CCAMLR also noted that the VMS conservation measure would facilitate the work of the CCAMLR Secretariat on fisheries management by allowing it to monitor start/end dates of fishing by individual vessels and the catch reports submitted by statistical areas and fisheries.

The United States has not previously implemented CCAMLR's VMS measures, in part because the only active U.S. harvesting permits have been for the exempted krill fishery. However, there is other potential fishing effort in the United States including one permitted vessel in the crab fishery. A combination crab/toothfish permit was issued several years ago. In order to ensure that future U.S. permittees comply with CCAMLR's conservation measures, the U.S. is now proposing to require VMS in all non-krill fisheries.

In addition, the United States is also proposing to require VMS in the krill fishery. The United States believes that requiring VMS in the krill fishery is necessary to provide the data required to achieve the management objectives of CCAMLR. These include: (1) establishment of small-scale management units as a mechanism to preclude the concentration of catch near land-breeding krill predator colonies; (2) development of models describing the interactions of krill, their predators, key aspects of the environment and the fishery so as to incorporate the best science into management options; (3) validation of catch-per-unit-effort indices as a stock assessment tool; and (4) monitoring the development of the fishery including technological improvements and corresponding changes in fishing tactics. Fishing data on the finest scale possible, like that provided by VMS, is required for these purposes. CCAMLR Members reluctant to require VMS on their fishing vessels may be persuaded by the leadership of the United States and other countries (e.g., Poland, South Africa, Australia) in requiring their vessels to do so as a condition of their fishing permit.

NMFS does not anticipate this additional requirement to be overly burdensome financially or operationally on existing participants. Thus, this proposed rule would require the owner or operator of any vessel permitted by NMFS to fish for or tranship any AMLR to install a NMFS-approved VMS unit on board the vessel and operate the VMS unit whenever the vessel enters CCAMLR waters.

Registered Agent

This proposed rule would require all foreign entities, as a condition of possessing a dealer permit allowing them to import into the United States, to designate and maintain a registered agent in the United States authorized to accept service of process on behalf of that entity. Based on information available to NMFS, several major AMLR importers are foreign entities with no presence in the United States. Requiring a registered agent will facilitate enforcement by ensuring jurisdiction over a foreign importer should an enforcement action become necessary.

Ban on Imports of Toothfish from Certain High Seas Fishing Areas

In accordance with 16 U.S.C. 2431 *et seq.*,(AMLRCA), NMFS implements the conservation and management decisions of CCAMLR agreed to pursuant to the

Convention. The Convention requires contracting parties to ''exert appropriate efforts... to the end that no one engages in any activity contrary to the objective of this Convention,'' which is ''the conservation of Antarctic Living marine resources.'' (AMLR) (Article XXII; Article II.1).

The Convention applies to the AMLR of the area south of 60 S. lat. and to the AMLR between 60 S. lat. and the Antarctic convergence which form part of the Antarctic marine ecosystem. (Article I.1). The Convention establishes CCAMLR, which is charged with compiling data on populations of AMLR and adopting conservation measures to achieve the objectives of the Convention. (Article IX).

Due to the scale of illegal, unregulated, or unreported fishing for Patagonian toothfish and Antarctic toothfish in and beyond the Convention Area, CCAMLR has adopted a number of conservation measures in the last several years. These measures have included flag state licensing of fishing vessels, catch quotas, vessel monitoring systems, port inspections of landings and transshipments, and identification of vessels and fishing gear, and ultimately the adoption of a catch documentation scheme for toothfish in November 1999. (64 FR 71165, December 20, 1999).

The purposes of the catch documentation scheme are to: monitor international trade; identify the origins of imports; determine if imports caught in the Convention Area were caught consistent with CCAMLR conservation measures; and gather catch data for stock assessment. The documentation scheme requires that CCAMLR Contracting Parties provide a uniquely numbered *Dissostichus* Catch Document (DCD) to each vessel under its jurisdiction that is authorized to harvest toothfish and a Re-export Document to all shipments of toothfish that are subsequently being re-exported from its territory. Upon completion of the document, each DCD, and Re-export Catch Document (RCD) if applicable, accompanies the toothfish as it enters into commerce and/or international trade and documents the chain of custody. In accordance with CCAMLR's decisions at its 18th Regular Meeting, NMFS implemented a catch documentation scheme that first became effective for the 2000/01 toothfish fishing year. (65 FR 30016, May 10, 2000.)

CCAMLR uses the statistical areas created by the Food and Agriculture Organization of the United Nations (FAO) to designate and manage divisions within its Convention Area. The FAO Statistical Areas include Exclusive Economic Zones (EEZs)claimed by States, unregulated high seas areas, and high seas areas regulated pursuant to conventions for regional fishery management.

Based on recent trade data, U.S. experience with questionable DCDs, the increasing seizure of vessels illegally fishing in the Convention area, and the conservation and management decisions of CCAMLR made on the advice of its Scientific Committee, this proposed rule would prohibit the issuance of a permit allowing import of *Dissostichus* species identified as being harvested from high seas areas designated by the FAO as Areas 51 and 57 until stock assessments confirm the presence of toothfish at significant population levels in those areas. These areas are outside the areas managed by CCAMLR (Convention Areas).

The CCAMLR Scientific Committee (SC) and its Working Group on Fish Stock Assessment (WG-FSA) annually review catches reported as harvested within and outside the Convention Area, including from FAO Areas 41, 47, 51, 57, 81 and 87. These areas are outside the Convention Area and include some Exclusive Economic Zones (EEZ) of national jurisdiction and some high seas areas. The amounts of toothfish most recently reported as high seas catches are vastly more than previously reported.

Surveys of the high seas areas by member countries have never found fishing concentrations and commercial-scale aggregations of Patagonian toothfish at levels that would support recent catch reports. The areas do not have sizeable fishable seabeds or recruitment areas. In addition, oceanographic conditions (sub-Antarctic and tropical hydrological fronts) present a barrier to a northern distribution of coldwater toothfish into the areas.

Thus, NMFS believes that while some of the catch taken outside the Convention Area is legal catch from regulated fisheries in the EEZ sectors of Areas 41 and 87 off South America, the remainder is, in all likelihood, fish illegally harvested from the CCAMLR Convention Areas 58 and 88 by vessels not licensed to fish there and deliberately misreporting catch as taken from the unregulated high seas fisheries outside the Convention Area in Areas 51 and 57.

The implausibility of any significant level of high seas catches of toothfish is illustrated by findings of the WG-FSA and Scientific Committee with respect to high seas catches attributed to FAO Statistical Area 51 (the western Indian Ocean). Specifically, in October 2001, the Chair of the SC advised CCAMLR that the catches reported in Area 51 were not credible. In particular, the Scientific Committee received information that: (1) there were no reports of landings of Patagonian toothfish from Area 51 in recent FAO landing reports; (2) geographical distribution of Patagonian toothfish in Area 51 is not identified in recent publications of the FAO Identification Sheets or in *Fishes of the Southern Ocean*; and (3) fisheries surveys in the southwest Indian Ocean by Australia, France, South Africa and Ukraine, both trawling and longlining, have never found fishing concentrations and commercial-scale aggregations of Patagonian toothfish in Area 51. Conversely, other subtropical species such as alfonsino (*Beryx splendens*), orange roughy (*Hoplostethus atlanticus*), blue-eye (*Hyperglyphe antarctica*), amourheads (*Pentaceros capensis*) and grouper (*Polyprion oxygeneois*) are currently found in this area; (4) oceanographic barriers (sub-Antarctic and subtropical hydrological fronts) stop the northern distribution of Patagonian toothfish north of about 44°S. lat.; and (5) more recent surveys of Patagonian toothfish from open ocean areas closest to Area 51, such as the area north of the Marion Islands, show negligible biomass of the species. Based upon this information, the SC concluded, and CCAMLR agreed, that practically all the toothfish catches attributed to fishing on the high seas in Area 51 likely represented catches taken as a result of IUU fishing inside the Convention Area.

Areas 51 and 57 share a border in the Indian Ocean directly north of Convention Area 58. The WG-FSA has noted the estimated live weight in tons of toothfish reported in the CDS data for 2000 and 2001 calendar years. This includes a considerably lesser amount of catch attributed to Area 57 as compared to Area 51. If a ban on imports of toothfish were limited to Area 51, there is a strong likelihood that illegal catch from Convention Area 58 would be then be misattributed to Area 57.

It is unlikely that there is much potential for fishing for toothfish in Area 57. Bathymetric charts of Area 57 indicate very limited seamount features, fewer even than the small fishable seabed in Area 51 estimated at 30,007 square kilometers. In April 1999 CCAMLR estimated the seafloor area for the southern section of Area 57 (50–55° S. lat. between 80–150° E. long., at depths between 600–1800 meters) as 2,421 square kilometers. This fishable area is considerably less than the

corresponding fishable area estimated for Area 51. This makes Area 57 an even less likely area from which toothfish could be harvested at commercial levels.

NMFS believes that intentional misreporting of the area of harvest is an attractive means of moving illegally harvested fish into major markets. Prior to implementation of the CDS, Durban (South Africa), Walvis Bay (Namibia), Port Louis (Mauritius), Montevideo (Uruguay) and Vigo (Spain) were reportedly serving as ports of convenience for vessels observed illegally fishing in the Convention Area. Member countries and NGOs in port reported landings and over the side sales of toothfish in these ports from the IUU vessels. Some port of convenience landings continue but since major importers now require a DCD identifying catch areas, illegal fishing would now be facilitated by the use of fraudulent DCDs rather than by landings in ports unconcerned about illegal fishing.

NMFS is aware of substantial evidence that such illegal fishing continues to occur. Australia has observed and pursued several unauthorized vessels fishing in the Convention Area. Australian patrol vessels recently pursued and seized two vessels found poaching in Convention Area 88. On February 7 and 8, 2002, the Lena and the Volga were apprehended and found to have onboard 127 tons of illegal toothfish. Both vessels purported to have been fishing in high seas Area 51 on all DCDs previously completed by their captains and during contact by Australia with the vessels before they were sighted by Australia poaching in the Convention Area. Member patrol vessels, legally operating harvesting vessels and NGO observer vessels have sighted nearly 30 pirate ships in, and proximate to, the Convention Area.

Thus, NMFS believes that while some of the catch taken outside the Convention Area is legal catch from regulated fisheries in the EEZs off South America, the remainder is, in all likelihood, fish poached from the CCAMLR Convention Area by vessels not licensed to fish there and deliberately misreporting commercial scale harvests of toothfish from the unregulated fisheries in Areas 51 and 57, high seas areas in the western and eastern Indian Ocean outside of the Convention Area.

Vessels that misreport their areas of harvest are in clear violation of the Catch Documentation scheme. In addition, NMFS believes it likely that such vessels are also in violation of various other CCAMLR conservation measures, such as CM 29/XIX (Minimization of the Incidental Mortality of Seabirds in the Course of Longline Fishing or Longline Fishing Research in the Convention Area) that requires longline vessels fishing in the Convention area to take specific steps to minimize interactions with seabirds. Many of the seabirds that populate the Convention area are endangered species.

In 2001, CCAMLR, in recognition of the severe problem of poaching from the Convention Area adopted a resolution calling for the use of VMS and other measures to verify CDS ''catch'' data outside the Convention Area.

In the preambular paragraphs of the resolution, the Members recognize the need to continue to take action to ensure the long term sustainability of toothfish stocks in the Convention Area. They express concern that the CDS could be used to disguise illegal, unregulated and unreported catches of toothfish to gain access to markets and note that any misreporting and misuse of the CDS seriously undermines the effectiveness of CCAMLR conservation measures. The resolution also urges States participating in the CDS to ensure that DCDs relating to landings or imports of toothfish are checked by contact with Flag States to verify that DCD information is consistent with data reports derived from an automated satellite-linked VMS.

NMFS routinely contacts Flag States for this information. However, there are problems which undermine NMFS's ability to obtain reliable VMS data. First, NMFS has no authority to require vessels flagged to other countries to carry VMS. Second, CCAMLR measures do not apply to Member or non-Member vessels fishing beyond the Convention Area (e.g., in Areas 51 or 57). Vessels fishing for toothfish outside the Convention Area may or may not carry VMS. Third, should a Flag State require VMS outside the Convention Area, NMFS cannot know how often the State inspects VMS equipment; cannot presently require a particular type of VMS (i.e., tamper proof) as a condition of import; and is aware of confidentiality objections from Flag States about releasing VMS data. Finally, CCAMLR has not adopted a protocol for disputing or questioning VMS data. The lack of a protocol was a complicating factor in a recent seizure by NMFS of 32 tons of toothfish. In that case, physical evidence of poaching was countered with VMS ''data'' that the Flagging State could not verify to NMFS' satisfaction or to the satisfaction of the State in whose waters the vessel was sighted poaching.

VMS might become a viable alternative to a ban on the import of toothfish from high seas areas 51 and 57 if CCAMLR amended its VMS and CDS measures to improve the reliability and integrity of VMS use inside the Convention Area and in adjoining areas. This would require Member consensus that CCAMLR: (1) direct its Secretariat to monitor the type, installation and operation of VMS and require all Member vessels in the Convention Area to use VMS and report data directly to the Secretariat; and (2) expand the use of VMS verification by allowing non-Contracting cooperating Parties participating in the CDS scheme to submit VMS data directly to the CCAMLR Secretariat. It is not likely that CCAMLR can fully debate and agree to this approach at its next annual meeting or the annual meeting thereafter.

The CCAMLR VMS resolution also urges States participating in the CDS to consider reviewing their domestic laws and regulations, with a view to prohibiting landings/transhipments/imports of toothfish declared on a DCD as having been caught in Area 51 if the Flag State fails to demonstrate that it has verified the DCD using automated satellite-linked VMS derived data reports.

Given its experience with the failure of Flag States to provide reliable, or any, VMS verification, in any timely way, NMFS has reviewed its domestic laws and regulations and proposes in this rule to ban imports of toothfish reported as harvested in Areas 51 and 57.

In order to give effect to the agreement by CCAMLR that its Members do all they can to prevent activity that undermines the objectives of the Convention, and in light of the advice and findings of the CCAMLR Scientific Committee with respect to the very small fishable areas of Areas 51 and 57, the proposed rule would deny issuance of a dealer permit to import any toothfish identified as originating from high seas areas outside of the Convention Area in Areas 51 and 57 until: (1) fishery independent stock assessments indicate commercial aggregations in these areas; and/or (2) until CCAMLR is able to agree to measures which materially improve the reliability and integrity of VMS use inside the Convention Area and in the adjoining areas.

There is a possibility that pirate vessels are also poaching toothfish from Convention Areas 88 and 48 and attributing the catch to the high seas Areas 87, the southeast Pacific Ocean and 41, the southwest Atlantic Ocean, beyond the Exclusive Economic Zones (EEZ) of the countries of Latin America. If the CCAMLR DCD can be amended to differentiate high seas catches from EEZ catches in these areas, pirate fishing

may be more easily identified. If the DCD is modified in this way and/or if the Scientific Committee raises concerns about poaching and misattribution of catch, NMFS may propose extending the ban to other high seas areas.

Specially Validated DCD (SVDCD)

CCAMLR adopted a conservation measure at its regular 2001 meeting intended to permit a Contracting Party which has cause to sell or dispose of seized or confiscated Dissostichus spp. to issue a specially validated DCD (SVDCD). The SVDCD must specify the reasons for the validation. The conservation measure does not require other Contracting Parties to provide a market for SVDCD toothfish.

On September 7, 2001, NMFS issued a rule clarifying its interpretation of the Act as prohibiting the import of toothfish harvested in violation of a CCAMLR conservation measure even if the fish were accompanied by a validated DCD (66 FR 46740, September 7, 2001). CCAMLR's adoption of this new conservation measure authorizing countries to issue a SVDCD has not led NMFS to change that interpretation. The effect of this legal interpretation is to prohibit imports accompanied by an SVDCD. For clarity, this proposed rule would codify such prohibition in the Code of Federal Regulations.

This proposed rule would add a definition of the term SVDCD to NMFS's CCAMLR regulations.

Disposition of Seized AMLR

AMLRs that are unlawfully harvested, transshipped, imported or otherwise possessed are subject to seizure and forfeiture. NMFS is currently engaged in internal discussions regarding a procedure for disposing of AMLRs seized by U.S. law enforcement personnel for violations of the Act and NMFS' CDS regulations and will address this issue in a subsequent rulemaking.

Dealer Permits and Preapproval

Although NMFS has fully implemented the CCAMLR catch documentation scheme in the United States, it recognizes that improvements can be made both to streamline administration of the program and to enhance efforts to prevent the import of illegally harvested toothfish. Such streamlining will enhance the ability of toothfish importers and dealers to quickly move a perishable product into and out of the country. NMFS therefore proposes the modification of the current regulations to implement a pre-approval system applicable to shipments of frozen toothfish and shipments of fresh toothfish over 2,000 kg. The pre-approval system would be operated on a fee-for-service basis which would allow NMFS to review catch documentation sufficiently in advance of import, thus enhancing economic certainty for U.S. businesses associated with the *Dissostichus* trade as well as facilitating enforcement efforts. The pre-approval system would effectively shift burdens associated with time costs and advance planning from the affected industry to NMFS. Since a pre-approval program would require NMFS to review documentation and notify the U.S. Customs Service under severe time constraints, NMFS would need to administer this program on a fee-for-service basis to cover costs associated with the personnel who would provide this service.

Under this proposed modification to the current regulations, any person who imports and/or re-exports *Dissostichus* species would be required to first obtain an AMLR dealer permit with a validity of 1 year, authorizing the import and/or re-export of Antarctic Living Marine Resources. The 1–year validity of the permit would be a change from current regulations which do not specify duration. The revised application form for a dealer permit required under the proposed rule would be simplified. The revised dealer permit application form would require the applicant to provide the following information: company name, company address, species, estimate of tonnage to be imported, signature, title, date, and registered agent, if the applicant is a foreign entity.

After receiving an AMLR dealer permit but at least 15 business days prior to an expected import, the permit holder seeking to import frozen *Dissostichus* or fresh *Dissostichus* in quantities greater than 2,000 kilograms, would be required to submit to NMFS the DCD that will accompany each anticipated shipment as well as an application to NMFS requesting pre-approval to allow import of that shipment. A new approval application form would be required under the proposed rule. Information currently required on the application form for a dealer permit regarding a specific toothfish shipment (estimated date of arrival, port of arrival, consignee(s) of product, DCD document number, flag state confirmation number, and amount to be imported) would now be required on the new approval application form. A separate DCD with a unique export reference number would be required for each approval application (i.e., one DCD could not be used to request pre-approval for several shipments) and the quantity of toothfish listed on the DCD would be required to match the quantity listed on the preapproval application within a variance of 10 percent. The dealer would be required to fax or express mail the documentation described above so that NMFS would receive it at least 15 business days prior to the anticipated date of import. NMFS would review the documentation submitted, notify the dealer whether the import would be allowed or denied, notify the U.S. Customs Service to allow or deny import of the shipment of *Dissostichus*, and bill the client for the review of catch documentation and pre-approval application. The current requirement for submission of import tickets, now required within 24 hours of import of such *Dissostichus* would be eliminated under this proposed rule. Due to the extremely quick turnaround time required for shipments of fresh *Dissostichus* in quantities of less than 2,000 kilograms, the application for approval of catch documents of toothfish would be required to be submitted to NMFS within 24 hours of import. Shipments of frozen *Dissostichus* in quantities of less than 2,000 kilograms must go through the pre-approval process. Review of documentation for such fresh product would not be conducted on a fee-for-service basis. NMFS regulations published at 65 FR 30016, May 10, 2000, regarding the re-export of *Dissostichus* would not be revised. The revised CCAMLR *Dissostichus* Catch Document, revised NMFS application for annual AMLR dealer permit, and new NMFS application for approval referenced under this section are available from NMFS (see **ADDRESSES**).

Classification

This proposed rule is published under the authority of the Antarctic Marine Living Resources Convention Act of 1984, codified at 16 U.S.C. 2431 *et seq.* This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an initial regulatory flexibility analysis which incorporates the preamble of this proposed rule and the document entitled, ''Initial Regulatory Flexibility Analysis for the Proposed Rule to Institute Various Measures Pertaining to United States Obligations regarding Antarctica and Antarctic Living Marine Resources, Including Implementation of Preapproval Procedure for *Dissostichus* spp. Catch Documentation Scheme.'' That analysis describes the effects of the various measures in this proposed rule, as well as alternatives where appropriate, as follows:

1. The proposal to *lengthen the duration of the permit* required to enter a CEMP site from 1 year to up to 5 years would apply to parties currently holding, or who obtain in the future, a CEMP permit. To date, the only entity to hold a CEMP permit has been the NMFS Antarctic Research Group, which is not a small entity. The effect of this action would be to ease a restriction by allowing permits to last for a longer period of time. As such, there is no significant economic impact that NMFS must consider minimizing.

2. The proposal to *define the CCAMLR fishing season as December 1 - November 30* would apply to U.S. vessels that fish for AMLR. There are currently three U.S. vessels permitted to fish for AMLR (1 for crab and 2 for krill) all of which NMFS believes to be small entities. The establishment of the fishing season is intended to improve administration of CCAMLR's annual conservation measures. It would not affect the amount of quota available for fishermen, nor would it affect when fishing could occur. Therefore, the proposal would not result in any significant economic impacts that NMFS must consider minimizing. It is an administrative change that would not be expected to affect the practices of the fishermen.

3. The proposal to *require the use of an automated satellite-linked VMS* for all U.S. vessels harvesting AMLR in the area of the Convention on the Conservation of Antarctic Marine Living Resources (Convention) would apply to the three vessels permitted to participate in such fisheries (the 1 crab vessel and the 2 krill vessels), all of which NMFS believes to be small entities. Currently, the vessel permitted for crab does not participate in the fisheries. NMFS estimates the cost of purchasing and installing the VMS units at about $3,250 per unit. The cost of operating the unit while in Convention waters is estimated to be no more than $1,000 per year.

NMFS considered the alternative of excluding vessels fishing exclusively for krill from the requirement. CCAMLR did not explicitly require Parties to implement a VMS program in the krill fishery. However, for reasons articulated in the preamble to the proposed rule, NMFS believes that applying the VMS requirement to the krill fishery will further its compliance with its obligations with respect to Antarctic and AMLR. Therefore, this alternative is not the preferred alternative.

4. The proposal to *require foreign entities to designate and maintain a registered agent within the United States* would not apply to any ''small entities'' as defined pursuant to the RFA. This measure would not apply to any small government jurisdictions or small organizations. While it would apply to businesses, some of which may be considered small, the SBA has defined ''small business concern'' to apply only to businesses operating primarily within the United States (13 CFR 121.105). NMFS is not aware of an alternative approach that would accomplish its objectives with regard to this provision.

5. The proposal to *define SVDCD* currently has no regulatory requirements attached to it. It is informational only and as such has no effect on any small entities. No alternatives have been identified.

6. The proposal to *institute a pre-approval system for U.S. receivers and importers of Patagonian toothfish and Antarctic toothfish* would apply to dealers and importers. It is estimated that about 60 dealers/importers are involved in the permitted trade, and about 50 re-exporters. The estimated costs to importers of toothfish are approximately $4,134 per firm per year, and $330,750 industry-wide per year. These costs include the burden-hour costs of submitting an annual permit, per-shipment pre-approval permits, catch documentation, and NMFS's fees. The estimated costs to re-exporters of toothfish are about $11 per firm per year and $550 industry-wide per year. These costs include the burden hours associated with annual permit applications and catch documentation requirements, and NMFS's fees.

U.S. imports of toothfish in 2001 had an estimated value of $97 million. Compliance costs (industry and agency) would likely not exceed $600,000 per year during the next 3 years. Currently, no U.S. fishing entity participates in the harvesting of toothfish. It is not possible to determine the number of firms that would qualify as small entities. The proposed rule would impose annual burden costs of $330,750 and $550 on importing and re-exporting firms, respectively.

NMFS considered two alternatives to the proposed pre-approval system: maintaining the status quo, and implementing a total ban on imports of toothfish. Maintaining the current system may not have a short-term economic or social impact on importers or other dealers of toothfish in trade networks, but could have harmful long-term economic implications if further steps are not taken to discourage and prevent IUU fishing of toothfish.

Sooner or later, overfishing and the associated price increases will, in all likelihood, dampen this trade. Supplies would decline, and price increases would likely result in some substitution by consumers. Toothfish products may also be diverted to alternate markets in East Asia that are willing to pay higher prices for species deemed to be luxury items. As a consequence, toothfish could become increasingly rare in the U.S. marketplace.

Similarly, the ''status quo'' alternative would have little short-term economic or social impacts on the U.S. consumer, but, in the long-term, would jeopardize the availability of toothfish to consumers at prices they are willing to pay or, in the extreme, at any price.

Alternatively, the total ban proposal would address concerns over the overharvesting of toothfish by denying the U.S. market (estimated at 15–20 percent of the world market) to illegal, unregulated, or unreported (IUU) harvested toothfish. (Note: in this document, non-IUU harvested toothfish means toothfish harvested in the CCAMLR Convention Area in conformity with CCAMLR rules, toothfish harvested in high seas areas outside of the CCAMLR Convention Area, or toothfish harvested in areas of national jurisdiction in conformity with the rules applicable in those national jurisdictions. Although it is not technically correct to speak of the ''legality'' of harvesting in high seas areas where no regional fishery management organization's rules apply, such fishing is often unreported and unregulated, and thus may pose an obstacle to achieving a sustainable fishery. In the case of such toothfish fisheries, this assumption is almost certainly correct.) However, it would also prohibit importation of toothfish legally harvested within the CCAMLR Convention Area or in EEZs and impose an unreasonable and unfair burden on U.S. importers and consumers. Given the U.S. portion of the global market, there is a very real possibility that the market would simply shift to other locations, thereby contributing nothing toward bringing IUU fishing for toothfish under control. This alternative also could be incompatible with U.S. obligations under international trade law and pending obligations under the CCAMLR Convention. As a result, this alternative is not preferred.

7. The proposal to *prohibit imports of toothfish identified as being harvested in FAO areas 51 or 57* would apply to the U.S. dealers and importers described above (approximately 60 of unknown sizes). The economic impacts of this prohibition are difficult to quantify. Because the rule is intended to address fraudulent trade in toothfish, the availability of toothfish on the world market could be reduced. This could

result in the price of toothfish rising. However, to the extent that the permitted entities experience an increase in the cost of purchasing toothfish, they would most likely pass that cost on to consumers. On the other hand, it is likely that illegally harvested toothfish can be harvested and marketed more cheaply than toothfish harvested pursuant to the applicable CCAMLR conservation rules. To the extent that this rule would remove the market for illegally harvested toothfish, the rule might make it easier for dealers in legitimately harvested toothfish to make a profit (in that they would no longer have to compete with unregulated fishermen).

As an alternative to the ban on imports identified as having been harvested in areas 51 or 57, NMFS considered allowing importers to provide independent VMS data to support claims of catches from these two areas. For the reasons explained in the preamble to the proposed rule, current problems with reliability and lack of international protocol, NMFS believes that this alternative may currently be impracticable.

The reporting, recordkeeping, and compliance requirements associated with this proposed rule are described above and in the Paperwork Reduction Act discussion in this preamble. In summary, this proposed rule would modify existing reporting requirements pertaining to the import of toothfish. The new burdens associated with these requirements would apply to the approximate 60 dealers who import and are estimated as described above in section 3(f). In addition, the requirement to install and operate VMS units would apply to the 3 U.S. vessels permitted to participate in the AMLR fisheries for crab/krill. The associated burden is estimated as no more than $1,000 per year per vessel.

NMFS is not aware of any other Federal rules that would duplicate, overlap with, or conflict with the proposed rule.

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). Requirements for submission of a Dissostichus Catch Document, a Specially Validated Dissostichus Catch Document, a CCAMLR Ecosystem Monitoring Program permit, and a CCAMLR Ecosystem Monitoring Program report have been approved under OMB Control Number 0648–0194, with the respective response times of 3 minutes, 10 minutes, 60 minutes, and 30 minutes.

This rule also contains new or revised collection-of-information requirements that have been submitted to OMB for approval. The requirements and their estimated response times are: 15 minutes for a dealer permit application, 4 hours to install a VMS unit, 0.033 seconds every 4 hours for an automated position report from a VMS, 2 hours for annual maintenance of a VMS unit, and 15 minutes for a pre-approval application.

The response estimates above include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS, Office of Sustainable Fisheries, and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Fishing vessels, Foreign relations, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: October 17, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300, subpart G is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

SUBPART G—ANTARCTIC MARINE LIVING RESOURCES

1. The authority citation for 50 CFR part 300, subpart G continues to read as follows:

Authority: 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

2. In § 300.101, new definitions for ''Specially Validated Dissostichus Catch Document'' and ''Vessel Monitoring System'' are added in alphabetical order to read as follows:

§ 300.101 Definitions.

* * * * *

Specially Validated Dissostichus Catch Document (SVDCD) means a Dissostichus catch document that has been specially issued by a State to accompany seized or confiscated catch of Dissostichus spp. offered for sale or otherwise disposed of by the State.

* * * * *

Vessel Monitoring System means a system that allows a Flag State, through the installation of satellite-tracking devices on board its fishing vessels to receive automatic transmission of certain information.

* * * * *

3. In § 300.103, paragraph (h) is revised to read as follows:

§ 300.103 Procedure for according protection to CCAMLR Ecosystem Monitoring Program Sites.

* * * * *

(h)*Duration.* Permits issued under this section are valid for a period of up to five years. Applicants requesting a permit to reenter a Protected Site must include the most recent report required by the general condition in the previously issued CEMP permit describing the activities conducted under authority of that permit.

* * * * *

4. In § 300.107, paragraphs (a), (c)(1), and (c)(5) are revised to read as follows:

§ 300.107 Reporting and recordkeeping requirements.

(a) *Vessels.* The operator of any vessel required to have a harvesting permit under this subpart must:

(1) Accurately maintain on board the vessel all CCAMLR reports and records required by its permit.

(2) Make such reports and records available for inspection upon the request of an authorized officer or CCAMLR inspector.

(3) Within the time specified in the permit, submit a copy of such reports and records to NMFS at an address designated by NMFS.

(4) Install a NMFS-approved VMS unit on board the vessel and operate the VMS unit whenever the vessel enters Convention waters.

* * * * *

(c) * * *

(1) *General.* (i) The CCAMLR DCD must accompany all shipments of *Dissostichus* species as required in this subsection.

(ii) No shipment of *Dissostichus* species shall be released for entry into the United States unless accompanied by a complete and validated CCAMLR DCD, except as provided in paragraph (c) (7) of this section.

(iii) No shipment of *Dissostichus* species identified as originating from high seas areas designated by the Food and Agriculture Organization of the United Nations as Statistical Areas 51 and 57 in the eastern and western Indian Ocean outside and north of the Convention Area shall be issued a dealer permit for import.

* * * * *

(5) *Import.* (i) Any dealer who imports *Dissostichus* species must:

(A) Obtain the DCD (and Dissostichus re-export document if applicable) with a unique export reference number that accompanies the import shipment,

(B) Ensure that the quantity of toothfish listed on the DCD (or *Dissostichus* re-export document if product is to be re-exported) matches the quantity listed on the preapproval application within a variance of 10 percent.

(C) Express mail or fax the catch documentation described in (A) and (B) to an address designated by NMFS so that NMFS receives the documentation at least 15 working days prior to import,

(D) Retain a copy for his/her records and provide copies to exporters as needed.

(ii) Dealers must retain at their place of business a copy of the DCD for a period of 2 years from the date on the DCD.

(iii) Exception. For shipments of Dissostichus species which are fresh and less than 2,000 kilograms in quantity, the application for approval of catch documents of toothfish must be submitted to NMFS within 24 hours of import.

* * * * *

5. In § 300.111, a new paragraph (e) is added to read as follows:

§ 300.111 Framework for annual management measures.

* * * * *

(e) The fishing season for all Convention Area species is December 1 through November 30 of the following year, unless otherwise set in specific CCAMLR conservation measures.

6. Section 300.113 is revised to read as follows:

§ 300.113 Dealer permits and pre-approval.

(a) *General.* (1) A dealer must obtain an AMLRs dealer permit valid for one year, and pre-approval from NMFS for each shipment of AMLRs. Only those specific activities stipulated by the permit are authorized for the permit holder.

(2) An AMLR may be imported into the United States if its harvest has been authorized by a U.S.-issued individual permit issued under § 300.112 (a)(1) or its importation has been authorized by a NMFS-issued dealer permit and pre-approval issued under paragraph (a) of this section. AMLRs may not be released for entry into the United States unless accompanied by the harvesting permit or the individual permit and the DCD for that shipment which has been stamped by NMFS certifying that pre-approval has been granted to allow import.

(3) In no event may a marine mammal be imported into the United States unless authorized and accompanied by an import permit issued under the Marine Mammal Protection Act and/or the Endangered Species Act.

(4) A dealer permit or preapproval issued under this section does not authorize the harvest or transshipment of any AMLR by or to a vessel of the United States.

(b) *Application.* Application forms for AMLR dealer permits and pre-approval are available from NMFS. A complete and accurate application must be received by NMFS for each pre-approval at least 15 working days before the anticipated date of the first receipt, importation, or re-export.

(c) *Issuance.* NMFS may issue a dealer permit or pre-approval if it determines that the activity proposed by the dealer meets the requirements of the Act and that the resources were not or will not be harvested in violation of any conservation measure in force with respect to the United States or in violation of any regulation in this subpart.

(d) *Duration.* A permit issued under this section is valid from its date of issuance to its date of expiration unless it is revoked or suspended. A pre-approval is valid until the product is imported.

(e) *Transfer.* A permit issued under this section is not transferable or assignable.

(f) *Changes in information.* (1) Pending applications. Applicants for permits and pre-approval under this section must report in writing to NMFS any change in the information submitted in their permit and pre-approval applications. The processing period for the application will be extended as necessary to review and consider the change.

(2) Issued permits and pre-approvals. Any entity issued a permit or pre-approval under this section must report in writing to NMFS any changes in previously submitted information. Any changes that would result in a change in the receipt or importation authorized by the pre-approval, such as harvesting vessel or country of origin, type and quantity of the resource to be received or imported, and Convention statistical subarea from which the resource was harvested, must be proposed in writing to NMFS and may not be undertaken unless authorized by NMFS through issuance of a revised or new pre-approval.

(g) *Revision, suspension, or revocation.* A permit or pre-approval issued under this section may be revised, suspended, or revoked, based upon a violation of the permit, the Act, or this subpart. Failure to report a change in the information contained in a permit or pre-approval application voids the application, permit, or pre-approval as applicable. Title 15 CFR part 904 governs permit sanctions under this subpart.

(h) *Exception.* For shipments of *Dissostichus* species which are fresh and less than 2,000 kilograms in quantity, the application for approval of catch documents of toothfish must be submitted to NMFS within 24 hours of import.

(1) Dealer permits will not be issued for *Dissostichus* spp. offered for sale or other disposition under a Specially Validated DCD.

(2) Foreign entities shall, as a condition of possessing a dealer permit, designate and maintain a registered agent within the United States that is authorized to accept service of process on behalf of that entity.

7. In § 300.115, new paragraphs (s) and (t) are added to read as follows:

§ 300.115 Prohibitions.

* * * * *

(s) Import *Dissostichus* spp. with a Specially Validated DCD.

(t) Import shipments of fresh *Dissostichus* spp. in quantities of 2,000 kilograms or more, or frozen *Dissostichus* spp., without a preapproval issued under § 300.113.

8. New § 300.118 is added to read as follows:

§ 300.118 Fees.

(a) *Payment fees and charges.* Fees and charges for review of documentation in accordance with the applicable provisions of the regulations in this part shall be paid by the interested party making the application for such service. All fees and charges for any review of documentation, performed pursuant to the regulations in this part shall be paid by check, draft,

or money order, payable to the U.S. Treasury. Such check, draft, or money order, shall be remitted to the NMFS National Seafood Inspection Laboratory, within ten (10) days from the date of billing, unless otherwise specified in a contract between the applicant and the Secretary, in which latter event the contract provisions shall apply.

(b) *Schedule of fees.* (1) Unless otherwise provided in a written agreement between the applicant and the Secretary, the fees to be charged and collected for review of documentation performed under the regulations in this part will be published as a notice in the **Federal Register** and will be in accordance with § 300.120.

(2) Fees are reviewed annually to ascertain that the hourly fees charged are adequate to recover the costs of the services rendered. The hourly fee is determined by dividing the estimated annual costs by the estimated annual billable hours.

(c) *Readjustment and increase in hourly rates of fees.* (1) When Federal Pay Act increases occur, the hourly rates for documentation review fees will automatically be increased on the effective date of the pay act by an amount equal to the increase received by the average GS grade level of fishery product inspectors receiving such pay increases.

(2) The hourly rates of fees to be charged for review of documentation will be subject to review and reevaluation for possible readjustment not less than every three years: Provided, that, the hourly rates of fees to be charges for documentation review services will be immediately reevaluated as to need for readjustment with each Federal Pay Act increase.

[FR Doc. 02–26872 Filed 10–18–02; 12:48 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020508114–2114–01; I.D. 030702C]

RIN 0648–AM97

Fisheries Off West Coast States and in the Western Pacific; Coral Reef Ecosystems Fishery Management Plan for the Western Pacific; Correction

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

ACTION: Corrections to a proposed rule.

SUMMARY: This document corrects the phone number for the U.S. Fish and Wildlife Service (USFWS) that was listed in the proposed rule that was published on September 24, 2002. It also removes Secretary of Commerce and replaces it with Secretary of the Interior.

DATES: Effective October 22, 2002.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2002 (67 FR 59813), NMFS published a proposed rule in the **Federal Register** that would implement those parts of the Fishery Management Plan for Coral Reef Ecosystems of the Western Pacific Region that were approved by the Secretary of Commerce. The deadline for comments on the proposed rule is October 24, 2002. The interested public was directed to call the USFWS for more information concerning fishing within national wildlife refuges and their boundaries, but the phone number published for the USFWS was incorrect.

In that same issue, the phrase Secretary of Commerce was used instead of Secretary of the Interior and that is also incorrect.

Corrections

In the proposed rule FR Doc. 02–24013, in the issue of September 24, 2002, (67 FR 59813), make the following corrections:

1. On page 59814, in the second paragraph, in the second column, under Relation to Other Laws, remove the phone number for the USFWS and replace it with the following phone number:

''808–541–1201.''

§ 660.601 [Corrected]

2. On page 58919, in the first paragraph, in the second column, under § 660.601, remove ''Secretary of Commerce'' and replace it with ''Secretary of the Interior.''

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

Dated: October 17, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–26870 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 204

Tuesday, October 22, 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

Animal and Plant Health Inspection Service

[Docket No. 02–093–1]

Rangeland Grasshopper and Mormon Cricket Suppression Program; Record of Decision Based on Final Environment Impact Statement—2002

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public of the Animal and Plant Health Inspection Service's record of decision for the Rangeland Grasshopper and Mormon Cricket Suppression Program final environmental impact statement.

ADDRESSES: Copies of the record of decision and the final environmental impact statement on which the record of decision is based are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 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. The documents may also be viewed on the Internet at *http://www.aphis.usda.gov/ppd/es/gh.html.*

Copies of the record of decision and the final environmental impact statement may be obtained from:

Environmental Services, PPD, APHIS, 4700 River Road Unit 149, Riverdale, MD 20737–1238, phone (301) 734–8963;

Western Regional Office, PPQ, APHIS, 1629 Blue Spruce Drive, Suite 204, Ft. Collins, CO 80524–5417, phone (970) 494–2531; or

Eastern Regional Office, PPQ, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606–5213, phone (919) 716–5576.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Brown, National Grasshopper Program Manager, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, phone (301) 734–8247.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Animal and Plant Health Inspection Service (APHIS) has prepared a record of decision based on the Rangeland Grasshopper and Mormon Cricket Suppression Program final environmental impact statement and is making it available to the public. This record of decision has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS'' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 15th day of October 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–26814 Filed 10–21–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–081–1]

Availability of Draft Pest Risk Assessment for the Importation of Clementines, Mandarins, and Tangerines From Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public of the availability of a draft pesk risk assessment concerning the importation of clementines, mandarins, and tangerines from Chile. This draft pest risk assessment is accompanied by a risk management document entitled, ''Measures Suggested for Quarantine Pest Risk Management in Clementines, Mandarin Oranges and Tangerines Exported from Chile to the Market of the United States of America.'' These documents have been prepared in relation to a proposed rule currently under consideration that would allow the importation of clementines, mandarins, and tangerines from Chile into the United States. We are making the draft pest risk assessment and the risk management document available to the public for review and comment.

DATES: We will consider all comments that we receive on or before December 23, 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. 02–081–1, 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. 02–081–1. 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. 02–081–1'' on the subject line.

You may read any comments that we receive on the draft pest risk assessment 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. Ronald A. Sequeira, National Science Program Leader, Risk & Pathway Analysis, Center for Plant Health Science and Technology, PPQ, APHIS, 1017 Main Campus Drive, Suite 2500, Raleigh, NC 27606–5202; (919) 513–2128.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56 through 319.56–8, referred to below as the regulations), prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests, including fruit flies, that are new to or not widely distributed within the United States.

At the request of the Government of the Republic of Chile, the Animal and Plant Health Inspection Service (APHIS) is considering amending the regulations to allow the importation of clementines, mandarins, and tangerines from Chile into the United States. To evaluate the risks associated with the importation of clementines, mandarins, and tangerines from Chile, a draft pesk risk assessment entitled, ''Importation of Fresh Commercial Citrus Fruit: Clementine (*Citrus reticulata* Blanco var. ''Clementine''), Mandarin (*Citrus reticulata* Blanco), and Tangerine (*Citrus reticulata* Blanco) from Chile into the United States: A Pathway Initiated Plant Pest Risk Assessment'' (Revised July 2002), has been prepared. We are making the draft pest risk assessment available to the public for review and comment.

In addition to the draft pest risk assessment, we are also making a risk management document entitled, ''Measures Suggested for Quarantine Pest Risk Management in Clementines, Mandarin Oranges and Tangerines Exported from Chile to the Market of the United States of America'' (March 2002), available for comment. This risk management document was prepared in Chile by the Fundacion para el Desarrollo Fruiticola. We expect that we would consider the risk management measures examined in that document during the development of any proposed rule concerning the importation of clementines, mandarins, and tangerines from Chile.

You may view the draft pest risk assessment and the risk management document on the Internet at *http://www.aphis.usda.gov/ppq/pra/,* or in our reading room (information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this notice). You may also request a copy of either document from the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

Done in Washington, DC, this 16th day of October 2002.

Peter Férnandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–26813 Filed 10–21–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–094–1]

Fiscal Year 2003 Reimbursable Overtime Charges and Veterinary Services User Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to reimbursable overtime charged for Sunday, holiday, or other overtime work performed by employees of the Animal and Plant Health Inspection Service in connection with the inspection, laboratory testing, certification, or quarantine of certain articles and to user fees for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors. The purpose of this notice is to remind the public of the reimbursable overtime charges and user fees for fiscal year 2003 (October 1, 2002, through September 30, 2003).

FOR FURTHER INFORMATION CONTACT: For information concerning Agricultural Quarantine and Inspection program operations, contact Mr. Colonel Locklear, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8372.

For information concerning Veterinary Services program operations, contact Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–8364.

For information concerning reimbursable overtime rate and user fee development, contact Ms. Kris Caraher, Accountant, User Fees Section, FSSB, FMD, MRP–BS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Reimbursable Overtime Charges

The regulations in 7 CFR chapter III and 9 CFR chapter I, subchapters D and G, require inspection, laboratory testing, certification, or quarantine of certain animals, poultry, animal byproducts, germ plasm, organisms, vectors, plants, plant products, or other regulated commodities or articles intended for importation into, or exportation from, the United States. With some exceptions, when these services must be provided by an Animal and Plant Health Inspection Service (APHIS) employee on a Sunday or on a holiday, or at any other time outside the APHIS employee's regular duty hours, the Government charges an hourly overtime fee for the services in accordance with 7 CFR part 354 and 9 CFR part 97.

In a final rule published in the **Federal Register** on July 25, 2002 (67 FR 48519–48525, Docket No. 00–087–2), and effective August 11, 2002, we established, for fiscal years 2002 through 2006 and beyond, reimbursable overtime rates for Sunday, holiday, or other overtime work performed by APHIS employees for any person, firm, or corporation having ownership, custody, or control of animals, poultry, animal byproducts, germ plasm, organisms, vectors, plants, plant products, or other regulated commodities or articles subject to inspection, laboratory testing, certification, or quarantine. In this document we are providing notice to the public of the reimbursable overtime fees for fiscal year 2003 (October 1, 2002, through September 30, 2003).

Under the regulations in 7 CFR 354.1(a) and 9 CFR 97.1(a), any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal byproducts, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine who requires the services of an APHIS employee on a Sunday or holiday, or at any other time outside the regular tour of duty of that employee, shall sufficiently in advance of the period of Sunday, holiday, or overtime service request the APHIS inspector in charge to furnish the service during the overtime or Sunday or holiday period, and shall, for fiscal year 2003, pay the Government at the rate listed in the following table:

Overtime for inspection, laboratory testing, certification, or quarantine of plants, plant products, animals, animal products or other regulated commodities	
Outside the employee's normal tour of duty	Overtime rates (per hour) Oct. 1, 2002-Sept. 30, 2003
Monday through Saturday and holidays	$46.00
Sundays	61.00

As specified in 7 CFR 354.1(a)(1)(iii) and 9 CFR 97.1(a)(3), the overtime rates

to be charged in fiscal year 2003 to owners or operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of the aircraft, for work performed outside of the regularly established hours of service will be as follows:

Overtime for commercial airline inspection services [1]	
Outside the employee's normal tour of duty	Overtime rates (per hour) Oct. 1, 2002-Sept. 30, 2003
Monday through Saturday and holidays	$37.00
Sundays	49.00

[1] These charges exclude administrative overhead costs.

A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or her, or which is performed by an employee on his or her regular workday beginning either at least 1 hour before his or her scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each such period of Sunday or holiday or unscheduled overtime work to which the 2-hour minimum charge provision applies may include a commuted traveltime period (see 7 CFR 354.1(a)(2) and 9 CFR 97.1(b)).

User Fees for Import- and Export-Related Veterinary Services

APHIS charges user fees for import- and export-related veterinary services. The regulations in 9 CFR part 130 list user fees for import- and export-related services provided by APHIS for animals, animal products, birds, germ plasm, organisms, and vectors.

These user fees are authorized by section 2509(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a). APHIS is authorized to establish and collect fees that will cover the cost of providing import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors.

On August 28, 2000, we published in the **Federal Register** (65 FR 51997–52010, Docket No. 97–058–2) a final rule that amended the regulations in 9 CFR part 130 by adjusting our user fees for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors and by setting user fees for these services for fiscal years 2001 through 2004 and beyond. Additionally, on August 1, 2001, we published in the **Federal Register** (66 FR 39628–39632, Docket No. 99–060–2) another final rule that amended the regulations by updating some of the user fees in 9 CFR part 130. When we proposed to establish the user fees for fiscal years 2001 through 2004 and beyond, we stated that, prior to the beginning of each fiscal year, we would publish a notice to remind the public of the user fees for that fiscal year. This document provides notice to the public of the user fees for fiscal year 2003 (October 1, 2002, through September 30, 2003). The specific services and user fees are described below.

We provide standard and nonstandard housing, care, feed, and handling for individual animals and certain birds [1] quarantined in APHIS-owned or -operated animal quarantine facilities, including APHIS Animal Import Centers. As specified in § 130.2(a), the daily user fee for each animal or bird quarantined in APHIS-owned or -operated animal quarantine facilities receiving standard housing, care, feed, and handling for fiscal year 2003 will be as follows:

Animal or bird	User fee—Oct. 1, 2002–Sept. 30, 2003
Birds (excluding ratites and pet birds imported in accordance with 9 CFR part 93):	
0–250 grams	$1.50
251–1,000 grams	5.50
Over 1,000 grams	13.00
Domestic or zoo animals (except equines, birds, and poultry):	
Bison, bulls, camels, cattle, or zoo animals	100.00
All others, including, but not limited to, alpacas, llamas, goats, sheep, and swine	26.00
Equines (including zoo equines, but excluding miniature horses):	
1st through 3rd day (fee per day)	264.00
4th through 7th day (fee per day)	191.00
8th and subsequent days (fee per day)	162.00
Miniature horses	60.00
Poultry (including zoo poultry):	
Doves, pigeons, quail	3.25
Chickens, ducks, grouse, guinea fowl, partridge, pea fowl, pheasants	6.25
Large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys	14.00
Ratites:	
Chicks (less than 3 months old)	9.00
Juveniles (3 months through 10 months old)	14.00
Adults (11 months old and older)	26.00

Certain conditions or traits, such as aggression, may necessitate special requirements for certain birds or poultry. Birds and poultry receiving nonstandard housing, care, feed, or handling to meet special requirements may receive those services while quarantined in an APHIS-owned or-operated quarantine facility at the request of an importer or as required by an APHIS representative. As specified in § 130.2(b), the daily user fee for each bird or poultry receiving nonstandard housing, care, or handling while quarantined in an APHIS-owned or-operated animal quarantine facility for fiscal year 2003 is $5.50 for birds weighing 250 grams or less, and doves, pigeons, and quail; $13 for birds weighing 251 to 1,000 grams and poultry such as chickens, ducks, grouse,

[1] Those animals and birds subject to quarantine are specified in 9 CFR, chapter I, subchapter D of the regulations.

guinea fowl, partridge, pea fowl, and pheasants; and $25 for birds over 1,000 grams and large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys. As specified in § 130.2(c), importers of animals or birds that require a diet other than standard feed must either provide feed or pay APHIS for feed on an actual cost basis, including the cost of delivery to the APHIS-owned or -operated animal import center or quarantine facility.

We accept requests from importers to exclusively occupy a space at an APHIS animal import center. As specified in § 130.3(a)(1), the monthly user fee for exclusive use of space at the APHIS animal import center in Newburgh, NY, for fiscal year 2003 is $57,630 to occupy a space 5,396 square feet in size, $95,085 for a space 8,903 square feet in size, and $9,666 for a space 905 square feet in size. The fees listed in § 130.3(a)(1) cover all costs of quarantine [2] except feed. The importer either provides the feed or pays for it on an actual cost basis, including the cost of delivery.

We process applications for permits to import and transport certain animals, animal products, organisms, vectors, and germ plasm.[3] As specified in § 130.4, the user fees for processing import permit applications for certain animals, animal products, organisms, vectors, and germ plasm during fiscal year 2003 will be as follows:

Service	Unit	User fee—October 1, 2002–Sept. 30, 2003
Import compliance assistance:		
Simple (2 hours or less)	Per release	$68.00
Complicated (more than 2 hours)	Per release	174.00
Processing an application for a permit to import live animals, animal products or byproducts, organisms, vectors, or germ plasm (embryos or semen) or to transport organisms or vectors[1]:		
Initial permit	Per application	94.00
Amended permit	Per amended application	47.00
Renewed permit [2]	Per application	61.00
Processing an application for a permit to import fetal bovine serum when facility inspection is required.	Per application	322.00

[1] Using Veterinary Services Form 16–3 ''Application for Permit to Import or Transport Controlled Material or Organisms or Vectors,'' or Form 17–129, ''Application for Import or In Transit Permit (Animals, Animal Semen, Animal Embryos, Birds, Poultry, or Hatching Eggs).''
[2] Permits to import germ plasm and live animals are not renewable.

We inspect live animals presented for importation or entry into the United States through a land border port along the United States-Mexico border. As specified in § 130.6(a), the user fees for inspection of live animals at land border ports along the United States-Mexico border for fiscal year 2003 will be as listed in the following table:

Type of live animal	Per head user fee—Oct. 1, 2002–Sept. 30, 2003
Any ruminants (including breeder ruminants) not covered below	$8.75
Feeder	2.50
Horses, other than slaughter	43.00
In-bond or in-transit	5.50
Slaughter	3.75

We also inspect live animals presented for importation into or entry into the United States through a land border port along the United States-Canada border. As specified in § 130.7(a), user fees for import or entry services for live animals at land border ports along the United States-Canada border for fiscal year 2003 will be as follows:

Type of live animal	Unit	User fee—Oct. 1, 2002–Sept. 30, 2003
Animals being imported into the United States:		
Breeding animals (grade animals, except horses):		
Sheep and goats	Per head	$0.50
Swine	Per head	0.75
All others	Per head	3.25
Feeder animals:		
Cattle (not including calves)	Per head	1.50
Sheep and calves	Per head	0.50
Swine	Per head	0.25
Horses (including registered horses), other than slaughter and in-transit	Per head	28.00
Poultry (including eggs), imported for any purpose	Per load	48.00
Registered animals (except horses)	Per head	5.75
Slaughter animals (except poultry)	Per load	24.00
Animals transiting [1] the United States:		
Cattle	Per head	1.50
Sheep and goats	Per head	0.25
Swine	Per head	0.25

[2] Section 130.3(a)(2) and 130.3(c) specifies that additional user fees will be charged to importers for occupancy of space for more than 30 days or nonstandard handling or care of animals or birds.

[3] Those animal products, organisms, vectors, and germ plasm that require permits for importation into the United States are specified in 9 CFR, chapter I, subchapter D of the regulations.

Type of live animal	Unit	User fee—Oct. 1, 2002–Sept. 30, 2003
Horses and all other animals	Per head	6.75

[1] The user fee in this section will be charged for in-transit authorizations at the port where the authorization services are performed. For additional services provided by APHIS, at any port, the hourly user fee rate in § 130.30 will apply.

We provide a variety of other services related to the importation into or exportation from the United States of animals, animal products, birds, germ plasm, organisms, and vectors. As specified in § 130.8(a), user fees for those import-or export-related services during fiscal year 2003 are as follows:

Service	Unit	User Fee—Oct. 1, 2002–Sept. 30, 2003
Germ plasm being exported: [1]		
Embryo:.		
Up to 5 donor pairs	Per certificate	$81.00
Each additional group of donor pairs, up to 5 pairs group, on the same certificate.	Per group of donor pairs	36.00
Semen	Per certificate	49.00
Release from export agricultural hold:		
Simple (2 hours or less)	Per release	68.00
Complicated (more than 2 hours)	Per release	174.00

[1] This user fee includes a single inspection and resealing of the container at the APHIS employee's regular tour of duty station or at a limited port. For each subsequent inspection and resealing required, the hourly user fee in § 130.30 will apply.

We inspect lots of pet birds [4] of U.S. origin returning to the United States. As specified in § 130.10(a), user fees for the inspection of pet birds of U.S. origin returning to the United States, except pet birds of U.S. origin returning from Canada, during fiscal year 2003 are $105 per lot of birds which have been out of the United States for 60 days or less, and $250 per lot of pet birds which have been out of the United States for more than 60 days.

We also provide housing, care, feed, and handling for pet birds quarantined in APHIS-owned or -supervised quarantine facilities. The daily user fee to quarantine pet birds applies per isolette and varies based on the number of pet birds determined by an APHIS representative to be appropriate per isolette. All the birds quarantined in one isolette are covered by one fee, which is assessed daily for the duration of the quarantine. As specified in § 130.10(b), the daily user fee for each pet bird quarantined in an APHIS-owned or supervised quarantine facility for fiscal year 2003 is $9 for one pet bird quarantined in one isolette, $11 for two pet birds quarantined in one isolette, $13 for three pet birds quarantined in one isolette, $15 for four pet birds quarantined in one isolette, and $17 for five pet birds quarantined in one isolette.

We inspect and approve various import and export facilities and establishments.[5] As specified in § 130.11, the user fees for inspecting and approving import and export facilities and establishments during fiscal year 2003 will be as listed in the following table:

Service	Unit	User Fee—Oct. 1, 2002–Sept. 30, 2003
Embryo collection center inspection and approval (all inspections required during the year for facility approval).	Per year	$369.00
Inspection for approval of biosecurity level three laboratories (all inspections related to approving the laboratory for handling one defined set of organisms or vectors).	Per inspection	977.00
Inspection for approval of pet food manufacturing, rendering, blending, or digest facilities:		
Initial approval	For all inspections required during the year.	404.75
Renewal	For all inspections required during the year.	289.00
Inspection for approval of pet food spraying and drying facilities:		
Initial approval	For all inspections required during the year.	275.00
Renewal	For all inspections required during the year.	162.00
Inspection for approval of slaughter establishment:		
Initial approval (all inspections)	Per year	362.00
Renewal (all inspections)	Per year	314.00

[4] Provisions for the importation of pet birds into the United States are specified in 9 CFR, chapter I, subchapter D of the regulations.

[5] Requirements for the inspection and approval of various quarantine facilities are specified in 9 CFR, chapter I, subchapter D of the regulations.

Service	Unit	User Fee—Oct. 1, 2002–Sept. 30, 2003
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:		
Approval (compliance agreement) (all inspections for first year of 3-year approval).	Per year	386.00
Renewed approval (all inspections for second and third years of 3-year approval).	Per year	223.00

We endorse export health certificates for animals, birds, or animal products.[6] As specified in § 130.20(a), the user fees for each export health certificate endorsed for animals, birds, or animal products that do not require the verification of tests or vaccinations, regardless of the number of animals, birds, or animal products covered by the certificate, will be $31 for animal and nonanimal products, $29 for hatching eggs, $29 for poultry, including slaughter poultry, $34 for slaughter animals (except poultry) moving to Canada or Mexico, and $23 for other endorsements or certifications during fiscal year 2003.

We also endorse export health certificates for animals, birds, or animal products that require verification of tests or vaccinations. The user fees for these certificates apply to each export health certificate endorsed for animals and birds, depending on the number of animals or birds covered by the certificate and the number of tests or vaccinations required. As specified in § 130.20(b), the user fees for each export health certificate endorsed for animals and birds for fiscal year 2003 is as follows:

Number of tests or vaccinations and Number of animals or birds on the certificate	User fee—Oct. 1, 2002–Sept. 30, 2003
1–2 tests or vaccinations	
Nonslaughter horses to Canada:	
First animal	$37.00
Each additional animal	4.25
Other animals or birds:	
First animal	74.00
Each additional animal	4.25
3–6 tests or vaccinations	
First animal	91.00
Each additional animal	7.00
7 or more tests or vaccinations	
First animal	106.00
Each additional animal	8.25

We provide certain import-or export-related veterinary services at hourly rates[7] that may be performed during and outside of regularly established hours of service. As specified in § 130.30(a), the user fees in fiscal year 2003 for import-or export-related hourly veterinary services performed during regularly established hours of service, except those services covered by flat rate user fees, will be $84 per hour or $21 per quarter hour for each APHIS employee; the per service minimum fee is $24. When the import-or export-related veterinary services listed in § 130.30(a)(1) through (a)(13) are performed on a Sunday, holiday, or at any time outside of an APHIS employee's normal tour of duty, a premium rate user fee is charged. As specified in § 130.30(b), the user fees in fiscal year 2003 for hourly veterinary services provided at any time outside an employee's normal tour of duty Monday through Saturday and on holidays will be $96 per hour or $24 per quarter hour for each APHIS employee, and the user fees for hourly veterinary services provided on a Sunday will be $108 per hour or $27 per quarter hour for each APHIS employee.

Users who request import- or export-related services that are covered by flat rate user fees on a Sunday, holiday, or any time outside of an APHIS employee's normal tour of duty, and who are subject to the overtime rates set forth in 7 CFR 354.1 or 9 CFR 97.1, are charged the hourly overtime rates set out in § 130.50(b)(3)(i) in addition to the flat rate user fees. For fiscal year 2003, the overtime rates charged to users who request flat rate user fee services are as follows:

OVERTIME FOR FLAT RATE USER FEES [1, 2]

	Outside of the employee's normal tour of duty	Overtime rates (per hour) Oct. 1, 2002–Sept. 30, 2003
Rate for inspection, testing, certification or quarantine of animals, and animal products or other commodities (See 7 CFR 354.3 or 9 CFR 97.1(a) for details.).	Monday-Saturday holidays	$46.00

[6] Those animals, birds, or animal products that require export health certificates are specified in 9 CFR, chapter I, subchapter D of the regulations.

[7] Section 130.30 (a)(1) through (a)(13) lists import-or export-related veterinary services that are calculated at hourly rates for each APHIS employee required to perform the service.

OVERTIME FOR FLAT RATE USER FEES [1, 2]—Continued

	Outside of the employee's normal tour of duty	Overtime rates (per hour) Oct. 1, 2002–Sept. 30, 2003
Rate for commercial airline inspection services (See 9 CFR 97.1(a)(3) for details.)	Sundays	61.00
	Monday-Saturday and holidays	37.00
	Sundays	49.00

[1] Minimum charge of 2 hours, unless performed on the employee's regular workday and performed in direct continuation of the regular workday or begun within an hour of the regular workday.

[2] When the 2-hour minimum applies, you may need to pay commuted travel time. (See 9 CFR 97.1(b) for specific information about commuted travel time.)

Done in Washington, DC, this 16th day of October 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–26815 Filed 10–21–02; 8:45 am]

BILLING CODE 3410–34–P

APALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Annual Meeting

Time and Date: 10 a.m.–12 p.m., November 8, 2002.

Place: Harrisburg Hilton and Towers, One North Second Street, Harrisburg, PA 17101.

Status: Most of the meeting will be open to the public. If there is a need for an executive session (closed to the public), it will be held at about 9:30 a.m.

Matters To Be Considered:

Portions Open to the Public: The primary purpose of this meeting is to (1) Review the independent auditors' report of Commission's financial statements for fiscal year 2001–2002; (2) Review the Low-Level Radioactive Waste (LLRW) generation information for 2001; (3) Consider a proposal budget for fiscal year 2003–2004; (4) Review the status of LLRW disposal facilities and new developments in other states and compacts; and (5) Elect the Commission's Officers.

Portions Closed to the Public: Executive Session, if deemed necessary, will be held at about 9:30 a.m.

Contact Person for More Information: Richard R. Janati, Pennsylvania Staff Member on the Commission, at (717) 787–2163.

Richard R. Janati,

Staff Member on the Commission.

[FR Doc. 02–26865 Filed 10–21–02; 8:45 am]

BILLING CODE 0000–00–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security Information Systems

Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on November 13 & 14, 2002, 9 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Pennsylvania Avenue and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

November 13

Public Session

1. Comments or presentations by the public.
2. Presentation on China's high-performance computing market.
3. Presentation on semiconductor manufacturing trends.

November 13 & 14

Closed Session

4. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

A limited number of seats will be available for the public session. Reservations are not required. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to the address listed below: Ms. Lee Ann Carpenter, Advisory Committees MS: 3876, U.S. Department of Commerce, 15th St. & Pennsylvania Ave, NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 7, 2001, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of these Committees and of any subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. For more information, contact Lee Ann Carpenter on (202) 482–2583.

Dated: October 17, 2002.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 02–26849 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808]

Stainless Steel Plate in Coils from Belgium

ACTION: Notice of Rescission of Antidumping Duty Administrative Review for the Period May 1, 2001, through April 30, 2002.

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

SUMMARY: In response to a timely request from respondent, ALZ N.V. (ALZ) and its affiliated U.S. importer, TrefilARBED, Inc., the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on stainless steel plate in coils from Belgium, covering the period May 1, 2001, to April 30, 2002. *See Initiation of*

Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 67 FR 42753 (June 25, 2002). Because ALZ has submitted a timely withdrawal of its request for an administrative review, and there was no request for review from any other interested party, the Department is rescinding this review in accordance with section 351.213(d)(1) of the Department's regulations.

EFFECTIVE DATE: October 22, 2002.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–0197 or (202) 482–3020, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR Part 351 (2002).

Background

On May 6, 2002, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on stainless steel plate in coils from Belgium. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review* (67 FR 30356). On May 31, 2002, the Department received a timely request from one respondent, ALZ, for an administrative review covering the period from May 1, 2001 through April 30, 2002, in accordance with 19 CFR 351.213(b)(1).

The Department published a notice of initiation of this antidumping duty administrative review on June 25, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 67 FR 42753 (June 25, 2002). This review covers one manufacturer/exporter of the subject merchandise, ALZ, for the period of June 1, 2000 through May 31, 2001. On September 23, 2002, ALZ withdrew its request for review, in accordance with section 351.213(d)(1) of the Department's regulations.

Rescission, in Whole, of Antidumping Duty Administrative Review

Pursuant to our regulations, the Department will rescind an administrative review, ''if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' *See* 19 CFR 351.213(d)(1). Since ALZ, the only respondent in this proceeding, submitted a timely withdrawal of its request for review, the Department is rescinding its antidumping administrative review on stainless steel plate in coils from Belgium for the period May 1, 2001 through April 30, 2002. The Department will issue appropriate assessment instructions to the Customs Service.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with 19 CFR 351.213(d)(4) and sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 10, 2002.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 02–26857 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: October 22, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas Martin at (202) 482–3936 or Thomas Futtner at (202) 482–3814, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On March 27, 2002, the Department published a notice of initiation of administrative review of the antidumping duty order on heavy forged hand tools from the People's Republic of China, covering the period February 1, 2001 through January 31, 2002 (*67 FR 14696*). The preliminary results are currently due no later than October 31, 2002.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore the Department is extending the time limit for completion of the preliminary results until no later than February 28, 2003. *See* Decision Memorandum from Holly Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the main Commerce building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: October 15, 2002.

Holly A. Kuga,

Acting Deputy Assistant SecretaryImport Administration, Group II.

[FR Doc. 02–26858 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India; Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the administrative review of the antidumping duty order on stainless steel bar from India. The period of review is February 1, 2001, through January 31, 2002. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: October 22, 2002.

FOR FURTHER INFORMATION CONTACT: Cole Kyle or Shawn McMahon, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; at telephone (202) 482–1503 and 482–1698, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act and all citations to the regulations are to 19 CFR Part 351 (2001).

Statutory Time Limits

Section 751(a)(3)(A) of the Act requires the Department of Commerce (''the Department'') to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On March 27, 2002, the Department published a notice of initiation of administrative review of the antidumping duty order on stainless steel bar from India covering the period February 1, 2001, through January 31, 2002 (67 FR 14696). The preliminary results for the antidumping duty administrative review of stainless steel bar from India are currently due no later than October 31, 2002.

Extension of Time Limits for Preliminary Results

Several of the respondents in this proceeding have outstanding supplemental questionnaire responses. Because the Department requires time to review and analyze these responses once they are received, it is not practicable to complete this review within the originally anticipated time limit (*i.e.*, October 31, 2002). Therefore, the Department is extending the time limit for completion of the preliminary results to no later than February 28, 2003, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 16, 2002.

Louis Apple,

Acting Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 02–26860 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–857]

Certain Welded Large Diameter Line Pipe From Japan: Final Results of Changed Circumstances Review

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

ACTION: Final results of changed circumstances review.

EFFECTIVE DATE: October 22, 2002.

SUMMARY: On June 10, 2002, the Department of Commerce (''the Department'') published a notice of initiation of a changed circumstances review with the intent to revoke, in part, the antidumping duty order on welded large diameter line pipe from Japan with respect to certain welded large diameter line pipe as described below. *See Certain Welded Large Diameter Line Pipe From Japan: Notice of Initiation of Changed Circumstances Review of the Antidumping Order,* 67 FR 39682 (June 10, 2002) (''*Initiation Notice*''). On August 16, 2002, the Department published the preliminary results of the changed circumstances review and preliminarily revoked this order, in part, with respect to future entries of certain welded large diameter line pipe as described below, based on the fact that domestic parties have expressed no interest in continuation of the order with respect to these large diameter line pipes. *See Certain Welded Large Diameter Line Pipe from Japan: Preliminary Results of Changed Circumstances Review,* 67 FR 53565 (August 16, 2002) (''*Preliminary Results*''). In our *Preliminary Results,* we gave interested parties an opportunity to comment; however, we did not receive any comments from domestic parties opposing the partial revocation of the order. Therefore, the Department hereby revokes this order with respect to all future entries for consumption of certain welded large diameter line pipe, as described below, effective on the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Shireen Pasha, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0193.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (''the Act''), by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR Part 351 (2002).

SUPPLEMENTARY INFORMATION:

Background

On December 6, 2001, the Department published in the **Federal Register** the antidumping duty order on certain welded large diameter line pipe from Japan. *See Notice of Antidumping Duty Order: Certain Welded Large Diamter Line Pipe from Japan,* 66 FR 63368 (December 6, 2001) (''*LDLP Order*''). On April 17, 2002, BP America, Inc. (''BP America''), a U.S. importer requested that the Department revoke in part the antidumping duty order on certain welded large diameter line pipe from Japan. Specifically, the U.S. importer requested that the Department revoke the order with respect to imports

meeting the following specifications: in API grades X80 or above, having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.90 inch or more; and, in API grades X100 or above, having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.54 inch or more. BP America indicated that, based on its consultations with domestic producers, the domestic producers lack interest in producing these sizes.

American Cast Iron Pipe Co., American Steel Pipe Division; Berg Steel Pipe Corp.; and Stupp Corp., the petitioners in the underlying sales at less-than-fair-value investigation (''the petitioners'') (*See LDLP Order*), filed a letter on May 7, 2002, partially consenting to BP America's request. However, on May 21, 2002, the petitioners filed another letter rescinding their initial response and fully consenting to the exclusion of these sizes from the order, *i.e.* in API grades X80 or above, having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.90 inch or more; and, in API grades X100 or above, having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.54 inch or more. On June 10, 2002, the Department published a notice of initiation of a changed circumstances review of the antidumping duty order on certain welded large diameter line pipe from Japan, meeting the specifications mentioned above. *See Initiation Notice.*

On August 16, 2002, the Department published the preliminary results of the changed circumstances review. *See Preliminary Results.* In the *Preliminary Results,* we indicated that interested parties could submit comments for consideration in the Department's final results. We did not receive any comments.

Scope of Review

The product covered by this antidumping order is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stencilled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. The product currently is classified under U.S. Harmonized Tariff Schedule (HTSUS) item numbers 7305.11.10.30, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30. 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive. Specifically not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations; of line pipe:

—Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.

—Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.

—Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.

—Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.

—Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.

—Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X–80 or greater.

Final Results of Changed Circumstances Review

Pursuant to sections 751(d)(1) of the Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request, which shows changed circumstances sufficient to warrant a review. Section 351.222(g)(1) of the Department's regulations provides that the Department may revoke an order (in whole or in part) based on changed circumstances, if it determines that: (i) Producers accounting for substantially all of the production of the domestic like product to which the order (or part of the order to be revoked) pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or (ii) if other changed circumstances sufficient to warrant revocation exist.

Taking into consideration that (1) the petitioners have uniformly expressed that they do not want relief with respect to this particular sub-product, and that (2) there have been no contrary expressions from the remainder of the known LDLP producers, the Department is revoking the order on certain welded large diameter line pipe from Japan, effective on the date of publication of this notice in the **Federal Register**, with respect to all future entries for consumption of welded large diameter line pipe which meet the specifications detailed above, in accordance with sections 751(b) and (d) and 782(h) of the Act and 19 CFR 351.216. We will instruct the U.S. Customs Service (''Customs'') to terminate suspension of liquidation for all future entries of welded large diameter line pipe (*i.e.*, certain large diameter line pipe) meeting the specifications indicated above.

This determination is issued and published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216, and 351.222.

Dated: October 11, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–26861 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–833 and C–122–841]

Notice of Countervailing Duty Orders: Carbon and Certain Alloy Steel Wire Rod From Brazil and Canada

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

ACTION: Notice of Countervailing Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil and Canada.

EFFECTIVE DATE: October 22, 2002.

FOR FURTHER INFORMATION CONTACT: Melani Miller (Brazil) at (202) 482–0116; and Craig Matney (Canada) at (202) 482–1778; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (''the Act''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to 19 CFR Part 351 (April 2002).

Scope of Orders

The merchandise covered by these orders is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter (''subject merchandise'' or ''wire rod'').

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the *Harmonized Tariff Schedule of the United States* (''HTSUS'') definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. Grade 1080 tire cord quality rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

Grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products covered by these orders are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Countervailing Duty Orders

On August 30, 2002, the Department published in the **Federal Register** its final determinations in the countervailing duty investigations of wire rod from Brazil (67 FR 55805) and Canada (67 FR 55813). Subsequently, on September 27, 2002, the Department published in the **Federal Register** its amended final determination in the countervailing duty investigation of wire rod from Brazil (67 FR 61071). On October 15, 2002, in accordance with section 705(d) of the Act, the U.S. International Trade Commission notified the Department that a U.S. industry is ''materially injured,'' within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of imports of wire rod from Brazil and Canada.

Therefore, in accordance with section 706(a)(3) of the Act, on or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the countervailing duty rates as noted below. The ''All Others'' rates apply to all exporters of wire rod from Brazil and Canada not specifically listed below. The cash deposit rates are as follows:

Brazil

Producer/exporter	Net subsidy rate
Companhia Siderurgica Belgo-Mineira.	6.74 percent.
Gerdau S.A.	2.76 percent.
All Others	5.64 percent.

Canada:

Producer/exporter	Net subsidy rate
Ispat Sidbec, Inc.	6.61 percent.
Stelco, Inc.	Excluded.
Ivaco, Inc.	Excluded.
All Others.	6.61 percent.

Moreover, in accordance with section 706(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department following the completion of a review requested under 19 CFR 351.213(b) or 19 CFR 351.214(b) (or if a review is not requested, in accordance with 19 CFR 351.212(c)), countervailing duties equal to the amount of the net countervailable subsidies determined to exist for entries of wire rod from Brazil and Canada (except for subject merchandise from Canada both produced and exported by Ivaco, Inc. (''Ivaco'') and Stelco, Inc. (''Stelco''), which both received a zero final rate).

Pursuant to section 706(a)(1) of the Act, if appropriate, based on the above-noted further advice from the Department, for all producers and exporters of wire rod from Brazil, countervailing duties will be assessed on all unliquidated entries of wire rod entered, or withdrawn from warehouse, for consumption on or after August 30, 2002, the date of publication of the Department's final determination with respect to wire rod from Brazil in the **Federal Register**, and on all subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this countervailing duty order for Brazil in the **Federal Register**.

For all producers and exporters of wire rod from Canada (except for Ivaco and Stelco), countervailing duties will be assessed on all unliquidated entries of wire rod entered, or withdrawn from warehouse, for consumption on or after February 8, 2002, the date of publication of the Department's preliminary determination in this investigation in the **Federal Register**, and before June 8, 2002, the date the Department instructed Customs to discontinue the suspension of liquidation in accordance with section 703(d) of the Act (*see also,* The Statement of Administrative Action, H. Doc. No. 103–316, Vol. 1 at 874 (1994), reprinted in 1994 U.S.C.C.A.N. 3773, 4163), and on all subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this countervailing duty order for Canada in the **Federal Register**.

This notice constitutes the countervailing duty orders with respect to wire rod from Brazil and Canada, pursuant to section 706(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the main Commerce Building, for copies of an updated list of countervailing duty orders currently in effect.

These countervailing duty orders are published in accordance with sections 706(a) and 777(i) of the Act and 19 CFR 351.211.

Dated: October 16, 2002.

Joe Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–26859 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101702A]

Proposed Information Collection; Comment Request; Large Pelagic Fishing Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

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

DATES: Written comments must be submitted on or before December 23, 2002.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Christopher Rogers, Chief, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; (301) 713–2347.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Large Pelagic Fishing Survey consists of dockside and telephone surveys of recreational anglers for large pelagic fish (tunas, sharks, and billfish) in the Atlantic Ocean. The survey provides NMFS with information to monitor catch of bluefin tuna and marlin. Catch monitoring in these fisheries and collection of catch and effort statistics for all pelagic fish is required under the Atlantic Tunas Convention Act and the Magnuson-Stevens Fishery Conservation and Management Act. The information collected is essential for the U.S. to meet its reporting obligations to the International Commission for the Conservation of Atlantic Tuna.

II. Method of Collection

Dockside and telephone interviews are used.

III. Data

OMB Number: 0648–0380.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households, business or other for-profit organizations.

Estimated Number of Respondents: 21,500.

Estimated Time Per Response: 2 minutes to respond to a pre-survey screening phone call; 8 minutes for a telephone interview; 5 minutes for a dockside interview; 1.5 minutes to respond to a follow-up validation call for dockside interviews; 3 minutes for a response to socio-economic add-on interview questions; 5 minutes for a charter/headboat vessel captain background interview; 5 minutes for a biological sampling of catch; and 8 minutes for a headboat effort and catch survey.

Estimated Total Annual Burden Hours: 4,752.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

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

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

Dated: October 11, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–26869 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Millennium Pipeline Company From an Objection by the New York Department of State

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Supplemental notice of public hearing.

SUMMARY: This notice provides additional scheduling information concerning a public hearing to be held by the National Oceanic and Atmospheric Administration in Tarrytown, New York. The hearing involves an administrative appeal filed with the Department of Commerce by the Millenium Pipeline Company (Consistency Appeal of Millennium Pipeline Company, L.P.).

DATES: The hearing is scheduled to begin at 10 a.m. on November 13, 2002. Speaker registration begins at 9 a.m. on the day of the hearing. Public comments on the appeal must be received by December 2, 2002.

ADDRESSES: The public hearing and speaker registration will be held at the Hilton Tarrytown Hotel, 455 South Broadway, Tarrytown, New York. Written comments may be submitted at the hearing. All e-mail comments on issues relevant to the Secretary's decision of this appeal may be submitted to *Millennium.comments@noaa.gov.* Apart from the hearing, comments may also be sent by mail to the Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910. Materials from the appeal record will be available at the Internet site *http://www.ogc.doc.gov/czma.htm* and at the Office of the Assistant General Counsel for Ocean Services.

FOR FURTHER INFORMATION CONTACT: Karl Gleaves, Assistant General Counsel for Ocean Services, via email at *gcos.inquiries@noaa.gov,* or at 301–713–2967, extension 186.

SUPPLEMENTARY INFORMATION: The Millennium Pipeline Company filed an administrative appeal with the Department of Commerce, pursuant to the Coastal Zone Management Act of 1972, as amended, asking that the Secretary of Commerce override the State of New York's objection to Millennium's proposed natural gas pipeline. The pipeline would extend from the Canadian border in Lake Erie and cross the Hudson River, affecting the natural resources or land and water uses of New York's coastal zone.

On September 9, 2002, NOAA published a notice in the **Federal Register** announcing that it would hold a public hearing concerning the appeal. See 67 FR 57220. The notice provided information about the date and location of the hearing and indicated additional details would be forthcoming. This notice provides additional scheduling information for the hearing.

The hearing will begin at 10 a.m. at the Hilton Tarrytown Hotel, and continue throughout the day with afternoon and evening sessions. Intermissions are expected near noon and in the late afternoon (approximately 4:30 p.m.). In addition, a temporary recess may be scheduled for periods when all registered speakers have had an opportunity to testify. Speakers must register on the day of the hearing, on site, at the hotel. Registration of speakers will begin at 9 a.m. Each organization that registers should expect to receive a total of five minutes for its representatives to present oral comments. Individuals from the general public who register will receive approximately three minutes to speak. Speakers will be recognized in the order in which they register (a first-come-first-serve basis), alternating between individuals from the general public and those representing organizations. A specific period is also expected to be designated during the morning and afternoon sessions for remarks by elected officials.

Written comments may be submitted to NOAA at the hearing by any person in attendance. For submissions at the hearing, we request, but do not require, that you provide three copies for inclusion into the administrative record. Apart from the hearing, written comments may be submitted by e-mail to *millennium.comments@noaa.gov* or forwarded via mail to the Office of the Assistant General Counsel for Ocean Services. Comments must be received by December 2, 2002. Comments will be made available to the parties; they are also expected to be posted on the Department of Commerce website at *http://www.ogc.doc.gov/czma.htm.*

This hearing is being held to obtain information on issues the Secretary will likely consider in deciding Millennium's appeal. A summary of relevant issues as well as additional background on the appeal appears in the September 9, 2002, **Federal Register** announcement referenced above, a copy of which can be found on the Internet at *http://www.ogc.doc.gov/czma.htm.*

Questions concerning the hearing may be sent via email to *gcos.inquiries@noaa.gov* or made by telephone to 301 713–2967, extension 186.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.]

Dated: October 16, 2002.

James R. Walpole,

General Counsel.

[FR Doc. 02–26787 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Draft Guidance for the Coastal and Estuarine Land Conservation

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice of availability of draft guidance for the Coastal and Estuarine Land Conservation Program.

SUMMARY: Notice is hereby given of the availability of Draft Guidance for the Coastal and Estuarine Land Conservation Program (CELCP), created by the FY 2002 appropriations for the Departments of Commerce, Justice, and State. The Appropriations Act directed the Secretary of Commerce to establish a Coastal and Estuarine Land Conservation Program ''for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses,'' giving priority to lands which can be effectively managed and protected and which have significant ecological value. The law further directed the Secretary to issue guidelines for this program delineating the criteria for grant awards and to distribute funds in consultation with the States' Coastal Zone Managers' or Governors' designated representatives based on demonstrated need and ability to successfully leverage funds. Draft

Guidance for the CELCP can be found on NOAA's website at: *www.ocrm.nos.noaa.gov/landconversation.html* or may be obtained upon request via the contact information listed below. Comments may be directed to NOAA via letter, e-mail, or fax at (301) 713–4012.

DATES: Comments are requested by November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Elaine Vaudreuil, Office of Ocean and Coastal Resource Management (N/ORM), NOAA's National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910; telephone (301) 713–3155, extension 103; or via e-mail at *Elaine.Vaudreuil@noaa.gov.*

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: October 7, 2002.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02–26996 Filed 10–21–02; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF EDUCATION

President's Advisory Board on Tribal Colleges and Universities Meeting

AGENCY: President's Advisory Board on Tribal Colleges and Universities.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the first meeting of the President's Advisory Board on Tribal Colleges and Universities and is intended to notify the general public of their opportunity to attend. This notice also describes the functions of the Board. Notice of the Board's meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

Correction: Notice document appeared in the **Federal Register** on Wednesday, October 16, 2002, at page 63905 the date to be corrected:

Date and Time: October 28, 2002—9 a.m. to 5:30 p.m.

Location: Institute of American Indian Arts (IAIA), 83 Avan Nu Po Road, Santa Fe, New Mexico 87508.

Date and Time: October 29, 2002—8:30 a.m. to 12.

Location: Institute of American Indian Arts Museum, 108 Cathedral Place, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Victoria Vasques, Acting Executive Director, President's Advisory Board on Tribal Colleges and Universities, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: 202–260–7485. Fax: 202–260–4149.

SUPPLEMENTARY INFORMATION: The Board is established by Executive Order 13270 dated July 3, 2002 to provide advice regarding the progress made by federal agencies toward fulfilling the purposes and objective of the order. The Board shall also provide recommendations to the President and the Secretary of Education at least annually on ways Tribal Colleges can: (1) Use long-term development, endowment building, and master planning to strengthen institutional viability; (2) improve financial management and security, obtain private sector funding support, and expand and complement federal education initiatives; (3) develop institutional capacity through the use of new and emerging technologies offered by the federal and private sectors; (4) enhance physical infrastructure to facilitate more efficient operation and effective recruitment and retention of students and faculty; and (5) help implement the No Child Left Behind Act of 2001 and meet other high standards of educational achievement.

The general public is welcome to attend. However, space is limited and is available on a first-come, first-served basis. Individuals who need accommodations for a disability in order to attend the meeting (*i.e.,* interpreting services, assistive listening devices, materials in alternative format) should notify Betty Thompson at (202) 260–0223 no later than October 21, 2002. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

A summary of the activities of the meeting and other related materials, which are informative to the public and consistent with the policy of section 5 U.S.C. 552, will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the White House Initiative on Tribal Colleges & Universities, United States Department of Education, 400 Maryland Avenue, SW., Washington, DC from 9 a.m. to 5:30 p.m.

Dated: October 18, 2002.

Betty Thompson,

White House Initiative on Tribal Colleges and Universities.

[FR Doc. 02–26969 Filed 10–21–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC02–600–001, FERC–600]

Commission Information Collection Activities, Proposed Collection; Comment Request; Submitted for OMB Review 2002

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and extension of the current expiration date. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of July 1, 2002 (67 FR 44186–87) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by November 18, 2002.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer, 725 17th Street, NW, Washington, DC 20503. The Desk Officer may be reached by telephone at (202) 395–7856. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Chief Information Officer, CI–1, Attention: Michael Miller, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE. Washington, DC 20426 and should refer to Docket No. IC02–510–001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each

screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments. User assistance for electronic filings is available at (202) 208–0258 or by e-mail to *efiling@ferc.fed.us*. Comments should not be submitted to the e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's Home page using the FERRIS link. User assistance for FERRIS is available at (202) 502–8222, or by e-mail to *contentmaster@ferc.fed.us*.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)502–8415, by fax at (202)208–2425, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Description

The information collected submitted for OMB review contains:*1. Collection of Information:* FERC–600 ''Rules of Practice and Procedure: Complaint Procedures''.*2. Sponsor:* Federal Energy Regulatory Commission.*3. Control No.:* 1902–0180.

The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. There is an adjustment only to the reporting burden. The information filed with the Commission is voluntary but submitted with prescribed information. Requests for confidential treatment of the information are provided for under Section 388.112 of the Commission's regulations.*4. Necessity of the Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions of the Federal Power Act (FPA.), 16 U.S.C. 791a–825r; the Natural Gas Act (NGA), 15 U.S.C. 717–717w; the Natural Gas Policy Act(NGPA); 15 U.S.C. 3301–3432; the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601–2645; the Interstate Commerce Act, 49 U.S.C. App. § 1 *et seq.* and the Outer Continental Shelf Lands Act, 43 U.S.C. 1301–1356.9.

In Order No. 602, 64 FR 17087 (April 8, 1999), the Commission revised its regulations governing complaints filed with the Commission under the above statutes. Order No. 602 was designed to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner. In order to achieve the latter, the Commission revised Rule 206 of its Rules of Practice and Procedure (18 CFR 385.206) to require that a complaint satisfy certain informational requirements, that answers be filed in a shorter, 20-day time frame, and that parties may employ various types of alternative dispute resolution procedures to resolve complaints.

With respect to public utilities, Section 205(e) of the FPA provides: Whenever any such new schedule is filed, the Commission shall have the authority, either upon complaint or upon its own initiative without complaint at once, and, if it so orders, without answer or formal pleading by the public utility, but upon reasonable notice to enter upon hearing concerning the lawfulness of such rate, charge, classification, or service; and pending such hearing and the decision of the Commission * * *

For the natural gas industry, Section 14(a) of the NGA provides: The Commission may permit any person to file with it a statement in writing, under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of an investigation.

Concerning hydroelectric projects, Section 19 of the FPA provides: * * * it is agreed as a condition of such license that jurisdiction is hereby conferred upon the Commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control * * *

For qualifying facilities, Section 210(h)(2)(B) of PURPA provides: Any electric utility, qualifying cogenerator, or qualifying small power producer may petition the Commission to enforce the requirements of subsection (f) as provided in subparagraph (A) of this paragraph.

Likewise for oil pipelines, Part 1 of the Interstate Commerce Act (ICA), Sections 1, 6 and 15 (recodified by P.L. 95–473 and found as an appendix to Title 49 U.S.C.) authorize the Commission to investigate the rates charged by oil pipeline companies subject to its jurisdiction. If a proposed oil rate has been filed and allowed by the Commission to go into effect without suspension and hearing, the Commission can investigate the effective rate on its own motion or by complaint filed with the Commission. Section 13 of the ICA provides that: Any person, firm, corporation, company or association, or any mercantile, agricultural, or manufacturing society or other organization, or any common carrier complaining of anything done or omitted to be done by any common carrier subject to the provisions of this chapter in contravention of the provisions thereof, may apply to the Commission by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the Commission * * *

The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Sections 385.206 and 385.213.*5. Respondent Description:* The respondent universe currently comprises 8 companies (on average) subject to the Commission's jurisdiction.*6. Estimated Burden:* 1,064 total hours, 76 respondents(average), 1 response per respondent, 14 hours per response (average).*7. Estimated Cost Burden to respondents:* 1,064 hours / 2080 hours per years x $117,041 per year = $59,870. The cost per respondent is equal to $787.00.

Statutory Authority: Sections 19 and 205(e) of the Federal Power Act, 16 U.S.C. 797(e), 799; Section 14(a) of the Natural Gas Act; Section 210(h)(2)(B) of the Public Utility Regulatory Policies Act; Part 1 of the Interstate Commerce Act (recodified by Pub. L. 95–473 and found as an appendix to Title 49 U.S.C. and 43 U.S.C. 1301–1356.9.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26805 Filed 10–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–250–000, ER02–527–000 and ER02–479–000]

California Independent System Operator Corporation and Pacific Gas and Electric Company; Notice of Filings

October 15, 2002.

Take notice that on October 11, 2002, the California Independent System Operator Corporation (ISO) tendered for filing a Joint Motion to Adjust Interim Settlement Rates and a Request to Shorten the Time Period for Answers to the motion.

Any person desiring to intervene or to protest this filing should file with the

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 25, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26804 Filed 10–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–439–003]

Columbia Gas Transmission Corporation; Notice of Petition To Amend

October 15, 2002.

Take notice that on October 4, 2002, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP01–439–003, a petition to amend the order issued May 17, 2002, in Docket No. CP01–439–000. In Docket No. CP01–439–003 Columbia requests a certificate of public convenience and necessity pursuant to section (c) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations authorizing the construction and operation of certain pipeline, compression and appurtenant facilities in New Jersey and Pennsylvania. Details of this request are more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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.

In Docket No. CP01–439–003, the Delaware Valley Energy Expansion Project (DVEEP), Columbia proposes to serve Mantua Creek Generating Company, L.P. (Mantua Creek), which is constructing an electric generating facility in Gloucester County, New Jersey.[1] Columbia proposes to construct and operate 7.5 miles of 20-inch pipeline looping in Gloucester County, New Jersey, and 2.1 miles of 20-inch lateral pipeline in Gloucester County (to be designated Line 10359), two 6,000 horsepower compressor units at the existing Eagle Compressor Station in Delaware County, Pennsylvania, and a new measuring and regulating station and associated appurtenances at the Mantua Creek Power Plant in Gloucester County.

Columbia proposes to provide firm mainline transportation service to Mantua Creek under its Rate Schedule FTS for a contract term of 20 years and 2 months, commencing April 1, 2005, delivering 135,000 Dth per day (phased in with a contract demand of 55,000 Dth per day beginning April 1, 2005, increasing to 110,000 Dth per day on May 1, 2005, and 135,000 Dth per day on June 1, 2005) and transportation on the lateral line under Columbia's FTS-LAT rate schedule for a contract term of 20 years and 8 months, commencing October 1, 2004. Columbia notes that the FTS-LAT rate schedule was approved by the Commission in Docket No. CP01–260–000 and reaffirmed in Docket No. CP01–439–000.

Columbia estimates the total cost of facilities proposed herein at $32,359,700.

Columbia requests that an order be issued by January 31, 2003, so that work may commence in the early spring of 2003.

Any questions regarding this application should be directed to Fredric J. George, Senior Attorney, at (304) 357–2359, Columbia Gas Transmission Company, PO Box 1273, Charleston, West Virginia 25325–1273.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before November 5, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. Comments and protests 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.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the

[1] In Docket No. CP01–439–000, Columbia proposed to construct facilities for the same service for Mantua Creek and was authorized to do so, but has since made changes, because of changing needs and customer circumstances, as discussed in a public meeting at the Commission held September 4, 2002.

applicant, on other pipelines in the area, and ion landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important to file comments or to intervene as early in the process as possible.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26801 Filed 10–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–4–001]

Florida Gas Transmission Company; Notice of Compliance Filing

October 15, 2002.

Take notice that on September 23, 2002, Florida Gas Transmission Company (FGT), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff) Original Sheet No. 8B.02 to become effective October 23, 2002.

FGT states that on October 12, 1999, in Docket No. CP00–4–000, FGT filed for permission and approval for facilities to provide service to the Alabama Electric Cooperative (AEC) for a planned electric generation plant in Escambia Count, Alabama. As discussed in the October 12, 1999 filing, transportation service for AEC was to be provided pursuant to a negotiated rate agreement under FGT's Rate Schedule FTS–WD. FGT included a pro forma tariff sheet in the October 12, 1999 filing identifying the AEC agreement as a negotiated rate and FGT stated that upon approval of the requested authorizations, FGT would file a paginated numbered tariff sheet. On March 27, 2000, the Commission issued an order granting the requested authorizations, subject to conditions, to construct facilities to provide service to AEC. Construction of these facilities was completed, and service commenced to AEC on December 1, 2001. FGT states it inadvertently failed to file the paginated numbered tariff sheet as it stated it would in the October 12, 1999 filing. FGT states in the instant filing, it is filing Original Sheet No. 8B.02 to correct this oversight.

FGT states that copies of this instant filing were mailed to all customers served under the rate schedules affected by this filing and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with the Commission's rules and regulations and Order No. 587 *et seq.* All such motions or protests should be filed in on or before October 18, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26800 Filed 10–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–504–001]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

October 15, 2002.

Take notice that on October 7, 2002, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets in compliance with the Commission's September 20, 2002 letter order:

Substitute Original Sheet No. 10B
Original Sheet No. 10B.01
Substitute Second Revised Sheet No. 66A
Substitute Fourth Revised Sheet No. 67

Iroquois states that these tariff sheets are being filed to replace sheets accepted to become effective on September 20, 2002, therefore the proposed tariff sheets also reflect an effective date of September 20, 2002.

In its initial August 20, 2002 filing in Docket No. RP02–504, Iroquois proposed modifications to its tariff to permit it to reserve existing firm transportation capacity for future projects and to clarify and modify the provisions of its tariff concerning its customers' ability to make changes to their receipt and delivery points. The Commission's Order accepted Iroquois' tariff sheets, but required Iroquois to modify certain aspects of its proposal to conform to recent Commission policy regarding capacity reservation and delivery point changes. The substitute tariff sheets submitted with Iroquois' filing make those required changes.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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 Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26807 Filed 10–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–5–000]

National Fuel Gas Supply Corporation; Notice of Application

October 15, 2002.

On October 7, 2002, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed an application in Docket No. CP03–5–000, pursuant to section 7(b) of the Natural Gas Act (NGA), and part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), for authorization to abandon, by sale to Seneca Resources Corporation (Seneca), a portion of Line C along with appurtenances. Seneca is a production affiliate of National Fuel. National Fuel also requests a declaration that these facilities will be exempt gathering facilities following their abandonment, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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.

National Fuel states that it proposes to abandon by sale to its affiliate, Seneca, approximately 17.4 miles of its Line C and applicable rights-of-way, easements, permits, and other property interests related thereto, located in Elk and McKean Counties, Pennsylvania. National Fuel has indicated that following the conveyance, Seneca plans to use these sections of Line C as low pressure, high-BTU backbone lines for locally produced gas. National Fuel further states that the abandonment of Line C will have no effect on existing services. National Fuel states that the line will perform a gathering function for Seneca and requests that the Commission determine that the line will be exempt from the Commission's jurisdiction following the sale and transfer to Seneca.

Any questions regarding this application may be directed to David W. Reitz, Assistant General Counsel for National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203 at (716) 857–7949 or fax (716) 857–7688.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before November 5, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and instructions on Commission's Web site under the ''e-Filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26802 Filed 10–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL03–11–000]

Wisvest-Connecticut, LLC, Complainant, v. ISO New England, Inc., Respondent; Notice of Complaint and Request for Fast Track Processing

October 15, 2002.

Take notice that on October 11, 2002, Wisvest-Connecticut, LLC (Wisvest) filed a Complaint and Request For Fast Track Processing against ISO New England, Inc. (ISO–NE) requesting that the Federal Energy Regulatory Commission (1) Clarify its orders concerning notification to ISO–NE of internal contracts to supply installed capacity (ICAP), (2) direct ISO–NE to credit ICAP to Bridgeport Energy, LLC (Bridgeport Energy) consistent with the terms of Wisvest's pre-existing contract with Bridgeport Energy, and (3) order the payment of refunds, as appropriate.

Any person desiring to be heard or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. The answer to the complaint and all comments, interventions or protests must be filed on or before October 21, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26803 Filed 10–21–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

October 15, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection: *a. Type of Application:* Preliminary Permit. *b. Project No.:* 12318–000. *c. Date filed:* August 2, 2002. *d. Applicant:* Edgewater, LLC. *e. Name of Project:* Ball Band Hydro Works Project. *f. Location:* At an existing dam owned by Edgewater, LLC on the St. Joseph River in St. Joseph County, Indiana. The proposed project does not utilize federal or tribal lands. *g. Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r). *h. Applicant Contact:* Charles S. Hayes, Edgewater, LLC., 814 Marietta Street, South Bend, Indiana 46601, (574) 233–1296. *i. FERC Contact:* Regina Saizan, (202) 502–8765. *j. Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12318–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Project:*The proposed project would consist of:* (1) An existing dam, 12-foot-high, 320-foot-long, (2) a proposed powerhouse containing four turbine generators having a total installed capacity of 1 MW, (3) a proposed 50-foot-long, 5 kV transmission line, and (4) appurtenant facilities. The project would have an annual generation of 6.57 GWh.

l. 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 toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26806 Filed 10–21–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0263; FRL–7275–7]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2002–0263, must be received on or before November 21, 2002.

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: Robyn Rose, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9581; e-mail address: rose.robyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

Industry (NACIS 111, 112, 311, 32532), e.g., crop production, animal production, food manufacturing, pesticide manufacturing.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2002–0263. 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. 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. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in 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. 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.

2. *EPA Dockets—i.* 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–2002–0263. 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–2002–0263. 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), Office of Pesticide Programs (OPP), Environmental Protection Agency (7502C), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2002–0263.

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–2002–0263. 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. Make sure to submit your comments by the deadline in this notice.
7. 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?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:October 7, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

PP 2F06453

The petitioner summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by Taensa, Inc. and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

EPA has received a pesticide petition 2F06453 from Taensa, Inc., 26 Sherman Ct, P.O. Box 764, Fairfield, CT 06430, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the microbial pesticide *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24. Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Taensa, Inc. has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Taensa, Inc. EPA has not fully evaluated the merits of the

pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

TAEGRO™ is currently registered with EPA for use on ornamentals in greenhouses and indoors (EPA Registration Number 72098–5). TAEGRO™ Technical (EPA Registration Number 72098–6) is also registered with EPA. Registration of TAEGRO™ is being proposed for the following sites (including those previously registered): Herbs and spices; ornamentals; shrubs, shade and forest trees; tree, vine, bush and other crops; turf; and vegetables.

Methods of application of TAEGRO™ will include seed treatment, incorporation into growth substrate as a dry powder or as an aqueous suspension, drenching, spraying, dipping (roots or cuttings), spraying, chemigation, and hydroponic use. As a plant strengthening agent, TAEGRO™ increases yield of many crops, improves flowering and plant quality, stimulates resistance of plants to disease, plant disease suppressant and can be used with fungicides. Directions for use of TAEGRO™ are as follows:

Apply TAEGRO™ as early as possible in the life cycle of the plant to enhance growth and disease resistance. TAEGRO™ should be applied to plants every few weeks for up to three to four applications as needed. For best results, apply TAEGRO™ to seedlings or to newly rooted cuttings.

1. *Transplants, including plugs.* TAEGRO™ may be applied to transplants by dipping or by drenching, making sure the root system is thoroughly soaked. For dipping, follow the instructions for ''Cutting and Root Dips'' before planting transplants into soil medium. For drenching, first plant the transplants into soil medium and then follow instructions for ''Drenching.''

2. *Drenching.* Apply TAEGRO™ to seedlings or to newly rooted cuttings. Drench plants with the TAEGRO™ suspension making sure the root system is thoroughly soaked. Allowing TAEGRO™ to work into the root zone.

Apply TAEGRO™ as follows:

- Per 100 gallons of water - by weight use 75 grams or 2.6 ounces; by volume use 3.5 fluid ounces of TAEGRO™.
- Per 1 gallon of water 5 grams - by weight use 0.75 gram; by volume use 0.2 teaspoon of TAEGRO™.

3. *Cutting and root dips.* Stir suspension for several minutes to ensure complete mixture and to eliminate clumps. Place rootstock in the suspension for 5 to 10 minutes allowing time for TAEGRO™ to penetrate the root zone. Ornamentals should receive at least one follow-up drench treatment 2 to 3 weeks following initial treatment.

Apply TAEGRO™ as follows:

- Per 10 gallons of water - by weight, use 40 grams; by volume, 1.8 fluid ounces of TAEGRO™.
- Per 1 gallon of water - by weight, use 4 grams; by volume, use 1 teaspoon of TAEGRO™.
- Per 1 Liter of water - by weight, use 1 gram of TAEGRO™.

4. *Turf.* As an overhead spray, mix 75 grams of TAEGRO™ in 100 gallons of water. Before applying, stir product for several minutes to ensure complete suspension. Apply solution with a conventional sprayer using at least 50 gallons of water per acre. Water-in TAEGRO™ immediately after application with a minimum of 1/10 inch of water. For best results, make two or three applications spaced 1 week apart.

5. *Row crops.* Mix 75 grams of TAEGRO™ in 100 gallons of water. Before applying, stir product for several minutes to ensure complete suspension. At time of (or just following) planting, apply as a spray over furrow. Water-in TAEGRO™ immediately after application with a minimum of 1/10 inch of water. For best results, make two or three applications spaced 1 week apart.

6. *Hydroponics.* Prepare a stock solution by adding 1 gram of TAEGRO™, for every 50 feet of irrigation tubing, in 1 gallon of water. Stir product for several minutes to ensure complete suspension. Add solution to circulating water system and allow to go through three to five watering cycles before clearing the system. For best results, make two or three applications spaced 1 week apart.

7. *Seed treatments.* Prior to planting, mix 4 grams of TAEGRO™ in 1 liter of water (or 3 teaspoons per gallon of water). Stir solution for several minutes to ensure complete suspension. Pour seeds into solution and allow to soak for 10 to 30 minutes. For very small seeds, soaking seedlings in plug trays after germination might be easier.

8. *Tubers, bulbs and corms.* Mix 4 grams of TAEGRO™ in 1 liter of water (or 3 teaspoons per gallon of water). Stir solution for several minutes to ensure complete suspension. Dip tubers (or bulbs, etc.) for 10 to 30 minutes before planting. For best results, make two or three applications spaced 1 week apart.

9. *Soil incorporation.* Mix TAEGRO™ into soil or soilless growing media at a rate of 250 grams per cubic yard. Thoroughly mix media, using mechanical mixing equipment, to ensure a uniform distribution of product. Incorporated into soil, TAEGRO™ can be raked into growing beds prior to planting.

10. *Mushrooms.* Mix TAEGRO™ into spawn medium at a rate of 10 grams per cubic foot. Thoroughly mix, using mechanical mixing equipment, to ensure a uniform distribution of product.

11. *Interiorscapes.* Before application, thoroughly moisten root zone with water. Mix 1 gram of TAEGRO™ per 1 liter of water (or 3/4 teaspoon per gallon of water). Stir solution for several minutes to ensure complete suspension. Drench solution onto root zone to ensure coverage to all roots. TAEGRO™ performs best when applied to seedlings or young plants. For best results, make two or three applications spaced 1 week apart.

12. *Orchids and ferns.* For potted orchids and ferns, follow directions for drenching. For orchids and ferns with exposed roots, prepare 4 grams of TAEGRO™ in 1 liter of water (or 3 teaspoons per gallon of water). Pour solution into spray container (or squirt bottle) and spray roots to point of drip. TAEGRO™ performs best when applied to seedlings or young plants. For best results, make two or three applications spaced 1 week apart.

B. Product Identity/Chemistry

1. *Identity of pesticide and corresponding residues.* The active ingredient in TAEGRO™ is *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24. The mechanism by which *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 acts as a plant strengthening agent, increases yield of many crops, improves flowering and plant quality, stimulates resistance of plants to disease, plant disease suppressant appears to be primarily via secondary exudates. Suppression of plant disease by *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 may also be competitive. *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 is not known to produce toxins or antibiotics. Further, *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 is a naturally occurring microorganism. *Bacillus subtilis* var. *amyloliquefaciens* is widespread in the environment and occurs in most arable soils of the world.

2. *Magnitude of residue anticipated at the time of harvest and method used to determine the residue.* No residues of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 are anticipated in treated crops at harvest. Subdivision M - Series 153A-3(a) indicates that ''if Tier I toxicology tests indicate no toxic or other harmful properties, then no residue data would be indicated.'' Studies with *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 demonstrated low mammalian toxicity. No pathogenicity or infectivity was observed in any of the tests conducted with *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24. Further, *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 is a naturally occurring microorganism. *Bacillus subtilis* var. *amyloliquefaciens* is widespread in the environment.

3. *Statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* Subdivision M - Series 153A-3(a) indicates that '' if Tier I toxicology tests indicate no toxic or other harmful properties, then no residue data would be indicated and thus a recommendation for an exemption from the requirement of a tolerance can be made.'' Studies with *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 demonstrated low mammalian toxicity. No pathogenicity or infectivity was observed in any of the tests conducted with *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24. Further, *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 is a naturally occurring microorganism. *Bacillus subtilis* var. *amyloliquefaciens* is widespread in the environment.

C. Mammalian Toxicological Profile

Taensa, Inc. conducted the required toxicology studies to support its petition for an exemption from the requirement of tolerance and associated registrations of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24. The studies conducted indicate a low mammalian toxicity for *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24. No pathogenicity or infectivity was observed in any of the tests conducted with *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24. With the exception of an inhalation study for the end-use product (TAEGRO™), which is being submitted in support of this application, all toxicology data generated by Taensa have been reviewed by EPA's Biopesticides and Pollution Prevention Division (BPPD).

Toxicology data in support of the exemption from the requirement of a tolerance for *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 included studies with spores (technical) and with the formulated product (water dispersible powder) as follows:

1. Acute toxicity and/or pathogenicity—a. *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 Spores (Technical):

- Acute oral toxicity/pathogenicity in rats - ''does not appear to be toxic and/or pathogenic when dosed at 1.3 x 10^8 cfu.'' BPPD Review December 20, 1999.
- Acute dermal toxicity/pathogenicity in rabbits - ''The severity of irritation persisted 72 h, and slight irritation persisted for 10 d, and all resolved by day 11. No deaths observed. The acute lethal dose (LD_{50}) is greater than 2,000 mg/kg. . .Dermal irritation = Toxicity II; Dermal Toxicity = Toxicity III.'' BPPD Review December 20, 1999.
- Acute pulmonary toxicity/pathogenicity in rats - ''does not appear to be toxic and/or pathogenic in rats, when dosed at 1.3 x 10^8 cfu/animal. No total clearance is seen form the lungs of treated test animals showed a distinct pattern of clearance from kidney, liver, and spleen.'' BPPD Review December 20, 1999.
- Acute intravenous toxicity/pathogenicity in rats - ''does not appear to be toxic and/or pathogenic in rats, when dosed at 1.7 x 10^8 cfu/animal.'' BPPD Review December 20, 1999.
- Primary eye irritation - ''showed no signs of persistent irritation into day 21, when dosed at 4.7 x 10^{10} cfu/right eye/animal.'' BPPD Review December 20, 1999 - The initial review indicated Toxicity Category I, but was amended to Toxicity Category II (BPPD Review March 7, 2000).
- Hypersensitivity testing - ''Based on the submitted data does not appear to be a sensitizer when dosed at 3.6 x 10^{10} cfu.'' BPPD Review December 20, 1999.
- Hypersensitivity incident reporting - ''No recorded or reported hypersensitivity reaction based on handling MCPA in lab control setting, equating to 55 person years.'' BPPD Review December 20, 1999.
- Potential health effects - ''Based on information given, there are no apparent negative effects - cited literature on *B. Subtilis* indicate and/or support the development as a biological control.'' BPPD Review December 20, 1999.
- Growth parameters - ''is shown to grow at all tested temperatures (e.g., 30, 34, 37, and 50 °C). The enumeration shows a low 4.2 x 10^{11} cfu/g at 37 °C to a high 6.0 x 10^{11} cfu/g at 34 °C.'' BPPD Review December 20, 1999.

b. *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 WDG (formulation):

- Acute oral LD_{50} toxicity in rats - ''Toxic/limit dose greater than 2.8 g/kg body weight (6.7 x 10^{10} cfu/kg) Toxicity Category III.'' BPPD Review December 20, 1999.
- Acute dermal LD_{50} toxicity in rats - ''The severity of irritation persisted >72 h, but resolved by day 11. No deaths observed. The acute dose (LD_{50}) is greater than 2,000 mg/kg Dermal irritation = Toxicity Category II; Dermal Toxicity = Toxicity Category III.'' BPPD Review December 20, 1999.
- Acute inhalation LC_{50} toxicity in rats (formulation) - ''an acute inhalation medium lethal concentration (LC_{50}) in male and female rats is greater than 0.93 mg/L Toxicity Category II.'' IIT Research Institute (Document 2 of this submission)
- Primary eye irritation ''no corneal opacity, and no signs of irritation by day 7, when dosed at 3.6 x 10^{10} cfu/right eye/animal Toxicity Category III.'' BPPD Review December 20, 1999.

c. The inert ingredients contained in the *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 formulation, TAEGRO™ are all minimal risk (List 4).

2. *Genotoxicity.* Subdivision M Guidelines do not require the conduct of genotoxicity studies to support the registration of a microbial pest control agent, such as *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24.

3. *Reproductive and developmental toxicity.* Subdivision M Guidelines do not require the conduct of reproductive and developmental toxicity studies to support the registration of a microbial pest control agent, such as *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24.

4. *Subchronic toxicity.* Subdivision M Guidelines do not require the conduct of subchronic toxicity studies to support the registration of a microbial pest control agent, such as *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24.

5. *Chronic toxicity.* Subdivision M Guidelines do not require the conduct of chronic toxicity studies to support the registration of a microbial pest control agent, such as *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24.

According to Taensa, Inc., sufficient data exist to assess the hazards of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 and to make a determination on aggregate exposure, consistent with section 408(c)(2), for the exemptions from the requirement of a tolerance. The exposures, including dietary exposure, and risks associated with establishing the requested

exemption from the requirement of a tolerance follows.

D. Aggregate Exposure

Bacillus subtilis var. *amyloliquefaciens* is naturally occurring and widespread in the environment. The low toxicity and non-pathogenicity/infectivity of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 is demonstrated by the data summarized herein. The product will be applied as a seed treatment and via incorporation, drenching, spraying, dipping, chemigation and hydroponics.

1. *Dietary exposure—a. Food.* It is not anticipated that residues of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 will occur in treated raw agricultural commodities.

b. *Drinking water.* It is not anticipated that residues of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 will occur in drinking water.

2. *Non-dietary exposure.* The potential for non-occupational, non-dietary exposure to the general population is not expected to be significant.

E. Cumulative Exposure

There is no anticipated potential for cumulative effects of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 and other substances that have a common mode of action.

F. Safety Determination

1. *U.S. population. Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 is a naturally occurring microorganism. *Bacillus subtilis* var. *amyloliquefaciens* is widespread in the environment. The low toxicity of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 is demonstrated by the data summarized above. Based on this information, the aggregate exposure to *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 over a lifetime should not pose appreciable risks to human health. There is a reasonable certainty that no harm will result from aggregate exposure to *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 residues. Exempting *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 from the requirement of a tolerance should be considered safe and pose insignificant risk.

2. *Infants and children.* The toxicity and exposure data are sufficiently complete to adequately address the potential for additional sensitivity of infants and children to residues of *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24. There is a reasonable certainty that no harm will result to infants and children from aggregate exposure to *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 residues.

G. Effects on the Immune and Endocrine Systems

No specific tests have been conducted with *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 to determine whether it may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, it is not likely that *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 would have estrogen or endocrine effects because:

- It is a naturally occurring microorganism. *Bacillus subtilis* is widespread in the environment
- It has demonstrated low mammalian toxicity. No pathogenicity or infectivity was observed in any of the tests conducted with *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24

The mechanism by which *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 controls diseases appears to be via exudates *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 does not produce toxins or antibiotics.

H. Existing Tolerances

No tolerances or exemptions from the requirement of tolerance have been established or applied for domestically or internationally other that subject petition.

I. International Tolerances

No maximum residue levels have been established for *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 by codex Alimentarius Commission.

[FR Doc. 02–26844 Filed 10–21–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7396–9]

Proposed Modification of and Request for Additional Public Comment on the General National Pollutant Discharge Elimination System Permits for Log Transfer Facilities in Alaska: AK–G70–0000 and AK–G70–1000

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed modification of and request for additional public comments on general NPDES permits for log transfer facilities in Alaska.

SUMMARY: The Director, Office of Water, EPA Region 10, provides notice of and requests public comment on proposed modifications of the two general National Pollutant Discharge Elimination System (NPDES) permits for Alaskan log transfer facilities (LTFs), which include log storage areas (LSAs), that were issued on March 7, 2000 (65 FR 11999): NPDES permit no. AK–G70–0000, which modifies Clean Water Act (CWA) section 404 dredge-and-fill permits issued to LTFs by the U.S. Army Corps of Engineers (ACoE) prior to October 22, 1985, by adding CWA section 402 effluent limitations and conditions to those permits, and NPDES permit no. AK–G70–1000, which may cover all other log transfer facilities in Alaska.

The EPA issued two general permits for Alaskan log transfer facilities on March 7, 2000. In response to petitions to review the permits brought by the Natural Resources Defense Council and nine other petitioners, the United States Court of Appeals for the Ninth Circuit, on February 13, 2002, ruled that the EPA did not provide adequate notice of and opportunity to comment on the general NPDES permits AK–G70–0000 and AK–G70–1000 and remanded the permits to the EPA to take further comment on the project area Zone of Deposit (ZOD) authorized by the Alaska Department of Environmental Conservation (ADEC), and subsequently included in the final permits by the EPA. To comply with the Ninth Circuit's order, the EPA is seeking public comment on the authorization of a ''project area'' zone of deposit for trace, discontinuous, and continuous coverage in the general permits.

The EPA also is proposing to modify these permits. The most significant proposal would add a limit on continuous coverage within the project area zone of deposit, but would retain the project area zone of deposit limit for bark and woody debris for trace, discontinuous, and continuous coverage if less than one acre and less than 10 centimeters in depth. This notice seeks comment on the proposed major modifications. Finally, the notice describes various minor modifications the EPA is making to correct typographical errors.

DATES: Interested persons may submit written comments on the proposed modifications to general NPDES permits AK–G70–0000 and AK–G70–1000 and on the project area zone of deposit on or before December 23, 2002.

ADDRESSES: Comments must be sent to the attention of Alaskan LTF Public Comments, EPA Region 10 (OW–130), 1200 Sixth Avenue, Seattle, WA 98101. All comments should include the name of the commenter, a concise statement

of the comment, and the relevant facts upon which the comment is based.

FOR FURTHER INFORMATION CONTACT: The NPDES Permits Unit, EPA Region 10 Office of Water, Seattle, Washington, at (206) 553–0775.

SUPPLEMENTARY INFORMATION: General NPDES permits AK–G70–0000 and AK–G70–1000 regulate the discharge of woody debris (e.,g., bark and branches) at log transfer facilities (LTFs), which include log storage areas (LSAs), along the Southeast Alaskan coast. Woody debris is generated in the transfer of the de-limbed trunks of felled trees from upland storage lots to floating holding areas. The agency developed numerous technical documents in support of the control of pollution associated with the transfer and storage of logs (*e.g.*, USEPA 1973, The Influence of Log Handling on Water Quality; USEPA 1976, Effects of Log Handling and Storage on Water Quality; USEPA 1996, Ocean Discharge Criteria Evaluation of the NPDES General Permit for Log Transfer Facilities). The EPA has relied further upon supporting research from other sources (*e.g.*, Pease 1974, Effects of Log Dumping and Rafting on the Marine Environmental of Southeast Alaska; NMFS 1976, Some Effects of Log Dumping on Estuaries; Conlan and Ellis 1979, Effects of Wood Waste on Sand-bed Benthos; Freese and O'Clair 1984, Response of the Littleneck Clam and the Edible Mussel Exposed to Decomposing Wood Waste from a Log Transfer Facility; USFS 1986, Relationship between Bark Loss and Log Transfer Method; Jackson 1986, Effects of Bark Accumulation on Benthic Infauna at a Log Transfer Facility in Southeast Alaska).

The EPA, together with the State of Alaska, the U.S. Army Corps of Engineers, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Alaskan timber industry and representatives of the public, participated in the Governor of Alaska's Alaska Timber Task Force (ATTF) to develop guidelines to control detrimental impacts of LTFs to water quality, aquatic life, and habitat. The ATTF issued the ''Log Transfer Facility Siting, Construction, Operations and Monitoring/Reporting Guidelines' (1985 hereafter, ''Guidelines''). The ATTF recognized that LTFs impose a much greater physical stress upon the environment than chemical stress and accordingly emphasized protective siting and operational practices, supported by monitoring, to control pollution and impacts to the environment.

The Project Area Zone of Deposit for Bark and Woody Debris

The EPA has tentatively determined that a project area zone of deposit for trace, discontinuous, and continuous coverage of bark and woody debris on the seafloor is appropriate because the Alaska Water Quality Standard (AWQS) for residues is zero. The inclusion of areas of trace and discontinuous bark accumulations in the zone of deposit authorized under the AWQS is consistent with prior zones of deposit issued for LTFs and to the factual reality of how bark is distributed when discharged from LTFs. Depositional patterns of bark from LTFs, coupled with existing information that indicates that environmental harm results from complete coverage, but not trace and discontinuous coverage, supports the State of Alaska Department of Environmental Conservation's Certificates of Reasonable Assurance on the general permits which authorized a project area zone of deposit to limit all potential accumulations of bark and woody debris.

Previous individual LTF permits contained zones of deposit limited to 100% coverage exceeding both one acre in size and a thickness greater than 10 centimeters at any point as a fixed limit. However, trace and discontinuous coverage, although known to occur, was not specifically limited. According to the ADEC, those previous LTF zones of deposit did not recognize and address the reality that the deposits of bark and other woody debris include a continuum from trace amounts to piles. *See* July 29, 1999 ADEC letter, page 2. The ADEC further explained that under the AWQS no accumulation is allowed, thus, ''to authorize an acre of continuous coverage while ignoring the thinner deposits that surround it simply does not acknowledge what really occurs.'' Page 2, ADEC July 29, 1999 letter. Based on existing information, a zone of deposit for trace, discontinuous, and continuous bark and woody debris covering the area of the LTF project is protective of the environment as long as continuous coverage is separately addressed. The ADEC has determined, in the present permit as in past permits, to address the accumulation of continuous bark of 10 cm thickness to one acre, though it has determined that this area is a threshold for remediation in lieu of a limit on the extent of the zone of deposit.

In accordance with the Ninth Circuit's Order, the EPA is seeking comment on this issue.

Proposed Major Modifications to General NPDES Permits AK–G70–0000 and AK–G70–1000

Major modifications are proposed for the general NPDES permits. Table 1 below summarizes the major modifications. The basis for the proposed major modifications are contained in this Notice. Two draft permits containing the proposed modifications are available for public review.

The EPA proposes to make substantive changes in both permits to: (1) Revise the authorization process; (2) set a limit on the area of continuous bark deposit; (3) revise the threshold for revising the Pollution Prevention Plan for controlling bark deposition; and (4) revise the monitoring requirements pertaining to the deposition of bark.

The proposed major modifications to the general NPDES permits for Alaskan LTFs addresses new information received in implementing the general NPDES permits, and contained in the Memorandum, Final Order and Final Decision issued on May 10, 2002, by the Alaska Department of Environmental Conservation in an administrative appeal of the State's Section 401 Certificates of Reasonable Assurance for the general NPDES permits. The Memorandum, Final Order and Final Decision of the ADEC upheld the State Certificates, except as to its application to discharges in impaired waterbodies.

TABLE 1.—PROPOSED MAJOR MODIFICATIONS OF GENERAL NPDES PERMITS FOR ALASKAN LOG TRANSFER FACILITIES

[Pursuant to 40 CFR 122.62(a)]

Issue	Section and page of final NPDES permit No. AK–G70–0000 (3/21/00)	Section and page of final NPDES permit No. AK–G70–1000 (3/21/00)	Substance of modification
Under ADEC Order, permit coverage and authorization to discharge cannot occur without the submittal and acceptance of a Notice of Intent to be Covered (NOI) or Notification and an authorization of a zone of deposit by the ADEC.	I.A (p. 1) and IV.E (p. 8).	I.B (p. 1) and III.E (p. 5) and V.A (p. 9).	Delete language allowing the Director of EPA Region 10 Office of Water to cover a facility without an NOI or Notification and add language that an LTF is not authorized to be covered without both (1) submittal of a complete and accurate NOI; and (2) State approval for coverage and authorization of a zone of deposit in a written decision document; delete language giving the ADEC option to rescind the zone of deposit for a permitted facility.
Under ADEC Order, LTFs located in waterbodies impaired for bark residues cannot be authorized under a general NPDES permit.	I.A (p. 1)	III.C.1 (p. 4)	Delete the qualification ''new'' for dischargers in waterbodies impaired by bark residues.
In view of the new bark surveys and information, the threshold of 1.0 acre of 100% coverage at a thickness greater than 10 cm at any point must be a limit in order to protect the AWQS.	III.A.3 (p. 3)	IV.A.3 (p. 6)	Include an explicit limit that the continuous coverage of bark at a thickness greater than 10 cm at any point shall not exceed 1.0 acre.
In view of the new bark surveys and information, a reduction in discharges should be addressed in the Pollution Prevention Plan before an LTF reaches or exceeds the ADEC's threshold of 1.0 acre of continuous coverage of bark and woody debris in excess of 10 cm thickness at any point in order to prevent an exceedance of this limit.	III.B.13 (p. 4), VI.F (p. 18) and VI.I (p. 18).	IV.B.1.h (p. 7), VII.F.6 (p. 23), and VII.I (p. 23).	Reduce the threshold for the development and implementation of pollution prevention practices to control bark deposits from 1.0 A to 0.75 A and apply it to both shore-based and off-shore LTFs in AK–70–1000; add this condition to AK–G70–0000.
Monitoring of continuous bark deposition should be conducted to a depth of −100 ft, the maximum depth of 'SCUBA diving without an on-site decompression chamber' under OSHA, to support the protection of the AWQS and to be consistent with statewide SCUBA monitoring.	III.E (p. 5), V.C.1 (p. 11), V.C.3 (p. 11), and V.C.5 (p. 12).	IV.E (p. 9), V.D.7 (p. 13), VI.C.1 (p. 16) VI.C.3 (p. 16) and VI.C.5 (p. 17).	Modify the maximum depth for the monitoring of continuous bark deposits from −60 ft mean lower low water to −100 ft, without reference to mean lower low water.

Since the general NPDES permits were issued in 2000, the EPA has compiled the information obtained from LTFs applying for coverage under the general NPDES permits to obtain a better understanding of the industry. The EPA has learned that 56% of the facilities seeking coverage under the general permits have less than 0.25 acre of continuous bark coverage (*i.e.,* 100% bark coverage greater than 10 cm at any point), 33% have 0.25 to 1.0 acre of continuous coverage, and 11% have more than one acre of continuous coverage. Thus, nine out of ten LTFs applying for coverage under the two general NPDES permits have less than 1.0 acre of continuous bark accumulation. In addition, 71% of the applicant LTFs have less than one acre of discontinuous bark coverage (*i.e.,* 10% to 99% bark coverage), 16% have 1.0 to 2.0 acres of discontinuous coverage, and 12% have more than two acres of discontinuous bark coverage of the seafloor. Again, then roughly nine out of ten LTFs applying for coverage have less than 2.0 acres of discontinuous coverage. The EPA also has obtained information on the patterns, variations, and causes of bark deposition in time and space. Based on analysis of this information, indications are that eight LTFs have continuous coverage of more than one acre, thus, likely will require individual permits with site-specific assessments in order to receive an NPDES authorization to discharge.

The first proposed change in the general NPDES permits relates to the State's Final Decision. The ADEC has established a process for analyzing applicability of the antidegradation and zone of deposit provisions for LTFs that seek authorization under the general permits. That process was upheld in the Final Decision. EPA is proposing to modify the general permits to delete the provision that the Director of the EPA may cover an LTF even if the discharger has not submitted an NOI or Notification. These deletions occur at permit sections I.A (p. 1) and IV.E (p. 8) of AK–G70–0000 and sections I.B (p. 1), III.E (p. 5) and V.A (p. 9) of AK–G70–1000, as indicated in Table 1 (above).

The second proposed change is also necessary to implement the ruling in the State Final Decision. The Final Decision held that a general permit cannot be used to authorize discharges in a waterbody listed as impaired under CWA section 303(d), 33 U.S.C. 1313(d). Under AK–G70–1000, ''new'' dischargers could not be authorized to discharge into waterbodies listed as impaired under either section 303(d) or section 305(b)., Under today's proposal, no dischargers, whether new or existing, could be authorized to discharge into waterbodies listed as impaired for residues under either section 303(d) or section 305(b). The deletion of the term ''new'' occurs at permit section III.C.1 (p. 4) of AK–G70–1000, as indicated in Table 1 (above). General permit AK–G70–0000 does not include any restriction concerning discharges into impaired waterbodies, but would be modified to specify that no discharge of

pollutants from the facility is authorized under the permit until the ADEC completes its analysis and authorizes the project area zone of deposit. That modification to general permit AK–G70–0000 will occur in section I.A (p. 1).

The third proposed change is based on dive surveys of bark deposition at applicant LTFs. According to these surveys, eight facilities have continuous bark deposits that exceed one acre and four of these LTFs have continuous bark deposits that exceed 2.0 acres. The recent dive surveys indicate that the area of discontinuous bark coverage at these eight LTFs ranges from 0.4 to 10.4 acres and that bark deposits at some LTFs have increased by more than two acres in one year. Under section 301(b)(1)(C) of the Clean Water Act, NPDES permits must include any limitations, standards, or other permit conditions necessary to comply with or implement water quality standards. 33 U.S.C. 1311(b)(1)(C) and 40 CFR 122.44(d). The EPA has tentatively determined that a limit on continuous coverage of bark and woody debris on the seafloor within the project area of a LTF is needed to meet water quality standards and prevent unreasonable degradation of the marine environment. The modified general permits, as proposed, include an explicit limit on continuous coverage of the seafloor at section III.A.3 (p. 3) of AK–G70–0000 and section IV.A.3 (p. 6) of AK–G70–1000, as indicated in Table 1: ''a permittee *shall not exceed* 1.0 acre of continuous coverage of the seafloor by 100% bark and woody debris with a thickness of 10 cm or greater at any point.'' A permit limit in the general NPDES permits for continuous coverage will ensure that levels of bark and woody debris accumulating on the seafloor which present the most potential for environmental harm will not occur during the term of the permit. The Guidelines provide that at one acre of continuous coverage regulatory discretion to require cleanup is appropriate. The general NPDES permits include siting criteria and operational practices for log transfer facilities that reduce the discharge of bark and wood debris from LTFs. The EPA's information indicates that, for a majority of the operating LTFs, these conditions and practices successfully limit accumulations of bark and woody debris to under one acre of continuous coverage and less than 10 centimeters in depth. Moreover, previous individual LTF permits limited continuous coverage to one acre and 10 centimeters in depth, thus, it may be backsliding to eliminate that limit as to those facilities.

Under the current permits, the permittee is required to develop and implement additional practices through revisions to its Pollution Prevention Plan if its continuous coverage reaches one acre in size. The fourth change the EPA is proposing would lower the threshold for the need of a permittee to revise its Pollution Prevention Plan from one acre to .075 of an acre, thus, before a permittee reaches the permit limit of one acre of continuous coverage. This proposed modification has the same basis as the third proposed modification discussed above. The reduction of the threshold from 1.0 acre to 0.75 acre occurs at permit sections III.B.13 (p. 4), VI.F (p. 18) and VI.I (p. 18) of AK–G70–0000 and sections IV.B.1.h (p. 7), VII.F.6 (p. 23) and VII.I (p. 23) of AK–G70–1000, as indicated in Table 1 (above).

The fifth change in the permits would modify the monitoring requirements based on the bark surveys indicating that continuous bark deposition has been observed at depths of −60 ft MLLW at a number of facilities and undoubtedly extends into deeper water. The EPA has tentatively determined that a more accurate assessment of bark deposition at LTFs, specifically the continuous coverage, requires that the monitoring of bark deposits extend out to −100 feet in depth. The 100 foot depth is the limit for commercial scuba diving without an on-site compressor that has been set by the U.S. Occupational Safety and Health Administration. The AWQS criteria of ''no residues on the bottom'' applies to any depth of water in the State of Alaska. Given the standard and given the proposed limit of one acre of continuous coverage, the EPA is proposing to require that the maximum depth for bark monitoring for continuous coverage of bark be −100 feet, rather than −60 feet. The permit modifications occur at sections III.E (p. 5), V.C.1 (p. 11), V.C.3 (p. 11) and V.C.5 (p. 12) of AK–G70–0000 and sections IV.E (p. 9), V.D.7 (p. 13), VI.C.1 (p. 16), VI.C.3 (p. 16) and VI.C.5 (p. 17) of AK–G70–1000, as indicated in Table 1 (above).

In accordance with 40 CFR 122.62, EPA is seeking comment on the proposed modifications discussed above. Only the conditions to be modified are being reopened by the draft permits, and public comment is only being sought on the proposed modifications. *See* 40 CFR 124.5.

Proposed Minor Modifications to General NPDES Permits AK–G70–0000 and AK–G70–1000

The following minor modifications will be made to the general permits. In accordance with 40 CFR 122.63(a), no comment is being requested on these modifications.

TABLE 2.—MINOR MODIFICATIONS OF GENERAL NPDES PERMITS FOR ALASKAN LOG TRANSFER FACILITIES

(Pursuant to 40 CFR 122.63(a)—Typographical Errors)

Issue	Section and page of final NPDES permit No. AK–G70–0000 (3/21/00)	Section and page of final NPDES permit No. AK–G70–1000 (3/21/00)	Substance of Modification
No provision is made for written federal permission to operate and discharge in national wilderness areas and monuments.	Not applicable	III.A.5 (p. 3)	Provide for the ''written permission from the appropriate official of the management agency'' to discharge in a national wilderness area and monument.
The spelling of ''affect'' is incorrect	Not applicable	III.A.8 (p. 3)	Correct typographical error such that ''affect'' is spelled correctly.
Request for a waiver to discharge in an excluded area is limited to the areas not meeting the Alaska Timber Task Force Guidelines and does not apply to either ''Protected Water Resources and Special Habitats'' or ''Impaired Waterbodies''.	Not applicable	III.D (p. 5)	Clarify that the opportunity to request a waiver of the exclusion from discharge is limited to the category ''Areas not Meeting the Alaska Timber Task Force Guidelines'' by changing the caption of the section appropriately.

TABLE 2.—MINOR MODIFICATIONS OF GENERAL NPDES PERMITS FOR ALASKAN LOG TRANSFER FACILITIES—Continued
(Pursuant to 40 CFR 122.63(a)—Typographical Errors)

Issue	Section and page of final NPDES permit No. AK–G70–0000 (3/21/00)	Section and page of final NPDES permit No. AK–G70–1000 (3/21/00)	Substance of Modification
The acronym ''ZOD'' is without reference to ADEC's Zone of Deposit.	Not applicable	III.E (p. 5)	Make an editorial addition of the ''Zone of Deposit'' in conjunction with the use of the acronym ''ZOD''.
Enumeration of the section addressing the contents of Bark Monitoring and Reporting is incorrect.	V.C.6 (p. 14)	Not applicable	Correct typographical error such that ''(ii'' becomes ''h'').
The 50 and 100 ft transect increments are not consistent with the ADEC certification.	V.C.5 (p. 12)	VI.C.5 (p. 18)	Modify the distance between bark monitoring stations along a transect from 50 and 100 ft intervals to 15 ft intervals.
Necessity of providing information on ACoE's Section 404 permit within a Notice of Intent to be Covered under a general NPDES permit (NOI) is unclear.	Not applicable	V.D.4 (p.11)	Make the provision of information pertaining to the ACoE permit name, number and date of issuance mandatory for the NOI by deleting the term ''if applicable''.
Enumeration of the section addressing the contents of the Pollution Prevention Plan is incorrect.	VI.F (p. 17)	VII.F (p. 23)	Correct typographical error such that number 1 of 1 is removed and letters ''a'' though [a=f] become ''1 through 6''.
Enumeration of the section addressing the Effectiveness of the Pollution Prevention Plan is incorrect.	VII.I (2nd occurrence) (p. 19).	Not applicable	Correct typographical error such that ''VII.I'' becomes ''VII.J''.
''Continuous'' and ''discontinuous'' throughout both permits are misspelled.	Throughout permit	Throughout permit	Correct typographical error such that ''...tinous'' becomes ''...tinuous.

Administrative Record: The two draft general NPDES permit nos. AK–G70–0000 and AK–G70–1000, and this **Federal Register** Notice are available for inspection and copying at six locations: (a) EPA–Juneau, 709 West 9th Street, Room 223A; (b) ADEC–Juneau, 410 Willoughby Avenue, Suite 200; (c) EPA–Anchorage, 222 West 7th Avenue, Room 19; (d) ADEC–Anchorage, 555 Cordova Street; (e) ADEC–Ketchikan, 540 Water Street; and (f) EPA–Seattle, 1200 Sixth Avenue, 10th floor library. These documents are also available on EPA Region 10's Internet site at *http://www.epa.gov/r10earth/*. The administrative record for the proposed modifications reflected in the draft general NPDES permits AK–G70–0000 and AK–G70–1000 and the project area zone of deposit can be reviewed in EPA's Seattle Office, 1200 Sixth Avenue, 13th Floor.

Dated: October 11, 2002.

Randall F. Smith,

Director, Office of Water, Region 10.

[FR Doc. 02–26846 Filed 10–21–02; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Final Information Quality Guidelines and Discussion of Comments

AGENCY: Office of National Drug Control Policy.

ACTION: Publication of final Information Quality Guidelines and discussion of comments.

SUMMARY: The Office of National Drug Control Policy (ONDCP) is publishing its final Information Quality Guidelines. These Information Quality Guidelines describe ONDCP's predissemination information quality control and an administrative mechanism for requests for correction of information publicly disseminated by ONDCP. The Information Quality Guidelines are also posted on ONDCP's Web site: *http://www.whitehousedrugpolicy.gov*.

DATES: ONDCP's predissemination review applies to information first disseminated by ONDCP on or after October 1, 2002. ONDCP's administrative mechanism for correcting information that ONDCP disseminates applies to information that ONDCP disseminates on or after October 1, 2002, regardless of when ONDCP first disseminated the information.

FOR FURTHER INFORMATION CONTACT: Dr. Terry S. Zobeck of the Office of Planning and Budget, Office of National Drug Control Policy (ONDCP), Washington, DC 20503. Telephone (202) 395–6700 or e-mail to: *ondcp.info.guide@ncjrs.org*.

SUPPLEMENTARY INFORMATION: The Office of National Drug Control Policy publishes these final guidelines in accordance with the Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (''Government-wide Guidelines'') published in interim final form by OMB in the **Federal Register** in Volume 66, No. 189 at 49718 on Friday, September 28, 2001, and in final form in Volume 2, No. 67 at 8452 on February 22, 2002. These published guidelines were issued pursuant to section 515 of the Treasury and General Government Appropriations Act for FY2001 (Pub. L. 106–554; HR 5658).

ONDCP published a notice of availability for proposed information quality guidelines in the **Federal Register** on June 6, 2002 (67 FR 38959). ONDCP amended its proposed guidelines to reflect guidance provided to all the agencies in a Memorandum from John D. Graham for the President's Management Council, ''Agency Draft Information Quality Guidelines'' (June 10, 2002) (''June 10 Memorandum'') and a Memorandum from John D. Graham to the President's Management Council, ''Agency Final Information Quality Guidelines'' (September 5, 2002) (''September 5 Memorandum''). These memoranda are available on OMB's Web site: *http://www.whitehouse.gov/omb/inforeg/infopoltech.html*. ONDCP also received public comments from two non-governmental organizations, Citizens for Sensible Safeguards and the Center for Regulatory Effectiveness which were helpful in clarifying ONDCP's guidelines. A summary of significant amendments to the proposed guidelines follow, in order of the text, followed by ONDCP's discussion of

specific comments received and ONDCP's final Information Quality Guidelines.

Summary of Significant Amendments

In the introductory paragraph to these guidelines, ONDCP establishes these guidelines as its performance standard, as called for at page 7 of the June 10 Memorandum.

In a new paragraph I.A.6, ONDCP adds more specific language involving the dissemination of influential scientific, financial, or statistical information. (*See* June 10 Memorandum, page 9; Government-wide Guidelines, paragraph V.b.ii.B).

ONDCP clarified its predissemination review procedures in renumbered paragraph I.A.7.

In a new paragraph I.A.9, ONDCP links its clearance of proposed collections of information under the Paperwork Reduction Act with ongoing implementation of these information quality guidelines (*See* June 10 Memorandum, p. 10).

In paragraph II.1, ONDCP stresses that the person seeking correction of information has the burden of proof with respect to the necessity for correction as well as with respect to the type of correction requested. (*See* June 10 Memorandum, page 11). In addition, ONDCP adds a description of the kinds of information that a person seeking correction of information needs to provide to help meet that burden of proof.

In paragraph II.9, ONDCP points out that if it needs to extend the time it will take to notify the person seeking correction, it will provide a reasoned basis for the extension and an estimated decision date. (*See* September 5 Memorandum, Appendix, topic (3)).

In a new paragraph II.10, ONDCP adds a provision stating that requests for correction of information will be considered, in cases where ONDCP disseminates information for public comment, prior to disseminating the final ONDCP product if (1) an earlier response would not unduly delay dissemination of the ONDCP product; and (2) the requestor had shown a reasonable likelihood of suffering actual harm from the dissemination if the correction were not made until dissemination of the final ONDCP product. (*See* September 5 Memorandum, Appendix, topic (2)).

In paragraph III.3, ONDCP points out that if it needs to extend the time it will take to notify the person seeking reconsideration of an ONDCP response to a request for correction, it will provide a reasoned basis for the extension and an estimated decision date. (*See* September 5 Memorandum, Appendix, topic (3)).

In paragraph IV.2, ONDCP modifies the exemption for a press release to provide that the information in the press release has been previously disseminated by ONDCP or another Federal agency in compliance with the Government-wide Guidelines or the these ONDCP guidelines. (*See* June 10 Memorandum, page 4).

In paragraph IV.4, ONDCP deletes from the exclusion from the definition of ''information'' the provision referring to statements that may reasonably be expected to become the subject of litigation. (*See* June 10 Memorandum, page 5).

Otherwise, the ONDCP amendments were technical and conforming textual edits, designed to clarify the ONDCP guidelines and conform them to the Government-wide Guidelines.

Discussion of Comments

ONDCP received lengthy comments from two organizations: Citizens for Sensible Safeguards (CSS) and the Center for Regulatory Effectiveness (CRE). The comments are summarized below followed by ONDCP's discussion of each comment.

General Comments

CSS commented that ONDCP's Information Quality Guidelines should not inhibit public access to government information nor interfere with existing rulemaking processes. ONDCP Agrees.

CSS commented that the Data Quality Act does not alter the substantive mandates and primary missions of ONDCP. ONDCP Agrees.

Regarding interpretation and implementation of the Data Quality Act, both CSS and CRE submitted comment. CSS commented that OMB's guidance goes beyond what is statutorily required and that ONDCP should look beyond OMB guidelines to the Data Quality Act itself in determining the scope and components of its guidelines. CRE advocated that OMB does not have discretion to exempt categories of information from implementation of the Data Quality Act. ONDCP's response to both comments is the same: Legislative interpretation is within the discretion of the agency Congress has charged with implementation, in this case, OMB. ONDCP defers to OMB's interpretation and implementation of the Data Quality Act.

CSS commented that ONDCP should consider the benefits of timely dissemination in carrying out its core mission. While this comment exceeds the scope of ONDCP's proposed Information Quality Guidelines, ONDCP does value timely dissemination of information in carrying out its core mission.

CSS commented that ONDCP should retain maximum flexibility in implementing guidelines and err on side of the public's right to know. ONDCP agrees and feels that its final guidelines strike the proper balance between the public's right to know and flexibility in implementation that ONDCP has retained.

CRE commented that ONDCP should adopt data quality as a Performance Goal in its Performance Plan under the Government Performance and Results Act. ONDCP has adopted data quality as a Performance Goal as reflected in the introduction to its final Information Quality Guidelines.

CRE commented that ONDCP's guidelines must comply with OMB's interagency Data Quality guidelines. ONDCP has adopted OMB's guidelines.

Both CSS and CRE commented that ONDCP should be required to correct information disseminations covered by its guidelines. ONDCP agrees as provided in section II paragraphs 6 though 10 of its final guidelines.

CSS commented that ONDCP should include a statement to the effect that its guidelines are not judicially reviewable and do not provide any new adjudicatory authority. ONDCP has included a statement in section IV paragraph 2 of its final guidelines, which states: These guidelines do not impose any additional requirements on agencies during adjudicative proceedings and do not provide parties to such adjudicative proceedings any additional rights of challenge or appeal.

Comments Regarding Information Reliability

CSS commented that ONDCP should further build mechanisms into the data collection process that flag errors before data is submitted to ONDCP. ONDCP's final guidelines do include processes to verify data it receives from other sources in section I part A. Paragraph A.1. states ''ONDCP is committed to disseminating reliable and useful information. Before disseminating information, ONDCP staff and officials should subject such draft information to an extensive review process. It is the primary responsibility of the particular ONDCP Office (hereafter collectively referred to as ''Lead Component'') drafting information intended for dissemination to pursue the most knowledgeable and reliable sources reasonably available to confirm the objectivity and utility of such information.'' Paragraph A.2. continues ''Much of the information ONDCP disseminates consists of or is

based on information submitted to ONDCP by other Federal Government Agencies. ONDCP expects that agencies will subject information submitted to ONDCP for purposes of public dissemination to adequate quality control measures. In drafting the material to be disseminated, the Lead Component should review and verify the data submitted by the agencies, as necessary and appropriate. ONDCP also originates information based on research, assessments, and other efforts supporting drug policy development. The Lead Component should review and verify the data, as necessary and appropriate. * * * Each Component that disseminates information should maintain verification files of materials that it originates.'' Section I.A. concludes, stating: ''ONDCP will maximize the quality of information it disseminates, in terms of objectivity and utility, first by looking for input from a range of sources and perspectives, to the extent practicable under the circumstances, and second by subjecting draft materials to a review process involving as many Components and offices as may be in a position to offer constructive input, as well as other offices within the Executive Office of the President and other government agencies.''

CRE commented that ONDCP's guidelines should exclude bias from risk assessment. ONDCP does not perform risk assessment. ONDCP has therefore adopted OMB's guidelines defining ''objectivity'' to mean that information be ''unbiased'' without reference to elimination of bias in risk assessment.

Both CSS and CRE submitted comments regarding adoption of the science quality and risk assessment standards contained in the Safe Drinking Water Act. CRE advocated that ONDCP's guidelines should adopt the science quality and risk assessment standards contained in the 1996 amendments to the Safe Drinking Water Act, while CSS expressed three cautions regarding the use of peer review in relation to risk assessment consistent with the Safe Drinking Water Act. ONDCP's final guidelines do not address the Safe Drinking Water Act or risk assessment because ONDCP does not perform risk assessment.

CRE commented that ONDCP's guidelines should adopt the requirement contained in OMB's guidelines of robustness checks for data, models, or other information that ONDCP cannot disclose, but which are material to information ONDCP does disclose. ONDCP has adopted OMB's guidelines as reflected in section I, paragraph A. 6 of its final guidelines.

CRE commented that ONDCP's guidelines should generally prohibit the use of third-party proprietary models, unless no other option is available and OMB concurs. When no other option is available, CRE advocates that ONDCP's guidelines should explain in detail what ''especially rigorous robustness checks'' will be applied to third-party proprietary models and explain how the public will be notified of, and permitted to comment upon, these ''robustness checks''. Section I paragraph 5 of ONDCP's final guidelines adopt OMB's requirement that influential scientific information be reproducible. Section I paragraph 5 also provides that ''In situations where public access to the data will not occur, the Lead Component should apply especially rigorous robustness checks and document what checks were undertaken''.

Comments Regarding Coverage of Guidelines

CRE commented that ONDCP's guidelines must apply to information being disseminated on or after October 1, regardless of when the information was first disseminated as explicitly enumerated in OMB's guidelines. ONDCP has adopted OMB's guideline.

CSS commented that ONDCP should detail and expand on the types of information and methods of dissemination that are not covered by its guidelines. ONDCP agrees as reflected in its final guidelines in section IV paragraph 2 defining ''Dissemination'' and paragraph 4 defining ''Information''.

CRE commented that ONDCP's guidelines should not exclude rulemaking records. ONDCP's guidelines do not exclude rulemaking records.

Both CSS and CRE commented regarding third party information submitted to ONDCP. CSS commented that ONDCP should clearly state that its guidelines apply only to information disseminated by ONDCP and not when ONDCP is merely acting as a conduit of information. CRE advocated that when ONDCP uses, relies on, or endorses third party information, the agency itself should have the burden of ensuring that the information meets the quality, objectivity, utility, and integrity standards required by its data quality guidelines. ONDCP agrees as reflected in section IV paragraph 2 of its final guidelines: ''Dissemination does not include the pass-through of public filings or other information received from third-parties by ONDCP and made available for public review through website posting or other means, without ONDCP's official endorsement of its content. However, these guidelines may apply to third-party information adopted or endorsed by ONDCP, or used to formulate guidance or other ONDCP decision or position''.

CRE commented that ONDCP's guidelines should use OMB's definition of ''affected persons''. ONDCP has adopted OMB's definition in section IV.

Both CSS and CRE commented regarding the definition of ''influential''. CSS advocated that ONDCP narrowly define ''influential information'', employing a high threshold for coverage.

CRE advocated that ONDCP should adopt the definition of ''influential'' contained in OMB's guidelines. ONDCP's final guidelines adopt OMB's definition of ''influential'' in section IV paragraph 3.

Comments Regarding Requests for Correction

CRE commented that ONDCP's guidelines should set an appropriate, specific timeframe for agency decisions on information correction petitions. ONDCP's final guidelines provide a 60 day timeframe in section II paragraphs 5, 8, and 9.

CRE commented that ONDCP's guidelines should specify a party responsible for acting on information correction petitions. ONDCP's agrees and specifies the Chief of Staff or their designee in section II of its final guidelines.

CSS commented that ONDCP should clearly state that the burden of proof lies squarely with the requester. ONDCP agrees and has explicitly stated that in section II paragraph 1 of its final guidelines.

CRE commented that ONDCP should adopt OMB's guidelines providing that the presumption of objectivity is rebuttable ''based on a persuasive showing by a petitioner in a particular instance.'' ONDCP agrees and has adopted OMB's guidelines as reflected in section II paragraph 1 of its final guidelines providing that the petitioner bears the burden of proof and 1(d) providing that the requester submit all supporting evidence which the petitioner believes provides a persuasive case.

CSS commented that ONDCP should explicitly state that the administrative mechanism will not consider interpretations of data and information, or requests for de-publishing. ONDCP agrees that its guidelines should not allow requests for correction that challenge the interpretation of data and information, or seek de-publishing. However such requests are not within the definitions contained in ONDCP's

final guidelines and therefore do not require an explicit statement excluding them. See section IV paragraph 4 of the final guidelines excluding from the definition of ''information'': opinions or policy; statements of Administration policy; and testimony or comments of ONDCP officials.

CSS commented that ONDCP should limit complaints under its administrative mechanisms to information that is not already subject to existing data quality programs and measures. ONDCP agrees and has reflected that in section IV paragraph 2.e. of its final guidelines.

CSS commented that ONDCP should state that frivolous or duplicative requests may be rejected. ONDCP agrees and has reflected that in section III paragraph 1 of its final guidelines.

CSS commented that ONDCP should establish a timeliness requirement for requests after which it has the option to reject a request. ONDCP's final guidelines retain ONDCP's discretion to consider the timeliness of requests as part of its review of (a.) the significance of the information involved and (b.) the nature and extent of the request and public benefit of making the requested correction as set out in section II paragraph 7.

CSS commented that ONDCP should limit complaints for any data quality standard that presents a potential moving target (*i.e.* ''best available evidence'') to information available at the time of dissemination. ONDCP has adopted OMB's guidelines.

Comments Regarding ONDCP Response To Requests for Correction

CSS commented that ONDCP's guidelines should specifically state that responses to correction requests will be proportional to the significance and importance of the information in question. ONDCP agrees as reflected in section II. Paragraph 7 states ''When considering covered requests to determine whether a corrective action is appropriate, the reviewing Component may consider the following factors: (a.) The significance of the information involved, and (b.) the nature and extent of the request and the public benefit of making the requested correction. Paragraph 9 states ''Subject to applicable law, rules and regulations, corrective measures may be taken through a number of forms, including (but not limited to) personal contacts via letter or telephone, form letters, press releases or postings on the ONDCP website * * * to correct a widely disseminated error or address a frequently raised request. Corrective measures, where appropriate, should be designed to provide reasonable notice to affected persons of such correction.''

CSS commented that ONDCP should specify that it will establish a running docket of requests and changes. Consistent with OMB's guidance ONDCP has created a place on its website, *www.whitehousedrugpolicy.gov* where significant corrections made as a result of ONDCP's correction process will be described.

Comments Regarding ONDCP Reconsideration of Requests for Correction

CRE commented that consistent with OMB's intent, ONDCP's guidelines should include a meaningful appeals process. ONDCP agrees and has adopted OMB's guidelines in section III.

CSS commented that ONDCP's reconsideration process should be fairly informal and limited in scope. ONDCP agrees as reflected in section III of its final guidelines.

CSS commented that ONDCP's reconsideration should be limited to showing due diligence in the initial consideration of a request. ONDCP disagrees. Consistent with OMB's guidance, section III paragraph 3 of ONDCP's final guidelines provide that ''ONDCP's Chief of Staff * * * will consider the request for reconsideration, applying the standards and procedures set out in section II above * * *.''

CSS commented that ONDCP should establish a 30-day time limit for requests for reconsideration. ONDCP agrees as reflected in section III paragraph 2 of its final guidelines.

Office of National Drug Control Policy Information Quality Guidelines

The Office of National Drug Control Policy publishes these guidelines in accordance with the Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (''Government-wide Guidelines'') published in interim final form by OMB in the **Federal Register** in Volume 66, No. 189 at 49718 on Friday, September 28, 2001, and in final form in Volume 2, No. 67 at 8452 on February 22, 2002. These published guidelines were issued pursuant to section 515 of the Treasury and General Government Appropriations Act for FY2001 (Pub. L. 106–554; HR 5658). In response to the legislation and the published guidelines, ONDCP identifies the following policies and procedures for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by ONDCP; and it hereby establishes additional procedures for affected persons to seek and obtain correction of information maintained and disseminated by ONDCP that does not comply with standards set out in the Government-wide Guidelines. These ONDCP guidelines are intended to ensure and maximize the quality of information disseminated by ONDCP. Through these ONDCP guidelines, ONDCP establishes as its performance standard a goal of disseminating reliable and useful information consistent with the Government-wide Guidelines and these ONDCP guidelines.

Section I. Procedures for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Prior to Dissemination

In Government-wide Guidelines, ''quality'' is defined as an encompassing term comprising utility, objectivity, and integrity.

A. Objectivity and Utility of Information

1. As defined in section IV, below, ''objectivity'' is a measure of whether disseminated information is ''accurate, reliable, and unbiased and that information is presented in an accurate, clear, complete, and unbiased manner;'' ''utility'' refers to the usefulness of the information to its intended audience for the intended audience's anticipated purposes. ONDCP is committed to disseminating reliable and useful information. Before disseminating information, ONDCP staff and officials should subject such draft information to an extensive review process. It is the primary responsibility of the particular ONDCP Office (hereafter collectively referred to as ''Lead Component'') drafting information intended for dissemination to pursue the most knowledgeable and reliable sources reasonably available to confirm the objectivity and utility of such information.

2. Much of the information ONDCP disseminates consists of or is based on information submitted to ONDCP by other Federal Government Agencies. ONDCP expects that agencies will subject information submitted to ONDCP for purposes of public dissemination to adequate quality control measures. In drafting the material to be disseminated, the Lead Component should review and verify the data submitted by the agencies, as necessary and appropriate. ONDCP also originates information based on research, assessments, and other efforts supporting drug policy development. The Lead Component should review and verify the data, as necessary and appropriate. Underlying information upon which the disseminated material

is based may be subject to these guidelines only if that information is published by ONDCP. Being subject to these guidelines does not necessarily mean that the material published by ONDCP is a policy statement of the U.S. government. ONDCP contracts with organizations to conduct research in support of drug policy, but their results are not influenced by ONDCP policy. Each Component that disseminates information should maintain verification files of materials that it originates.

3. In seeking to assure the ''objectivity'' and ''utility'' of the information it disseminates, ONDCP should generally follow a basic clearance process coordinated by the Lead Component drafting information intended for dissemination. The quality control process places responsibility for action upon the Lead Component. The Lead Component is encouraged to consult with all Components throughout ONDCP having substantial interest or expertise in the material proposed to be disseminated. Where appropriate, substantive input also should be sought from other offices within the Executive Office of the President (EOP), other government agencies, non-government organizations, and the public.

4. The Lead Component should consider the uses of the information from both the perspective of ONDCP and the public. When it is determined that the transparency of information is relevant for assessing the information's usefulness from the public's perspective, the Lead Component should ensure that transparency is appropriately addressed.

5. When the Lead Component determines that the information it will disseminate is influential scientific, financial, or statistical information, extra care should be taken to include a high degree of transparency about data and methods to meet the Government-wide Guidelines' requirement for the reproducibility of such information. In this context, a high degree of transparency for published information means that the methodology used to derive the results is readily understandable to persons experienced in the appropriate field of study. In determining the appropriate level of transparency, the Lead Component should consider the types of data that can practicably be subjected to a reproducibility requirement given ethical, feasibility, and confidentiality constraints. In making this determination, the Lead Component should hold analytical results to an even higher standard than original data.

6. When the Lead Component determines that the information it will disseminate is influential scientific, financial, or statistical information, it should assure reproducibility according to commonly accepted scientific, financial, or statistical standards. In situations where public access to the data will not occur, the Lead Component should apply especially rigorous robustness checks to analytic results and document what checks were undertaken. Also, in such cases, the Lead Component should disclose the specific data sources that have been used and the specific quantitative methods and assumptions that have been employed.

7. The Component responsible for the dissemination of information should generally take the following basic steps to assure the ''objectivity'' and ''utility'' of the information to be disseminated:

a. Preparing a draft of the document after consulting the necessary parties, including government and non-government sources, as appropriate;

b. Determining/assuring accuracy and completeness of source data;

c. Determining the expected uses by the government and public;

d. Determining necessary clearance points;

e. Determining where the final decision shall be made;

f. Determining whether peer review would be appropriate and, if necessary, coordinating such review;

g. Obtaining clearances; and

h. Overcoming delays and, if necessary, presenting the matter to higher authority.

8. Hard-copy public dissemination of information and all information published on ONDCP's website *www.whitehousedrugpolicy.gov* shall occur only after clearances are obtained from all appropriate Components and, as appropriate, the Office of the Chief-of-Staff.

9. The quality control procedures followed by ONDCP should be determined by the nature of the information and the manner of its distribution. Any information collected by ONDCP and subject to the Paperwork Reduction Act should be collected, maintained, and used in a manner consistent with ONDCP information quality standards. The ONDCP clearance package will demonstrate that the proposed collection of information will result in information that will be collected, maintained, and used in a way consistent with the Government-wide Guidelines and ONDCP guidelines.

10. These guidelines focus on procedures for the ''dissemination'' of ''information,'' as those terms are defined herein. Accordingly, procedures specifically applicable to forms of communication outside the scope of these guidelines, such as those for correspondence or press releases, among others, are not included.

Conclusion: ONDCP will maximize the quality of the information it disseminates, in terms of objectivity and utility, first by looking for input from a range of sources and perspectives, to the extent practicable under the circumstances, and second by subjecting draft materials to a review process involving as many Components and offices as may be in a position to offer constructive input, as well as other offices within the Executive Office of the President and other government agencies.

B. Integrity of Information

1. ''Integrity'' refers to the security of information—protection of the information from unauthorized, unanticipated, or unintentional modification—to prevent information from being compromised through corruption or falsification.

2. Within the Executive Office of the President (EOP), the Office of Administration has substantial responsibility for ensuring the ''integrity'' of information as defined in these guidelines. ONDCP also has a Management and Administration Office that coordinates and works with the EOP Office of Administration to ensure the integrity of information. These offices implement and maintain new computer software and hardware systems and provide operational support for systems and system users.

3. Computer security is the responsibility of the EOP Office of Administration's Chief Information Officer, Information Assurance Directorate. This Office oversees all matters relating to information integrity, including the design and implementation of the security architecture for the EOP, periodic audits of security architecture components, and review and approval of changes to the technical baseline. Per law and ONDCP policy, EOP's IT security policy, procedures, and controls are risk-based, cost-effective, and incorporated into the lifecycle planning of every IT investment. Additionally, the Office: Assesses risks to its systems and implements appropriate security controls; reviews annually the security of its systems; and develops plans to remediate all security weaknesses found in independent evaluations and other security audits and reviews.

4. As an agency under the EOP, ONDCP is an integral part of the overall EOP network, and is an active participant in all aspects of information integrity at EOP. ONDCP adheres to both law and ONDCP IT security policies, along with EOP security policies and operational processes for the protection of ONDCP's data and information. This includes ensuring that controls to protect the security of information (and the integrity of information) are risk-based, cost-effective, and incorporated into the life-cycle planning of every IT investment. ONDCP's systems are reviewed annually in accordance with existing law and policy and corrective action plans are developed to address all security weaknesses, such as integrity issues.

Section II. Requests for Correction of Information Publicly Disseminated by the Office of National Drug Control Policy

ONDCP works continuously to be responsive to users of its information and to ensure quality. In furtherance of these objectives, when ONDCP receives any information from the public that raises questions about the quality of the information it has disseminated, ONDCP duly considers corrective action.

1. Persons seeking to correct information affecting them that was publicly disseminated by ONDCP may submit such requests to the ONDCP Chief of Staff, addressed to the Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20503. A member of the public who seeks correction of information under these ONDCP guidelines as the burden of proof with respect to the necessity for correction as well as with respect to the type of correction requested. Requests for correction must include:

a. A statement that the communication is a Petition for Correction under the ONDCP Information Quality Guidelines;

b. Identification of the ONDCP information or ONDCP information dissemination product, and the specific aspect(s) thereof, that is the subject of the petition;

c. A description of how the information does not comply with the ONDCP guidelines or the Government-wide Guidelines and how they are affected by the information;

d. All supporting evidence upon which the petitioner believes provides a persuasive case and all supporting documentation necessary to resolve the complaint; and the specific corrective action sought, including (if applicable) temporary corrective action pending full resolution of the complaint.

2. If the information disseminated by ONDCP and contested by an affected person was previously disseminated by another Federal agency in virtually identical form, then the complaint should be directed to the originating agency.

3. Requests will be received by the ONDCP Chief of Staff. Typically, requests raising substantive issues will be forwarded to the Component within ONDCP responsible for the subject area.

4. These guidelines apply only to requests submitted as outlined above. These guidelines will not be applied to any other form of request and also may not be applied to a request submitted consistent with the procedures outlined above, if ONDCP determines it is not submitted by an affected person for the correction of publicly disseminated information of the Office of National Drug Control Policy.

5. If ONDCP determines that a request is not covered by these guidelines, it will so advise the requester within 60 days, unless there is a reasoned basis for an extension. If a request is deemed frivolous, no response will be made.

6. For covered requests, the Component reviewing the request will give the request due consideration, including a review of the disseminated information at issue and other materials, as appropriate. Where the reviewing Component or office determines that the information publicly disseminated by ONDCP warrants correction, it should consider appropriate corrective measures recognizing the potential implications for ONDCP and the United States.

7. When considering covered requests to determine whether a corrective action is appropriate, the reviewing Component may consider the following factors:

a. The significance of the information involved, and

b. The nature and extent of the request and the public benefit of making the requested correction.

8. If ONDCP determines that a request is covered by these guidelines, but that corrective action is unnecessary or is otherwise inappropriate, ONDCP will notify the requestor of its determination within 60 days, unless there is a reasoned basis for an extension.

9. If ONDCP determines that a request is covered by these guidelines and that corrective action is appropriate, it will notify the requestor of its determination and what action has been or will be taken within 60 days, unless there is a reasoned basis for an extension. In which case, ONDCP will inform the requestor of the extension, providing its reasons for the extension and an estimated decision date. Subject to applicable law, rules and regulations, corrective measures may be taken through a number of forms, including (but not limited to): Personal contacts via letter or telephone, form letters, press releases or postings on the ONDCP website, *www.whitehousedrugpolicy.gov,* to correct a widely disseminated error or address a frequently raised request. Corrective measures, where appropriate, should be designed to provide reasonable notice to affected persons of such correction.

10. In cases where ONDCP disseminates information for public comment prior to disseminating the final product, requests for correction of information will be considered prior to disseminating the final product in those cases where ONDCP has determined that an earlier response would not unduly delay dissemination of the product and the requestor has shown a reasonable likelihood of suffering actual harm without the earlier response.

Section III. Procedures for Requesting Reconsideration

1. The following procedures are available to an affected person who has filed a covered request for correction of public information in accordance with section II, above; who received notice from the ONDCP Chief of Staff of ONDCP's determination; and who believes that the ONDCP did not take appropriate corrective action. Requests determined by ONDCP to be not covered by the guidelines and requests determined to be frivolous will not be reconsidered under these provisions. These procedures apply to information disseminated by ONDCP on or after October 1, 2002, regardless of when the information was first disseminated.

2. To request reconsideration, persons should clearly indicate that the communication is a ''Request for Reconsideration;'' should reference the ONDCP Information Quality Guidelines; and should include a copy of the request for correction previously submitted to ONDCP and ONDCP's response. Resubmission should be made to the ONDCP Chief-of-Staff by mail using the contact information in section II, paragraph 1, above. Requests for Reconsideration must be submitted within thirty (30) days of the date of ONDCP's notification to the requester of the disposition of the underlying request for correction.

3. ONDCP's Chief of Staff or a delegee thereof will consider the request for reconsideration, applying the standards

and procedures set out in section II, above and will make a determination regarding the request. In most cases, the requestor will be notified of the determination and, if appropriate, the corrective action to be taken, within 60 days. If the request for reconsideration requires more than 60 days, ONDCP will inform the requestor of the extension, providing its reasons for the extension and an estimated decision date. ONDCP will give reasonable notice to affected persons of any corrections made.

Section IV. Definitions

1. ''Affected'' persons are those who may benefit or be harmed by the disseminated information. This includes both: a. Persons seeking to address information about themselves or about other persons to whom they are related or associated; and b. persons who use the information.

2. ''Dissemination'' means agency initiated or sponsored distribution of information to the public (see 5 CFR 1320.3(d) ''Conduct or Sponsor''). Dissemination does not include the pass-through of public filings or other information received from third-parties by ONDCP and made available for public review through website posting or other means, without ONDCP's official endorsement of its content. However, these guidelines may apply to third-party information adopted or endorsed by ONDCP, or used to formulate guidance or other ONDCP decision or position.

In addition, dissemination does not include distributions of information or other materials that are:

a. Intended for government employees or agency contractors or grantees;

b. Intended for U.S. Government agencies;

c. Produced in responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or similar law;

d. Correspondence or other communication limited to individuals or to other persons, within the meaning of paragraph 7, below; or

e. Communications such as press releases, interviews, speeches, and similar statements containing information that ONDCP or another Federal agency has previously disseminated in compliance with the Government-wide Guidelines or the ONDCP guidelines; or

f. Documents (*e.g.*, guidance, bulletins, policy directives) intended only for inter-agency And intra-agency communications.

Also excluded from the definition are archival records; public filings; responses to subpoenae or compulsory document productions; or documents prepared and released in the context of adjudicative processes. These guidelines do not impose any additional requirements on agencies during adjudicative proceedings and do not provide parties to such adjudicative proceedings any additional rights of challenge or appeal.

3. ''Influential,'' when used in the phrase ''influential scientific, financial, or statistical information,'' refers to disseminated information that ONDCP determines will have a clear and substantial impact on important public policies or important private sector decisions.

4. ''Information,'' for purposes of these guidelines, including the administrative mechanism described in sections II and III, above, means any communication or representation of facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition does not include:

a. Opinions or policy, where the presentation makes clear that the statements are subjective opinions, rather than facts. Underlying information upon which the opinion or policy is based may be subject to these guidelines only if that information is published by ONDCP;

b. Information originated by, and attributed to, non-ONDCP sources, provided ONDCP does not expressly rely upon it. Examples include: non-U.S. Government information reported and duly attributed in materials prepared and disseminated by ONDCP; hyperlinks on ONDCP's website to information that others disseminate; and reports of advisory committees published on ONDCP's website;

c. Statements related solely to the internal personnel rules and practices of ONDCP and other materials produced for ONDCP employees, contractors, or agents;

d. Descriptions of the agency, its responsibilities and its organizational components;

e. Statements, the modification of which might cause harm to the national security, including harm to the national defense or foreign relations of the United States;

f. Statements of Administration policy; however, any underlying information published by ONDCP upon which a statement is based may be subject to these guidelines;

g. Testimony or comments of ONDCP officials before courts, administrative bodies, Congress, or the media;

h. Investigatory material compiled pursuant to U.S. law or for law enforcement purposes in the United States.

5. ''Integrity'' refers to the security of information—protection of the information from unauthorized access or revision, to prevent the information from being compromised through corruption or falsification.

6. ''Objectivity'' is a measure of whether disseminated information is accurate, reliable, and unbiased and whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner.

7. ''Person'' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a regional, national, State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision, or an international organization;

8. ''Quality'' is an encompassing term comprising utility, objectivity, and integrity. Therefore, the guidelines sometimes refer these four statutory terms, collectively, as ''quality''

9. ''Utility'' refers to the usefulness of the information to its intended users, including the public.

Dated: October 1, 2002.

Daniel Schecter,

Chief of Staff.

[FR Doc. 02–26867 Filed 10–21–02; 8:45 am]

BILLING CODE 3180–02–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 02–2664]

Consumer/Disability Telecommunications Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the date, time, and agenda for the next meeting of the Consumer/Disability Telecommunications Advisory Committee (hereinafter ''the Committee''), whose purpose is to make recommendations to the Commission regarding consumer issues within the jurisdiction of the Commission and to facilitate the participation of consumers (including people with disabilities and underserved populations such as Native Americans and individuals living in rural areas) in proceedings before the Commission.

DATES: The meeting of the Committee will take place on Friday, November 8, 2002, from 9 a.m. to 4:30 p.m.

ADDRESSES: The Committee will meet at the Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, Room TW–C305.

FOR FURTHER INFORMATION CONTACT: Scott Marshall, Designated Federal Officer, Consumer/Disability Telecommunications Advisory Committee, Consumer & Governmental Affairs Bureau, Federal Communications Commission, Room 5A824, 445 12th Street SW., Washington, DC 20554. Telephone (202) 418–2809 (voice) or (202) 418–0179 (TTY); Email: *cdtac@fcc.gov.*

SUPPLEMENTARY INFORMATION: By Public Notice dated and released October 15, 2002, the Federal Communications Commission announced the next meeting of its Consumer/Disability Telecommunications Advisory Committee. The establishment of the Committee had been announced by Public Notice dated November 30, 2000, 15 FCC Rcd 23798, as published in the **Federal Register** (65 FR 76265, December 6, 2000). At the November 8, 2002 meeting, The Committee will consider the Commission's proposed rules concerning the Telephone Consumer Protection Act; will receive an update regarding its recommendations concerning the Commission's consumer complaint process and outreach activities, and will receive and consider a report of an ad hoc working group on Sec. 255 of the Telecommunications Act of 1996. The Committee will also receive a report from its chairperson regarding activities since the June meeting and an update on the Committee rechartering process. The Committee will also be updated on the Commission's Biennial Regulatory Review Process. Other working group reports will be received and considered if available. The Committee will make recommendations to the Federal Communications Commission as appropriate, and may also consider other matters within the mandate of its Charter.

Availability of Copies and Electronic Accessibility

A copy of the October 15, 2002 Public Notice is available in alternate formats (Braille, cassette tape, large print or diskette) upon request. It is also posted on the Commission's website at *www.fcc.gov/cgb/cdtac.* The Committee meeting will be broadcast on the Internet in Real Audio/Real Video format with captioning at *www.fcc.gov/cgb/cdtac.* The meeting will be sign language interpreted, and realtime transcription and assistive listening devices will also be available. The meeting site is fully accessible to people with disabilities. Copies of meeting agendas and handout materials will also be provided in accessible formats. Meeting minutes will be available for public inspection at the FCC headquarters building and will be posted on the Commission's Web site at *www.fcc.gov/cgb/cdtac.*

The Committee meeting will be open to the public and interested persons may attend the meeting and communicate their views. Members of the public will have an opportunity to address the Committee on issues of interest to them and the Committee. Written comments for the Committee may also be sent to the Committee's Designated Federal Officer, Scott Marshall. Notices of future meetings of the Committee will be published in the **Federal Register**.

Federal Communications Commission.

Margaret Egler,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 02–26873 Filed 10–21–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed, revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the use of a Census form to collect data for the development of a national fire department database.

SUPPLEMENTARY INFORMATION: The U.S. Fire Administration (USFA) receives many requests from fire service organizations and the general public for information related to fire departments, including total number of departments, number of stations per department, population protected, and number of firefighters. The USFA also has a need for this information to guide programmatic decisions, and produce mailing lists for USFA publications. Recommendations for the creation of the fire department database came out of a Blue Ribbon Panel's review of the USFA—initiated by FEMA Director James Lee Witt in the spring of 1998. The report included a review of the structure, mission and funding of the USFA, future policies, programmatic needs, course development and delivery, and the role of the USFA to reflect changes in the fire service. The panel included 13 members of the U.S. fire community. As a result of those recommendations, the USFA is working to identify all fire departments in the United States to develop and populate a national database that will include information related to demographics, capabilities and activities of fire departments Nationwide. In the first year of this effort, information was collected from 16,000 fire departments leaving an estimated 17,000 fire departments still to respond.

Collection of Information.

Title: National Fire Department Census.

Type of Information Collection: Revision of a currently approved collection.

Abstract: Many data products and reports exist that contain fragmented or estimated information about fire department demographics, and capabilities, but there is no single reference source today that aggregates this data to provide a complete and accurate profile of fire departments in the United States. The U.S. Fire Administration (USFA) receives many requests for information related to fire departments, including total number of departments, number of stations per department, population protected, apparatus and equipment status. The USFA is working to identify all fire departments in the United States to develop and populate a national database that will include information related to demographics, capabilities and activities. The database will be used by USFA to guide programmatic decisions, provide the Fire Service and the public with information about fire departments, and produce mailing lists for USFA publications and other materials.

Affected Public: Federal, State, local or Tribal government; not-for-profit institutions; volunteer; and, industrial fire departments.

FEMA forms	Number of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual burden hours (A x B x C)
	17,000	1	25 Minutes (.42)	7,083
Total	17,000	1	25 Minutes (.42)	7,083

Estimated Cost: The estimated costs to the government will be contracted direct labor and associated overhead costs of $50,000. There would be no costs to the respondent other than the minimal direct labor cost of a single firefighter or emergency service worker taking a small amount of time to complete the census form and this would be applicable only to those fire departments and emergency service agencies with career employees. The majority of the respondents will be from volunteer fire departments for which no direct labor costs will be incurred. The estimate of respondent costs for those career departments is computed as follows: Estimated number of census forms multiplied by the national average hourly rate of a firefighter of $18.65 multiplied by .42 (representing the estimated 25 minutes it takes to complete the census form) and multiply that by .25 which represents the percentage of respondents who are career (paid) personnel. Using this equation, total estimated costs to respondents of $33,290 is derived (17,000 estimated census forms × $18.65 = $317,050 × .42 = $133,161 × .25 = $33,290). The average cost per census form is a minimal $1.96. The respondents are under no obligation to complete the census form and may refuse to do so or stop at any time so the average cost to the respondent of $1.96 could easily not be incurred by refusing to fill out the census form.

Comments: Written comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Branch, Information Resources Management Division, Information Technology Services Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472, or email *InformationCollections@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Gayle Kelch, Statistician, United States Fire Administration, National Fire Data Center (301) 447–1154 for additional information. Contact Ms. Anderson at, email *InformationCollections@fema.gov.* for copies of the proposed collection of information.

Dated: October 15, 2002.

Edward W. Kernan,

Division Director, Information Resources Management Division, Information Technology Services Directorate.

[FR Doc. 02–26796 Filed 10–21–02; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a reinstatement without change of a previously approved information collection for which approval has expired. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the Individual and Family Grant (IFG) Program.

The request is submitted under the emergency processing procedures in Office of Management and Budget (OMB) regulation 5 CFR 1320.13. FEMA is requesting that this information collection be approved by November 4, 2002. The approval will authorize FEMA to use the collection through May 31, 2003. FEMA plans to follow this emergency request with a request for a 3-year approval. The request will be processed under OMB's normal clearance procedures in accordance with the provisions of OMB regulation 5 CFR 1320.10. To help us with the timely processing of the emergency and normal clearance submissions to OMB, FEMA invites the general public to comment on the proposed collection of information.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended, and 44 CFR 206.131 are the statutory and regulatory provisions that govern the program and the purpose of the data collection. The collection of information will assist FEMA in monitoring program delivery to disaster applicants and compliance with other Federal requirements—flood insurance, environmental assessments, and floodplain management.

Collection of Information

Title: Individual and Family Grant (IFG) Program Administration Information.

Type of Information Collection: Reinstatement of a previously approved collection, which has expired.

OMB Number: 3067–0163.

Form Numbers:

FEMA Form 76–27, DARIS Entry Document, Initial Report, is initiated by the Region based on the data provided by the State. The State provides FEMA preliminary information on the IFG Program for staffing and management purposes. This report is completed once for each disaster, and establishes an account for each new IFG program.

FEMA Form 76–28, DARIS Entry Document, Status Report, is completed by the State IFG staff and provided to the FEMA Regional Director. It serves as the framework for reviewing, analyzing and monitoring the progress of the program. The report tracks the number and dollar amount of applications approved by the State, the number and dollar amount of grants disbursed and the number of grants appealed. The data carried on this report is used to make determinations on the need for

additional allocation and obligation of funds for program activity.

FEMA Form 76–29, DARIS Entry Document, Final Statistical Report, captures information that constitutes a funding history by category of each IFG program. This data is critical for reports to OMB and the Congress. The information reveals the total IFG program cost. The form can also be used as a management tool to check on the States' record of accuracy in estimating IFG Program costs and in requesting advances. The State is responsible for completing the form, and the FEMA Region is responsible for entering the information into DARIS.

FEMA Form 76–32, Worksheet for Case File Reviews, is utilized by State IFG personnel in reviewing five percent of all cases. FEMA requires the State to keep the information and on occasion make requests to the States for information derived from the reviews.

FEMA Form 76–34, Checklist for IFG Program Review, is used during the interview process of the IFG Mid-Program Review of the States' administration program. The form is completed by FEMA Recovery Division staff and is designed as a guide for the reviewer. It covers all items that must be monitored by FEMA to ensure effective management of the IFG program.

FEMA Form 76–38, Floodplain Management Analysis, Executive Orders 11988, Floodplain Management Analysis, and 11990, Protection of Wetlands, place a responsibility on FEMA and the State to perform reviews before certain IFG assistance in the housing category can be approved. The review involves an eight-step decision-making process if the action, such as providing funds for purchase of a mobile home and the location (prior to the disaster) of the unit could affect a floodplain or wetland. The State is responsible for completing steps 3 and 4 of the process, while the Region retains responsibility for steps 2, 6 and 7, with the State providing the background information for these three steps. Steps 1, 5 and 8 are jointly shared by the State and Region.

Abstract: This collection of information is essential to the effective monitoring and management of the State administered IFG Program by FEMA Regional Office. FEMA Regional staff and Headquarters staff will utilize the information to effectively monitor and evaluate the States' administration of the IFG Program, thus enabling FEMA to assess compliance, consistency, and uniformity with Federal requirements. It is FEMA's responsibility of ensuring that the States perform and adhere to FEMA regulations and policy guidance.

Affected Public: Federal, State, Local or Tribal Governments.

Estimated Total Annual Burden Hours: 814 hours.

FEMA form No.	No. of responses (A)	Minutes per response (B)	Annual burden hours [(A x B)/60]
76–27	40	15	10.00
76–28	7200	5	600.00
76–29	40	30	20.00
76–32	40	30	20.00
76–34	40	240	160.00
76–38	2	120	4.00
	7362	.....	814.00

Estimated Cost: The total estimated annual cost to the respondent States is $15,229.94. The cost is determined by the average hourly rate of a GS9/5 ($18.71) times the 814 estimated annual burden hours. The total estimated annual cost to the Federal Government is $ 9,213.25. The cost is determined from calculating the amount of time (5%) that a Senior Federal employee spends reviewing the accuracy the forms and multiplying it by their annual salary of roughly $80,000 (GS14/5). Then, we add it to the amount of time (25%) that a data entry clerk spends inputting these figures into our database (25 %) and multiplying it by their annual salary of $20,853. (4,000 + 5, 213.25 = 9,213.25) This cost covers all responses submitted by all respondents.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Submit comments to the OMB within 30 days of the date of this notice. To ensure that FEMA is fully aware of any comments or concerns that you share with OMB, please provide us with a copy of your comments. FEMA will continue to accept comments for 60 days from the date of this notice.

OMB Addressee: Interested persons should submit written comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Federal Emergency Management Agency, 725 17th Street, NW., Washington, DC 20503.

FEMA Addressee: Submit written comments to Muriel B. Anderson, Chief, Records Management Branch, Information Resources Management Division, Information Technology and Services Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Kenyatta Osman, Recovery Division, Response and Recovery Directorate, at (202) 646–4528. Contact Ms. Anderson at (202) 646–2625, facsimile number (202) 646–3347, or e-mail address *InformationCollections@fema.gov* for copies of the proposed collection of information.

Dated: October 4, 2002.

Brenda Erickson,

Acting Director, Information Resource Management Division, Information Technology and Services Directorate.

[FR Doc. 02–26797 Filed 10–21–02; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1438–DR]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1438–DR), dated October 9, 2002, and related determinations.

EFFECTIVE DATE: October 9, 2002.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 9, 2002, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Alabama, resulting from Tropical Storm Isidore beginning on September 23, 2002, and continuing through October 1, 2002, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Alabama.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and the Hazard Mitigation program will be limited to 75 percent of the total eligible costs. If Individual Assistance is later requested and warranted any Federal funds provided under the Stafford Act for the Individual and Family Grant program will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Charles M. Butler of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Alabama to have been affected adversely by this declared major disaster: Baldwin and Mobile Counties for Public Assistance.

All counties within the State of Alabama are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–26794 Filed 10–21–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1436–DR]

Mississippi; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi, (FEMA–1436–DR), dated October 1, 2002, and related determinations.

EFFECTIVE DATE: October 10, 2002.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Mississippi, declared a major disaster by the President in his declaration of October 1, 2002,is hereby amended as follows:

All counties in the State of Mississippi are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–26792 Filed 10–21–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1436–DR]

Mississippi; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Mississippi (FEMA–1436–DR), dated October 1, 2002, and related determinations.

EFFECTIVE DATE: October 6, 2002.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective October 6, 2002.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–26795 Filed 10–21–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Notice of Maximum Amount of Assistance Under the Individuals and Households Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: FEMA gives notice of the maximum amount for assistance under the Individuals and Households Program for emergencies and major disasters declared on or after October 15, 2002.

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Michael Hirsch, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–4099, or *Michael.Hirsch@fema.gov.*

SUPPLEMENTARY INFORMATION: Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5174, prescribes that we (FEMA) must annually announce the maximum amount for assistance provided under the Individuals and Households (IHP) Program. We give notice that the maximum amount of any IHP financial assistance provided to an individual or household under section 408 of the Act with respect to any single emergency or major disaster is $25,000 for any emergencies or major disasters declared on or after October 15, 2002.

(Catalog of Federal Domestic Assistance No. 83.558, Individual and Household—Housing; 83.559, Individual and Household—Disaster Housing Operations; 83.560, Individual and Household—Other Needs)

Joe M. Allbaugh,

Director.

[FR Doc. 02–26793 Filed 10–21–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Proposed Policy Guidance for Maximizing the Quality, Objectivity, Utility, and Integrity of Public Information Disseminated or Used by the Federal Emergency Management Agency

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of availability of final policy guidelines.

SUMMARY: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Pub. L. 106–544 (''Section 515'') requires all agencies to issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of the information that they disseminate or use to promulgate regulations, standards, or program requirements. The Office of Management and Budget (OMB) requires agencies to post their final guidelines on their web sites by October 1, 2002. Agencies are also required to publish notices of the availability of their final guidelines in the **Federal Register**. Accordingly, the Federal Emergency Management Agency (FEMA) is publishing notice of the availability of the final policy guidelines for Section 515 on the FEMA web site: *http://www.FEMA.gov/library/*.

DATES: This notice is effective October 1, 2002.

ADDRESSES: Please send written comments to the Rules Docket Clerk, Office of 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: Brenda Erickson, Federal Emergency Management Agency, Information Technology Services Directorate, 500 C Street SW., Washington, DC 20472, 202–646–2842 or e-mail *Brenda.Erickson@fema.gov*.

Dated: October 15, 2002.

Rose Parkes,

Chief Information Officer.

[FR Doc. 02–26798 Filed 10–21–02; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 18, 2002.

A. Federal Reserve Bank of Dallas (W. Arthur Trible, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. MSB Financial Corp., Dallas, Texas, and MSB Delaware Financial Corp., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Millennium State Bank of Texas, Dallas, Texas, a de novo bank.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Liberty Financial Group, Inc., Eugene, Oregon; to become a bank holding company by acquiring 99.97 percent of the voting shares of Liberty Bank, Eugene, Oregon.

Board of Governors of the Federal Reserve System, October 16, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–26791 Filed 10–21–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Meeting Notice

TIME AND DATE: 11:00 a.m., Monday, October 28, 2002.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR MORE INFORMATION PLEASE CONTACT: Michelle A. Smith, Assistant to the Board; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://*

www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 18, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–26976 Filed 10–18–02; 12:16 pm]

BILLING CODE 6210–01–P

GENERAL ACCOUNTING OFFICE

Advisory Council on Government Auditing Standards; Notice of Meeting

The Advisory Council on Government Auditing Standards will meet Monday, November 18, 2002 and Tuesday, November 19, 2002 from 8:30 a.m. to 5 p.m., in room 7C13 of the General Accounting Office building, 441 G Street, NW., Washington, DC.

The Advisory Council on Government Auditing Standards will hold a meeting to discuss issues that may impact government auditing standards. The meeting is open to the public. Council discussions and reviews are open to the public. Members of the public will be provided an opportunity to address the Council with a brief (five minute) presentation on Tuesday afternoon.

Any interested person who plans to attend the meeting as an observer must contact Jennifer Allison, Council Assistant, 202–512–3423. A form of picture identification must be presented to the GAO Security Desk on the day of the meeting to obtain access to the GAO Building. For further information, please contact Ms. Allison. Please check the Government Auditing Standards web page (*www.gao.gov/govaud/ybk01.htm*) one week prior to the meeting for a final agenda.

Marcia B. Buchanan,

Assistant Director.

[FR Doc. 02–26808 Filed 10–21–02; 8:45 am]

BILLING CODE 1610–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Adoption and Foster Care Analysis Reporting System for title IV–B and title IV–E.

OMB No.: 0980–0267.

Description: Section 479 of title IV–E of the Social Security Act directs States to establish and implement an adoption and foster care reporting system. The purpose of the data collected is to inform State/Federal policy decisions, program management, respond to Congressional and Departmental inquiries. Specifically, the data is used for short/long-term budget projects, trend analysis, and to target areas for improved technical assistance. The data will provide information about foster care placements, adoptive parents, length of time in care, delays in termination of parental rights and placement for adoption.

Respondents: 52.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
AFCARS Electronic Submission	52	2	3,251	338,104
Estimated Total Annual Burden Hours				338,104

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families in soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 15, 2002.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 02–26774 Filed 10–21–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0371]

Draft Guidance for Industry on Class II Special Controls Guidance Document: Human Dura Mater; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Class II Special Controls Guidance Document: Human Dura Mater; Draft Guidance for Industry and FDA.'' Elsewhere in this issue of the **Federal Register**, FDA is issuing a proposed rule to classify human dura mater into class II (special controls). This draft guidance document was developed as the special controls guidance. It also updates the

information in the ''Guidance for the Preparation of a Premarket Notification Application for Processed Human Dura Mater'' issued on October 14, 1999. This guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments on this draft guidance by January 21, 2003.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled ''Class II Special Controls Guidance Document: Human Dura Mater; Draft Guidance for Industry and FDA'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Charles N. Durfor, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3090.

SUPPLEMENTARY INFORMATION:

I. Background

At a public meeting held on September 16 and 17, 1999, the Neurological Devices Panel (the Panel) recommended that human dura mater be classified into class II. The Panel also commented on the information in the ''Guidance for the Preparation of a Premarket Notification Application for Processed Human Dura Mater'' that was issued on July 31, 1999, and was subsequently reformatted and reissued with the same title on October 14, 1999. The draft guidance entitled ''Class II Special Controls Guidance Document: Human Dura Mater; Draft Guidance for Industry and FDA'' was developed as a special controls guidance to support the classification of human dura mater into class II and to update and supersede the information in the October 14, 1999, guidance document. Following the effective date of a final rule classifying the device, any firm submitting a 510(k) premarket notification for human dura mater will need to address the issues covered in the special control guidance. However, the firm need only show that its device meets the recommendations of the guidance or in some other way provides equivalent assurances of safety and effectiveness.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices (GGP) regulation (21 CFR 10.115). This draft guidance document represents the agency's current thinking on special controls for human dura mater. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statutes and regulations. This draft guidance document is issued as a level 1 guidance consistent with the GGP regulations.

III. Electronic Access

In order to receive a copy of the ''Class II Special Controls Guidance Document: Human Dura Mater; Draft Guidance for Industry and FDA'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (054) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information, including the text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the human dura mater guidance document, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh.

IV. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in sections 3 and 7 through 12 of this guidance were approved under OMB control number 0910–0120.

V. Comments

You may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on ''Class II Special Controls Guidance Document: Human Dura Mater; Draft Guidance for Industry and FDA.'' You must submit three copies of any comments. Individuals may submit one copy. You must identify comments with the docket number found in brackets in the heading of this document. Comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 30, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–26817 Filed 10–21–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP)

National Institute of Environmental Health Sciences (NIEHS); National Institutes of Health (NIH) Notice of Availability of an Expert Panel Report on the Current Validation Status of *In Vitro* Endocrine Disruptor Screening Methods and a Proposed List of Substances for Validation of *In Vitro* Endocrine Disruptor Screening Methods; Request for Comments.

SUMMARY: The NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) announces the availability of a report entitled, ''The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) Expert Panel Report on the Current Status of *In Vitro* Test Methods for Detecting Endocrine Disruptors'' and a list of substances proposed by the ICCVAM Endocrine Disruptor Working Group (EDWG) for the validation of in vitro endocrine disruptor screening methods. Final versions of the Background Review Documents (BRDs) reviewed at the May 21–22, 2002 expert panel meeting and the summary minutes of this meeting are also available. The NICEATM invites public comment on the expert panel report and the proposed list of substances for validation.

Availability of Expert Panel Report, Proposed List of Substances for Future Validation, and Final Background Review Documents

Copies of the expert panel report, the EDWG proposed list of substances for validation, and each BRD may be obtained on the ICCVAM/NICEATM Web site at *http://iccvam.niehs.nih.gov*, or by contacting NICEATM, NIEHS, PO Box 12233, MD EC–17, Research Triangle Park, NC, 27709, (phone) (919) 541–3398, (fax) (919) 541–0947, (email) *niceatm@niehs.nih.gov.*

Request for Comments

NICEATM invites the submission of written comments on the expert panel report and the proposed list of substances for validation of *in vitro* endocrine disruptor methods. When submitting written comments please include appropriate contact information (name, affiliation, mailing address, phone, fax, email and sponsoring organization, if applicable). Written comments and additional information should be sent by mail, fax, or email to Dr. William S. Stokes, Director of NICEATM, at the address listed above by noon, December 6, 2002. All written comments received before this deadline will be posted on the ICCVAM/NICEATM Web site and made available to ICCVAM agency representatives for their consideration prior to the development by ICCVAM of final recommendations on these test methods and the proposed list of substances for validation.

The expert panel report, the final list of proposed substances for validation, and the ICCVAM recommendations will be compiled into a report and forwarded to the Director of the NIEHS and the heads of appropriate Federal agencies and posted on the ICCVAM/NICEATM Web site. The NIEHS and the Federal agencies will consider these recommendations and comments to determine if and how (chemicals and laboratories) additional validation studies will be conducted. If a decision is made to conduct validation studies on *in vitro* ER and AR assays, an independent peer review panel will be convened to review the results of these studies and to propose minimum performance criteria.

Background on the Evaluation of *In Vitro* Endocrine Disruptor Screening Methods and Development of the Proposed List of Substances for Future Validation

A request for data supporting the performance and reliability of endocrine disruptor screening methods and for the nomination of expert scientists for an independent scientific review panel was previously published (**Federal Register**, Vol. 66, No. 57, pp. 16278–16279, March 23, 2001, available at *http://iccvam.niehs.nih.gov/methods/endocrine.htm*). This notice also announced that NICEATM in collaboration with the ICCVAM would hold an independent peer review panel meeting to assess the current validation status of *in vitro* estrogen receptor (ER) and androgen receptor (AR) binding and transcriptional activation assays, and to review proposed minimum performance criteria for defining an acceptable screening assay. During development of Background Review Documents (BRDs) for *in vitro* ER and AR assays, ICCVAM and NICEATM determined that no validation studies using standardized protocols had been completed. As a result, NICEATM in collaboration with the ICCVAM held an expert panel meeting on May 21–22, 2002, to evaluate the current status of ER and AR binding and transcriptional activation assays and to develop recommendations for their future validation (**Federal Register**, Vol. 67, No. 66, pp. 16415–16416, April 5, 2002, available at *http://iccvam.niehs.nih.gov/methods/endocrine.htm*). At this meeting, the panel reviewed each of four BRDs (Estrogen and Androgen Receptor Binding and Transcriptional Activation Assays) and developed conclusions and recommendations on the following:

- The relative priority that should be given to specific assays recommended for further evaluation in validation studies.
- The adequacy of the specific protocols recommended for validation studies.
- The adequacy of the minimum procedural standards recommended for each type of assay.
- The adequacy and appropriateness of substances recommended for validation studies.

The expert panel's conclusions and recommendations are included in the report described above.

Based on the recommendations of the expert panel and in consultation with the EDWG, a combined list of proposed substances for future validation was developed. This list is proposed by the EDWG to facilitate future validation of *in vitro* endocrine disruptor screening methods and is available as described in this notice.

Background Information on ICCVAM and NICEATM

ICCVAM was authorized as a permanent interagency committee of the NIEHS, under the NICEATM, on December 19, 2000, by the ICCVAM Authorization Act of 2000 (P.L. 106–545, available at *http://iccvam.niehs.nih.gov/about/PL106545.htm*). ICCVAM is composed of representatives from fifteen Federal regulatory and research agencies that use or generate toxicological information. P.L. 106–545 directs the ICCVAM to coordinate the technical review of new, revised, and alternative test methods of interagency interest. The committee also coordinates cross-agency issues relating to the validation, acceptance, and national/international harmonization of toxicological testing methods. ICCVAM promotes the scientific validation and regulatory acceptance of toxicological test methods that enhance agencies' ability to make decisions on health risks, while refining, reducing, and replacing animal use wherever possible. NICEATM provides operational and scientific support for ICCVAM and collaborates with ICCVAM to evaluate new and alternative test methods applicable to the needs of Federal agencies. Additional information about ICCVAM and NICEATM can be found at the following Web site: *http://iccvam.niehs.nih.gov.*

Dated: October 9, 2002.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 02–26733 Filed 10–21–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–62]

Notice of Submission of Proposed Information Collection to OMB: Capital Advance Program Submission Requirements for Section 202 Housing for the Elderly and Section 811 Housing for Persons With Disabilities

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:* November 21, 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 (2502–0470) 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: Capital Advance Program Submission Requirements for Section 202 Housing for the Elderly and Section 811 Housing for Persons with Disabilities.

OMB Approval Number: 2502–0470.

Form Numbers: HUD–90163–CA, 90164–CA, 90165–CA, 90166–CA, 90167–CA, 90170–CA, 90171–CA, 90176–CA, 90177–CA, 91732A–CA, & 92476–A–CA, 92004–F.

Description of the Need for the Information and Its Proposed Use: This information collection facilitates processing of all Sections 202 and 811 capital advance projects that have not yet been finally closed. The requirements include the processing of the applications for firm commitments to final closing of the capital advance. It is needed for HUD to determine the Owner's eligibility and capacity to finalize the development of a housing project under the Section 202 and Section 811 Capital Advance Programs. A thorough evaluation of an Owner's capabilities is critical to protect the Government's financial interest and to mitigate any possibility of fraud, waste, and mismanagement of public funds.

Respondents: Business or other for-profit, not-for-profit institutions.

Frequency of Submission: On occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	260		9		1.5		3,485

Total Estimated Burden Hours: 3,485

Status: Reinstatement, with change, of 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: October 11, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–26772 Filed 10–21–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–61]

Notice of Submission of Proposed Information Collection to OMB: Grant Applications for Healthy Homes and Lead Hazard Programs (Lead-Based Paint Hazard Control Grant Programs, Healthy Homes Demonstration Grant Program, the Operation Lead Elimination Action Program, and the Healthy Homes and Lead Technical Studies Grant Program)

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) of review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 21, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer the proposal by name and/or OMB approval number (2539–0015) 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 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: Grant Applications for Healthy Homes and Lead Hazard Programs (Lead-Based Paint Hazard Control Program, Healthy Homes Demonstration Grant Program, the Operation Lead Elimination Action Program, and the Healthy Homes and Lead Technical Studies Grant Program).

OMB Approval Number: 2539–0015.

Form Numbers: HUD–424, HU–424B, HUD–424C, HUD–2990, HUD–50070, HUD–50071, SF LLL.

Description of the Need for the Information and Its Proposed Use: This information collection is required in conjunction with the issuance of NOFAs announcing the availability of approximately $95,500,000 for Healthy Homes and Lead Hazard Programs (Lead-Based Paint Hazard Control Grant Program, Healthy Homes Demonstration Grant Program, the Operation Lead Elimination Action Program, and the Healthy Homes and Lead Technical Studies Grant Program). Grants are authorized under Title X of the Housing and Community Development Act of 1992, Public Law 102–550, Section 111(g) and other legislation.

Respondents: Potential applicants include a State, tribal, or unit of local governments. IN addition, potential applicants of the Healthy Homes Demonstration Grant Program, the Operation Lead Elimination Action Program, and the Healthy Homes and Lead Technical Studies Grant Program may include not-for-profit institutions and for-profit firms located in the U.S..

Frequency of Submission: On occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	225		1		85		19,040

Total Estimated Burden Hours: 19.040.

Status: This is a revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 11, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–26773 Filed 10–21–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–FA–11]

Announcement of Funding Award—FY 2001; Healthy Homes Grant Program

AGENCY: Office of the Secretary—Office of Healthy Homes Initiative and Lead Hazard Control, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of additional funding decisions made by the Department in a competition for funding under the Healthy Homes Demonstration and Education Notice of Funding Availability (NOFA). This announcement contains the name and address of the award recipient and the amount of award.

FOR FURTHER INFORMATION CONTACT: Ellen R. Taylor, Department of Housing and Urban Development, Office of Healthy Homes Initiative and Lead Hazard Control, Room P3206, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1785, ext. 116. Hearing-and speech-impaired persons may access the number above via TTY by calling the toll free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On February 26, 2001 (66 FR 11893), HUD published a NOFA announcing the availability of approximately $5,500,000 for grants and cooperative agreements for the Healthy Homes Demonstration and Education Grant Program. Applications were scored and selected on the basis of selection criteria contained in that NOFA.

A total of $5,823,389 was awarded to eight grantees. However, HUD was not able to successfully conclude negotiations with the Research Foundation of the State University of New York for an award of $700,000. This amount will be awarded to the next highest scoring application. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of this award as follows:

The University of Tulsa, 600 South College Avenue, Tulsa, OK 74104–3189.

Total Amount of Grant: $700,000.

Dated: September 16, 2002.

David E. Jacobs,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 02–26765 Filed 10–21–02; 8:45 am]

BILLING CODE 4210–70–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–16]

Announcement of Funding Award—FY 2001; Lead-Based Paint Hazard Control; United Parents Against Lead of Michigan

AGENCY: Office of the Secretary—Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decision made by the Department of the United Parents Against Lead of Michigan. This announcement contains the name and address of the awardee and the amount of the award.

FOR FURTHER INFORMATION CONTACT: Staci Gilliam, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1785, ext. 110. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead-Based Paint Hazard Control grant for the United Parents Against Lead of Michigan was issued pursuant to Pub. L. 102–550, Title X, Residential Lead-Based Paint Hazard Reduction Act of 1992.

This notice announces the award of $240,763.00 to the United Parents Against Lead of Michigan, which will be used to provide financial support and technical assistance to support

education and outreach efforts by parent groups and other community-based organizations to protect children from being lead poisoned.

The Catalog of Federal Domestic Assistance number for this program is 14,900.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows:

United Parents Against Lead of Michigan, 2061 116th Avenue, Allegan, MI 49010.
Total Amount of Grant: $240,763.

Dated: September 16, 2002.

David E. Jacobs,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 02–26767 Filed 10–21–02; 8:45 am]

BILLING CODE 4210–70–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–17]

Announcement of Funding Award—FY 2001; Lead-Based Paint Hazard Control; Tides Foundation

AGENCY: Office of the Secretary—Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department to the Tides Foundation. This announcement contains the name and address of the awardee and the amount of the award.

FOR FURTHER INFORMATION CONTACT: Staci Gilliam, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1785, ext. 110. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead-Based Paint Hazard Control grant for the Tides Foundation was issued pursuant to Public Law 102–550, Title X, Residential Lead-Based Paint Hazard Reduction Act of 1992.

This notice announces the award of $500,000.00 to the Tides Foundation, which will be used to provide financial support and technical assistance to support education and outreach efforts by parent groups and other community-based organizations to protect children from being lead poisoned.

The Catalog of Federal Domestic Assistance number for this program is 14,900.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows:

Tides Foundation, P.O. Box 29907, San Francisco, CA 94129–0907.
Total Amount of Grant: $500,000.00.

Dated: September 16, 2002.

David E. Jacobs,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 02–26770 Filed 10–21–02; 8:45 am]

BILLING CODE 4210–70–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–18]

Announcement of Funding Award—FY 2001; Lead-Based Paint Hazard Control; City of Cincinnati

AGENCY: Office of the Secretary—Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department to the City of Cincinnati. This announcement contains the name and address of the awardee and the amount of the award.

FOR FURTHER INFORMATION CONTACT: David Levitt, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1785, ext. 156. Hearing—or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead-Based Paint Hazard Control grant for the City of Cincinnati was issued pursuant to Public Law 102–550, Title X, Residential Lead-Based Paint Hazard Reduction Act of 1992.

This notice announces the award of $399,676.00 to the City of Cincinnati, which will be used to conduct research and education to protect children from being lead poisoned.

The Catalog of Federal Domestic Assistance number for this program is 14,900.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows:

City of Cincinnati, Office of Environmental Management, 805 Central Avenue—Suite 605, Cincinnati, OH 45202–1994.
Total Amount of Grant: $399,676.

Dated: September 16, 2002.

David E. Jacobs,

Director, Office of Health Homes and Lead Hazard Control.

[FR Doc. 02–26771 Filed 10–21–02; 8:45 am]

BILLING CODE 4210–70–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–FA–09]

Announcement of Funding Award—FY 2001; Lead Hazard Control 2001

AGENCY: Office of the Secretary—Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department as a result of the Lead Hazard Control Notice of Funding Availability (NOFA). This announcement contains the names and addresses of the awardees and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Staci Gilliam, Department of Housing and Urban Development, 451, Seventh Street, SW, Washington, DC, 20410, telephone (202) 755–1785, ext. 110. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead Hazard Control NOFA was issued pursuant to section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992).

On February 26, 2001 (66 FR 11855), HUD published a NOFA announcing the availability of $60,000,000.00 for Lead Hazard Control Control grantees, that would be used to assist States, Indian

Tribes and local governments in undertaking comprehensive programs to identify and control lead-based paint hazards in eligible privately-owned housing for rental or owner-occupants in partnership with community-based organizations.

The Catalog of Federal Domestic Assistance number for this program is 14.900.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the awards as follows:

Awardee	Address	Amount of grant
City of Birmingham	Community Development Department, 710 North 20th Street—Room 1000, Birmingham, AL 35203.	$1,155,840.00
City of Los Angeles	Housing Department, 111 North Hope Street—Room 709, Los Angeles, CA 90012	3,000,000.00
City of Hartford	Department of Housing, 550 Main Street, Hartford, CT 06103	2,944,932.00
City of New Britain	27 West Main Street, New Britain, CT 06051	2,392,783.00
City of New Haven	Department of Health, 54 Meadow Street, New Haven, CT 06519	2,750,000.00
City of Stamford	Community Development Office, 888 Washington Boulevard, Stamford, CT 06904	2,160,089.00
City of Kankakee	385 East Oak, Kankakee, IL 60901	2,999,981.00
City of Boston	Department of Neighborhood Development, Lead Safe Boston, 38 Winthrop Street, Hyde Park, MA 02136.	3,000,000.00
City of Lawrence	Office of Planning & Development, 225 Essex Street—3rd Floor, Lawrence, MA 01840	3,000,000.00
City of Somerville	Office of Housing & Community Development, 50 Evergreen Avenue, Somerville, MA 02145.	1,488,638.00
State of Michigan	Department of Community Health, Division of Community Services, Lead Hazard Remediation Program, 3423 North Martin Luther King Blvd., Lansing, MI 48909.	3,000,000.00
City of Minneapolis	Environmental Health Services, 250 South 4th Street—Room 401, Minneapolis, MN 55415.	3,000,000.00
Saint Paul-Ramsey County	Department of Public Health, 555 Cedar Street, Saint Paul, MN 55101	1,600,000.00
City of Kansas City	Health Department, 2400 Troost Avenue—Suite 4000, Kansas City, MO 64108	1,000,000.00
St. Louis County	Office of Community Development, 121 South Meramec—Suite 444, Clayton, MO 63105	1,000,000.00
Butte-Silver Bow	Health Department, Environmental Health Division, 25 West Front Street, Butte, MT 59701.	545,483.00
City of Newark	Department of Health & Human Services, 110 William Street, Newark, NJ 07102	3,000,000.00
City of New York	Department of Housing, Preservation & Development, 100 Gold Street—Room 9–08, New York, NY 10038.	3,000,000.00
City of Utica	Department of Urban & Economic Development, 1 Kennedy Plaza, Utica, NY 13502	1,155,841.00
City of Akron	Health Department, 177 South Broadway Street, Akron, OH 44308	3,000,000.00
City of Cleveland	Department of Public Health, 1925 St. Clair Avenue, Cleveland, OH 44114	2,999,562.00
City of Pawtucket	137 Roosevelt Avenue, Pawtucket, RI 02860	2,861,968.00
City of Charleston	Department of Housing & Community Development, 75 Calhoun Street, Charleston, SC 29401.	2,999,998.00
City of Memphis	Division of Housing & Community Development, 701 North Main Street—Suite 150, Memphis, TN 38107.	2,998,885.00
City of Milwaukee	Health Department, Childhood Lead Poisoning Prevention Program, Johnston Community Health Center, 1230 West Grant Street, Milwaukee, WI 53215–2798.	3,000,000.00

Dated: September 16, 2002.

David E. Jacobs,

Director, Office of Healthy Homes & Lead Hazard Control.

[FR Doc. 02–26764 Filed 10–21–02; 8:45 am]

BILLING CODE 4210–70–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–15]

Announcement of Funding Award—FY 2001; Lead-Based Paint Hazard Control; Alliances To End Childhood Lead Poisoning

AGENCY: Office of the Secretary—Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department to the Alliance To End Childhood Lead Poisoning. This announcement contains the name and address of the awardee and the amount of the award.

FOR FURTHER INFORMATION CONTACT: Staci Gilliam, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1785, ext. 110. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead-Based Paint Hazard Control grant for the Alliance To End Childhood Lead Poisoning was issued pursuant to Public Law 102–550, Title X, Residential Lead-Based Paint Hazard Reduction Act of 1992.

This notice announces the award of $2,300,000 to the Alliance To End Childhood Lead Poisoning, which will be used to help community- and faith-based organizations ensure that families have access to housing that is decent, safe, affordable, and free from recognized health hazards that can harm young children.

The Catalog of Federal Domestic Assistance number for this program is 14.900.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows:

Alliance To End Childhood Lead Poisoning, P.O. Box 29907, San Francisco, CA 94129–0907.

Total Amount of Grant: $2,300,000.

Dated: September 16, 2002.

David E. Jacobs,

Director, Office of Healthy Homes & Lead Hazard Control.

[FR Doc. 02–26766 Filed 10–21–02; 8:45 am]

BILLING CODE 4210–70–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4741–C–03]

Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2003; Correction

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of final Fiscal Year (FY) 2003 fair market rents (FMRs); correction.

SUMMARY: This notice corrects final FY 2003 Fair Market Rents for nine areas: San Francisco, CA, PMSA; Binghamton, NY, MSA; Elmira, NY, MSA; Jamestown, NY, MSA; Utica-Rome, NY, MSA; Oklahoma City, OK, MSA; Altoona, PA, MSA; Henderson County, TX, and Culpeper County, VA, as published in the **Federal Register** on September 30, 2002 (67 FR 61382).

EFFECTIVE DATE: 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. 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, Extension 5866 (*e-mail: marie_1._lihn@hud.gov*). Hearing-or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) at 1–800–927–7589. (Other than the ''800'' HUD User and TDD numbers, telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: On September 30, 2002 (67 FR 61382), HUD published its Notice of Fiscal Year 2003 Fair Market Rents (FMRs) for the Housing Choice Voucher Program and Moderate Rehabilitation Single-Room Occupancy Program. This notice makes technical corrections to the market rents in nine areas. These corrections are made because incorrect application of state minimum rents resulted in some minor decreases for certain bedroom rents in Binghamton, NY, Elmira, NY, Jamestown, NY, Utica-Rome, NY, and Altoona, PA. In addition, a calculation error resulted in lower FMRs for two metropolitan counties, Henderson County, TX and Culpeper County, VA. Finally, the San Francisco, CA and Oklahoma City, OK FMR areas have been recalculated and corrected.

Accordingly, FR Doc 02–24619, the Notice of Fiscal Year 2003 Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single-Room Occupancy Program, published on September 30, 2002 (67 FR 61382) is corrected as follows:

1. On page 61388, in the table under California, Metropolitan FMR Areas, the entries for San Francisco are corrected to read as follows:

2003 Fair market rent	Number of bedrooms				
	0 BR	1 BR	2 BR	3 BR	4 BR
San Francisco, CA PMSA	$1,185	$1,535	$1,940	$2,661	$2,816

2. On page 61418, in the table under New York, Metropolitan FMR Areas, the entries for Binghamton, Elmira, Jamestown, and Utica-Rome are corrected to read as follows:

2003 Fair market rent	Number of bedrooms				
	0 BR	1 BR	2 BR	3 BR	4 BR
Binghamton, NY MSA	$375	$421	$526	$667	$749
Elmira, NY MSA	375	421	517	655	780
Jamestown, NY MSA	375	421	507	655	749
Utica-Rome, NY MSA	375	421	507	655	749

3. On page 61422, in the table under Oklahoma, Metropolitan FMR Areas, the entries for Oklahoma City are corrected to read as follows:

2003 Fair market rent	Number of bedrooms				
	0 BR	1 BR	2 BR	3 BR	4 BR
Oklahoma City, OK MSA	$412	$448	$581	$807	$903

4. On page 61424, in the table under Pennsylvania, Metropolitan FMR Areas, the entries for Altoona are corrected to read as follows:

2003 Fair market rent	Number of bedrooms				
	0 BR	1 BR	2 BR	3 BR	4 BR
Altoona, PA MSA	$304	$387	$463	$604	$676

5. On page 61429, in the table under Texas, Metropolitan FMR Areas, the entries for Henderson County are corrected to read as follows:

2003 Fair market rent	Number of bedrooms				
	0 BR	1 BR	2 BR	3 BR	4 BR
Henderson County, TX	$343	$408	$498	$679	$815

6. On page 61433, in the table under Virginia, Metropolitan FMR Areas, the entries for Culpeper County are corrected to read as follows:

2003 Fair market rent	Number of bedrooms				
	0 BR	1 BR	2 BR	3 BR	4 BR
Culpeper County, VA	$435	$634	$737	$974	$1,167

Dated: October 16, 2002.

Harold L. Bunce,

Deputy Assistant Secretary for Economic Affairs.

[FR Doc. 02–26763 Filed 10–21–02; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–03–1020–PG]

Notice of Public Meeting; Western Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Western Montana Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held December 19, 2002, at the BLM Butte Field Office, 106 N. Parkmont, Butte, Montana beginning at 9 a.m. The public comment period will begin at 11:30 a.m. and the meeting will adjourn at approximately 3 p.m.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in western Montana. At this meeting, topics we plan to discuss include: updates on the Dillon and Butte Resource Management Plans, compliance with Standards for Rangeland Health and Guidelines for Livestock Grazing, and a report on fuels management. If time allows, the RAC may discuss the commercial use subgroup and hear a report from the Bureau-wide meeting of RAC chairpersons scheduled for November 19 and 20 in Phoenix.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM as provided below.

FOR FURTHER INFORMATION CONTACT: Marilyn Krause, Resource Advisory Council Coordinator, at the Butte Field Office, 106 North Parkmont, Butte, Montana 59701, telephone 406–533–7617 or Richard Hotaling, Field Manager, Butte Field Office, telephone 406–533–7600.

Dated: October 16, 2002.

Richard Hotaling,

Field Manager.

[FR Doc. 02–26789 Filed 10–21–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[W0 640 1020 PF 24 1A]

Notice of Resource Advisory Councils Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Resource Advisory Councils (RACs), will meet as indicated in the table under dates specified below:

DATES: We will hold the meetings as shown in the table below:

RAC name	Date(s) and times	Location and contact	Agenda topics	Public comment period
Arizona RAC	Nov. 20, 10 a.m.–4 p.m..	BLM National Training Center, 9828 North 31st Ave., Phoenix, AZ. Contact: Deborah Stevens, (602) 417–9215.	RAC discussion of National RAC Conference Outcome and Recommendations, and Working Group Reports for Recreation/Tourism, Planning, Wild Horse and Burro, Public Relations and Standards for Rangeland Health and Guidelines for Grazing Administration.	2:30–3 p.m., November 20, 2002.
Front Range RAC	Nov. 20, 2002, 9:30 a.m.–4 p.m..	Holy Cross Abbey Community Center, 2951 E Highway 50, Canon City, CO. Contact: Ken Smith, (719) 269–8500.	Update on Gold Belt Travel Management Plan and current land management issues.	1:30 p.m., Nov. 20, 2002.
Upper Snake RAC	Nov. 19, 2002, 10 a.m.–4:30 p.m.. Nov. 20, 2002, 8:30 a.m.–4:30 p.m..	BLM Pocatello Field Office, 1111 N. 8th Ave, Pocatello, Idaho. Contact: David Howell, (208) 524–7559.	Orientation of new RAC members, Blackfoot Wild & Scenic River Study, Craters of the Moon National Monument Planning.	8:30 a.m., Nov. 20, 2002.
Lower Snake RAC	Nov. 20, 2002, 8:30 a.m.–4:30 p.m..	Lower Snake River District Field Office, 3948 Development Ave., Boise, Idaho. Contact: MJ Byrne, (208) 384–3393.	Resource Management Plans, Sage Grouse management, Off Highway Vehicle, River Recreation Management, Fire and Fuels Management.	8:30 a.m.–9:30 a.m., Nov. 20, 2002.
Upper Columbia-Salmon Clearwater RAC.	Nov. 20, 2002, 8:30 a.m.–4:30 p.m..	BLM Missoula Field Office, 3255 Fort Missoula, MT. Contact: Stephanie Snook, (208) 769–5004.	Discuss and prioritize emergency/future issues.	8:30–9:30 a.m., Nov. 20, 2002.
Eastern Montana RAC.	Nov. 20, 2002, 8 a.m.–2 p.m..	BLM–MT State Office 5001 Southgate Drive, Billings, MT. Contact: Linda Reder, (406) 233–2824.	National RAC Video Conference, Oil and Gas EIS (coal bed methane) Update, Weatherman Draw Subcommittee Update, Yellowstone River Floaters Guide, Sage Grouse.	9 a.m. Nov. 20, 2002.
Central Montana RAC.	Nov. 19, 2002, 1–5:15 p.m.. Nov. 20, 2002, 8 a.m.–5 p.m.. Nov. 21, 2002, 8–11:30 a.m..	BLM Lewiston Field Office, Airport Road, Lewistown, MT. Contact: Bruce Reed, (406) 654–1240.	Nov. 19: Election of officers, review/decision re: sage grouse management plan, presentation concerning easements, field managers updates. Nov. 20: National RAC satellite broadcast, results from scoping open houses for Monument Resource management Plan, 2002 floating season on the Upper Missouri River, fee system proposal review, recommendations from the Missouri River visitor use subgroup. Nov. 21: Vehicle trespass in the Sweet Grass Hills, roads and oil and gas activity in North Blain Co., discuss weed and oil/gas field tours, update on Montana Air National Guard target range, administrative duties.	1–1:30 p.m., Nov. 19, 2002. 8–8:30 a.m., Nov. 20, 2002.
Utah RAC	Nov. 20, 8:30 a.m.–4:30 p.m..	BLM Utah State Office, 324 S. State St., Third Floor Conference Room. Contact: Sherry Foot, (801) 539–4195.	Election of Officers, Video Conference, Orientation to BLM, What's Happening on Utah's BLM Lands, Subgroup Updates (San Rafael Swell and Raptor).	3:45–4:15 p.m.

FOR FURTHER INFORMATION CONTACT: We list the contact for each individual RAC in the table above. If you have general questions about the RACs or the video teleconference you may contact Karen Slater at (202) 452–0358.

SUPPLEMENTARY INFORMATION: The RACs advise the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management. Every RAC will participate in a video teleconference on November 20 at 10 a.m., Mountain Standard Time.

All meetings are open to the public. The public may present written comments to the Councils. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided above.

Dated: October 17, 2002.

Karen Slater,

Intergovernmental Affairs Group Manager.

[FR Doc. 02–26877 Filed 10–21–02; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–482]

In the Matter of Certain Compact Disc and DVD Holders; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 18, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of DuBois

Limited of the United Kingdom. Supplements to the complaint were filed on October 7 and 9, 2002. The complaint as supplemented alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain compact disc and DVD holders by reason of infringement of U.S. Design Patent No. D441,212. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue permanent exclusion orders and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

FOR FURTHER INFORMATION CONTACT: Benjamin D.M. Wood, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2582.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2002).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 15, 2002, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain compact disc and DVD holders by reason of infringement of U.S. Design Patent No. D441,212, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—DuBois Limited, Amaray House, Arkwright Road, Corby, Northamptonshire, NN7 5AE U.K.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Viva Magnetics Limited, 16F, E On Factory Bldg., 14 Wong Chuk Hang Road, Aberdeen, Hong Kong.

Matrix Associates, Inc., 1425 Monte Grande Pl., Pacific Palisades, CA 90272.

Finest Industrial Co., Ltd., Flat A, 13/F, Sze Hing Loong Ind. Bldg., 44 Lee Chung Street, Chaiwan, Hong Kong.

Ponica Industries Corp., Corporate Headquarters, 125 Klug Circle, Corona, CA 92880.

Carthuplas, Inc., 7 Shape Drive, Kennebunk, ME 04043.

Scanavo A/S, Roskildevej 328, DK–2630 Taastrup, Denmark, Wah-de Electron, Co. Ltd.

No. 1, Alley 22, Lane 205, Nanshan Road, Sec. 2, Luchu Hsiang, Taoyuan Hsien, Taiwan,

Dragon Star Magnetics, Ltd., Room 406, 4/F Cheung Tat Centre, 18 Cheung Lee Street, Chai Wan, Hong Kong.

(c) Benjamin D.M. Wood, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge. Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown. Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.
Issued: October 16, 2002.

Marilyn R. Abbott,
Secretary to the Commission.

[FR Doc. 02–26734 Filed 10–21–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Request Emergency Approval; Application for Asylum and for Withholding of Removal, From I–589.

The Department of Justice (the Department), Immigration and Naturalization Service has submitted an information collection request (ICR) utilizing emergency review procedures to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The INS has determined that it cannot reasonably comply with the normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. The INS is requesting emergency review from OMB of this information collection to ensure compliance with the Enhanced Border Security and Visa Entry Reform Act of 2002 (Border Security Act) (Pub. L. 107–173 (May 14, 2002)).

The INS seeks permission to use the Form I–589 to serve as an alternate application for evidence of employment authorization for individuals granted asylum, eliminating their need to file a separate Form I–765, Application for Employment Authorization (OMB No. 1115–0163) with the INS if, after being granted asylum, they wish to receive an Employment Authorization Document (EAD) containing both evidence of employment authorization and identity. The Form I–589 collects the same

biographic information as that collected by the Form I–765. In those cases where asylum is granted, the biographic information contained on the I–589 could also be used to generate the employment authorization document. While dual-use has advantages for both the government and the public with respect to streamlining information collections, passage of the Border Security Act has increased the necessity of developing such a process. Section 309 of the Border Security Act requires the Attorney General to begin issuing an employment authorization document (EAD) with a photo and fingerprint to asylees ''immediately'' upon the grant of asylum. Such procedures must be in place as November 10, 2002. Due to the passage of the Border Security Act the question of how to process asylee employment authorization documents became even more critical. The INS and the Department now seek emergency OMB approval for the dual use of the Form I–589 to enable the INS to comply with the Border Security Act implementation date of November 10, 2002, as discussed above.

For the aforementioned reasons, the INS is requesting emergency OMB review and approval of this information collection request by October 24, 2002. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval must be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725–17th Street, NW., Suite 10102, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to (202) 395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments an suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until December 23, 2002. During the 60-day regular review, ALL comments and suggestions or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, (202) 514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Asylum and Withholding of Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–589. Office of International Affairs, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as will as a brief abstract:* Primary: Individuals or Households. This information collection will be used to determine whether an alien applying for asylum and/or withholding of deportation in the United States is classifiable as a refugee, and is eligible to remain in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 78,000 responses at 12 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 936,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan (202) 514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: October 17, 2002.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–26866 Filed 10–21–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 9, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or e-mail *Howze-Marlene@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for PWBA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of

the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: ERISA Technical Release 91–1.

OMB Number: 1210–0084.

Affected Public: Business or other for-profit, Individuals or households, and Not-for-profit institutions.

Frequency: On Occasion.

Estimated Time Per Response: 20 minutes preparation and 1.5 minutes distribution.

Number of Respondents: 52.

Number of Annual Responses: 66.

Total Burden Hours: 4,567.

Total Annualized Capital/Starup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $33,670.

Description: Section 101(e) of the Employee Retirement Income Security Act of 1974 (ERISA) sets forth certain notice requirements which must be satisfied before an employer may transfer excess assets from a defined benefit plan to a retiree health benefit account after satisfying the conditions set forth in section 420 of the Internal Revenue Code of 1986, as amended. The reporting requirements are intended to protect the rights of participants and beneficiaries by giving the Secretaries of Labor and the Treasury and each participant and beneficiary under the plan advanced notice of a transfer of plan assets from a defined benefit plan to a retiree health benefit account.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Disclosures by Insurers to General Account Policy-holders.

OMB Number: 1210–0114.

Affected Public: Business or other for-profit, Individuals or households, and Not-for-profit institutions.

Frequency: Annually.

Number of Respondents: 104.

Number of Annual Response: 123,500.

Total Burden Hours: 466,667.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $45,700.

Description: Section 1460 of the Small Business Job Protection Act of 1996 (Pub. L. 104–188) amended ERISA by adding a new section 401(c), which clarifies the application of ERISA to insurance company general accounts. New section 401(c) requires that certain steps are taken by insurance companies which offer and maintain policies for private sector employee benefit plans where the assets are held in the insurer's general account. The Department must meet a statutory mandate to ensure that the regulations issued are administratively feasible and protective of the interests and rights of the plan and its participants and beneficiaries. This information collection implements statutory prescribed disclosure obligations of the insurer in it annual reports and policies.

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 02–26759 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

October 10, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on 202–693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used:
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Revision of a currently approved collection.

Title: Program Monitoring Report and Job Service Complaint Form.

OMB Number: 1205–0039.

Affected Public: State, Local, or Tribal Government.

Type of Response: Recordkeeping and reporting.

Frequency: On occasion and quarterly.

Requirement	Annual responses	Average response time (hours)	Annual burden hours
Complaint Log Maintenance:			
Recordkeeping	168	6.30	1.058
Processing ETA Form-8429	2,520	0.13	336
Outreach Log:			
Recordkeeping	150	26.00	3.900
Data Collection/Reporting ETA Form-5148	208	1.17	243
Total	3,046	.....	5,537

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $2,982.

Description: The Job Service forms (ETA–8429 and ETA–5148) are necessary to ensure compliance with Federal Regulations at 20 CFR Parts 651, 653, and 658. The forms allow the U.S. Employment Service to track regulatory compliance of services provided to Migrant and Seasonal Farm Workers by State Employment Service Agencies.

Marlene J. Howze,

Acting Departmental Clearance Officer.

[FR Doc. 02–26837 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 10, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Employment and Training Administration (ETA) Disaster Unemployment Assistance (DUA) Handbook and Operating Forms, Including ETA–90–2, Disaster Payment Activities Under the ''Stafford Disaster Relief Act''.

OMB Number: 1205–0051.

Affected Public: Individuals or households; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Reporting.

Frequency: On occasion; Monthly; Weekly; and Bi-weekly.

Requirement	Number of respondents	Annual reports	Annual responses	Average response time (hours)	Annual burden hours
ETA From 90–2	50	6	300	0.17	50
Initial Application (includes processing, determining eligibility, issuing notices, recordkeeping, etc.)	11,000	1	11,000	0.17	1,833
Supplemental to Initial Application	3,800	1	3,800	0.17	633
Weekly Claim (includes processing, determining eligibility, issuing adjustment notices, recordkeeping, etc.	11,000	6	66,000	0.08	5,500
Notice of Overpayment	235	1	235	0.25	59
Final Report	50	1	50	1.00	50
Cost/Expense Reports (50 initial & 25 supplemental)	50	.....	75	0.25	19
Miscellaneous Recordkeeping	50	N/A	81,335	0.03	2,033
Total	26,235	.....	162,795	.....	10,177

*This figure represents the *average* number of weeks of unemployment experienced (weeks paid) by individuals for disasters declared each year.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The information collection requirements contained in Employment and Training Handbook No. 356, 2nd Edition, ''Disaster Unemployment Assistance,'' are necessary for the administration of sections 410 and 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Act). Workload items are also used with fiscal reports to estimate the cost of administering the Act.

Marlene J. Howze,

Acting Departmental Clearance Officer.

[FR Doc. 02–26838 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 14, 2002

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to the Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503

((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics (BLS).

Title: Point of Purchase Survey.

OMB Number: 1220–0044.

Affected Public: Individuals or households.

Frequency: Quarterly.

Number of Respondents: 25,060.

Number of Annual Responses: 57,280.

Estimated Time Per Response: 11 minutes.

Total Burden Hours: 10,475.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Section 2 of Title 29, Chapter 1, Subchapter 1, United States Code Annotated directs the Bureau of Labor Statistics (BLS), under the direction of the Secretary of Labor, to collect, collate, and report full and complete statistics of the conditions of labor and the products and distribution of the products of the same. The Census Bureau conducts the Telephone Point-of-Purchase Survey (TPOPS) for the BLS as part of the Consumer Price Index program. This survey is used to develop and maintain a timely list of retail, wholesale, and service establishments at which urban consumers shop for specified items. The survey results also provide the BLS with basic expenditure estimates that are used to weight unique items that are priced. Without this information, the BLS would not have a statistically accurate list of current establishments visited by consumers, and therefore, could neither collect prices as needed for the CPI nor weight specific items properly.

Marlene J. Howze,

Acting DOL Clearance Officer.

[FR Doc. 02–26839 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 4, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on (202) 693–4129 or e-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Department of Labor, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.q.,* permitting electronic submission of responses.

Agency: Office of Disability Employment Policy (ODEP).

Type of Review: Extension of a currently approved collection.

Title: Solicitation of Nominations for the Department of Labor's New Freedom Initiative Award.

OMB Number: 1230–0002.

Frequency: Annually.

Affected Public: Individuals or households; Businesses or other for-profit, Not-for-profit institutions; Federal Government; and State, and Local, or Tribal Government.

Number of Respondents: 100.

Number of Annual Responses: 100.

Estimated Time Per Respondent: 10 hours.

Total Burden Hours: 1,000 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Description: This collection of information (solicitation of nominations to receive an award) honors individuals, corporations and non-profit organizations that have been exemplary in furthering the employment-related objectives of President George W. Bush's New Freedom Initiative. The New Freedom Initiative reflects the Administration's commitment to increasing development and access to assistive and universally designed technologies, expanding educational opportunities, further integrating Americans with disabilities into the workforce, and helping to remove barriers to their full participation in community life.

Marlene J. Howze,

Acting Departmental Clearance Officer.

[FR Doc. 02–26840 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–CX–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–06282]

Glen Oaks Industries, Inc., Dallas, Texas, Formerly Employed at Marietta Sportswear Manufacturing Co., Inc., Marietta, Oklahoma; Amended Certification Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), subchapter D, chapter 2, title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on August 21, 2002, applicable to workers of Glen Oaks Industries, Inc., Marietta Sportswear Manufacturing Co., Inc., Dallas, Texas. The notice published in the **Federal Register** on September 10, 2002 (67 FR 57454).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred involving employees of Glen Oaks Industries, Inc., Dallas, Texas, formerly employed at Marietta Sportswear Manufacturing Co., Inc., Marietta, Oklahoma. The employees were engaged in employment related to the production of men's dress slacks until the plant closed in February, 2002.

The intent of the Department's certification is to include all workers of Glen Oaks Industries, Inc., Dallas, Texas, formerly employed at Marietta Sportswear Manufacturing Company, Inc., Marietta, Oklahoma adversely affected by the transfer of production to Canada.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to NAFTA–06282 is hereby issued as follows:

All workers of Glen Oaks Industries, Inc., Dallas, Texas, formerly employed at Marietta Sportswear Manufacturing Co., Inc., Marietta, Oklahoma, who became totally or partially separated from employment on or after June 13, 2001, through August 21, 2004, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, DC this 25th day of September, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26758 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filled in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 1, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 1, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 16th day of September, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 09/16/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
42,109	Ansell Healthcare, Inc (Comp)	Troy, AL	09/06/2002	Nitrile gloves.
42,110	DanAm, Inc. (Comp)	El Paso, TX	08/27/2002	Plastic dispensing units, packaging unit.
42,111	GIII Leather (Wrks)	New York, NY	08/30/2002	Leather pants, skirts and coats.
42,112	Reed Elsever Science (Wrks)	Philadelphia, PA	08/26/2002	Medical books typesetting.
42,113	Wackenhut Security (Wrks)	San Manuel, AZ	09/04/2002	Security guard service.
42,114	Minnesota Brewing Co (Wrks)	St. Paul, MN	08/15/2002	Beer, grain belt beer, pigs eye beer.
42,115	Federal Mogul Corp (Comp)	Seviervile, TN	08/30/2002	Lighting applications thermal flashers.
42,116	XESystems, Inc. (Wrks)	Stamford, CT	08/29/2002	Diamond back digital wide body printer.
42,117	Superior Telecommunication (Wrks)	Tarboro, NC	08/28/2002	C-Service wire, underground cable.
42,118	Lenox China (Wrks)	Oxford, NC	09/04/2002	China giftware.
42,119	J-Star Industries, Inc. (Wrks)	Fort Atkinson, WI	08/30/2002	Diary farmstead equipment: feeders, mix.
42,120	Argyle Industries, Inc (Wrks)	Argyle, WI	08/28/2002	Master brake cylinders, water pumps.
42,121	Agere Systems (Wrks)	Breinigville, PA	09/04/2002	Wavelength pump lasers.
42,122	Neshoba Lumber, LLC (Wrks)	Philadelphia, MS	08/28/2002	Lumber.
42,123	Coleman Cable, Inc. (Comp)	El Paso, TX	08/27/2002	Power cords for vacuum cleaners.
42,124	Norfolk Southern Corp (TWU)	Hollidaysburg, PA	08/30/2002	Build and repair freights cars.
42,125	River Oaks Furniture, Inc (Comp)	Tupelo, MS	08/30/2002	Upholstered furniture, sofas, chairs.
42,126	Northern Cap Mfg. (Wrks)	Minneapolis, MN	08/23/2002	Headwear: hats and caps.
42,127	Sun Apparel (Wrks)	El Paso, TX	08/30/2002	Jeans.
42,128	Kellwood Co (Wrks)	Heflin, AL	08/27/2002	Robes, loungewear, swimwear cover-ups.
42,129	CSPX (Wkrs)	Auburn, ME	08/29/2002	Shoe accessories.
42,130	Hewlett Packard (Wrks)	Vancouver, WA	09/04/2002	Print mechanism testing and prototypes.
42,131	Surgical Corp/East-West (Comp)	Irvington, NY	08/26/2002	Wholesale of disposable gauze products.
42,132	Fashion Star, Inc. (Wrks)	Carrollton, GA	08/24/2002	Ladies blouses, skirts, and slacks.
42,133	Angelica Image Apparel (Comp)	Savannah, TN	08/26/2002	Healthcare apparel: tops, pants, gowns.
42,134	Tyco Electronics (Wrks)	Melbourne, FL	08/16/2002	Printed circuit boards.
42,135	GB Machining (Comp)	San Jose, CA	08/21/2002	Machined parts for semiconductors.
42,136	Goodyear Tire and Rubber (USWA)	Akron, OH	09/07/2002	Tire molds and associated components.
42,137	General Binding Corp (Comp)	Buffalo Grove, IL	08/26/2002	Punch and bind machines.
42,138	Classic Clay Concepts (Comp)	Lake Oswego, OR	08/26/2002	Stoneware garden containers.
42,139	Fabry Industries (Comp)	Green Bay, WI	08/27/2002	Gloves and mittens.

APPENDIX—Continued

[Petitions instituted on 09/16/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
42,140	DeZurik/Copes-Vulcan (Wrks)	Sartell, MN	08/14/2002	Valves.
42,141	Manufacturers' Services (Comp)	Mt Prospect, IL	08/27/2002	Modems and other telecommunication equip.
42,142	Timplate Partners Int'l (Wrks)	Gary, IN	08/24/2002	Tinplate steel products for food, house.
42,143	Dana Corp (Comp)	Hastings, NE	08/23/2002	Piston rings.
42,144	Toyo Tanso PA Graphite (Wrks)	Brookvile, PA	08/28/2002	Isomolded graphite.
42,145	Acme Electronic LLC (IUE)	Cuba, NY	08/28/2002	Amplifiers for MRI scanners.
42,146	Apex Automation (Wrks)	Elizabethtown, PA	08/28/2002	Custom automated machinery.
42,147	Universal Manufacturing (USWA)	Zelienople, PA	08/29/2002	Steel scaffolds.
42,148	Supervalu, Inc (Wrks)	Belle Vernon, PA	09/04/2002	Pet foods, water, etc.

[FR Doc. 02–26737 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,053]

Arnold Tool & Die Works, Inc., Council Bluffs, Iowa; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 3, 2002 in response to a worker petition, which was filed by a company official on behalf of workers at Arnold Tool & Die Works, Inc., Council Bluffs, Iowa.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 9th day of October, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26756 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,992]

General Electric Transportation Systems, A Subsidiary of General Electric Company, Erie, Pennsylvania; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 19, 2002 in response to a worker petition, which was filed by the United Electrical, Radio and Machine Workers of America (EU), Local 506 on behalf of workers at General Electric Transportation Systems, a subsidiary of General Electric Company, Erie, Pennsylvania.

The petition is a duplicate of the petition for which the Department recently issued a negative determination, TA–W–41,543. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 16th day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26745 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,761]

Glen Oaks Industries, Inc., Dallas, Texas; Formerly Employed at Marietta Sportswear Manufacturing Co., Inc., Marietta, Oklahoma; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 29, 2002, applicable to workers of Glen Oaks Industries, Inc., Marietta Sportswear Manufacturing Co., Inc., Dallas, Texas. The notice will be published soon in the **Federal Register**.

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred involving employees of Glen Oaks Industries, Inc., Dallas, Texas, formerly employed at Marietta Sportswear Manufacturing Co., Inc. Marietta, Oklahoma. The employees were engaged in employment related to the production of men's dress slacks until the plant closed in February, 2002.

The intent of the Department's certification is to include all workers of Glen Oaks Industries, Inc., Dallas, Texas, formerly employed at Marietta Sportswear Manufacturing Co., Inc., Marietta, Oklahoma who were adversely affected by increased imports.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–41,761 is hereby issued as follows:

All workers of Glen Oaks Industries, Inc., Dallas, Texas, formerly employed at Marietta Sportswear Manufacturing Co., Inc., Marietta, Oklahoma, who became totally or partially separated from employment on or after June 13, 2001, through August 29, 2004, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 25th day of September, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26753 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,188]

Laird Technologies, Delaware Water Gap, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 30, 2002, in response to a petition filed on behalf of workers at Laird Technologies, Delaware Water Gap, Pennsylvania.

The petitioners requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed in Washington, DC this 8th day of October, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26757 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,973]

Lapcor Plastics, Manitowoc, Wisconsin; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 19, 2002 in response to a worker petition, which was filed by Pace, Local 7–0449 on behalf of workers at Lapcor Plastics, Manitowoc, Wisconsin.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–41,930). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

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

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26743 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 1, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 1, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 23rd day of September, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted On 09/23/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
42,149	Modine Manufacturing (Co.)	Knoxville, TN	08/16/2002	Aluminum oil and charge air coolers.
42,150	Precision Castparts (Wkrs)	North Grafton, MA	09/04/2002	Beams, brackets, drag struts, gear beams.
42,151	Electric Systems (Co.)	Glysburg, PA	09/10/2002	Custom wine harnesses.
42,152	Pringle Power Vac (Wkrs)	Walla Walla, WA	09/11/2002	Power vacuum equipment.
42,153	Wells Lamon Corp. (Wkrs)	Waynesboro, MS	09/04/2002	Leather and textile work gloves.
42,154	Traction Technologies (Co.)	Jonesboro, AR	09/04/2002	Axle tubes, gears, pinion mate shafts.
42,155	Franklin Mint (The) (Wkrs)	Franklin Center, PA	09/05/2002	Collectible dolls, plates, cars.
42,156	Wisconsin Automated Mach (Co.)	Oshkosh, WI	09/05/2002	Metal cutting band saws.
42,157	A.O. Smith Electrical (Co.)	Upper Sandusky, OH	09/04/2002	Aluminum endframes, rotors, shafts.
42,158	O-Cedar Brands (Co.)	Portland, IN	09/05/2002	Brushes, mops and brooms.
42,159	Landis Gardner (Wkrs)	Waynesboro, PA	09/03/2002	Cylindrical grinding machines.
42,160	Atadis U.S.A. (IBT)	McAdoo, PA	08/29/2002	Cigars and cigarettes.
42,161	Loris Industries (Co.)	Loris, SC	08/30/2002	Yarn, polyester, rayon, acrylic staple.
42,162	Forney, Inc. (USWA)	Hermitage, PA	09/04/2002	Testing equip. for concrete, asphalt.
42,163	VF Imagewear (West) (Co.)	Sparta, TN	09/04/2002	Men's work clothing.
42,164	Exide Technology (Wkrs)	Columbus, GA	08/22/2002	Batteries.
42,165	Wirtz Manufacturing (Wkrs)	Port Huron, MI	08/30/2002	Filling, casting and assembly machinery.
42,166	Best Manufacturing (Co.)	Johnson City, TN	08/30/2002	Disposable synthetic rubber gloves.
42,167	ADC Telecommunications (Wkrs)	Le Sueur, MN	09/04/2002	Wiring lines.
42,168	Gulfstream Aerospace (Wkrs)	Bethany, OK	09/06/2002	Aircraft parts.
42,169	Alcoa, Inc (Co.)	Badin, NC	09/06/2002	Molten aluminum metal.
42,170	FMC Corporation (UFCW)	Town of Tonawan, NY	09/09/2002	Sodium, ammonium, and potassium persulfa.
42,171	Foothills Apparel (Co.)	Albany, KY	09/10/2002	Shirts.
42,172	Volex (Co.)	Clinton, AR	09/06/2002	Power cords, electric cords.
42,173	ADC Telecommunications (Wkrs)	Vadnais Heights, MN	09/04/2002	Optical laser products, pump lasers.
42,174	Sterling Fibers (Co.)	Pace, FL	09/17/2002	Acrylic fibers and textile goods.
42,175	Hilti, Inc. (Wkrs)	New Castle, PA	08/23/2002	Repair and condition molds.
42,176	Georgia Pacific (IAM)	Ft. Bragg, CA	07/22/2002	Wood logs.
42,177	Fred B. Moe Logging (Co.)	Centralia, WA	09/06/2002	Raw logs.

[FR Doc. 02–26735 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,313]

Montgomery Wards, El Paso, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 5, 2001 in response to a worker petition filed on behalf of workers at Montgomery Wards, El Paso, Texas. The workers were engaged in retail sales and did not produce an article.

The company has gone out of business and the Department of Labor has been unable to locate company officials or to obtain information necessary to reach a determination on worker eligibility. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 7th day of October 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26752 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,978]

Nidec America Corporation, Power Supply Division, Canton, MA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 19, 2002 in response to a worker petition which was filed by the company on behalf of workers at Nidec America Corporation, Power Supply Division, Canton, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, DC this 16th day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26744 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41, 609]

Nokia Mobile Phones Americas, Inc., Fort Worth, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 3, 2002, in response to worker petition that was filed on behalf of workers at Nokia Mobile Phones Americas, Inc., Fort Worth, Texas.

An active certification covering the petitioning group of workers at the subject firm remains in effect (TA–W–39,300). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 26th day of September, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26742 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,417]

NTN-Bower Corporation, Hamilton, AL; Notice of Negative Determination on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Former Employees of NTN-Bower Corp.* v. *United States Secretary of Labor,* No. 02–00315.

The Department's initial negative determination of eligibility to apply for trade adjustment assistance (TAA) for the workers and former workers of NTN-Bower Corporation, located in Hamilton, Alabama was issued on March 27, 2002, and published in the **Federal Register** on April 5, 2002 (67 FR 16441). The denial was based on the fact that workers of the subject firm did not meet criterion (3) as indicated in the initial investigation. The company did not import tapered roller bearings nor did customers import tapered roller bearings during 2000 or 2001.

On voluntary remand, the Department conducted a further survey of a major customer regarding their purchases of tapered roller bearings (TRB) during 1999, 2000 and 2001. The response from the major customer was not acquired during the initial survey.

The results of the survey show that the major customer did not import tapered roller bearings during the relevant period.

Conclusion

After careful consideration of the results of the remand investigation, I affirm the original notice of negative determination of eligibility to apply for trade adjustment assistance for workers and former workers of NTN-Bower Corporation, Hamilton, Alabama.

Signed in Washington, DC this 3rd day of October, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–26740 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,255]

Potlatch Corporation, Sappi Fine Paper North America, Honeywell Corporation, Minnesota Pulp and Paper Division, Brainerd, MN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification Regarding Eligibility To Apply for Worker Adjustment Assistance on February 20, 2002, applicable to workers of Potlatch Corporation, Minnesota Pulp and Paper Division, Brainerd, Minnesota. The notice was published in the **Federal Register** on February 28, 2002 (67 FR 9325). The certification was amended on July 16, 2002 to include workers whose wages were reported to the Honeywell Corporation tax account. The notice was published in the **Federal Register** on July 24, 2002 (67 FR 48487).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of high line coated printing paper.

The company reports that Sappi Fine Paper North America purchased Potlatch Corporation, Minnesota Pulp and Paper Division on May 13, 2002. Information shows that employees separated from Potlatch after the May 13, 2002 selling date, were separated as employees of Sappi Fine Paper and, therefore, were not found eligible for trade adjustment assistance under the current certification covering Potlatch employees.

The intent of the Department's certification is to include all workers of Potlatch Corporation, Minnesota, Pulp and Paper Division, who were adversely affected by increased imports.

Accordingly, the Department is amended the certification determination to properly reflect this matter.

The amended notice applicable to TA–W–39,255 is hereby issued as follows:

All workers of Potlatch Corporation, Sappi Fine Paper North America, Honeywell Corporation, Minnesota Pulp and Paper Division, Brainerd, Minnesota who become totally or partially separated from employment on or after May 1, 2000, through February 20, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 26th day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26751 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42, 025]

Sappi Fine Paper North America, Cloquet, MN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 26, 2002, in response to a petition that was filed on behalf of workers at Sappi Fine Paper North America, Cloquet, Minnesota.

An active certification covering the petitioning group of workers is already in effect (TA–W–38,400, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 26th day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26746 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,814]

Trus Joist A Weyerhaeuser Business, Engineered Wood Products Operations, Stayton, OR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 15, 2002, in response to a worker petition that was filed by a company official on behalf of workers at Trus Joist a Weyerhaeuser Business, Engineered Wood Products Operations, Stayton, Oregon

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 8th day of October, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26755 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,392]

White Mountain Stitching Company, Littleton, NH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 29, 2002, applicable to workers of White Mountain Stitching Company, Littleton, New Hampshire. The notice was published in the **Federal Register** on August 9, 2002 (67 FR 51870).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of wallets and handbags.

New information provided by the State shows that workers separated from employment at White Mountain Stitching Company had their wages reported under a separate unemployment insurance (UI) tax account for ADP Total Source III, Diamond Bar, California.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of White Mountain Stitching Company who were adversely affected by increased imports.

The amended notice applicable to TA–W–41,392 is hereby issued as follows:

All workers of White Mountain Stitching Company, Littleton, New Hampshire, including those whose wages are reported to ADP Total Source III, Diamond Bar, California, who became totally or partially separated from employment on or after March 21, 2001, through July 29, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 9th day of October, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26754 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are

eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, DC., provided such request is filed in writing with the Director of DTAA not later than November 1, 2002.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than November 1, 2002.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC. 20210.

Signed at Washington, DC., this 19th day of September, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Acme Electronics, LLC (Wkrs)	Cuba, NY	09/04/2002	NAFTA–6,526	Power supply systems.
Autoline Industries (Co.)	McElhatten, PA	09/09/2002	NAFTA–6,527	Water pumps, disc brake callpers etc.
U.S. Manufacturing (Wkrs)	Port Huron, MI	09/09/2002	NAFTA–6,528	Axle housing.
Coleman Cable (Co.)	El Paso, TX	09/03/2002	NAFTA–6,529	Power cords.
Sun Apparel (Wkrs)	El Paso, TX	09/04/2002	NAFTA–6,530	Jeans.
Venice T-Shirt and Medical Corp. (Co.)	Venice, CA	08/30/2002	NAFTA–6,531	Knit shirts.
SAPPI (Wkrs)	Cloquet, MN	09/05/2002	NAFTA–6,532	Pulpwood.
DeZurik (Wkrs)	Sartell, MN	09/06/2002	NAFTA–6,533	Valves.
Altadis U.S.A.—Consolidated Cigar (Co.).	McAdoo, PA	09/09/2002	NATTA–6,534	Cigars.
American Meter (Wkrs)	Erie, PA	09/09/2002	NAFTA–6,535	Meters.
Wisconsin Automated Machinery (Wkrs)	Oshkosh, WI	09/02/2002	NAFTA–6,636	Metal cutting band saws.
65097J (CBO)	Alekanagik, AL	09/05/2002	NAFTA–6,537	Fresh salmon.
59511H (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,538	Fresh salmon.
56739H (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,539	Fresh salmon.
5689Q (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,540	Fresh salmon.
58590DX (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,541	Fresh salmon.
56175H (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,542	Fresh salmon.
65605V (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,543	Fresh salmon.
58534G (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,544	Fresh salmon.
60381N (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,545	Fresh salmon.
60381N (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,546	Fresh salmon.
56585O (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,547	Fresh salmon.
57327S (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,548	Fresh salmon.
55917A (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,549	Fresh salmon.
68828I (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,550	Fresh salmon.
57748Q (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,551	Fresh salmon.
57749J (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,552	Fresh salmon.
58075V (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,553	Fresh salmon.
55348J (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,554	Fresh salmon.
61932R (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,555	Fresh salmon.
59347M (CBO)	Aleknagik, AK	09/05/2002	NAFTA–6,556	Fresh salmon.
55124B (CBO)	Chigniklake, AK	09/05/2002	NAFTA–6,557	Fresh salmon.
57331M (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,558	Fresh salmon.
67320B (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,559	Fresh salmon.
61977V (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,560	Fresh salmon.
58475G (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,561	Fresh salmon.
57738S (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,562	Fresh salmon.
58702U (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,563	Fresh salmon.
5732oW (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,564	Fresh salmon.
57539S (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,565	Fresh salmon.
57687H (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,566	Fresh salmon.
57436I (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,567	Fresh salmon.
65655K (CBO)	Clarkspoint, AK	09/05/2002	NAFTA–6,568	Fresh salmon.
61712F (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,569	Fresh salmon.
61358P (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,570	Fresh salmon.
57803W (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,571	Fresh salmon.
59194H (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,572	Fresh salmon.
65811Q (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,573	Fresh salmon.
66280G (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,574	Fresh salmon.
55724E (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,575	Fresh salmon.
55946A (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,576	Fresh salmon.
55153C (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,577	Fresh salmon.
64128B (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,578	Fresh salmon.
68167V (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,579	Fresh salmon.
5679oR (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,580	Fresh salmon.
64799G (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,581	Fresh salmon.
55022I (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,582	Fresh salmon.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
65470B (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,583	Fresh salmon.
56739M (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,584	Fresh salmon.
57548Z (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,585	Fresh salmon.
67590E (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,586	Fresh salmon.
55864E (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,587	Fresh salmon.
66987N (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,588	Fresh salmon.
61291B (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,589	Fresh salmon.
59590W (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,590	Fresh salmon.
55571X (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,591	Fresh salmon.
57392Q (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,592	Fresh salmon.
67873L (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,593	Fresh salmon.
55102V (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,594	Fresh salmon.
65913K (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,595	Fresh salmon.
66427I (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,596	Fresh salmon.
56728W (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,597	Fresh salmon.
61326M (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,598	Fresh salmon.
60231P (CBO)	Dillingham, AK	09/05/2002	NAFTA–6,599	Fresh salmon.

[FR Doc. 02–26736 Filed 10–21–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of September and October, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,530; Adcap-Dunn Manufacturing Co., Camp Hill, AL
TA–W–41,041A; United Central Industrial Supply Co. LLC, Virginia Machine Tool Co., Bassett, VA
TA–W–41,792; J.B. Tool and Machine, Inc., Wapakoneta, OH
TA–W–41,975; Versa Tool, Meadville, PA
TA–W–41,208 & A; Valeo Climate Control, USA–2 Div., Automotive Air Conditioning Condenser Line, Grand Prairie, TX and Aluminum Tubing Line, Grand Prairie, TX
TA–W–41,844; Terex Mining Manufacturing Facility, Tulsa, OK
TA–W–41,890; Kaman Aerospace Microwave Cable Assembly Div., Middletown, CT
TA–W–41,947; Pella Plastic, Plant #3, New Hope, TN
TA—W–42,040; Lockheed Martin Distribution Technologies, Inc., Tulsa, OK
TA–W–41,796; Tredegar Film Products, Carbondale, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,945; ExxonMobil Lubricants and Petroleum Specialties Co., Bakerstown Grease Plant, Gibsonia, PA
TA–W–41,936; Fishking Processors, Inc., Los Angeles, CA
TA–W–41,769; Siemens Demag Delaval, Trenton, NJ

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–42,027; NCS Learn, East Lansing, MI
TA–W–42,036; Electronic Data Systems Corp., I Solutions Center, Fairborn, OH
TA–W–41,041; United Central Industrial Supply Co, LLC, Blue Ridge Industrial Supply Co., Bassett, VA
TA–W–41,950; International Data LLC, Data-Capture Div., El Paso, TX
TA–W–41,850; Global Apparel, LLC, New York, NY

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–41,929; MEL, Inc., Winchester, MA

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–42,021; Bronxwood Dyeing Co., Inc., Bronx, NY
TA–W–41,876; Meggitt Avionics, a Wholly Owned Subsidiary of Meggitt PLC, Manchester, NH

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–42,060; United Sweater Mills Corp., Jersey City, NJ: August 20, 2001
TA–W–42,017; Motorola, Tempe Final Manufacturing (TFM), Tempe, AZ: August 6, 2001
TA–W–42,002; Metso Minerals, Inc., Clintonville, WI: August 6, 2001
TA–W–41,866; Ingersoll-Rand Co., Rock Drill Div., Roanoke, VA: August 16, 2002
TA–W–41,857; DMI Furniture, Inc, Huntingburg, IN: June 24, 2001
TA–W–41,605; Bemis Manufacturing Co., Crandon Woodworking Div., Crandon, WI: April 16, 2001
TA–W–41,599; Clearfield Machine Co., Clearfield, PA: May 20, 2001
TA–W–41,556; Fedders Appliances, Effingham, IL: January 8, 2002
TA–W–41,481; Siemens Energy and Automation, Inc., Power Distribution Infrastructure and Controls Div., Bellefontaine, OH: April 25, 2001
TA–W–40,621; General Electric Co (GE), Transportation Systems Div., Global Signaling, Warrensburg, MO: November 19, 2000
TA–W–42,048; Fashion Tanning Co., Inc., Gloversville, NY: August 12, 2001
TA–W–42,028; Loretex Corp., Guilderland Center, NY: August 8, 2001
TA–W–42,024; McInnes Steel Co., Corry, PA: July 23, 2001
TA–W–42,019; Encon Eye Protection, a Subsidiary of Encon Corp., Coudersport, PA: August 8, 2001
TA–W–42,009; Storage Tek, MAT–FRU Operation, Louisville, CO: July 31, 2001
TA–W–41,999; New Holland Industries, Inc., New Holland, PA: August 6, 2001
TA–W–41,993; Philips Semiconductors, a Subsidiary of Royal Philips Electronics, NV, Albuquerque, NM: August 5, 2001
TA–W–41,974; Amerock Corp., Rockford, IL: July 23, 2001
TA–W–41,968; Crown Cork and Seal Co., Inc., Portland, OR: August 1, 2001
TA–W–41,918; Unilever Best Foods North America, Santa Cruz, CA: July 24, 2001
TA–W–41,917; The Pfaltzgraff Co., Also Known as Susquehanna Pfaltzgraff, York, PA: July 12, 2001
TA–W–41,901; Johnson and Johnson Apparel, Inc., Kenly, NC: July 11, 2001
TA–W–41,874 & A, B; Sebago, Inc., Bridgton, ME, Westbrook, ME and Gorham, ME: September 19, 2002
TA–W–41,867 & A; Tee Jays Manufacturing Co., Inc., Plant 7, Florence, AL and Plant 17, Florence, AL: July 2, 2001
TA–W–41,716; Motorola, Inc, Global Telecom Solutions Sector (GTSS), Cellular Infrastructure Group, Fort Worth, TX: May 21, 2001
TA–W–41,706; Henry's Cutting Service, Hialeah, FL: May 10, 2001
TA–W–41,534; 3M Center, Coated Abrasives and Industrial Tape Div., St. Paul, MN: April 22, 2001

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), subchaper D, chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of September and October, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05788A; United Central Industrial Supply Co. LLC, Virginia Machine Tool Co., Bassett, VA
NAFTA–TAA–06310; J.B. Tool and Machine, Inc., Wapakoneta, OH
NAFTA–TAA–06423; ExxonMobil Lubricants and Petroleum Specialties Co., Bakerstown Grease Plant, Gibsonia, PA
NAFTA–TAA–06458; Versa Tool, Inc., Meadville, PA
NAFTA–TAA–06241; Henry's Cutting Service, Hialeah, FL
NAFTA–TAA–06512; Fishking Processors, Inc., Los Angeles, CA

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of section 250(a) of the Trade Act, as amended.

NAFTA–TAA–05788; United Central Industrial Supply Co, LLC, Blue Ridge Industrial Supply Co., Bassett, VA
NAFTA–TAA–06434; International Data LLC, Data-Capture, El Paso, TX
NAFTA–TAA–06474; Yakima Products, Inc., d/b/a Watermark, Materials Department, Arcata, CA

The investigation revealed that criteria (1) has not been met. Sales or production did not decline during the relevant period as required for certification.

NAFTA–TAA–6415; Mel, Inc., Winchester, MA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06468; TI Automotive Systems, Sanford Div., Sanford Div., Sanford, FL: August 16, 2001
NAFTA–TAA–06493; United Sweater Mills, Corp., Jersey City, NJ: August 23, 2001
NAFTA–TAA–06525; Perfection-Schwank, Inc., Waynesboro, GA: September 5, 2001
NAFTA–TAA–06027; TLD Lantis Corp., a Subsidiary of Teleflex Lionel-DuPont (TLD), Salinas, CA: March 21, 2001
NAFTA–TAA–06389; Federal-Mogul Corp., Friction Products Div., Winchester, VA: July 19, 2001
NAFTA–TAA–06488; Kimberly-Clark Corp., Neenah Cold Springs Facility, Neenah, WI: August 22, 2001
NAFTA–TAA–06397; Johnson and Johnson Apparel, Inc., Kenly, NC: July 11, 2001

I hereby certify that the aforementioned determinations were issued during the months of September

and October, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 8, 2002.

Edward A. Tomchick

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–26741 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4833]

Crest Uniform Company, New York, NY; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on April 27, 2001, in response to a petition filed on behalf of workers at Crest Uniform Company, New York, New York. The workers produced uniforms and career apparel. The facility closed in late 2000.

Workers at the subject firm were certified eligible to apply for Trade Adjustment Assistance on June 6, 2001 (TA–W–38,892). A new investigation and determination would not affect the benefits workers are currently eligible to receive. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

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

Edward A. Tomchick,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26747 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,400]

Potlatch Corporation, Sappi Fine Paper North America Including Temporary Workers of Olsten Temporary Services, Employed at Potlatch Corporation, Cloquet, MN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 27, 2001, applicable to workers of Potlatch Corporation, Cloquet, Minnesota. The notice was published in the **Federal Register** on April 5, 2001 (66 FR 18117). The certification was amended on April 13, 2001 to include leased workers of Olsten Temporary Services employed at Potlatch Corporation, Cloquet, Minnesota. The notice was published in the **Federal Register** on April 19, 2001 (66 FR 20165).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of wood products, including paper, oxboard, paper board, tissue and two by fours.

The company reports that Sappi Fine Paper North America purchased Potlatch Corporation on May 13, 2002. Information shows that employees separated from Potlatch after the May 13, 2002 selling date, were separated as employees of Sappi Fine Paper and, therefore, were not found eligible for trade adjustment assistance under the current certification covering Potlatch employees.

The intent of the Department's certification is to include all workers of Potlatch Corporation who were adversely affected by increased imports.

Accordingly, the Department is amending the certification determination to properly reflect this matter.

The amended notice applicable to TA–W–38,400 is hereby issued as follows:

All workers of Potlatch Corporation, Sappi Fine Paper North America, including temporary workers of Olsten Temporary Services, Duluth, Minnesota, engaged in the production of wood products, including paper, oxboard, paper board, tissue and two by fours at Potlatch Corporation, Cloquet, Minnesota, who became totally or partially separated from employment on or after November 27, 1999, through February 27, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 26th day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26750 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6262]

Temco Aquisitions, Inc., Hibbing, MN; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on June 3, 2002 in response to a petition filed on behalf of workers at TEMCO Acquisitions, Inc., Hibbing, Minnesota.

The petitioners were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 4th day of October, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26748 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—6332]

Trus Joist A Weyerhaeuser Business Engineered Wood Products Operations, Stayton, OR; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on July 2, 2002 in response to a petition filed by a company on behalf of workers at Trus Joist a Weyerhaeuser Business, Engineered Wood Products Operations, Stayton, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 8th day of October 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–26749 Filed 10–21–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Preparation and Maintenance of Accurate and Up-to-Date Certified Mine Maps for Surface and Underground Coal Mines; Submittal of Underground Mine Closure Maps; and Notification of MSHA Prior to Opening New Mines or the Reopening of Inactive or Abandoned Mines

ACTION: Notice; Extension of public comment period.

SUMMARY: The Department of Labor published a notice in the **Federal Register** on August 21, 2002 (67 FR 54233) requesting public comment concerning the proposed extension of the information collection related to the Record of Mine Closure addressed in 30 CFR 75.1204 and 75.1204–1; the inclusion of standards requiring MSHA notification and inspection prior to mining when opening a new mine or reopening an inactive or abandoned mine addressed in 30 CFR 75.373 and 75.1721; and the inclusion of standards requiring underground and surface mine operators to prepare and maintain accurate and up-to-date mine maps addressed in 30 CFR 75.1200, 75.1200–1, 75.1201, 75.1202, 75.1202–1, 75.1203, 75.372, 77.1200, 77.1201, and 77.1202. The comment period for this notice was to close on October 22, 2002.

In response to a request from the public, the comment period has been extended to November 30, 2002.

DATES: Submit comments on or before November 30, 2002.

ADDRESSES: Send comments to David L. Meyer, Director, Office of Administration and Management, 1100 Wilson Boulevard, Room 2125, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on a computer disk, or via internet e-mail to *Meyer-David@msha.gov,* along with an original printed copy. Mr. Meyer can be reached at (202) 693–9802 (voice) or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Jane E. Tarr, Management Analyst, Records Management Group, U.S. Department of Labor, Mine Safety and Health Administration, Room, 1100 Wilson Boulevard, Room 2171, Arlington, VA 22209–3939. Ms. Tarr can be contacted at Tarr-Jane@msha.gov (internet e-mail), (202) 693–9824 (voice), or (202) 693–9801 (facsimile).

Dated in Arlington, Virginia, this 18th day of October, 2002.

David L. Meyer,

Director of Administration and Management.

[FR Doc. 02–26919 Filed 10–18–02; 10:32 am]

BILLING CODE 4510–43–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject and Time of Meeting

The National Credit Union Administration Board determined that its business required the deletion of the following item from the previously announced closed meeting (**Federal Register,** Vol. 67, No. 199, pp. 63682–63683, October 15, 2002) scheduled for Thursday, October 17, 2002.

1. Administrative Action under Part 702 of NCUA's Rules and Regulations. Closed pursuant to Exemptions (8), (9)(A)(ii) and (9)(B).

The Board voted unanimously that this item be removed from the closed agenda.

The previously announced item were:

1. Administrative Action under Part 702 of NCUA's Rules and Regulations. Closed pursuant to Exemptions (8), (9)(A)(ii) and (9)(B).

2. One (1) Personnel Matter. Closed pursuant to Exemptions (2) and (6).

In addition, the time of the previously announced closed Board meeting was changed from 11:30 a.m. on October 17, 2002 to 9:15 a.m. on the same date.

For Further Information Contact: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 02–26901 Filed 10–17–02; 4:51 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on October 30, 2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, October 30, 2002—8:30 a.m. until the conclusion of business.*

The Subcommittee will meet with representatives of the NRC staff and the Exelon Generation Company, LLC, to review the license renewal application for Peach Bottom Atomic Power Station Units 2 and 3, and the associated safety evaluation report with open items. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Persons desiring to make oral statements should notify one of the individuals named below five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, Exelon Generation Company, LLC, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and

the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the Designated Federal Official, Mr. Timothy Kobetz (telephone 301/415–8716) or Mr. Ramin Assa, Cognizant Staff Engineer (telephone 301–415–6885) between 7:30 a.m. and 4:30 p.m. (EDT). Persons planning to attend this meeting are urged to contact one of the above named individuals at least two working days prior to the meeting to be advised of any potential changes in the proposed agenda.

Dated: October 16, 2002.

Sher Bahadur,

Associate Director for Technical Support ACRS/ACNW.

[FR Doc. 02–26828 Filed 10–21–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on October 9, 2002, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: *Wednesday, November 6, 2002—3 p.m. until the conclusion of business.*

The Subcommittee will discuss proposed ACRS activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301/415–7364) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the proposed agenda.

Dated: October 16, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–26829 Filed 10–21–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of October 21, 28, November 4, 11, 18, 25, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 21, 2002

There are no meetings scheduled for the Week of October 21, 2002.

Week of October 28, 2002—Tentative

Wednesday, October 30, 2002

2 p.m.—Discussion of Security Issues (Closed—Ex. 1 & 9)

Thursday, October 31, 2002

9:25 a.m.–Affirmation Session (Public Meeting) (If needed)

9:30 a.m.–Briefing on EEO Program (Public Meeting) (Contact: Irene Little, 301–415–7380)

2:30 p.m.–Briefing on Proposed Rulemaking to Add New Section 10 CFR 50.69, ''Risk-Informed Categorization and Treatment of Structures, Systems, and Components for Nuclear Power Reactors'' (Public Meeting) (Contact: Eileen McKenna, 301–415–2189, or Timothy Reed, 301–415–1462)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Friday, November 1, 2002

9 a.m.—Discussion of Security Issues (Closed—Ex. 1)

Week of November 4, 2002—Tentative

There are no meetings scheduled for the Week of November 4, 2002.

Week of November 11, 2002—Tentative

Thursday, November 14, 2002

2 p.m.—Discussion of Management Issues (Closed—Ex. 2)

Week of November 18, 2002—Tentative

Thursday, November 21, 2002

2 p.m.—Discussion of Security Issues (Closed—Ex. 1)

Week of November 25, 2002—Tentative

There are no meetings scheduled for the week of November 25, 2002.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: R. Michelle Schroll (301) 415–1662.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: October 17, 2002.

R. Michelle Schroll,

Acting Technical Coordinator, Office of the Secretary.

[FR Doc. 02–26995 Filed 10–17–02; 2:17 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Use Licenses, Issuance and Availability of NUREG

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of NUREG–1556, Volume 9, ''Consolidated Guidance About Materials Licenses: Program-Specific

Guidance About Medical Use Licenses.'' This document consolidates guidance on medical licensing into a single, comprehensive source and provides guidance for licensing under revised 10 CFR Part 35, ''Medical Use of Byproduct Material,'' which will be effective on October 24, 2002 (67 FR 20249; April 24, 2002; corrections to rule were published in the **Federal Register** on October 9, 2002; 67 FR 62872). A Summary of Public Comments and NRC Responses will be published as a separate document, Appendix BB to NUREG–1556 Volume 9. These documents will also be available in electronic form on CD-rom.

ADDRESSES: A free single copy of final NUREG–1556, Volume 9, and Appendix BB (on paper or CD-rom), may be requested by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Carrie Brown, Mail Stop T 9–C24, Washington, DC 20555–0001; e-mail: *CXB@nrc.gov;* telephone: (301) 415–8092. Single copies of the documents, in paper form and on CD-rom, are also available for inspection and/or copying for a fee in the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland. NUREG–1556, Volume 9, and Appendix BB will be available on the NRC's website at <*http://www.nrc.gov*> in the electronic reading room and at *http://www.nrc.gov/materials/miau/miau-reg-initiatives/by-product.html.*

FOR FURTHER INFORMATION CONTACT: Roger W. Broseus, Rulemaking and Guidance Branch, M/S T 9–C24, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–7608; e-mail *RWB@nrc.gov.*

SUPPLEMENTARY INFORMATION: On August 25, 1998 (63 FR 45270), NRC announced the availability of draft NUREG–1556, Volume 9, ''Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Use Licenses,'' dated August 1998. This draft document, which was prepared by a team composed of NRC staff and staff from State Departments of Health, was published for public comment in parallel with the proposed revision of Part 35, ''Medical Use of Byproduct Material.'' As a result of comments received on the August 1998 draft, it was revised and published as draft NUREG–1556, Volume 9, ''Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Use Licenses'' (March 2002). The notice of availability of the March 2002 draft was published on April 5, 2002 (67 FR 16467), and input on the guidance was requested. The NRC invited the public to comment on questions pertaining to the level of detail and format in the guidance, model procedures, licensing guidance specific to diagnostic nuclear medicine, and other guidance that should be considered for reference in NUREG–1556, Volume 9, such as additional voluntary industry consensus standards or other publicly available documents. The March 2002 draft NUREG included Appendix Z, which provided a summary of comments on the 1998 draft and NRC responses.

On April 25, 2002, NRC held a public workshop to obtain stakeholder comments on the March 2002 draft, with emphasis on therapeutic applications of byproduct materials. A second public workshop was held on April 30, 2002, to receive stakeholder input on guidance, with emphasis on diagnostic applications of byproduct materials. In addition to the feedback from the workshops, the NRC also received written public comments during a 60-day comment period (April 5 to June 4, 2002). A summary of comments and NRC responses will be published as a separate Appendix BB to NUREG–1556, Volume 9, which will also include the summary of comments and NRC responses on the August 1998 draft NUREG. The staff considered all comments, including constructive suggestions to improve the document, in the preparation of the final NUREG report.

The final version of NUREG–1556, Volume 9, is now available for use by applicants, licensees, NRC license reviewers, and other NRC staff. This document supersedes the guidance previously found in—

(1) Regulatory Guide (RG) 10.8, Revision 2, ''Guide for the Preparation of Applications for Medical Use Programs'';

(2) Appendix X to RG 10.8, Revision 2, ''Guidance on Complying With New Part 20 Requirements'';

(3) Draft RG DG–0009, ''Supplement to Regulatory Guide 10.8, Revision 2, Guide for the Preparation of Applications for Medical Use Programs'';

(4) Draft RG FC 414–4, ''Guide for the Preparation of Applications for Licenses for Medical Teletherapy Programs'';

(5) RG 8.23, ''Radiation Safety Surveys at Medical Institutions, Revision 1'';

(6) RG 8.33, ''Quality Management Program'';

(7) RG 8.39, ''Release of Patients Administered Radioactive Materials'';

(8) Policy and Guidance Directive (P&GD) 03–02, ''Licensing Lixiscope and BMA'';

(9) Policy and Guidance Directive (P&GD) 03–08, ''Standard Review Plan for Teletherapy'';

(10) Policy and Guidance Directive (P&GD) 3–17, ''Review of Training and Experience Documentation Submitted by Proposed Physician User Applicants'';

(11) Policy and Guidance Directive (P&GD) FC 87–2, ''Standard Review Plan for License Applications for the Medical Use of Byproduct Material'';

(12) Policy and Guidance Directive (P&GD) FC 86–4, Revision 1, ''Information Required for Licensing Remote Afterloading Devices'';

(13) Addendum to Revision 1 to P&GD FC 86–4, ''Information Required for Licensing Remote Afterloading Devices—Increased Source Possession Limits'';

(14) Policy and Guidance Directive (P&GD) FC 92–01 ''Information Required for Licensing Mobile Nuclear Medicine Services,'' and

(15) Policy and Guidance Directive (P&GD) 3–15, ''Standard Review Plan for Review of Quality Management Programs.''

Small Business Regulatory Enforcement Fairness Act

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

Dated in Rockville, Maryland, this 15th day of October, 2002.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 02–26830 Filed 10–21–02; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions, granting authority to make appointments under Schedule C in the excepted service as required by 5 CFR 6.1 and 213.103.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedule C between between September 1, 2002 and September 30, 2002. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule C

Commission on Civil Rights

Special Assistant to a Commissioner. Effective September 17, 2002.

Commodity Futures Trading Commission

Special Assistant to a Commissioner. Effective September 25, 2002.

Department of Agriculture

Special Assistant to the Administrator, Farm Service Agency. Effective September 6, 2002.

Confidential Assistant to the Administrator, Rural Housing Service. Effective September 12, 2002.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective September 18, 2002.

Staff Assistant to the Administrator, Risk Management Agency. Effective September 25, 2002.

Director of External Affairs to the Administrator, Risk Management Agency. Effective September 25, 2002.

Staff Assistant to the Administrator, Farm Service Agency. Effective September 30, 2002.

Department of Commerce

Confidential Assistant to the Assistant Secretary for Technology. Effective September 4, 2002.

Department of Defense

Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison. Effective September 4, 2002.

Special Advisor to the Under Secretary of Defense (Policy). Effective September 20, 2002.

Department of Education

Confidential Assistant to the Director, Office of Public Affairs. Effective September 4, 2002.

Special Assistant to the Assistant Secretary for Postsecondary Education. Effective September 12, 2002.

Special Assistant to the Chief of Staff to the Deputy Secretary. Effective September 12, 2002.

Special Assistant to the Assistant Secretary for Postsecondary Education. Effective September 12, 2002.

Special Assistant to the Director, Office of Public Affairs. Effective September 17, 2002.

Department of Energy

Senior Policy Advisor to the Director of Science. Effective September 16, 2002.

Department of Health and Human Services

Special Assistant to the Chief of Staff. Effective September 11, 2002.

Speechwriter to the Deputy Assistant Secretary for Public Affairs. Effective September 25, 2002.

Confidential Assistant to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy). Effective September 26, 2002.

Department of Housing and Urban Development

Special Assistant to the Assistant Secretary for Public Affairs. Effective September 4, 2002.

Media Coordinator to the Assistant Secretary for Public Affairs. Effective September 12, 2002.

Deputy White House Liaison to the Assistant to the Secretary and White House Liaison. Effective September 17, 2002.

Department of the Interior

Special Assistant to the Deputy Secretary. Effective September 26, 2002.

Department of Justice

Chief, Congressional Affairs to the Administrator, Drug Enforcement Administration. Effective September 5, 2002.

Special Assistant to the Director, Community Relations Service. Effective September 10, 2002.

Department of Labor

Special Assistant to the Chief Financial Officer. Effective September 4, 2002.

Chief of Staff to the Assistant Secretary for Disability Employment Policy. Effective September 11, 2002.

Special Assistant to the Assistant Secretary for Disability Employment Policy. Effective September 11, 2002.

Research Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective September 16, 2002.

Senior Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective September 18, 2002.

Deputy Director to the Director, Women's Bureau. Effective September 19, 2002.

Special Assistant to the Assistant Secretary for Mine Safety and Health. Effective September 20, 2002.

Special Assistant to the Secretary of Labor. Effective September 26, 2002.

Department of State

Special Assistant to the Senior Coordinator for International Women's Issues. Effective September 5, 2002.

Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective September 5, 2002.

Special Assistant to the Deputy Assistant Secretary for Academic Exchanges. Effective September 6, 2002.

Senior Advisor to the Assistant Secretary for Educational and Cultural Affairs. Effective September 10, 2002.

Special Assistant to the Director of White House Liaison Staff. Effective September 12, 2002.

Foreign Affairs Officer to the Under Secretary, United States Permanent Representative to the Organization of American States. Effective September 12, 2002.

Foreign Affairs Officer to the Director Policy Planning. Effective September 20, 2002.

Senior Policy Advisor to the Assistant Secretary for Diplomatic Security, Bureau of Diplomatic Security. Effective September 25, 2002.

Department of Transportation

Senior Advisor to the Administrator, Federal Aviation Administrator. Effective September 17, 2002.

Department of the Treasury

Senior Advisor for Latin America and Caribbean Nations to the Assistant Secretary, International Affairs. Effective September 6, 2002.

Special Assistant to the Executive Secretary. Effective September 30, 2002.

Environmental Protection Agency

Program Advisor (Publications) to the Associate Administrator. Effective September 5, 2002.

Senior Advisor to the Chief Financial Officer. Effective September 17, 2002.

Federal Emergency Management Agency

Assistant Division Director to the Director, Congressional and Intergovernmental Affairs Division. Effective September 17, 2002.

General Services Administration

Confidential Assistant to the Chief of Staff. Effective September 5, 2002.

Senior Advisor to the Regional Administrator, Region 4, Atlanta, GA. Effective September 12, 2002.

National Credit Union Administration

Staff Assistant to a Board Member. Effective September 18, 2002.

President's Commission on White House Fellowships

Associate Director to the Executive Director of the President's Commission on White House Fellowships. Effective September 6, 2002.

Securities and Exchange Commission

Confidential Assistant to a Commissioner. Effective September 12, 2002.

Confidential Assistant to a Commissioner. Effective September 24, 2002.

Small Business Administration

Press Secretary to the Associate Administrator for Communications and Public Liaison. Effective September 10, 2002.

Special Assistant to the Administrator for Field Operations Restructuring. Effective September 12, 2002.

Regional Administrator, Region III, Philadelphia, PA to the Administrator, Small Business Administration. Effective September 17, 2002.

Social Security Administration

Special Assistant to the Chief of Staff. Effective September 6, 2002.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–26799 Filed 10–21–02; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of FFP Partners, L.P., To Withdraw Its Class A Units of Limited Partnership Interests From Listing and Registration on the American Stock Exchange LLC File No. 1–09510

October 16, 2002.

FFP Partners, L.P., a Delaware limited partnership (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Class A Units of Limited Partnership Interests Common Stock (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the state of Delaware, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Board of Trustees (''Board'') of the Issuer approved resolutions on September 26, 2002 to withdraw the Issuer's Security from listing on the Amex. In making its decision to withdraw the Issuer's Security from the Exchange, the Board considered the low number of record holders, the erratic and thin trading of the securities and the burden on the Issuer's resources due to the costs associated with maintaining the listing requirements for its Security.

The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and from registration under Section 12(b) of the Act[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before November 6, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–26827 Filed 10–21–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25768; 813–240]

GDC Partners Fund, LLC, et al.; Notice of Application

October 15, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (''Act'') exempting applicant from all provisions of the Act and the rules and regulations under the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (f), (g), and (j)), section 30 (except for certain provisions of paragraphs (a), (b), (e), and (h)), and section 36 through 53, and the rules and regulations under those sections.

SUMMARY OF APPLICATION: Applicants request an order to exempt certain limited liability companies and other entities formed for the benefit of eligible current and former employees of Gibson, Dunn & Crutcher LLP (''GDC'') and its affiliates from certain provisions of the Act. Each such entity will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act.

APPLICANTS: GDC Partners Fund, LLC (''Fund'') and GDC.

FILING DATES: The application was filed on March 6, 2000, and amended on October 15, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 11, 2002, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicant, 333 South Grand Avenue, Los Angeles, CA 90071.

FOR FURTHER INFORMAITON CONTACT: John L. Sullivan, Senior Counsel, at (202)

942–0681, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Fund is a Delaware limited liability company formed pursuant to a limited liability company agreement (''Investment Fund Agreement''). The applicants may in the future offer additional pooled investment vehicles identical in all material respects (other than form of organization, investment objective and strategy) to the Fund (each, a ''Subsequent Fund'') (together, the Fund and the Subsequent Fund are sometimes referred to as the ''Investment Funds''). The applicants anticipate that each Subsequent Fund will also be structured as a limited liability company, although a Subsequent Fund could be structured as a domestic or offshore general partnership, limited partnership or corporation. Each Investment Fund will operate as a non-diversified, closed-end management investment company.

2. The Fund was established to enable the Eligible Investors (as defined below) to participate in certain investment opportunities that come to the attention of GDC, a law firm organized as a California limited liability partnership. The investment opportunities may include separate accounts with registered and unregistered investment advisers, investments in other pooled investment vehicles such as registered investment companies, investment companies exempt from registration under the Act, commodity pools, and other securities investments (each particular investment being referred to herein as an ''Investment.''). Participation as investors in an Investment Fund will allow the Eligible Investors, as defined below, who are members of the Investment Fund (each, a ''Member'') to diversify their investments and to have the opportunity to participate in investments that might not otherwise be available to them or that might be beyond their individual means.

3. Interests in an Investment Fund (''Units'') will be offered and sold in reliance upon the exemption from registration under the Securities Act of 1933 (the ''Securities Act'') contained in Section 4(2) of the Securities Act or Regulation D under the Securities Act. Units will be offered only to GDC, any entity controlling, controlled by, or under common control with GDC (''GDC Entity'') or persons (each an ''Eligible Investor'') who meet the following criteria: (a) Current or former partners of, or key administrative employees of, GDC or a GDC Entity (''Eligible Employees''), the immediate family members of Eligible Employees, which are parents, children, spouses of children, spouses, and siblings, including step or adoptive relationships (''Immediate Family Members''), and trusts or other entities the sole beneficiaries of which consist of Eligible Employees or their Immediate Family Members (''Eligible Trusts''); and (b) who are (i) ''accredited investors'' as that term is defined in Regulation D under the Securities Act, and (ii) sophisticated in investment matters. Any GDC Entity that acquires interests in an Investment Fund will be an accredited investor.

4. An Eligible Employee or Immediate Family Member must meet the standards of an ''accredited investor'' in rule 501(a)(5) or 501(a)(6) of Regulation D under the Securities Act, and an Eligible Trust must be an accredited investor under rule 501(a) of Regulation D. An Eligible Investor must have sufficient knowledge, sophistication and experience in business and financial matters to be capable of evaluating the merits and risk of an investment in an Investment Fund and be able to bear the economic risk of such investment and to afford a complete loss of such investment.

5. An Investment Fund will have an investment committee (''Investment Committee'') which will consist of not less than two persons (''Managers''), all of whom will also be Members. The chief function of the Investment Committee will be to review and select Investments for the Investment Fund.

6. The specific investment objectives and strategies for a particular Investment Fund will be set forth in an informative memorandum relating to the Units offered by the Investment Fund, and each Eligible Investor will receive a copy of the informative memorandum before making an investment in the Investment Fund. The terms of an Investment Fund will be disclosed to each Eligible Investor at the time the investor is invited to participate in the Investment Fund. Each Investment Fund will send its Members an annual report regarding its operations. The annual report of the Investment Fund will contain audited financial statements. In addition, the Investment Fund will transmit a report to each Member setting out information with respect to the Member's distributive share of income, gains, losses, credits and other items for federal income tax purposes, resulting from the operation of the Investment Fund during that year.

7. Members will not be entitled to redeem their respective interests in an Investment Fund. A Member will be permitted to transfer his or her interest only with the express consent of the Managers and then only to a GDC Entity or an Eligible Investor. No fee of any kind will be charged in connection with the sale of Units of an Investment Fund.

8. The Investment Fund Agreement provides that the Managers may require a Member to withdraw from the Fund if they, in their sole discretion, deem such withdrawal in the best interest of the Investment Fund. Upon withdrawal, a Member will be paid at least the lesser of (a) the amount actually paid by the Member to acquire the Units, or (b) the fair market value of the Units determined in good faith by the Managers.

9. An Investment Fund will not acquire any security issued by a registered investment company if immediately after the acquisition, the Investment Fund would own more than 3% of the total outstanding voting stock of the registered investment company.

10. Administration of each Investment Fund will be vested in the Managers. The Investment Fund Agreement provides that the Fund will bear its own expenses or that such expenses shall be borne by GDC. An Investment Fund may reimburse GDC for direct costs of disbursements and expenses incurred by GDC on behalf of the Investment Fund. No management fee or other compensation will be paid by the Investment Fund or the Members to the Managers or the Investment Committee.

11. An Investment Fund will not borrow from any person if the borrowing would cause any person not named in section 2(a)(13) of the Act to own any outstanding securities of the Investment Fund (other than short-term paper). All borrowings by an Investment Fund with respect to the funding of Investments will be non-recourse to the Members but generally will be secured by a pledge of the Members' respective capital accounts and unfunded capital commitments. If GDC or a GDC entity makes a loan to an Investment Fund, the lender will be entitled to receive interest at a rate that is permissible under applicable banking or tax regulations, provided that the rate will be no less favorable to the borrower than the rate obtainable on an arm's length basis.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will give due weight to, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, the disposition of the proceeds of the securities issued by the company, the character of securities in which those proceeds will be invested, and the existence of any relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities (other than short-term paper) are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under section 6(b) and 6(e) of the Act exempting an Investment Fund from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), and sections 36 through 53 of the Act, and the rules and regulations under those sections.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) to permit an Investment Fund (a) to invest in companies, partnerships or other investment vehicles offered, sponsored or managed by GDC or any affiliated person as defined in section 2(a)(3) of the Act, (b) to invest in securities of issuers for which GDC or any affiliated person thereof may perform or have performed legal services and from which they may have received fees, (c) to purchase interests in any company or other investment vehicle (i) in which GDC or its partners or employees owns 5% or more of the voting securities, or (ii) that is otherwise an affiliated person of the Investment Fund or GDC; and (d) to participate as a selling securityholder in a public offering in which GDC or any affiliated person thereof acts as or represents as counsel a member of the selling group or the issuer or underwriter of such securities.

4. Applicants state that the exemption sought from section 17(a) is consistent with the protection of investors and the purposes of the Act. Applicants state that the Members will be informed of the possible extent of the dealings by the issuer of such Investments and its sponsors with GDC or any affiliated person thereof. Furthermore, since the Members are experienced professionals acting on behalf of financial services businesses, they will be able to evaluate the risks associated with such dealings. Applicants also assert that the community of interest among the Members and GDC will serve to reduce any risk of abuse in transactions involving an Investment Fund and GDC or any affiliated person thereof.

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from participating in any joint enterprise, or other joint arrangement, with the company, unless approved by the Commission. Applicants request relief to permit an Investment Fund to engage in transactions in which an affiliated person of the Investment Fund or an affiliated person of such person participates as a joint or a joint and several participant with the Investment Fund.

6. Applicants submit that strict compliance with section 17(d) would cause an Investment Fund to forego investment opportunities simply because a Member, GDC or other affiliated persons of the Investment Fund also had or contemplated making a similar investment. Applicants also contend that because certain attractive investment opportunities require that each participant make available funds in an amount that may be substantially greater than that available to the investor alone, there may be certain attractive opportunities of which an Investment Fund may be unable to take advantage except as a co-participant with other persons, including affiliates. Applicants assert that the flexibility to structure co-investments and joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent.

7. The Investment Funds may be given the opportunity to co-invest with entities to which GDC provides, or has provided services, and from which it may have received fees, but which are not affiliated persons of the Fund or GDC or affiliated persons of such affiliated persons. Applicants believe that such entities should not be treated as Co-Investors (as defined below) for purposes of condition 4 below. When such entities permit others to co-invest with them, it is common for the transaction to be structured such that all investors have the opportunity to dispose of their investment at the same time. It is important to GDC that the interests of its clients take priority over the interests of the Investment Funds and that the activities of its clients not be burdened by activities of the Investment Funds. In addition, applicants assert that the relationship of an Investment Fund to a client of GDC is fundamentally different from such Investment Fund's relationship to GDC and its affiliated persons. Applicants contend that the focus of, and the rationale for, the protections contained in the requested relief are to protect the Investment Funds from overreaching by GDC and its affiliated persons, whereas the same concerns are not present with respect to the Investment Funds vis-à-vis unaffiliated persons of GDC or the Investment Fund who are clients of GDC.

8. Section 17(f) of the Act requires a registered investment company to place and maintain its securities only in the custody of certain qualified custodians.

Applicants request an exemption from the requirements contained in section 17(f) and in rule 17f–2 thereunder to permit the following exceptions from rule 17f–2: (a) Compliance with paragraph (b) of the rule may be achieved through safekeeping in the locked files of GDC or of a partner of GDC; (b) for purposes of paragraph (d) of the rule, (i) employees of GDC will be deemed to be employees of the Investment Funds, (ii) the Managers of an Investment Fund will be deemed to be officers of such Investment Fund and (iii) the Managers of an Investment Fund will be deemed to be board of directors of such Investment Fund, and (c) instead of the verification procedure under paragraph (f) of the rule,

verification will be effected quarterly by two employees of GDC. Applicants expect that many of the Investment Funds' investments will be evidenced only by partnership agreements or similar documents, rather than by negotiable certificates that could be misappropriated. Applicants assert that these instruments are most suitably kept in GDC's files, where they can be referred to as necessary.

9. Section 17(g) of the Act and rule 17g–1 under the Act generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that certain persons, none of whom is an interested person of an Investment Fund (as defined in section 2(a)(19) of the Act), take certain actions and make certain approvals concerning bonding. Applicants request exemptive relief so that such actions and approvals required to be taken may be taken by the Managers regardless of whether they are deemed to be an ''interested person'' of an Investment Fund, as each is likely to be considered an interested person of the Investment Fund. Applicants could not comply with rule 17g–1 absent such relief. Applicants also request an exemption from the requirement contained in rule 17g–1 that an investment company must have a majority of directors who are not ''interested persons'' of the company, that those disinterested persons select and nominate any other disinterested directors, and that any legal counsel of such disinterested persons be independent.

10. Section 17(j) of the Act and paragraph (b) of rule 17j–1 under the Act make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that each registered investment company to adopt a written code of ethics and to monitor all transactions of each access person of such investment company. Applicants request an exemption from the provisions of rule 17j–1, except for the antifraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to an Investment Fund. Requiring an Investment Fund to adopt a written code of ethics and requiring access persons to report each of their securities transactions would be time-consuming and expensive and would serve little purpose in light of, among other things, the community of interests among the Members of the Investment Fund by virtue of their common association with GDC.

11. Applicants request an exemption from the requirements in sections 30(a), 30(b) and 30(e) of the Act, and the rules and regulations thereunder, that registered investment companies file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevance to an Investment Fund and would entail administrative and legal costs that outweigh any benefit to the Members. Applicants request exemptive relief to the extent necessary to permit an Investment Fund to report annually to its Members in the manner described in the application. Applicants also request an exemption from section 30(h) of the Act to the extent necessary to exempt the Managers and any other persons who may be deemed to be members of an advisory board of an Investment Fund from filing Forms 3, 4 and 5 under section 16 of the Securities Exchange Act of 1934, as amended (''Exchange Act''), with respect to their ownership of Units in the Investment Fund. Applicants assert that, because there is no trading market for Units and the transferability of Units is severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to file them.

Applicants' Conditions

1. Each proposed transaction, to which an Investment Fund is a party, otherwise prohibited by section 17(a) or section 17(d) and rule 17d–1 (the ''Section 17 Transactions'') will be effected only if the Investment Committee determines that (a) the terms of the transaction, including the consideration to be paid or received, are fair and reasonable to Members of the Investment Fund and do not involve overreaching of the Investment Fund or its Members on the part of any person concerned, and (b) the transaction is consistent with the interests of the Members of the Investment Fund, the Investment Fund's organizational documents and the Investment Fund's reports to its Members.

In addition, the Investment Committee will record and preserve a description of such Section 17 Transactions, the findings of the Investment Committee, the information or materials upon which the findings are based, and the basis therefore. All such records will be maintained for the life of the Investment Fund and at least two years thereafter and will be subject to examination by the Commission and its staff. All such records will be maintained in an easily accessible place for at least the first two years.

2. The Investment Committee will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Investment Fund or any affiliated person of such person, promoter or principal underwriter.

3. An Investment Fund will maintain and preserve, for the life of the Investment Fund and at least two years thereafter, such accounts, books and other documents constituting the record forming the basis for the audited financial statements and annual reports of the Investment Fund to be provided to the Members, and agrees that all such records will be subject to examination by the Commission and its staff. All such records will be maintained in an easily accessible place for at least the first two years.

4. The Investment Committee will not purchase for an Investment Fund any investment in which a Co-Investor (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer, where the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Investment Fund and the Co-Investor are participants, unless any such Co-Investor, prior to disposing of all or part of its investment, (a) gives the Investment Fund holding such investment sufficient, but not less than one day's, notice of its intent to dispose of its investment, and (b) refrains from disposing of its investment unless the Investment Fund holding such investment has the opportunity to dispose of its investment prior to or concurrently with, on the same terms as, and on a *pro rata* basis with the Co-Investor. The term ''Co-Investor'' with respect to the Investment Fund means any person who is (a) an affiliated person of the Investment Fund, (b) GDC and any GDC Entity, (c) a current or former partner or employee of GDC or a GDC Entity, (d) a company in which a member of the Investment Committee, GDC or a GDC Entity acts as an officer, director, or general partner, or has a similar capacity to control the sale or disposition of the company's securities, or (e) an investment vehicle offered, sponsored, or managed by GDC.

The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by a Co-

Investor (a) to its direct or indirect wholly owned subsidiary, to any company (a ''Parent'') of which the Co-Investor is a direct or indirect wholly owned subsidiary, or to a direct or indirect wholly owned subsidiary of its Parent, (b) to immediate family members of the Co-Investor or a trust established for the benefit of any such family member, (c) when the investment is comprised of securities that are listed on a national securities exchange registered under section 6 of the Exchange Act, or (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 thereunder.

5. An Investment Fund will send to each Member who had an interest in the Investment Fund at any time during the fiscal year then ended, financial statements audited by the Investment Fund's independent accountants. At the end of each fiscal year, the Investment Committee will make a valuation or have a valuation made of all of the assets of the Investment Fund as of such fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Investment Fund. In addition, within 90 days after the end of each fiscal year of the Investment Fund or as soon as practicable thereafter, the Investment Fund will send a report to each person who was a Member at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Member of his or her federal and state income tax returns and a report of the investment activities of the Investment Fund during such year.

6. In any case where purchases or sales are made from or to an entity affiliated with an Investment Fund by reason of a 5% or more investment in the entity by GDC, a GDC Entity or a GDC or GDC Entity's partner or employee, such individual will not participate in the Investment Committee's determination of whether or not to effect the purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration (Hemagen Diagnostics, Inc. Common Stock, $.01 par value) From the Boston Stock Exchange, Inc. File No. 1–11700

October 16, 2002.

Hemagen Diagnostics, Inc., a Delaware corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.01 par value (''Security''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The Issuer stated in its application that it has complied with the Rules of the BSE that govern the removal of securities from listing and registration and all applicable laws in effect in the State of Delaware, in which it is incorporated.

On September 6, 2002, the Board of Directors (''Board'') of the Issuer approved a resolution to withdraw the Company's Security from listing on the Exchange. In making the decision to withdraw the Security from listing and registration on the BSE, the Issuer's Board considered the relative liquidity provided by the BSE versus other securities exchanges and the cost associated with maintaining multiple listings. The Issuer stated in its application that the Security is currently traded on the Nasdaq SmallCap Market. The Issuer represented that it will maintain its listing on the Nasdaq SmallCap Market.

The Issuer's application relates solely to the Security's withdrawal from listing on the BSE and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before November 6, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–26826 Filed 10–21–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27578]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

October 16, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 12, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After November 12, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

PG&E Corporation, et al. (70–10047)

PG&E Corporation (''PG&E Corp.''), a holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2, One Market, Spear

Tower, Suite 400, San Francisco, California 94105, Pacific Gas and Electric Company (''PG&E''), a direct public-utility company subsidiary of PG&E Corp., Newco Energy Corporation (''Newco''), a direct nonutility subsidiary of PG&E, Electric Generation LLC (''Gen''), a direct nonutility subsidiary of Newco, all at 77 Beale Street, San Francisco, California 94177, have filed an application with the Commission under sections 9(a)(2) and 10 of the Act.

On April 6, 2001, PG&E filed a petition under chapter 11 of the U.S. Bankruptcy Code. On September 20, 2001, PG&E Corp. and PG&E (collectively, ''Proponents'') jointly submitted to the United States Bankruptcy Court for the Northern District of California (''Bankruptcy Court'') a plan of reorganization for PG&E. The Proponents subsequently amended that plan (as amended, ''Plan''). PG&E is a debtor-in-possession, and continues to provide all of the electric generation, electric transmission, gas transmission, and gas and electric local distribution services that it did before, except that it is not able to purchase power to supply its net open position and is only able to make infrastructure investments. PG&E Corp., Newco, and Gen (collectively, ''Applicants'') request authority to effect certain transactions, described below, as set forth in the Plan.[1]

I. Description of the Applicants

PG&E Corp., a California corporation, became the holding company of PG&E on January 1, 1997. Through other subsidiaries, PG&E Corp. is engaged in a number of nonutility businesses.[2] PG&E Corp.'s common stock and related preferred stock purchase rights are publicly traded on the New York Stock Exchange.

Newco was incorporated under the laws of the State of California on October 19, 2001. It is a wholly owned, direct subsidiary of PG&E. Newco is the sole member of three limited liability companies: ETrans LLC (''ETrans''); Gen; and GTrans LLC (''GTrans''). Currently, Gen is an inactive nonutility subsidiary that owns all of the outstanding ownership interests of twenty-seven limited liability companies (collectively, ''GenSub LLCs'').[3] The GenSub LLCs are California limited liability companies formed on October 30, 2001.

PG&E, a California corporation, is a public-utility company engaged principally in the business of providing regulated electricity and natural gas distribution and transmission services throughout most of northern and central California. Currently, all of the outstanding shares of common stock of PG&E are held directly or indirectly by PG&E Corp.[4] In addition, PG&E has a number of series of publicly held preferred stock outstanding. The company's service territory covers approximately 70,000 square miles, and includes all or a portion of forty-eight of California's fifty-eight counties. As of December 31, 2001, PG&E employed approximately 19,000 people. PG&E's generation facilities consist primarily of hydroelectric and nuclear generating plants, and have an aggregate net operating capacity of approximately 6,649 megawatts (''MW''). As of December 31, 2000, PG&E owned approximately 18,648 miles of interconnected transmission lines of 60 kilovolts (''kV'') to 500 kV and transmission substations having a capacity of approximately 7,091 megavolt-amperes (''MVa''). PG&E distributes electricity to its customers through approximately 116,460 circuit miles of distribution system and distribution substations having a capacity of approximately 24,894 MVa. PG&E relinquished operational control, but not ownership, of its electric transmission facilities to the California Independent System Operator (''Cal-ISO'').[5] PG&E also owns and operates a gas transmission, storage and distribution system in California. As of December 31, 2001, PG&E's gas system consisted of approximately 6,254 miles of transmission pipelines, three gas storage facilities, and 38,410 miles of gas distribution lines. PG&E's peak send-out of gas on its integrated system in California during the year ended December 31, 2001, was 3,793 million cubic feet (''MMcf''). The total volume of gas throughput during 2001 was approximately 916,635 MMcf of which 270,556 MMcf was sold to direct end-use or resale customers and 646,079 MMcf was transported as customer-owned gas. As of December 31, 2001, PG&E served approximately 3.9 million gas customers.

Currently, the Federal Energy Regulatory Commission (''FERC'') regulates PG&E's electric transmission rates and access, interconnections, operation of the Cal-ISO, and terms and rates of wholesale electric power sales. In addition, most of PG&E's hydroelectric facilities operate in accordance with licenses issued by FERC. The Nuclear Regulatory Commission (''NRC'') oversees the licensing, construction, operation and decommissioning of nuclear facilities, including PG&E's Diablo Canyon Power Plant (''DCPP'') and the retired Humboldt Bay Power Plant Unit 3. The CPUC has jurisdiction to set retail rates and conditions of service for PG&E's electric distribution, gas distribution and gas transmission services in California. The CPUC also has jurisdiction over PG&E's sales of securities, dispositions of utility property, energy procurement on behalf of its electric and gas retail customers, and certain aspects of PG&E's siting and operation of its electric and gas transmission and distribution systems. In addition, the California Energy Commission has jurisdiction over the siting and construction of new thermal electric generating facilities fifty MW and greater in size.

II. The Plan

As of November 30, 2001, the total allowed claims against PG&E was $13.135 billion. The Plan provides that PG&E pay its creditors $3.92 billion in cash that it currently has on hand and, as discussed below, finance the remaining $9.215 billion through asset sales, issuances of new securities and replacement mortgage bonds, and continuations of existing debt.

A. Asset Sales

Under the Plan, PG&E's four distinct lines of business—electric transmission; electric generation; gas transmission;

[1] To date, the Bankruptcy Court has not approved the Plan or any other proposed plan to reorganize PG&E, including the plan submitted by the California Public Utilities Commission (''CPUC'').

[2] These nonutility subsidiaries are organized under its wholly owned direct subsidiary, PG&E National Energy Group LLC (''PG&E NEG'').

[3] The GenSub LLCs are: Diablo Canyon LLC; Mokelumne River Project LLC; Rock Creek-Cresta Project LLC; Haas-Kings River Project LLC; Crane Valley Project LLC; Pit 1 Project LLC; Hat Creek 1 and 2 Project LLC; Poe Project LLC; Pit 3, 4 and 5 Project LLC; Upper NF Feather River Project LLC; Spring Gap-Stanislaus Project LLC; Kern Canyon Project LLC; Kilarc-Cow Creek Project LLC; Chili Bar Project LLC; Desabla-Centerville Project LLC; McCloud-Pit Project LLC; Drum-Spaulding Project LLC; Merced Falls Project LLC; Bucks Creek Project LLC; Potter Valley Project LLC; Phoenix Project LLC; Kerckhoff 1 and 2 Project LLC; Narrows Project LLC; Balch 1 and 2 Project LLC; Helms Project LLC; Battle Creek Project LLC; and Tule River Project LLC.

[4] PG&E Corp. holds approximately ninety-four percent of PG&E's common stock directly and approximately six percent indirectly through PG&E Holdings LLC (''PG&E Holdings''), a wholly-owned subsidiary of PG&E.

[5] The Cal-ISO controls the operation of the California transmission system, is responsible for assuring the reliability of the electric system, provides open access transmission service on a nondiscriminatory basis, has responsibility for meeting applicable reliability criteria, planning transmission additions and assuring the maintenance of adequate reserves, and is subject to tariffs filed with the FERC.

and gas and electric distribution—would be structurally separated by dividing PG&E's assets and liabilities. PG&E would transfer, among other things, its electric transmission assets to ETrans in exchange for approximately $400 million in cash [6] and approximately $650 million in long-term notes issued to PG&E for transfer to its creditors.[7]

In exchange for approximately $850 million in cash [8] and approximately $1,550 million in long-term notes issued to PG&E for transfer to its creditors,[9] PG&E would transfer, among other things, most of its electric generation assets to the GenSub LLCs.

PG&E would transfer, among other things, certain gas transmission assets, to GTrans in exchange for $400 million in cash [10] and $500 million in long-term notes issued to PG&E for transfer to its creditors.[11]

B. Other Financing

1. Under the Plan, PG&E would issue approximately $3,706 million in new long-term notes to the public or to third parties in private offerings. PG&E would also issue new mortgage bonds to replace existing mortgage bonds. In addition, certain existing debts of PG&E would remain in place, for which PG&E would be responsible.

C. Asset and Debt Allocation

The Plan provides that: ETrans acquire 8.9% of PG&E's assets and assume 11.4% of its debt; Gen acquire 29.7% of PG&E's assets and assume twenty-six percent of its debt; and GTrans acquire 7.8% of PG&E's assets and assume 9.8% of its debt. Correspondingly, PG&E would retain 53.5% of its assets and be responsible for 52.8% of its debt.

III. The Reorganization

After its electric generation, electric transmission, and gas transmission assets are transferred, PG&E would dividend to PG&E Corp. all of its stock in Newco, and PG&E Corp. would dividend to its shareholders all of the common stock of PG&E (collectively, ''Reorganization'').[12] After the Reorganization, PG&E (''Reorganized PG&E'') would no longer be an associate company with respect to ETrans, Gen, or GTrans. Applicants project, on a pro forma basis, that the common equity of PG&E Corp., as a percentage of its total capitalization, would be 21.1% as of December 31, 2002.

In accordance with lease agreements between the GenSub LLCs and their parent company, Gen would operate its subsidiaries' facilities.[13] Consequently, upon receipt by the GenSub LLCs of PG&E's utility assets, Gen would be a public-utility company within the meaning of the Act by virtue of its operation of those assets. Under the Plan, Gen and PG&E would enter into a Master Power Purchase and Sales Agreement (''PSA''). The PSA provides that, for twelve years, Gen sell and Reorganized PG&E purchase the capacity, energy and other electrical products from Gen's facilities and procured by Gen under its certain contracts. Applicants state that they are seeking approval from the FERC for the proposed market-based rates provided for by the PSA. Under the PSA, Reorganized PG&E would have the right to dispatch (*i.e.*, direct the timing and level of operation) the facilities within legal and contractual constraints so that the output is delivered primarily when Reorganized PG&E needs it to serve its customers. The GenSub LLCs may also be public-utility companies by virtue of their direct ownership of generating facilities,[14] in which case Gen would also be a ''holding company'' as a result of its ownership of all the outstanding ownership interests in the GenSub LLCs.[15] Applicants also state that Gen would claim exemption by rule 2 from registration under section 3(a)(1) of the Act. Applicants state that, after the Reorganization, the FERC would have license and operating jurisdiction over most of the hydroelectric facilities and rate jurisdiction over the sale of the output of Gen and its subsidiaries, and the NRC would continue its jurisdiction over the operations of the Diablo Canyon Power Plant. Applicants project, on a pro forma basis, that the common equity of Gen, as a percentage of its total capitalization, would be −97.2% as of December 31, 2002.

ETrans would be a public-utility company as a result of its ownership and operation of transmission assets. Applicants state that the FERC would continue to have jurisdiction over the rates, terms and conditions for all transmission and transmission-related services provided by ETrans. They also state that the FERC would have jurisdiction over ETrans' participation in the Cal-ISO or any future FERC-approved Western regional transmission organizations that would have operating control over ETrans' transmission assets under FERC tariffs. Applicants project, on a *pro forma* basis, that the common equity of ETrans, as a percentage of its total capitalization, would be 33.8% as of December 31, 2002.

PG&E Corp. and Newco would also be ''holding companies,'' within the meaning of the Act, as a result of holding ownership interests in ETrans, Gen, the GenSub LLCs and, in the case of PG&E Corp., Newco. Applicants state that PG&E Corp. would continue to claim exemption,[16] and Newco would claim exemption, from registration by rule 2 under section 3(a)(1) of the Act. Applicants state that, with the exception of GTrans,[17] PG&E Corp. would continue to own its existing nonutility businesses through PG&E NEG.

Reorganized PG&E would continue to provide gas and electric distribution services using assets that it currently owns. PG&E's preferred stock would remain in place as the preferred stock of Reorganized PG&E. Applicants state that the CPUC would continue to have jurisdiction over Reorganized PG&E's retail electric and gas distribution assets, rates, and services. Applicants project, on a *pro forma* basis, that the common equity of Reorganized PG&E, as a percentage of its total capitalization, would be 44.4% as of December 31, 2002.

IV. Summary of Proposed Transactions

Applicants request authority for: (1) Gen to acquire directly the GenSub LLCs; (2) Newco to acquire directly Gen and ETrans, and to acquire indirectly the GenSub LLCs; and (3) PG&E Corp. to acquire directly Newco, and acquire indirectly Gen, and the GenSub LLCs

[6] Applicants state that ETrans would raise this cash by selling long-term notes to the public or to third parties in private offerings.

[7] Applicants state that the allocation between cash and notes may change based on market conditions and other factors.

[8] Applicants state that Gen, the parent of the GenSub LLCs, would raise this cash by selling long-term notes to the public or to third parties in private offerings.

[9] See above, at n. 7.

[10] Applicants state that GTrans would raise this cash by selling long-term notes to the public or to third parties in private offerings.

[11] See above, at n. 7.

[12] PG&E Holdings LLC would retain its ownership of approximately six percent of PG&E's outstanding common shares.

[13] The term of each lease is for as long as each GenSub LLC holds a license issued by the FERC to operate (or by the NRC to possess, use or operate) its facility.

[14] Applicants argue that the GenSub LLCs would not be ''public-utility companies'' within the meaning of the Act but, alternatively, request authority for Gen to acquire them directly and Newco and PG&E Corp. to acquire them indirectly.

[15] *See supra,* at n. 8.

[16] On July 5, 2001, the California Attorney General filed a petition requesting that the Commission terminate PG&E Corp.'s claimed exemption and require that PG&E Corp. register under section 5 of the Act or modify the company's exemption to ensure compliance with California law.

[17] GTrans would not be a public-utility company within the meaning of the Act because, according to Applicants, it would provide only gas transmission services.

indirectly.[18] If necessary, Applicants also request authority for PG&E to acquire ETrans and Gen on an interim basis, between the time that utility assets are transferred to ETrans and Gen and the Reorganization is completed.[19]

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26825 Filed 10–21–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITES AND EXCHANGE COMMISSION

[Release No. IC–25769; File No. 812–12873]

London Pacific Life & Annuity Company; Notice of Application

October 16, 2002.

AGENCY: The Securities and Exchange Commission (''SEC or Commission'').

ACTION: Notice of application for an Order of approval pursuant to section 26(c) and Order of exemption pursuant to Sections 6(c) and 17(b) of the Investment Company Act of 1940 (''1940 Act'').

Applicants: London Pacific Life & Annuity Company, LPLA Separate Account One and LPT Variable Insurance Series Trust (collectively, the ''Applicants'').

SUMMARY: Applicants seek an order approving the substitution of the shares of the portfolios (''Replaced Portfolios'') of the LPT Variable Insurance Series Trust (the ''LPT Trust'') with shares of certain portfolios (''Substituting Portfolios'') of the MFS(R) Variable Insurance Trust (''MFS Trust'') as follows: (1) Shares of the RS Diversified Growth Portfolio with shares of the MFS New Discovery Series; (2) shares of the Harris Associates Value Portfolio with shares of the MFS Value Series; (3) shares of the LPA Core Equity Portfolio with shares of the MFS Value Series; (4) shares of the Strong Growth Portfolio with shares of the MFS Investors Growth Stock Series; and (5) shares of the MFS Total Return Portfolio with shares of the MFS Total Return Series. Applicants also seek an order of exemption pursuant to section 17(b) of the 1940 Act to permit certain in-kind redemptions and purchases in connection with the substitution.

DATES: The initial Application was filed on August 23, 2002. The amended and restated application was filed on October 2, 2002.

Hearing or Notification of Hearing: An order granting the amended and restated application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 6, 2002, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Lynn K. Stone, Blazzard, Grodd & Hasenauer, P.C., PO Box 5108, Westport, Connecticut, 06881. Copies to George C. Nicholson, London Pacific Life & Annuity Company, 3101 Poplarwood Court, Raleigh, North Carolina, 27604.

FOR FURTHER INFORMATION CONTACT: Curtis A. Young, Senior Counsel, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the amended and restated application. The complete amended and restated application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549, (tel. (202) 942–8090).

Applicants' Representations

1. London Pacific Life & Annuity Company (''London Pacific'') was organized in 1927 in North Carolina as a stock life insurance company. London Pacific is authorized to sell life insurance and annuities in 40 states and the District of Columbia. London Pacific's ultimate parent is London Pacific Group Limited, an international fund management firm chartered in Jersey, Channel Islands.

2. On July 3, 2002, the Commissioner of Insurance (''Commissioner'') of the North Carolina Department of Insurance issued an order (''Summary Order'') declaring that London Pacific was under the supervision of the Commissioner. The Summary Order requires London Pacific to obtain prior written approval from the Commissioner before undertaking a number of various actions. Supplementary Instructions issued by the Commissioner, effective July 9, 2002, require London Pacific to make certain reports to the Commissioner or its representative and to limit payment to affiliates. The Supplementary Instructions also require that certain transactions are to be expressly approved by the North Carolina Department of Insurance during the period of supervision of London Pacific unless London Pacific is subsequently otherwise notified. On August 6, 2002, an Order of Rehabilitation and Preliminary Injunction was issued in the Superior Court of Wake County, North Carolina. The Commissioner was appointed as Rehabilitator of London Pacific. As Rehabilitator, the Commissioner is authorized to take possession of all of London Pacific's assets and properties, and continue to operate their businesses and manage their properties as deemed appropriate, pursuant to applicable North Carolina Insurance Law.

3. LPLA Separate Account One (''Separate Account'') is a segregated asset account of London Pacific. The Separate Account was established by London Pacific on November 21, 1994, under North Carolina insurance laws. The Separate Account is used to fund certain Contracts issued by London Pacific. The Separate Account is divided into subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. The Separate Account is registered as a unit investment trust under the 1940 Act.

4. The Separate Account supports certain variable annuity contracts (collectively, the ''Contracts'') issued by London Pacific. As of May 1, 2002, the Contracts are no longer available for new sales and existing Owners are not permitted to make additional contributions to the Contracts. Each of the Contracts gives London Pacific the right to substitute one or more underlying mutual funds or portfolios for others. These contractual provisions have also been disclosed in the prospectuses relating to the Contracts.

5. The LPT Trust was established as a Massachusetts business trust on January 23, 1995. The LPT Trust is comprised of five separate series (''Portfolios'' or ''Replaced Portfolios''). The LPT Trust is registered as an open-end management investment company under the 1940 Act (File No. 811–8960) and its shares are registered as securities under the 1933 Act (File No. 033–

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[18] *See supra,* at n.8.

[19] Applicants also state that, if necessary, PG&E will claim exemption from registration by rule 2 under the Act for the interim period during which it will hold all of the ownership interests in Newco.

88792). The shares of the LPT Trust are sold exclusively to the Separate Account of London Pacific to fund benefits under the Contracts. LPIMC Insurance Marketing Services (''LPIMC'') is the investment adviser for the LPT Trust. LPIMC is a wholly-owned subsidiary of London Pacific. LPIMC has engaged sub-advisers for each of the Portfolios of the LPT Trust to make investment decisions and place orders.

6. Applicants request the Commission's approval to effect the substitutions of the shares of the Replaced Portfolios with shares of certain portfolios of the MFS Trust (the ''Substitution''). The Substituting Portfolios are each a series of the MFS Trust, an open-end management investment company registered under the 1940 Act (File No. 811–08326), the shares of which are registered as securities under the 1933 Act (File No. 33–74668). Applicants represent that the Substituting Portfolios, in general, have similar investment objectives to, more assets, better performance and lower expense ratios than, the Replaced Portfolios. The Replaced Portfolios and the corresponding Substituting Portfolios are as follows:

Replaced portfolios	Substituting portfolios
RS Diversified Growth Portfolio	MFS New Discovery Series.
Harris Associates Value Portfolio	MFS Value Series.
LPA Core Equity Portfolio	MFS Value Series.
Strong Growth Portfolio	MFS Investors Growth Stock Series.
MFS Total Return Portfolio	MFS Total Return Series.

7. For the shares of each Replaced Portfolio held on behalf of the Separate Account at the close of business on the date selected for the Substitution, London Pacific will redeem those shares for cash or in-kind. Simultaneously, London Pacific, on behalf of the Separate Account Applicant, will place a purchase order for shares of each Substituting Portfolio so that each purchase will be for the exact amount of the redemption proceeds, which may be partly or wholly-in kind. Accordingly, at all times monies attributable to Owners then invested in the Replaced Portfolio will remain fully invested and will result in no change in the amount of any Owner's contract value, death benefit or investment in the Separate Account Applicant.

8. In connection with the redemption of all shares of each Replaced Portfolio, it is anticipated that the Replaced Portfolio will incur brokerage fees and expenses in connection with such redemption. To alleviate the potential impact, the redemptions for certain Replaced Portfolios will be effected partly for cash and partly for portfolio securities redeemed ''in-kind''. In addition, Applicants will use the in-kind and cash redemption proceeds to purchase shares of the Substituting Portfolio. In effecting the in-kind redemptions and transfers, the LPT Trust has informed the Applicants that it will comply with the requirements of Rule 17a-7 under the 1940 Act and the procedures established thereunder by the Board of Trustees of the LPT Trust.

9. As noted above, the portfolio securities received from the in-kind redemptions will be used together with the cash proceeds to purchase the shares of the Substituting Portfolios. The Applicants have determined that partially effecting the redemption of shares of the Replaced Portfolios ''in-kind'' is appropriate, based on the similarity of certain types of portfolio securities that may be held by the Replaced Portfolio and its corresponding Substituting Portfolio. The LPT Trust has advised the Applicants that the valuation of any ''in-kind'' redemptions will be made on a basis consistent with the normal valuation procedures of the Replaced Portfolio and that of the Substituting Portfolio.

10. The full net asset value of the redeemed shares held by the Separate Account Applicant will be reflected in the Owners' contract values following the Substitution. The Applicants represent that the Owners will not bear, directly or indirectly, any expenses, including brokerage expenses, for the Substitution so that the full net asset value of redeemed shares of the Replaced Portfolio held by the Separate Account Applicant will be reflected in the Owners' contract values following the Substitution.

11. The LPT Trust is fully advised of the terms of the Substitution. Applicants anticipate that until the Substitution occurs, the LPT Trust will conduct the trading of portfolio securities in accordance with the investment objectives and strategies stated in the LPT Trust's prospectus and in a manner that provides for the anticipated redemptions of shares held by the Separate Account Applicant.

12. Applicants have determined that the Contracts allow the Substitution as described in the application, and that the transactions can be consummated as described therein under applicable insurance laws and under the Contracts. In addition, prior to effecting the Substitution, Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Contracts are qualified for sale.

13. Affected Owners will not incur any fees or charges, directly or indirectly, as a result of the Substitution, nor will the rights or obligations of London Pacific under the Contracts be altered in any way. The proposed Substitution will not have any adverse tax consequences to Owners. The proposed Substitution will not cause Contract fees and charges currently being paid by existing Owners to be greater after the proposed Substitution than before the proposed Substitution. The proposed Substitution will not be treated as a transfer for the purpose of assessing transfer fees. Moreover, London Pacific will allow the Owners, with respect to shares substituted, to transfer the contract values held in the subaccount invested in the Substituting Portfolio for a period of thirty-one days without collecting transfer fees or imposing any additional restrictions on transfers. The Contracts provide that there are currently no restrictions on the number of transfers that can be made. Currently, London Pacific does not assess a transfer fee on the first 12 transfers made in a contract year. Moreover, such a transfer will not be counted as a transfer request under any contractual provisions of the Contracts that limit the number of transfers that may be made without charge.

14. In anticipation of the filing of this Application, the Applicants have supplemented the prospectuses for the Contracts to reflect the proposed Substitution. Within five days after the Substitution, London Pacific will send to Owners written notice of the Substitution, substantially in the form attached to the Application as Exhibit C (the ''Notice''), identifying the shares of the Replaced Portfolios that have been

eliminated and the shares of the Substituting Portfolios that have been substituted. London Pacific will include in such mailing the applicable prospectus supplement for the Contracts of the Separate Account Applicant describing the Substitution. In addition, London Pacific will provide a copy of the prospectus for the Substituting Portfolios with the Notice. Owners will be advised in the Notice that for a period of thirty-one days from the mailing of the Notice, Owners may transfer all assets, as substituted, to any other available subaccount without limitation or transfer charge (the ''Free Transfer Period'').

Applicants' Legal Analysis

1. Section 26(c) (formerly, Section 26 (b)) of the 1940 Act provides that ''[i]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the [SEC] shall have approved such substitution.'' Section 26(b) of the 1940 Act (now section 26 (c)) was enacted as part of the Investment Company Act Amendments of 1970. Prior to the enactment of these amendments, a depositor of a unit investment trust could substitute new securities for those held by the trust by notifying the trust's security holders of the substitution within five (5) days after the substitution. In 1966, the SEC, concerned with the high sales charges then common to most unit investment trusts and the disadvantageous position in which such charges placed investors who did not want to remain invested in the substituted security, recommended that section 26 be amended to require that a proposed substitution of the underlying investments of a trust receive prior Commission approval.

2. The purposes, terms and conditions of the Substitution are consistent with the principles and purposes of section 26(c) and do not entail any of the abuses that section 26(c) is designed to prevent. Simply put, Owners will be assessed no charges whatsoever in connection with the Substitution and their annual fund expense ratios are expected to decrease. In addition, to the extent an Owner does not wish to participate in the Substitution, he or she is free to transfer to any other option available under the relevant Contract prior to the Substitution and within 31 days after the date of the Notice for the Substitution without any transfer fee. Moreover, as discussed below, Owners will be substituted into a Substituting Portfolio whose investment objectives are substantially similar to those of the Replaced Portfolio.

3. Applicants submit that the Substitution does not present the type of costly forced redemption or other harms that section 26(c) was intended to guard against and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act for the following reasons:

(1) The Substitution will continue to fulfill Owners' objectives and risk expectations, because the investment objectives of each Substituting Portfolio are substantially similar to those of each Replaced Portfolio.

(2) After receipt of the Notice informing an Owner of the Substitution, an Owner may request that his or her assets be reallocated to another subaccount at any time during the Free Transfer Period. The Free Transfer Period provides sufficient time for Owners to consider their reinvestment options;

(3) The Substitution will be at net asset value of the respective shares, without the imposition of any transfer or similar charge;

(4) Neither the Owners, the Replaced Portfolio nor the Substituting Portfolio will bear any costs of the Substitution, including brokerage fees, and accordingly, the Substitution will have no impact on the Owners' Contract values;

(5) The Substitution will in no way alter the contractual obligations of London Pacific or the rights and privileges of Owners under the Contracts;

(6) The Substitution will in no way alter the tax benefits to Owners; and

(7) The Substitution is expected to confer certain economic benefits on Owners by virtue of enhanced asset size and lower expenses, as described below.

4. The Applicants have determined that each Substituting Portfolio is an appropriate replacement for each Replaced Portfolio and an appropriate investment vehicle for the Owners because they share similar investment objectives. The investment objectives of each Replaced Portfolio and of each Substituting Portfolio and an explanation as to why Applicants believe they are similar are contained below.

Replaced Portfolio

RS Diversified Growth Portfolio

Substituting Portfolio

MFS New Discovery Series

The investment objective for the RS Diversified Growth Portfolio is long-term capital growth. The investment objective for the MFS New Discovery Series is capital appreciation.

The RS Diversified Growth Portfolio invests at least 65% of its total assets in common and preferred stocks and warrants of small-to-medium sized companies that have a market capitalization of $3 billion or less. The subadviser may invest a larger percentage of the assets of the Portfolio in a single company than do other investment advisers. The MFS New Discovery Series invests, under normal market conditions, at least 65% of its net assets in equity securities of emerging growth companies. Equity securities include common stocks and related securities, such as preferred stocks, convertible securities and depositary receipts for those securities. While emerging growth companies may be of any size, the series will generally focus on smaller capitalization emerging growth companies that are early in their life cycle. Small cap companies are defined by MFS as those companies with market capitalizations within the range of market capitalizations in the Russell 2000 Stock Index as of November 30, 2001, between $4.1 million and $8.4 billion.

Replaced Portfolio

Harris Associates Value Portfolio

Substituting Portfolio

MFS Value Series

The investment objective for the Harris Associates Value Portfolio is long-term capital appreciation. The MFS Value Series seeks capital appreciation and reasonable income.

The Harris Associates Value Portfolio invests at least 65% of its total assets in stocks or securities that can be converted into stocks. The subadviser tries to find undervalued stocks for the Portfolio. The subadviser may invest up to 25% of the assets in securities of non-U.S. companies and may invest up to 25% of the assets in lower quality, higher-yielding, bonds (junk bonds). The MFS Value Series invests, under normal market conditions, at least 65% of its net assets in income producing equity securities of companies which the adviser believes are undervalued in the market relative to their long term potential. Equity securities include common stocks and related securities, such as preferred stocks, convertible securities and depositary receipts for those securities. While the series may invest in companies of any size, the series generally focuses on undervalued companies with large market capitalizations. The series seeks to achieve a gross yield that exceeds that of the Standard & Poor's 500 Composite Stock Index. The series may invest in

junk bonds. The series may invest in foreign securities through which it may have exposure to foreign currencies.

Replaced Portfolio

LPA Core Equity Portfolio

Substituting Portfolio

MFS Value Series

The LPA Core Equity Portfolio seeks long-term capital growth and income. The MFS Value Series seeks capital appreciation and reasonable income.

The LPA Core Equity Portfolio will invest at least 80% of its assets in the stocks of large, well-established companies that have a market capitalization greater than $1 billion. Under normal circumstances, the subadviser will invest the assets of the Portfolio equally among a list of stocks of approximately 100 companies that it considers to be ''corporate leaders,'' primarily in The Dow Jones Industrial Average. The MFS Value Series invests, under normal market conditions, at least 65% of its net assets in income producing equity securities of companies which the adviser believes are undervalued in the market relative to their long term potential. Equity securities include common stocks and related securities, such as preferred stocks, convertible securities and depositary receipts for those securities. While the series may invest in companies of any size, the series generally focuses on undervalued companies with large market capitalizations. The series seeks to achieve a gross yield that exceeds that of the Standard & Poor's 500 Composite Stock Index. The series may invest in junk bonds. The series may invest in foreign securities through which it may have exposure to foreign currencies.

Replaced Portfolio

Strong Growth Portfolio

Substituting Portfolio

MFS Investors Growth Stock Series

The Strong Growth Portfolio seeks long-term capital growth and income.

The MFS Investors Growth Stock Series seeks long-term growth of capital and future income rather than current income. The Strong Growth Portfolio will invest at least 65% of its assets in stocks and securities that can be converted into stocks, which may include a substantial amount of stocks of companies that have a market capitalization of $3 billion or less. The Strong Growth Portfolio may invest up to 35% of its assets in debt obligations such as bonds, including up to 5% in junk bonds. The subadviser may also invest up to 25% of the assets in foreign securities, including investments directly in securities of non-U.S. Companies or depository receipts. The MFS Investors Growth Stock Series invests, under normal market conditions, at least 80% of its net assets in common stocks and related securities, such as preferred stocks, convertible securities and depositary receipts for those securities, of companies which MFS believes offer better than average prospects for long-term growth. The series typically invests in large cap companies (market capitalizations of $10 billion or higher). The series may invest in foreign securities through which it may have exposure for foreign currencies. The series has engaged and may engage in active and frequent trading to achieve its principal investment strategies.

Replaced Portfolio

MFS Total Return Portfolio

Substituting Portfolio

MFS Total Return Series

Both these portfolios seek to provide above average income (compared to a portfolio invested entirely in equity securities) consistent with the prudent employment of capital and secondarily to provide a reasonable opportunity for growth of capital and income.

The MFS Total Return Portfolio seeks to meets its goal by investing between 40% and 75% of its assets in stocks and securities that can be converted into stocks and at least 25% of its assets in debt obligations, including up to 20% in lower-quality, higher-yielding bonds (junk bonds). The MFS Total Return Series, under normal market conditions, invests at least 40%, but not more than 75%, of its net assets in common stocks and related securities, such as preferred stocks, bonds, warrants and rights convertible into stock, and depositary receipts for those securities, and at least 25% of its net assets in non-convertible fixed income securities.

5. Accordingly, Applicants have specifically determined that the Substituting Portfolios are appropriate investment vehicles for Owners who have allocated values to the Replaced Portfolios and that the Substitution will be consistent with Owners' investment objectives.

6. As of December 31, 2001, each Substituting Portfolio had lower expense ratios than its corresponding Replaced Portfolio. Further, since the Trust's inception, London Pacific has voluntarily reimbursed certain operating expenses of each Portfolio of the Trust. The Commissioner, as Rehabilitator of London Pacific, has determined that state insurance laws preclude London Pacific from continuing to reimburse expenses of the Trust. Therefore, effective August 31, 2002, expenses of the Trust will no longer be reimbursed.

7. Applicants believe that the addition of assets resulting from the Substitution will likely result in lower expense ratios for the Owners that have allocated their contract values to the Substituting Portfolios. Even in the one instance where the management fee of the Substituting Portfolio is higher (*i.e.*, with respect to substitution of the MFS Value Series for shares of the LPA Core Equity Portfolio), the overall expense ratio of the Substituting Portfolio is significantly lower.

8. With respect to the LPA Core Equity subaccount of the London Pacific Separate Account investing in the MFS Value Series, Applicants represent that there will be no increase in the contract charges from their current levels for a period of at least two years from the date of the Commission order requested herein.

9. (i) London Pacific will not receive, for 3 years from the date of the substitutions, any direct or indirect benefits from the Substituting Portfolios, their advisors or underwriters (or their affiliates), in connection with assets representing contract values of contracts affected by the substitutions, at a higher rate than it had received from the Replaced Portfolios, their advisors or underwriters (or their affiliates), including without limitation 12b–1 shareholder service, administration or other service fees, revenue sharing or other arrangements in connection with such assets; and (ii) the substitutions and the selection of the Replacement Portfolios were not motivated by any financial consideration paid or to be paid to London Pacific by the Replacement Portfolios, their advisors or underwriters, or their respective affiliates.

10. The assets of the Replaced Portfolios have continued to decline. As of July 29, 2002, the assets of the Replaced Portfolios totaled $28,343,852 as compared to a total of $44,853,295 at December 31, 2001.

11. London Pacific anticipates that the discontinuance of the Trust expense reimbursement arrangement, described elsewhere herein, will result in a substantial increase in Trust expenses and a corresponding decrease in the performance of the Portfolios.

12. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any security or other

property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any of the persons described above from purchasing any security or other property from such registered investment company. Section 2(a)(3) of the 1940 Act defines the term ''affiliated'' person. The proposed Substitution will be effected in part through in-kind redemptions and purchases and may be deemed to entail the indirect purchase of shares of a related Substituting Portfolio with portfolio securities of the Replaced Portfolio and the indirect sale of securities of the Replaced Portfolio for shares of the Substituting Portfolio.

13. Section 17(b) of the 1940 Act provides that the Commission may grant an Order exempting transactions prohibited by section 17(a) of the 1940 Act upon application if evidence establishes that:

1. The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve over-reaching on the part of any person concerned;

2. The proposed transaction is consistent with the investment policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and

3. The proposed transaction is consistent with the general purposes of the 1940 Act. The Applicants represent that the terms of the proposed transactions, as described in this Application are: reasonable and fair, including the consideration to be paid and received; do not involve over-reaching; are consistent with the policies of the Replaced Portfolios of the Trust; and are consistent with the general purposes of the 1940 Act.

14. Applicants represent that for all the reasons stated above, with regard to section 26(c) of the 1940 Act, the Substitution is reasonable and fair. It is expected that existing and future Owners will benefit from the consolidations of assets in each Substituting Portfolio. The transactions effecting the Substitution will be effected in conformity with section 22(c) of the 1940 Act and Rule 22c–1 thereunder. Moreover, the partial in-kind redemptions of portfolios' securities of the Replaced Portfolios will be effected in conformity with Rule 17a–7 under the 1940 Act and the procedures of the Trust established pursuant to Rule 17a–7. The Owners' interests after the Substitution, in practical economic terms, will not differ in any measurable way from such interests immediately prior to the Substitution. In each case, the consideration to be received and paid is, therefore, reasonable and fair.

Applicants' Conclusions

Applicants submit, for all of the reasons stated herein, that their requests meet the standards set out in sections 6(c), 17(b) and 26(c) of the 1940 Act and that an Order should, therefore, be granted. Accordingly, Applicants request an Order pursuant to sections 6(c), 17(b) and 26(c) of the 1940 Act approving the Substitution.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26850 Filed 10–21–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [67 FR 63713, October 15, 2002].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, October 17, 2002, at 10 a.m.

CHANGE IN THE MEETING: Time Change.

The Closed Meeting scheduled for Thursday, October 17 at 10 a.m. was changed to Thursday, October 17, 2002, at 11 a.m.

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: October 17, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26927 Filed 10–18–02; 11:13 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of October 21, 2002: A Closed Meeting will be held on Tuesday, October 22, 2002, at 10 a.m.

Commissioner Glassman, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

The subject matter of the Closed Meeting scheduled for Tuesday, October 22, 2002, will be:

Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions; and

Adjudicatory matters.

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: October 17, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26932 Filed 10–18–02; 11:12 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46655; File No. SR–Amex–2001–06]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment Nos. 1, 2 and 3 Thereto by the American Stock Exchange LLC Relating to Relief and Temporary Specialists

October 11, 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 February 14, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'')

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On August 20, 2001, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] On October 1, 2002, the Exchange submitted Amendment No. 2 to the proposed rule change.[4] On October 8, 2002, the Exchange submitted Amendment No. 3 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rules 172 (''Temporary Specialists'') and 173 (''Responsibility of Temporary Specialist'') to require specialists units consisting of fewer than three members to arrange for the registration of one or more relief specialists. The Exchange also proposes to specify the financial requirements for relief specialists and to revise the Exchange's rules regarding the appointment of temporary specialists. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

Relief and Temporary Specialists

Rule 172. *(a) Relief Specialists.—Any member registered as a regular specialist must either (1) be associated with other members also registered as regular specialists in the same securities, either through a partnership, limited liability company, member corporation or a joint account, and arrange for at least one member of the group to be in attendance during the hours when the Exchange is open for business, or (2) arrange for the registration by at least one other member as relief specialist, who would always be available, in the regular specialist's absence, to take over the ''book'' and to service the market, so that there would be no interruption of the continuity of service during the hours when the Exchange is open for business.*

The same obligations and responsibilities for the maintenance and stabilization of the market which rest upon regular specialists, rest also upon relief specialists while in possession of the ''book.''

A member registered as a specialist will be permitted to register as a relief specialist for only one particular specialist or specialist group. The Committee on Floor Member Performance will approve the registration of a regular specialist as a relief specialist provided that the surrounding circumstances are such as to permit the member to act in such relief capacity, and at the same time insure the adequate servicing of the securities in which the member is registered as a regular specialist and the proper performance of the member's specialist functions therein.

(b) Temporary Specialists.—In the event of an emergency, such as the absence of the regular and relief specialists, or when the volume of business in the particular stock or stocks is so great that it cannot be handled by the regular and relief specialists without assistance, a Floor Official may authorize a member of the Exchange who is not registered as a specialist or relief specialist in such stock or stocks, to act as temporary specialist for that day only.

A member who acts as a temporary specialist by such authority is required to file with Trading Analysis, at the end of the day, a report showing (a) the name of the security or securities in which the member so acted, (b) the name of the regular specialist, (c) the time of day when the member so acted, and (d) the name of the Floor Official who authorized the arrangement.

The Floor Official will not give such authority for the purpose of permitting a member not registered as specialist or relief specialist habitually to relieve a regular specialist at lunch periods, etc.

If a temporary specialist substitutes for a regular specialist, and if no regular or relief specialist is present, the temporary specialist is expected to assume the obligations and responsibilities of regular specialists for the maintenance and stabilization of the market. [Notwithstanding the provisions of Rule 170, a regular member, although not himself registered as a specialist, may with the prior approval of a Floor Official Act temporarily for a registered specialist. A member registered as a specialist may, without prior approval of a Floor Official, assist another member acting as a specialist at the same post.]

[Responsibility of Temporary Specialist] *Relief and Temporary Specialist Financial Requirements*

Rule 173. *(a) A full time relief specialist, i.e., one who may be called upon to act as a relief specialist for an entire business day, shall have no financial requirement so long as his or her dealings while relieving the regular specialist are effected for the account of the regular specialist. A full time relief specialist must satisfy the financial requirements of Rule 171 with respect to the securities in which he or she is acting as a relief specialist if the relief specialist, or the specialist unit providing the relief specialist, participates in the profit and loss of the dealings by the relief specialist.*

(b) There is no financial requirement with respect to a member registered as a part-time relief specialist, i.e., one who may be called upon to act as a relief specialist for less than the entire business day, usually for lunch periods, etc. Dealings effected by a part-time relief specialist while relieving the regular specialist must be made for the account of the regular specialist being relieved.

(c) There is no financial requirement for a temporary specialist acting pursuant to Rule 172(b).

[When a member takes temporarily the book of a specialist, he shall, while in possession of that book and for the balance of that particular day, stand in the same relationship to the book as the registered specialist for whom he acts.]

* * * * *

[3] *See* letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated August 17, 2001 (''Amendment No. 1'') (replacing the original filing in its entirety). Amendment No. 1: (1) Makes minor technical changes to the proposed rule text; (2) notes in the purpose section of the proposal that the Committee on Floor Member Performance (''Performance Committee'') will review and approve the registration of relief specialists; and (3) provides a citation for further details on the Interim Seat Allocation Program.

[4] *See* letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated September 30, 2002 (''Amendment No. 2'') (replacing the original filing in its entirety). Amendment No. 2, among other things: (1) Amends the proposed rule text to provide that relief and temporary specialists are expected to assume the same obligations and responsibilities of regular specialists for the maintenance and stabilization of the market; (2) clarifies in the proposed rule text that the Performance Committee will review and approve the registration of relief specialists; and (3) provides in the proposed rule text that there are no financial requirements for temporary specialists.

[5] *See* letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated October 7, 2002 (''Amendment No. 3'') (replacing the original filing in its entirety). Amendment No. 3, in part: (1) Corrects technical errors in the proposed rule text and purpose section of the proposed rule change; (2) clarifies that temporary specialists have no financial requirements; and (3) clarifies the appeals process from decisions of the Performance Committee.

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 Exchange 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 Exchange 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Commentary .03 to Amex Rule 171 formerly required specialist units on the Exchange to consist of at least three members. In 1997, the Exchange eliminated this rule as part of a package of changes intended to update Amex rules.[6] The Exchange believes that repealing the ''three member'' requirement for specialist units has encouraged qualified new firms to enter the specializing business on the Amex by eliminating the entry cost of acquiring or leasing three regular memberships. The Exchange, however, is concerned that units consisting of less than three members may lack sufficient personnel resources to deal with heavy volume and absences from the Floor (notwithstanding the recently approved interim member program).[7] Consequently, the Exchange believes that units with fewer than three members should have formal back-up arrangements. The Amex also believes that the Exchange's current ''Temporary Specialists'' Rule only provides for emergency, rather than planned, support and is otherwise dated and in need of revision.

To address these concerns, the Exchange is proposing to adopt the New York Stock Exchange, Inc.'s (''NYSE'') policies with respect to relief and temporary specialists.[8] The Exchange proposes that specialist units consisting of fewer than three persons would be required to identify at least one relief specialist that would be available to step-in for the regular specialist when required.[9] Relief specialists would be registered as such pursuant to Amex Rule 170(a).[10] The Exchange will permit the registration of a relief specialist when it believes that the relief specialist will be able to perform his or her responsibilities as a relief specialist while assuring adequate performance in the securities in which he or she is registered as a regular specialist. The Exchange proposes that a relief specialist be subject to the same responsibilities for the maintenance and stabilization of the market as the regular registered specialist in a security, and that a member only would be permitted to register as a relief specialist for one unit.

The Exchange proposes to register both ''part-time'' relief specialists and ''full-time'' relief specialists. A part-time relief specialist is a member who may be called upon to act as a relief specialist for less than an entire business day, *e.g.*, during lunch periods. The Exchange proposes that dealings effected by a part-time relief specialist while relieving the regular specialist must be made for the account of the regular specialist who is being relieved. The Exchange also proposes that there is no separate financial requirement for a part-time relief specialist. A full-time relief specialist is a member who may be called upon to act as a relief specialist for an entire business day or more. The Exchange proposes that a full-time relief specialist has no separate capital requirement if his or her dealings are effected for the account of the regular specialist being relieved. If, however, dealings by the full-time relief specialist are for an account in which the relief specialist has an interest, then the Exchange proposes that the full-time relief specialist must satisfy applicable financial requirements.[11]

All arrangements for relief specialists would be subject to review and approval by the Exchange's Committee on Floor Member Performance.[12] The Exchange also proposes that specialist units with less than three persons have six months or such longer time as the Chief Executive Officer of the Exchange may determine is appropriate from the date of SEC approval of the proposed rule change to obtain Exchange approval for their relief specialist arrangements.

The proposed temporary specialist provision would allow a Floor Official to appoint a temporary specialist in the event of an emergency, or other unusual situations where existing regular and relief specialists are unable to adequately manage the volume of business in the particular stock or stocks. The proposed temporary specialist rule provides that a temporary specialist is expected to assume the responsibilities of a regular specialist for the maintenance and stabilization of the market, and has no separate financial requirement. The proposed rules also requires that a temporary specialist report his or her appointment to the Exchange's Trading Analysis Division at the end of the trading session.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act[13] in general, and furthers the objectives of Section 6(b)(5)[14] in particular, in that the Exchange's proposed rules are designed to promote just and equitable principles of trade and protect investors and the public interest by ensuring adequate professional staffing on the Exchange Floor at all times.

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 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.

[6] *See* Securities Exchange Act Release No. 38238 (February 4, 1997), 65 FR 6591 (February 12, 1997) (approving SR–Amex–96–39, which, amongst other things, removed the prohibition against specialist units of less than three natural persons).

[7] *See* Securities Exchange Act Release No. 43016 (July 7, 2000), 65 FR 44552 (July 18, 2000) (approving SR–Amex–00–19, an Interim Seat Allocation Program, which allows an active member to temporarily allocate its membership to an interim member when the active member is absent from the trading floor).

[8] *See* NYSE Rules 104.15, 104.17 and 104.24.

[9] The Exchange notes that specialists units with more than three persons may also arrange for relief specialists pursuant to this proposed rule. Telephone conversation among William Floyd-Jones, Assistant General Counsel, Amex, Terri Evans, Assistant Director, and Lisa N. Jones, Attorney, Division, Commission, dated May 30, 2002.

[10] Amex Rule 170(a) states: ''No member shall act as a specialist in any security unless such member is registered as a specialist in such security by the Exchange and such registration may be revoked or suspended at any time by the Exchange.''

[11] *See* Amex Rule 171 (''Specialist Financial Requirements'').

[12] The Exchange's Committee on Floor Member Performance (''Performance Committee'') is responsible for reviewing the performance of specialists and other Floor members and providing non-disciplinary remediation with respect to poor performance. Members may appeal decision of the Performance Committee to the Amex Adjudicatory Council. *See* Amex Rule 26.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

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, 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 that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR–Amex–2001–06 and should be submitted by November 12, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26782 Filed 10–21–02; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46658; File No. SR–GSCC–2002–08]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Revising GSCC's Schedule of Money Tolerances

October 11, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 11, 2002, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. 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 amends GSCC's schedule of money tolerances.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(B) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

GSCC's rules contain a Schedule of Money Tolerances (''Schedule'') that permits GSCC to compare a trade with a discrepancy in its settlement amount or start amount if the discrepancy falls within a specified money tolerance. Specifically, the Schedule provides for: (i) a money tolerance of $1 per million on the settlement amount of a trade, which is applied to buy-sell transactions and to the close leg of repo transactions in real time; (ii) a money tolerance of $40 per million on the settlement amount of a trade, which is applied to buy-sell transactions and the close leg of repo transactions at the end-of-day phased comparison process; and (iii) a money tolerance of $1 per repo transaction on the start amount of a repo transaction.

GSCC understands, based on member input, that one of the tolerances in the Schedule is inappropriate and creates risk. Specifically, the real-time money tolerance of $1 per million on the settlement amount is causing repo transactions with differences of as much as nearly four basis points in the rate to compare immediately during the day. (The data on repo transactions is submitted to GSCC interactively, which now is how the large majority of data is submitted to GSCC.) In the past, these differences normally were discovered and corrected by members on a unilateral basis during the day, but because trades submitted in real time typically are compared shortly after execution, there is not sufficient time for them to be unilaterally corrected on GSCC's system. In order to remedy this problem, the proposed rule change amends the money tolerance on settlement money that is applied in real time to ten cents per million.

The proposed rule change also amends this section of the Schedule to indicate that a settlement money difference of less than $1.00 will not prevent a trade from being matched by GSCC. For example, assume that two members submit a $9 million trade with a $0.98 difference in the settlement amount. Applying the $0.10 per million money tolerance, which in this case is $0.90, without the $1.00 minimum would lead to the trade not being matched because the discrepancy of $0.98 is greater than the tolerance of $0.90. The minimum tolerance of $1.00, however, would permit this trade to match. GSCC believes that a money difference of less than $1.00 is de minimis and should not result in trades not being compared.

GSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because it lessens the risk of members' trades with significant money differences being compared before such differences can be corrected.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(4) [4] promulgated thereunder because the proposal effects a change in an existing service of GSCC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of GSCC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of GSCC or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the File No. SR–GSCC–2002–08 and should be submitted by November 12, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26784 Filed 10–21–02; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(4).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46663; File No. SR–NASD–2002–40]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to Proposed Rule Change, by NASD, Relating to NASD Rules 1022, 1032, 2210, 3010, 3370, IM–1022–1, and IM–1022–2 and New Rules 2865 and IM–2210–7

October 15, 2002.

I. Introduction

On March 22, 2002, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposal to adopt new rules and amend existing rules to provide for the trading of security futures. Notice of the proposed rule change and Amendment No. 1 thereto was published for comment in the **Federal Register** on July 18, 2002.[3] The Commission received two comment letters regarding the proposed rule change.[4] On September 5, 2002, NASD filed Amendment No. 2 to the proposed rule change.[5] On September 26, 2002, NASD filed Amendment No. 3 to the proposed rule change.[6] This order approves the proposed rule change, accelerates approval of Amendment Nos. 2 and 3, and solicits comments from interested persons on those amendments.

II. Description of the Proposed Rule Change

The rule change modifies existing NASD rules and adopts new rules to accommodate the trading of security futures (*i.e.*, futures on individual stocks and narrow-based stock indices).[7] A description of the rule change follows.

A. New Security Futures Rule 2865

Under the rule change, NASD is adopting Rule 2865 as its security futures rule. The new rule is based on NASD's existing options rule, Rule 2860. Some aspects of Rule 2865 are substantially similar to corresponding provisions of Rule 2860. However, several provisions of Rule 2865 are tailored specifically to security futures.

Delivery of Security Futures Risk Disclosure Statement

Rule 2865(b)(1) will require every member to deliver the security futures risk disclosure statement to each customer at or prior to the time the customer's account is approved for trading security futures. The disclosure statement will discuss the risks of security futures, how they trade, margin, effects of leverage, settlement procedures, customer account protections, and the tax consequences of trading security futures.[8]

Discretionary Accounts

Rule 2865(b)(18) establishes discretionary account procedures for security futures that are similar to those for options. These procedures will require that the written authorization of the customer required by NASD Rule 2510 specifically authorize security futures trading in the account. Under the rule change, a discretionary account, even if it is permitted to trade options, cannot trade security futures unless a new written discretionary account authorization specifically authorizing security futures trading is on file.

Statements of Account

Rule 2865(b)(15) will require members to deliver a customer account statement no less frequently than each month where there has been an entry during the preceding month with respect to a security futures contract, and quarterly to all customers that have

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 46186 (July 11, 2002), 67 FR 47412.

[4] Letter from Jonathan Barton, Chairman, Steering Committee on Securities Futures of the Futures Industry Association and the Securities Industry Association, Inc. (''SIA/FIA Committee''), to Jonathan Katz, Secretary, Commission, dated August 9, 2002; Letter from Richard G. DuFour, Executive Vice President, Chicago Board Options Exchange (''CBOE''), to Jonathan Katz, Secretary, Commission, dated August 21, 2002.

[5] *See* letter from Gary L. Goldsholle, Associate General Counsel, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated September 5, 2002.

[6] *See* letter from Gary L. Goldsholle, Associate General Counsel, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated September 26, 2002.

[7] See *e.g.*, Section 3(a)(55) of the Act, 15 U.S.C. 78c(a)(55).

[8] See Securities Exchange Act Release No. 46612, (October 7, 2002) (file No. SR–NASD–2002–128).

an open security futures position or money balance. The statement must provide specific information regarding the customer's position, including the market price, mark-to-market value and nominal value of each security futures position as well as the mark-to-market price and market value of other security positions, the total value of all positions, the outstanding debit or credit balance, and account equity.[9]

Opening of Accounts

Rule 2865(b)(16) establishes specific procedures for members to follow in order to approve a customer account to trade security futures. These procedures include review by an appropriately qualified principal (a Registered Options and Security Futures Principal or a Limited Principal—General Securities Sales Supervisor), specific guidance as to information the member must ask the customer to provide, and a requirement for the member to furnish the security futures risk disclosure statement at or before the time the member accepts an order from the customer to purchase or sell a security future.

Suitability

Rule 2865(b)(19) establishes a heightened suitability standard for security futures, similar to that required for options. The rule provides that if an associated person recommends a security futures transaction, the associated person must have a reasonable basis to believe ''that the customer has such knowledge and experience in financial matters that the customer may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the security future.'' This standard would extend to trading strategies as well as individual trades.

Trading Ahead

Rule 2865(b)(25) will require members to exercise due care to avoid trading ahead of customer orders in the same security futures contract. A member must exercise this due care when the member has gained knowledge of or reasonably should have gained knowledge of the customer's order prior to transmitting the member's order for a proprietary account or in any account in which the member or an associated person has an interest.

Security Futures Transactions and Reports by Market Makers in Listed Securities

Rule 2865(b)(24) will require members that are off-board market makers in securities listed on a national securities exchange to regularly report security futures transactions involving 50 or more contracts on such listed securities that are for the benefit of the member or are for the benefit of certain associated persons of the member.

B. Front Running Policy

NASD will amend its front running policy, IM–2110–3, to apply to security futures in the same manner that it applies to options. Under the rule change, when a member has material, non-public market information concerning an imminent block transaction in a stock, the member will not be able to trade the security future overlying that stock in its proprietary account, other accounts in which it has an interest, or discretionary accounts. Once the material, non-public market information has been made publicly available, however, the restrictions would no longer apply.

C. Qualifications, Registration and Supervision of Registered Persons

1. Registration Procedures and Examinations

The securities industry has a wide array of qualification examinations that registered persons can take to qualify to engage in various aspects of the securities business. To accommodate the introduction of security futures, the rule change modifies several NASD registration categories, and permits the ''grandfathering'' of persons already registered in those categories. The following registration categories will be broadened to include security futures activities:

- Registered Options Principal (Series 4), which becomes Registered Options and Security Futures Principal.
- Limited Principal—General Securities Sales Supervisor (Series 9/10).
- General Securities Representative (Series 7).
- Limited Representative—Options (Series 42), which becomes Limited Representative—Options and Security Futures.

NASD is working with other self-regulatory organizations to develop new and revised qualification examinations that will test applicants on topics related to security futures. NASD anticipates that new and revised qualification examinations for the associated registration categories will be completed six months after retail trading in security futures begins. For registered representatives wishing to engage in a security futures business, a new Series 43 examination will be offered. Thereafter, new applicants may choose to take only the Series 7, or, if they wish to engage in security futures business, both the Series 7 and Series 43. Further, because some existing registrants may actually wish to take revised qualification examinations, NASD is modifying its registration categories to allow it to accept other examinations that address security futures, such as the revised Series 3 (containing questions on security futures).

For persons who are or become registered in one of these categories before the implementation of new examinations, the rule change institutes a firm-element continuing education requirement. Under the rule change, NASD will require each such person to complete this program prior to conducting a business in security futures. Thus, these registrants may be ''grandfathered'' so that they will not have to retake any expanded examinations. These grandfathering procedures will lapse on December 31, 2006. After that date, registrants who have passed an examination that does not include security futures, and who have not already completed this firm-element continuing education program, will be required to retake an examination to function in a registration category with respect to security futures.

2. Other Personnel—Related Changes

The rule change amends other NASD rules relating to the hiring, registration, and supervision of personnel. NASD is amending Rule 1060(a) to exempt from registration with NASD persons associated with a member whose functions are related solely and exclusively to transactions in security futures, provided that they are registered with a registered futures association. In addition, NASD is modifying Rule 3010(e) to require members, when reviewing a job applicant's employment experience that includes experience with a broker-dealer registered pursuant to Section 15(b)(11) of the Act,[10] to review a copy of Commodity Futures Trading Commission (''CFTC'') Form 8–T: Notice of Termination of Associated Person, NFA Associate, Branch Office

[9] Amendment No. 2 modified the originally proposed wording of these requirements.

[10] 15 U.S.C. 78o(b)(11).

Manager, Designated Supervisor or Principal.[11]

The rule change amends Rule 3050, which requires associated persons who seek to open accounts or place securities orders with an NASD firm that is not their employer to notify both their employer firm and the executing firm before doing so. Specifically, NASD is broadening the scope of this rule to cover accounts with broker-dealers registered pursuant to Section 15(b)(11) of the Act.

NASD also is modifying its ''Taping Rule'' (Rule 3010(b)(2)), which requires members who employ certain amounts of personnel who have worked at disciplined firms to adopt special supervisory procedures, including the tape-recording of all telephone calls with customers or prospective customers. The rule change broadens the scope of the Taping Rule to include Futures Commission Merchants (''FCMs'') and Introducing Brokers (''IBs'') within the group of intermediaries that can potentially meet the definition of a ''disciplined firm.'' The rule change borrows NFA's definition of a disciplined firm.

D. Advertising Rule for Security Futures

Under the rule change, NASD will regulate communications with the public regarding security futures through amendments to its existing rules and the addition of Interpretive Material to Rule 2210 (the ''Advertising Rule''). Among other things, the rule change specifies that advertisements and sales literature concerning security futures must be approved by ''a principal qualified to supervise security futures activities.'' [12] A General Securities Principal (Series 24) would not be authorized to approve advertisements and sales literature concerning security futures.

The rule change establishes a pre-use filing requirement for advertisements concerning security futures. In general, a member will be required to file a security futures advertisement with NASD's Advertising/Investment Companies Regulation Department at least 10 days before its use. The Department will review the advertisement and then either approve it, disapprove it, or specify changes that the firm must make before using the communication.

While communications regarding security futures will be subject to the general requirements of NASD's advertising rule, the rule change also establishes several specific requirements on the content of communications regarding security futures. IM–2210–7(d) will require that any statement referring to the potential advantages of security futures be balanced with a statement, in the same degree of specificity, of the corresponding risks. All communications regarding security futures must include a warning that they are not suitable for all investors. In addition, all such communications must state that, upon request, the firm will provide documents that support any claims, comparisons, recommendations, statistics, or other technical data used in the communication. Moreover, communications that are not accompanied or preceded by the security futures risk disclosure statement may not contain statements of historical performance or projections, must be limited to general descriptions of security futures, and must contain contact information for obtaining a copy of the disclosure statement.

E. Short Sales

Transactions in security futures are excluded from the short sale provisions of Section 10(a) of the Act.[13] To harmonize NASD's rules with Section 10(a), NASD is amending the affirmative determination provisions of NASD Rule 3370 to exclude transactions in security futures from the application of the rule. In addition, NASD is amending the definition of ''*bona fide* fully hedged'' positions to include certain long single stock futures positions in connection with short positions in the underlying stock.

III. Summary of Comments and Response to Comments

As noted above, the Commission received two comment letters regarding the proposed rule change.[14] The SIA/FIA Committee expressed the view that, to the greatest extent possible, NASD should make proposed Rule 2865 a comprehensive stand alone rule for security futures products. The SIA/FIA Committee also noted its concern with respect to cases where an NASD member may also be a member of an exchange trading security futures. In such an instance of dual membership, the SIA/FIA Committee argued that the NASD's rules should make clear that the particular exchange's trading rules would take precedence with respect to orders executed on that exchange. In addition, the SIA/FIA Committee urged the NASD to defer to NFA qualifications and rules to the greatest extent possible for dual registrant firms for customers whose transactions will be booked in futures accounts.

The SIA/FIA Committee also detailed five specific areas of concern. First, the SIA/FIA Committee expressed concern with the proposed amendments to NASD Rule 1022, which sets out the various principal registration types and would establish the qualifying examinations that must be taken to attain those principal registration types with respect to security futures. The SIA/FIA Committee asserted that the proposed NASD rule would apply examination requirements too broadly across varying types of securities futures activities and is ambiguous as to the application of examination requirements to other activities.

Second, the SIA/FIA Committee maintained that the intermarket front-running interpretation now applicable to trading in the options and cash markets should not be extended to security futures due to the unique nature of security futures trading. In addition, the SIA/FIA Committee urged that actual knowledge of the processing of a block trade should be a component of a front-running violation.

Third, the SIA/FIA Committee expressed the view that further harmonization between the NASD and NFA rules was necessary with regard to the proposed communications rules. The SIA/FIA Committee stated that there should be no material regulatory differences in what FCMs on the one hand and broker-dealers, on the other hand, can say to current or prospective customers and when and how it can be said.

Fourth, the SIA/FIA Committee articulated a number of concerns regarding proposed NASD Rule 2865. The SIA/FIA Committee argued that Rule 2865(b)(12), dealing with confirmations, should be deleted due to the Commission's final action with respect to SEC Rule 10b–10.[15] In addition, the SIA/FIA Committee stated that language in proposed Rule 2865(b)(15), regarding account statements, indicating that security futures have a market value should be deleted, because security futures will have a mark-to-market price, rather than a market value as such. The SIA/FIA

[11] NASD also is modifying NASD Rule 3010(e) to reflect that members may now review Form U–5s through an internet connection to the WebCRD system, rather than by otherwise obtaining actual copies of such documents.

[12] NASD Rule 2210(b)(1). As originally proposed, this approval would have been required to be performed by a Registered Options and Security Futures Principal. In Amendment No. 2, however, NASD altered this by supplying the quoted language.

[13] 15 U.S.C. 78j(a)(2).

[14] *See* n. 4, *supra.*

[15] *See* Securities Exchange Act Release No. 46471 (September 6, 2002), 67 FR 58302 (September 13, 2002).

Committee also suggested deleting language in the same provision regarding margin computation. In Rule 2865(b)(16)(B) and (D), the SIA/FIA Committee recommended conforming the language to more closely match the analogous NFA rule on minimum net equity requirements. The SIA/FIA Committee also noted that it does not believe that there should be a requirement for customers to acknowledge receipt of the risk disclosure statement for options, and therefore that a conforming amendment should be made in proposed Rule 2260(b)(16)(D). The SIA/FIA Committee also expressed concern with regard to proposed Rule 2865(b)(17), and requested that the NASD clarify that, with respect to customer complaints, the maintenance of a separate record for security futures complaints is unnecessary. The SIA/FIA Committee requested that NASD incorporate IM–2310–3, regarding suitability obligations to institutional customers, into Rule 2865(b)(19), either directly or by reference. The SIA/FIA Committee also asserted that the audit trail requirements of proposed Rule 2865 would impose undue burdens on the industry and should be eliminated in favor of internal surveillance tools. Finally, with respect to Rule 2865(b)(24), the SIA/FIA Committee recommended that the NASD adopt a conforming Interpretive Memorandum regarding the prohibition against trading ahead of customer orders when the member is aware or reasonably should be aware of such order.

Fifth, the SIA/FIA Committee requested that NASD modify its proposed amendments to Rule 3370. Specifically, the Committee suggested rule language that would apply the affirmative determination obligation of the Rule to members that hold a security futures position unless the member had assurances that the position would be liquidated prior to expiration.

In its comment letter, CBOE raised three concerns about the proposed rule change with regard to discretionary accounts. First, the CBOE stated its belief that the proposed NASD rule does not sufficiently mirror the comparable CBOE and New York Stock Exchange, Inc. (''NYSE'') rules regarding the review and acceptance of security futures discretionary accounts by principals qualified to supervise security futures activities and specifically delegated the authority to review and accept such discretionary accounts.

In addition, CBOE expressed concern about the confirmations provision in the proposed rule change, which required that initial and maintenance margin be disclosed on the confirmation, but did not require that the purchase price of such transaction be included. CBOE stated that the purpose of the confirmation is to disclose to the customer the terms of the transaction, not the required margin.

Finally, CBOE expressed concern with the characterization of security futures products having an equity value under proposed Rule 2865(b)(15)(B). The CBOE stated its belief that the rule should clarify that security futures contracts, aside from their accrued profit or loss, have zero value for equity purposes.

The NASD responded to the commenters in Amendment No. 2. NASD stated that it believed that several of the SIA/FIA Committee's comments would have eased restrictive aspects of the proposed rules. NASD stated further that it believed that the proposed rule change would further the goal of investor protection by using the NASD's options rules as the basis for the majority of its security futures rules.

However, NASD did agree to make several changes in response to the commenters' suggestions. Specifically, NASD responded to the commenters' concern with respect to confirmations by eliminating NASD's proposed confirmation requirement. The NASD also addressed the SIA/FIA Committee's comment with respect to Rule 2865(b)(15)(B) by eliminating the provision, which pertained to margin equity requirements.

In addition, NASD noted in Amendment No. 2 that it did not agree to make the changes requested by CBOE regarding discretionary accounts. NASD stated that it would consider amending both its options and security futures rules once CBOE's proposed rule change regarding discretionary accounts has been approved. In addition, the NASD amended the account statement requirement to provide that the market price, mark-to-market value and nominal value of security futures must be disclosed on customer account statements.

Finally, NASD stated that it intends to clarify the following issues through a Notice to Members: The application of the NASD's best execution rule, Rule 2320, to security futures; that the Series 55 qualification will not be needed for associated persons to trade security futures; that NASD intends to recognize the Series 30 qualification as acceptable for an associated person in a firm registered as a broker/dealer and either a futures commission merchant or introducing broker to supervise security futures; that the suitability obligations to institutional customers interpretation, IM–2310–3, will apply to security futures; and when the trading ahead of customer orders requirement, Rule 2865(b)(25), will apply.

IV. Discussion

After careful review, and consideration of all comments received, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.[16] In particular, the Commission finds that the proposal is consistent with the requirements of Section 15A(b)(6) of the Act,[17] which requires, among other things, that the rules of a registered national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

The Commission notes that the rules NASD has proposed for security futures are modeled after its rules governing options. The system of joint regulation of security futures established by the Commodity Futures Modernization Act is intended to prevent competitive advantages from arising solely out of differences between securities regulation and futures regulation. In addition, NASD's rules reflect the risks to investors that apply specifically to options transactions.

The Commission believes that the rule change should promote just and equitable principles of trade by preventing regulatory disparities from occurring between options and security futures. In addition, the Commission believes that by recognizing the specific risks of security futures, the rule changes should protect investors that trade security futures.

V. Amendment Nos. 2 and 3

The Commission finds good cause to approve Amendment Nos. 2 and 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

In Amendment No. 2, NASD made a series of changes to the originally proposed rule text that clarified or corrected the text without changing the substance of requirements. In Amendment No. 3, NASD amended its filing to state that NASD would make the rule changes effective on the date approved by the Commission.

[16] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78o(b)(6).

The Commission believes that these amendments merely serve to clarify certain provisions of the proposed rules, and make technical changes that do not raise substantive issues. Accordingly, the Commission believes that there is good cause, consistent with Section 19(b) of the Act,[18] to approve Amendment Nos. 2 and 3 on an accelerated basis.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 2 and 3, including whether they are 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NASD–2002–40 and should be submitted by November 12, 2002.

VII. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–NASD–2002–40), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26781 Filed 10–21–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46662; File No. SR–PCX–2002–61]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. To Amend a Market Data Revenue Sharing Program for Certain Transactions on the PCX in Tape A Securities

October 15, 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 30, 2002, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary PCX Equities, Inc. (''PCXE''), 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 Exchange. On October 11, 2002, the PCX amended the proposal.[3] The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6)[5] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX, through PCXE, proposes to modify its fee schedule for services provided to ETP Holders[6] and Sponsored Participants[7] on the Archipelago Exchange, the equities trading facility of PCXE. Specifically, the Exchange proposes to amend its market data revenue sharing program for Tape A securities[8] traded on the Exchange. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

Schedule of Fees and Charges for Exchange Services

* * * * *

Archipelago Exchange: Other Fees and Charges

Market Data Revenue Sharing Credit	
Tape A Securities:	
Liquidity Provider Credit	*40% tape revenue credit per qualifying trade (applicable to limit orders that are residing in the Book and that execute against inbound marketable orders).*
Directed Order	*40% tape revenue credit per qualifying trade (applicable to any market maker that executes against a Directed Order within the Directed Order Process, as defined in PCXE Rule 7.37(a)).*
Cross Order	*40% tape revenue credit per qualifying trade (applicable to any Cross Order, as defined in PCXE Rule 7.31(s), where the ETP Holder or Sponsored Participant represents all of one side of the transaction and all or a portion of the other side).*
Tape B Securities:	
Liquidity Provider Credit	50% tape revenue credit per qualifying trade (applicable to limit orders that are residing in the Book and that execute against inbound marketable orders [in Tape A or B securities]).
Directed Order	50% tape revenue credit per qualifying trade (applicable to any market maker that executes against a Directed Order [in a Tape A or B security] within the Directed Order Process, as defined in PCXE Rule 7.37(a)).

[18] 15 U.S.C. 78s(b).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* October 10, 2002 letter from Peter D. Bloom, Regulatory Policy, PCX, to Joseph Morra, Special Counsel, Division of Market Regulation (''Division''), Commission (''Amendment No. 1''). In Amendment No. 1, the PCX provided a new Exhibit A that replaces in its entirety the text of the proposed rule that was included in the original filing. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on October 11, 2002, the date that the PCX filed Amendment No. 1.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* PCXE Rule 1.1(n).

[7] A ''Sponsored Participant'' is ''a person which has entered into a sponsorship arrangement with a Sponsoring ETP Holder pursuant to [PCXE] Rule 7.29.'' *See* PCXE Rule 1.1(tt).

[8] Tape A securities include securities that are listed for trading on the New York Stock Exchange.

Cross Order	50% tape revenue credit per qualifying trade (applicable to any Cross Order, as defined in PCXE Rule 7.31(s), where the ETP Holder or Sponsored Participant represents all of one side of the transaction and all or a portion of the other side [in a Tape A or B security].

* * * * *

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 PCX included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The PCX 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 PCX, through PCXE, proposes to amend its fees charged to ETP Holders and Sponsored Participants (collectively ''Users'') that access the ArcaEx trading facility by amending its program for sharing with Users market data revenue derived from transactions in Tape A securities.

Background

On May 28, 2002, the Exchange filed with the Commission a proposed rule change to implement, on a pilot basis through June 28, 2002, a mechanism for sharing market data revenue with Users on ArcaEx.[9] The proposed rule change became effective upon filing pursuant to Section 19(b)(3)(A) of the Act,[10] and the PCXE implemented the program on June 1, 2002. On June 27, 2002, the Exchange filed with the Commission a proposed rule change to extend the market data revenue pilot program through August 30, 2002.[11] On July 2, 2002, the Commission summarily abrogated the PCX's proposed rule change and certain proposed rule changes of the National Association of Securities Dealers, Inc. and the Cincinnati Stock Exchange relating to market data revenue sharing.[12] Accordingly, after consultation with Commission staff, on July 9, 2002, the PCX filed with the Commission a proposed rule change to reinstate its market data revenue sharing program, and to reduce the level of the transaction credits paid to Users with respect to transactions in issues listed on the American Stock Exchange (*i.e.* ''Tape B'' securities).[13]

On August 7, 2002, the PCX established a market data revenue sharing program for certain transactions in Tape A securities.[14] With the instant proposed rule change, the Exchange proposes to amend that program by reducing the level of the transaction credits paid to Users with respect to transactions in such issues. Under the program, the Exchange will share a portion of its gross revenues derived from market data fees with (i) Any User that provides liquidity in a Tape A securities by entering a resting limit order into the ArcaEx Book that is then executed against an incoming marketable order within the Display Order, Working Order, or Tracking Order processes; (ii) any Market Maker that executes against a Directed Order in a Tape A security within the Directed Order Process;[15] and (iii) any User that represents all of one side and all or a portion of the other side of a Cross Order[16] execution in a Tape A security. Any User that meets these requirements will receive a 40% tape revenue credit per qualifying transaction that is reported over the Consolidated Tape Association's (''CTA'') Tape A Network. The proposed tape revenue credit is intended to create additional incentives to market participants to provide liquidity on the ArcaEx facility.[17]

2. Statutory Basis

The Exchange believes the proposal is consistent with the requirements of Section 6(b) of the Act,[18] in general, and furthers the objectives of Section 6(b)(5),[19] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market and to protect investors and the public interest.

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

Written comments on the proposed rule change were neither solicited nor received.

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

[9] *See* Securities Exchange Act Release No. 46070 (June 12, 2002), 67 FR 42089 (June 20, 2002)(SR–PCX–2002–28).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] *See* SR–PCX–2002–37.

[12] *See* Securities Exchange Act Release No. 46159 (July 2, 2002), 67 FR 45775 (July 10, 2002)(File Nos. SR–PCX–2002–37, SR–NASD–2002–61, SR–NASD–2002–68, and SR–CSE–2002–06)(Order of Summary Abrogation).

[13] *See* Securities Exchange Act Release No. 46293 (August 1, 2002), 67 FR 51314 (August 7, 2002)(SR–PCX–2002–42).

[14] SR–PCX–2002–56.

[15] The Directed Order Process is the first step in the ArcaEx execution algorithm. Through this Process, Users may direct an order to a Market Maker with whom they have a relationship and the Market Maker may execute the order. To access this process, the User must submit a Directed Order, which is a market or limit order to buy or sell that has been directed to the particular market maker by the User. *See* PCXE Rule 7.37(a) (description of ''Directed Order Process'').

[16] A Cross Order is defined as a two-sided order with instructions to match the identified buy-side with the identified sell-side at a specified price (the cross price), subject to price improvement requirements. *See* PCXE Rule 7.31(s).

[17] Although the PCX characterized the instant proposed rule change as ''reinstating'' its market data revenue sharing program for Tape A securities, the Commission notes that the PCX's Tape A market data revenue sharing program was not terminated by the PCX's decision to withdraw SR–PCX–2002–56 and simultaneously file the instant proposed rule change. *See* September 27, 2002 letter from Peter D. Bloom, Director, Policy Development, Regulatory Policy, PCX, to Nancy Sanow, Assistant Director, Division, Commission. As a result, the PCX agreed to re-characterize the instant filing as ''amending'' its market data revenue sharing program for Tape A securities. October 10, 2002 telephone conversation between Peter D. Bloom, Regulatory Policy, PCX, and Joseph Morra, Special Counsel, Division, Commission.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21] 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.

The Exchange asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay. The Commission believes such waiver is consistent with the protection of investors and the public interest. The Commission notes that the PCX's market data revenue sharing program for Tape A securities is substantially similar to Nasdaq's program.[22] For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[23]

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 PCX. All submissions should refer to file number SR–PCX–2002–61 and should be submitted by November 12, 2002.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

[22] *See* Securities Exchange Act Release No. 46551 (September 25, 2002), 67 FR 61705 (October 1, 2002) (SR–NASD–2002–111) (amending NASD Rule 7010(c)(2)).

[23] 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).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46661; File No. SR–PCX–2002–63]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. To Amend Its Clearly Erroneous Policy

October 15, 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 23, 2002, the Pacific Exchange, Inc. (''PCX'' 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 Exchange. 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, through its wholly owned subsidiary PCX Equities, Inc. (''PCXE'' or ''Corporation''), proposes to amend PCXE Rule 7.11(d) to confer authority on a PCXE officer designated by the Corporation who, in addition to the Chief Executive Officer and President, may nullify transactions or modify their terms arising out of any disruption or malfunction in the Archipelago Exchange (''ArcaEx'') trading system, the equities trading facility of PCXE. Below is the text of the proposed rule change. Proposed new language is *italicized.* Proposed deletions are in [brackets].

* * * * *

PCX Equities, Inc.

Rule 7

Equities Trading; Clearly Erroneous Policy

Rule 7.11(a)–(c)—No change.

(d) System Disruption and Malfunctions. In the event of any disruption or a malfunction in the use or operation of any electronic communications and trading facilities of the Corporation, the Chief Executive Officer, [or the] President*, or such other officer designated by the Corporation* may declare a transaction arising out of the use or operation of such facilities during the period of such disruption or malfunction null and void or modify the terms of these transactions. Absent extraordinary circumstances, any such action of the Chief Executive Officer*,* [or] President *or designated Corporation officer* pursuant to this subsection (d) shall be taken within thirty (30) minutes of detection of the erroneous transaction. Each ETP Holder involved in the transaction shall be notified as soon as practicable, and the ETP Holder aggrieved by the action may appeal such action in accordance with the provisions of Rule 10.13.

* * * * *

Rule 10

Disciplinary Proceedings; Hearings and Review of Decisions by the Corporation

Rule 10.13

(a) General Provisions. This Rule provides the procedure for persons aggrieved by any of the following actions taken by the Corporation to apply for an opportunity to be heard and to have the action reviewed. These actions are:

(1)–(3)—No change.

(4) The prohibition or limitation with respect to access to services provided by the Corporation, or the access to services of any ETP Holder taken pursuant to the Bylaws, or Rules or procedures of the Corporation; [or]

(5)Actions taken by the Corporation pursuant to Rule 7.11;

(6)[5]—No change.

(7)[6] Actions taken by the Corporation pursuant to Rule 7.23; *or*

(8)[7]—No change.

(b)–(m)—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 PCX 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 PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, in the event of any disruption or malfunction in the use or operation of the ArcaEx trading facility, only the Chief Executive Officer or President may declare a transaction arising out of the use of the facility during the period of such disruption or malfunction null and void or modify the terms of such transaction. Absent extraordinary circumstances, any such action of the Chief Executive Officer or President would be taken within thirty (30) minutes of detection of the erroneous transaction. Each ETP Holder involved in the transaction would be notified as soon as practicable, and the ETP Holder aggrieved by the action could appeal such action in accordance with the provisions of PCXE Rule 10.13.

The Exchange is proposing to amend PCXE Rule 7.11(d) to confer authority on a PCXE officer designated by the Corporation who, in addition to the Chief Executive Officer and President, may nullify transactions or modify their terms arising out of any disruption or malfunction in the ArcaEx trading system. This rule change will provide the PCXE with more flexibility in making time-sensitive decisions in the absence or unavailability of the Chief Executive Officer or President. The proposed rule amendment parallels PCXE Rule 7.11(b) relating to executions that are ''clearly erroneous'' when there is an obvious error in the terms of an order, such as price, quantity or identification of the security. The rule change also adds language to Rule 10.13 regarding appeals for non-disciplinary matters by clarifying that any ETP Holder aggrieved by an officer's determination under the PCXE's ''Clearly Erroneous Policy'' may appeal such action. Proposed Rule 10.13(a)(5) reiterates the statement in Rule 7.11 that any determination made by the Corporation under this policy is subject to the provisions of Rule 10.13.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [3] of the Act, in general, and further the objectives of Section 6(b)(5),[4] in particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market and to protect investors and the public interest.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

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 PCX 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 (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 PCX. All submissions should refer to File No. PCX–2002–63 and should be submitted by November 12, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26786 Filed 10–21–02; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46660; File No. SR–Phlx–2002–50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Permanent Approval of the Pilot Program Providing for Broker-Dealer Access to AUTOM

October 15, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on September 18, 2002, the Philadelphia Stock Exchange, Inc. (''Exchange'' or ''Phlx'') submitted to 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. On October 2, 2002, Phlx submitted Amendment No. 1 to the proposed rule change.[3] On October 9, 2002, Phlx submitted Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended, has been filed by the Phlx as a ''non-controversial'' rule change under

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Richard Rudolph, Director and Counsel, Phlx, to Jennifer Colihan, Division of Market Regulation (''Division''), Commission dated October 1, 2002. In Amendment No. 1, Phlx requested that the filing be designated as a non-controversial rule change pursuant to section 19(b)(3)(A) of the Act. In addition, the rule text was amended to reflect permanent changes to the rule that were approved in Securities Exchange Act Release No. 46296 (August 1, 2002), 67 FR 52506 (August 12, 2002) (SR–Phlx–2002–37). Finally, the Exchange represented that since the commencement of the pilot, it has not experienced any issues relating to capacity or its ability to receive, route, and automatically execute orders for the account(s) of broker-dealers via AUTOM.

[4] *See* letter from Richard Rudolph, Director and Counsel, Phlx, to Jennifer Colihan, Division, Commission, dated October 9, 2002. In Amendment No. 2, the rule text was amended to accurately reflect the text that was approved on a pilot basis. See Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002) (SR–Phlx–2001–40).

Rule 19b–4(f)(6)[5] under the Act. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to adopt, on a permanent basis, Exchange Rules 1080(b)(i)(C) and 1080(b)(ii), and Commentary .05 to Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X).[6] The rules had previously been approved on a six-month pilot basis (the ''pilot'').[7] The pilot, scheduled to expire on October 15, 2002, permits access to AUTOM, the Exchange's electronic options order routing, delivery, execution and reporting system, to off-floor broker-dealers, and allows the automatic execution of eligible broker-dealer orders on an issue-by-issue basis.

The text of the proposed rule change is available at the Office of the Secretary, the Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of and basis for the proposed rule change, as amended, 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. 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 purpose of the proposed rule change is to permit off-floor broker-dealers, on a permanent basis and subject to certain restrictions designed to ensure the maintenance of a fair and orderly market, to have electronic access through AUTOM to the specialist's limit order book and the Exchange's automatic execution system (''AUTO–X'').[8] The Exchange is proposing permanent approval of the proposed rule change to remain competitive, and to improve the efficiency with which orders for the account(s) of broker-dealers are currently executed. The Exchange believes that providing broker-dealers with access to the specialist's limit order book and automatic executions would promote more efficient and expeditious execution of broker-dealer orders than under the prior Exchange practice of re-routing to a Floor Broker booth. Under the prior Exchange practice, such orders were represented in the crowd by a Floor Broker after such Floor Broker's receipt thereof.[9]

The Exchange also believes that the proposed rule change is consistent with the purposes underlying the Commission mandate to adopt new, or amend existing, rules that substantially enhance incentives to quote competitively and substantially reduce disincentives for market participants to act competitively.[10] The Exchange believes that providing broker-dealers with access to the specialist's limit order book and the Exchange's AUTO–X system should eliminate any actual or perceived technological advantage the specialist may have respecting access to the limit order book.

The proposal would permit certain off-floor broker-dealer limit orders to be eligible for entry into AUTOM. Generally, off-floor broker-dealer limit orders up to 200 contracts, depending on the option, would be eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee, however, may determine to increase the eligible order delivery size, on an issue-by-issue basis. The proposed rule change provides that the following types of off-floor broker-dealer limit orders are eligible for AUTOM: day, GTC, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order. The purpose of this provision is to ensure that off-floor broker-dealers do not have an actual or perceived disadvantage respecting on-floor specialists and registered options traders (''ROTs'').

Proposed Commentary .05 would establish certain conditions and restrictions on the use of AUTOM, as explained further below. First, the proposed rule states that orders for the account(s) of off-floor broker-dealers must be represented on the Exchange floor by a floor member. The proposed rule contemplates that such a floor member may be a floor broker or the specialist. The Exchange believes that the proposed rule change should result in more orders being handled electronically (as opposed to the previous practice of causing broker-dealer orders to be handled manually), thereby enhancing the audit trail for broker-dealer orders. Second, the proposed rule provides that off-floor broker-dealer orders delivered via AUTOM shall be for a minimum size of one (1) contract.

Third, proposed Commentary .05 states that the restrictions and prohibitions concerning electronically generated orders and off-floor market makers set forth in Exchange Rules 1080(i) and (j) apply to orders entered for the account(s) of off-floor broker-dealers. Exchange Rule 1080(i) prohibits members from entering, permitting, or facilitating the entry of, orders into AUTOM if those orders are created and communicated electronically without manual input (*i.e.*, order entry by public customers or associated persons of members must involve manual input such as entering the terms of an order into an order-entry screen or manually

[5] 17 CFR 240.19b–4(f)(6). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under section 19(b)(3)(C) of the Act, the Commission considers that period to commence on October 9, 2002, the date the Phlx filed Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

[6] AUTOM is the Exchange's electronic order delivery, routing, execution 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 certain orders are eligible for AUTOM's automatic execution feature, 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.

[7] *See* Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002) (SR–Phlx–2001–40).

[8] The electronic ''limit order book'' is the Exchange's automated specialist limit order book, which automatically routes all unexecuted AUTOM orders to the book and displays orders real-time in order of price-time priority. Orders not delivered through AUTOM may also be entered onto the limit order book. *See* Exchange Rule 1080, Commentary .02.

[9] Prior to the implementation of the pilot, incoming broker-dealer orders delivered via AUTOM were ineligible for delivery to the specialist, such that they were rejected by the system and routed either to the appropriate Floor Broker booth or to the point of origin of the order. Such orders were either represented by the appropriate Floor Broker on the Exchange or rerouted to the originating broker or dealer.

[10] The Exchange notes that on September 11, 2000, the Commission issued an order, which requires the Exchange (as well as the other respondent options exchanges, American Stock Exchange LLC, Chicago Board Options Exchange, Inc. (''CBOE''), and Pacific Exchange, Inc.) to implement certain undertakings. *See* 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) and Administrative Proceeding File 3–10282.

selecting a displayed order against which an off-setting order should be sent).[11]

Rule 1080(j) prohibits members from entering, or facilitating the entry of, into AUTOM, as principal or agent, limit orders in the same options series from off the floor of the Exchange, for the account or accounts of the same or related beneficial owners, in such a manner that the off-floor member or the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis.[12]

Fourth, proposed Commentary .05 provides that off-floor broker-dealer limit orders entered via AUTOM establishing a bid or offer may establish priority, and the specialist and crowd may match such a bid or offer and be at parity, subject to the yield provisions of Exchange Rule 1014. The proposed rule change provides that the specialist and any other ROT then in the trading crowd may match an off-floor broker-dealer's bid or offer. The Exchange believes that allowing a specialist or ROT to match an off-floor broker-dealer's order, and thus be on parity, would preserve the important affirmative market-making obligations of specialists and ROTs.

Fifth, the proposed rule change provides that off-floor broker-dealer limit orders that are eligible for execution via AUTO–X entered via AUTOM for the account(s) of the same beneficial owner may not be entered in options on the same underlying security more frequently than every 15 seconds.[13] The purpose of this provision is to remain consistent with recently adopted Exchange rules that include such a 15-second restriction against orders entered via AUTOM for the account(s) of the same beneficial owner in options on the same underlying security more frequently than every 15 seconds.[14]

Finally, the proposal also allows off-floor broker-dealer limit orders to be executed automatically, on an issue-by-issue basis subject to the approval of the Exchange's Options Committee, via AUTO–X, which is the automatic execution feature of AUTOM. The Exchange believes that this should enable the Phlx to be competitive with other options exchanges that allow automatic executions for broker-dealer orders by assuring broker-dealers sending their proprietary orders to the Exchange that electronic delivery and execution of such orders would not be interrupted.

The proposed rule change allows the AUTO–X guarantee for off-floor broker-dealer limit orders to be for a different number of contracts, on an issue-by-issue basis, than the AUTO–X guarantee for public customer orders, subject to the approval of the Options Committee.[15] In August, 2002, however, the Commission approved proposed changes to the rule that require specialists to guarantee automatic executions for off-floor broker-dealer orders for a minimum of 10 contracts in Top 120 options.[16] The Exchange believes that these provisions are consistent with the recently expanded Quote Rule[17] and recently adopted Exchange Rules that allow different firm size guarantees for customers than for broker-dealers.[18]

The proposed rule change provides that AUTO–X eligible off-floor broker-dealer limit orders may be eligible for automatic execution via the Exchange's National Best Bid or Offer (''NBBO'') Step-Up Feature.[19] Engagement of the NBBO Step-Up Feature is not mandatory for off-floor broker-dealer orders, but rather may be engaged on an issue-by-issue basis (subject to the approval of the Options Committee).

The Exchange represents that, since the commencement of the pilot, it has not experienced any issues relating to capacity or its ability to receive, route, and automatically execute orders for the account(s) of broker-dealers via AUTOM.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with section 6(b) of the Act[20] in general, and with section 6(b)(5) of the Act[21] specifically, in that it is designed to perfect the mechanism of a free and open market and a national market system, protect investors and the public interest and promote just and equitable principles of trade by providing off-floor broker-dealers increased access to the specialist's limit order book, and automatic executions, which should provide incentives for Phlx market participants to quote competitively, and which in turn should result in competitive pricing and enhanced liquidity on the Exchange specifically, and in the options markets in general.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change, as amended, will impose any inappropriate 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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended, does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; (3) become operative for 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to that date, it has become effective pursuant to section 19(b)(3)(A) of the Act[22] and Rule 19b–4[23] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[24] normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[25] permits the Commission to designate a shorter time if such action is consistent with the protection of

[11] *See* Securities Exchange Act Release No. 43376 (September 28, 2000), 65 FR 59488 (October 5, 2000) (SR–Phlx–00–79).

[12] *See* Securities Exchange Act Release No. 43939 (February 7, 2001), 66 FR 10547 (February 15, 2001) (SR–Phlx–01–05).

[13] Recently, the Exchange filed proposed amendments to this provision that would provide that the Options Committee may, on an issue-by-issue basis, determine to permit the entry of such multiple orders upon the request of the specialist registered in the issue. Such permission shall not exempt Order Entry Firms and Users from any other provision in this Rule, including, without limitation, the prohibition against unbundling in Phlx Rule 1080(b)(iv); the prohibition against the entry of electronically generated orders in Phlx Rule 1080(i); and the prohibition against effectively operating as a market-maker from off floor in Rule 1080(j). See SR–Phlx–2002–40.

[14] *See* Exchange Rule 1080(c)(ii).

[15] The Exchange believes that this amended provision should result in a larger number of AUTO–X eligible orders delivered electronically to the Exchange.

[16] *See* Securities Exchange Act Release No. 46296 (August 1, 2002), 67 FR 52506 (August 12, 2002) (SR–Phlx–2002–37).

[17] 17 CFR 240.11Ac1–1.

[18] See Exchange Rule 1082.

[19] The NBBO Step-Up Feature automatically executes eligible orders at the NBBO when the Exchange's disseminated quote is inferior to the NBBO. For a complete description of the NBBO Step-Up Feature, *see* Securities Exchange Act Release No. 43684 (December 6, 2000), 65 FR 78237 (December 14, 2000) (partially approving SR–Phlx–00–93).

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4.

[24] 17 CFR 240.19b–4(f)(6).

[25] 17 CFR 240.19b–4(f)(6)(iii).

investors and the public interest. The Phlx has requested that the Commission waive the 30-day operative delay. In order to allow the pilot to continue on an uninterrupted basis, the Commission believes waiving the 30-day operative date is consistent with the protection of investors and the public interest. [26] In addition, the Commission notes that the Exchange represents that, since the commencement of the pilot, it has not experienced any issues relating to capacity or its ability to receive, route, and automatically execute orders for the account(s) of broker-dealers via AUTOM. For these reasons, the Commission designates the proposal to be effective and operative on October 15, 2002.

At any time within 60 days of the filing of the proposed rule change, as amended, 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.[27]

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–2002–50 and should be submitted by November 12, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26783 Filed 10–21–02; 8:45 am]

BILLING CODE 8010–01–P

[26] 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).

[27] *See* note *supra.*

[28] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3451]

State of Mississippi; [Amendment #1]

In accordance with a notice received from the Federal Emergency Management Agency, dated October 6, 2002, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on September 23, 2002, and continuing through October 6, 2002.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is December 2, 2002, and for economic injury the deadline is July 1, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 15, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–26833 Filed 10–21–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 4165]

30-Day Notice of Information Collection; Form DS–19, Passport Amendment/Validation Application; OMB Number 1405–0007

AGENCY: Department of State, Bureau of Consular Affairs, Passport Services.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Extension of a currently approved collection.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Passport Amendment & Validation Application.

Frequency: On Occasion.

Form Number: DS–19.

Respondents: Individuals or Households.

Estimated Number of Respondents: 230,912.

Average Hours Per Response: 1/12 hr. (5 min).

Total Estimated Burden: 19,243.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: September 30, 2002.

Florence G. Fultz,

Acting Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 02–26854 Filed 10–21–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 4166]

30-Day Notice of Proposed Information Collection: Form DS–64, Statement Regarding a Lost or Stolen Passport; OMB #1405–0014

AGENCY: Department of State, Bureau of Consular Affairs, Passport Services.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of

Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Extension of a currenly approved collection.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Statement Regarding Lost or Stolen Passport.

Frequency: On Occasion.

Form Number: DS–64.

Respondents: Individuals or Households.

Estimated Number of Respondents: 75,000.

Average Hours Per Response: 1/12 hr. (5 min).

Total Estimated Burden: 6,250.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: September 30, 2002.

Florence G. Fultz,

Acting Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 02–26855 Filed 10–21–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 4167]

30-Day Notice of Information Collection; Form DS–71, Affidavit of Identifying Witness (Formerly Form DSP–71); OMB Control Number 1405–0088

AGENCY: Department of State, Bureau of Consular Affairs, Passport Services.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Extension of a currently approved collection.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Affidavit of Identifying Witness.

Frequency: On Occasion.

Form Number: DS–71.

Respondents: Individuals or Households.

Estimated Number of Respondents: 120,000.

Average Hours Per Response: 1/12 hr. (5 min).

Total Estimated Burden: 10,000.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: September 30, 2002.

Florence G. Fultz,

Acting Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 02–26856 Filed 10–21–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 4169]

Culturally Significant Object Imported for Exhibition Determinations: ''Ceramica y Cultura: The Story of Mexican and Spanish Mayolica''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Ceramica y Cultura: The Story of Mexican and Spanish Mayolica,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owners. I also determine that the exhibition or display of the exhibit objects at The Museum of International Folk Art, from on or about November 17, 2002, to on or about September 7, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, contact Orde F. Kittrie, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/619–5078). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: October 16, 2002.

Miller Crouch,

Assistant Secretary for Educational and Cultural Affairs, Acting, Department of State.

[FR Doc. 02–26853 Filed 10–21–02; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice: 4150]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on November 13, 14, and 15, in Washington, DC. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda will include updated committee reports, a world threat overview and a round table discussion that calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522–1003, phone: 202–663–0533.

Dated: October 2, 2002.

Peter E. Bergin,

Director of the Diplomatic Security Service, Department of State.

[FR Doc. 02–26851 Filed 10–21–02; 8:45 am]

BILLING CODE 4710–24–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–257]

WTO Dispute Settlement Proceeding Regarding the U.S. Department of Commerce Final Countervailing Duty Determination Concerning Certain Softwood Lumber From Canada

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that, on August 19, 2002, the United States received a request from the Government of Canada for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement'') regarding the U.S. Department of Commerce (''DOC'') final countervailing duty determination concerning certain softwood lumber from Canada. The panel was established on October 1, 2002. Canada alleges that the initiation and conduct of the countervailing duty investigation, the final determination, the provision of expedited and administrative reviews, and related matters are inconsistent with various provisions of the Agreement on Subsidies and Countervailing Measures (''SCM Agreement'') and the General Agreement on Tariffs and Trade 1994 (''GATT 1994''). USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before December 1, 2002 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0048@ustr.gov,* Attn: ''DS257 Dispute'' in the subject line, or (ii) by mail, to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: DS257 Dispute, with a confirmation copy sent electronically to the e-mail address above or by fax to 202–395–3640.

FOR FURTHER INFORMATION CONTACT: Amber L. Cottle, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–3581.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)), USTR is providing notice that, on August 19, 2002, the United States received a request from the Government of Canada for the establishment of a WTO dispute settlement panel regarding the DOC final countervailing duty determination concerning certain softwood lumber from Canada. The panel was established on October 1, 2002.

Major Issues Raised and Legal Basis of the Complaint

The notice of the DOC final countervailing duty determination concerning certain softwood lumber from Canada was published in the **Federal Register** on April 2, 2002, and the notice of the DOC amended final determination was published on May 22, 2002. The notices explain the basis for the DOC's final determination that Canada provides countervailable subsidies to the Canadian lumber industry.

In its panel request, Canada describes its claims in the following manner:

1. Initiation of the Investigation

In initiating the *Lumber IV* investigation, the United States violated Articles 10, 11.4 and 32.1 of the SCM Agreement. Specifically, contrary to Article 11.4, the initiation of the *Lumber IV* investigation was not based on an objective and meaningful examination and determination of the degree of support for the application by the domestic industry, because the ''Continued Dumping and Subsidy Offset Act of 2000'' (CDSOA), by requiring that a member of the U.S. industry support the application as a condition of receiving payments under the CDSOA, made impossible an objective and meaningful examination of industry support for the application.

2. Commerce's Final Countervailing Duty Determination

In making the final determination, the United States acted inconsistently with Articles 1, 2, 10, 14, 19, 22 and 32 of the SCM Agreement and Article VI of GATT 1994. Specifically:

(a) Commerce violated Articles 10, 19.1, 19.4 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 by imposing countervailing duties in respect of practices that are not subsidies because there is no ''financial contribution'' by government.

Commerce found that Canadian provincial stumpage programs provide goods or services and are, therefore, financial contributions by government under Article 1.1(a) of the SCM Agreement. Commerce erred in this finding. Canadian provincial stumpage programs do not constitute the provision of goods or services within the meaning of Article 1.1(a) of the SCM Agreement and are not ''financial contributions'' by a government;

(b) Commerce violated Articles 10, 14, 14(d), 19.1 19.4 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 by imposing countervailing duties in respect of practices that are not subsidies because there is no ''benefit conferred'',

Commerce erred by:

(i) Determining and measuring the adequacy of remuneration for the alleged provision of goods or services in relation to purported prevailing market conditions in a country other than the country of provision,

(ii) Incorrectly assessing and comparing evidence related to those purported market conditions, and

(iii) Rejecting evidence of prevailing market conditions for the alleged good or service in question in the country of provision within the meaning of Article 14(d) of the SCM Agreement;

(c) Commerce violated Articles 10, 19.1, 19.4 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 by imposing countervailing duties in instances where no subsidy exists. Commerce erroneously and impermissibly *presumed* that an alleged subsidy passes through an arm's s-length transaction to a downstream user of an input;

(d) Commerce violated Articles 1.2, 2.1, 2.4, 10, 19.1, 19.4 and 32.1 of the SCM Agreement by imposing countervailing duties where the alleged subsidies are not

''specific'' within the meaning of Article 2 of the SCM Agreement.

Commerce erroneously and impermissibly made a finding of ''specificity'',

(i) Based solely on the unsupported and incorrect assertion that only three industries use provincial stumpage, and

(ii) Without taking into account the extent of diversification of economic activity within the jurisdiction of the alleged granting authority;

(e) Commerce violated Article 19.4 of the SCM Agreement and Article VI:3 of GATT 1994 by inflating the alleged subsidy rate through the use of impermissible methodologies, including by:

(i) Calculating the alleged stumpage benefit on the basis of the whole softwood log, and then attributing that benefit to only a portion of the products produced from that log,

(ii) Excluding relevant shipments from the denominator such that the numerator and the denominator of the alleged benefit calculation where not congruent,

(iii) Allocating the total alleged stumpage benefit over a sales value that had been demonstrated on the record to be inaccurate, and

(iv) Excluding from the denominator shipments of companies demonstrated to be unsubsidized; and

(f) Commerce violated Articles 10, 12, 22 and 32.1 of the SCM Agreement and Article X:3(a) of GATT 1994 because the investigation was not conducted in accordance with fundamental substantive and procedural requirements. In particular:

(i) Commerce refused to accept or consider relevant evidence offered on a timely basis, contrary to Article 12.1 of the SCM Agreement,

(ii) Commerce gathered and relied upon information not made available to the parties and not verified, contrary to Articles 12.2, 12.3, 12.5 and 12.8 of the SCM Agreement,

(iii) Commerce failed to address significant evidence and arguments in its determination, contrary to Article 22.5 (and Article 22.4 as it relates to Article 22.5) of the SCM Agreement,

(iv) Commerce failed to issue timely decisions and to provide reasonable schedules for questionnaire responses, briefings, and hearings contrary to Articles 12.1, 12.2, 12.3 and 22.5 (and Article 22.4 as it relates to Article 22.5) of the SCM Agreement, and

(v) Commerce improperly applied facts available to cooperative parties, contrary to Article 12.7 of the SCM Agreement.

3. Expedited and Administrative Reviews

(a) In initiating ''expedited reviews'' with respect to the *Lumber IV* investigation, the United States has violated Articles 10, 19.3, 19.4 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 because:

(i) Commerce has failed to ensure that each exporter requesting an expedited review is granted a review and given an individual countervailing duty rate, and

(ii) Commerce's proposed methodology for calculating company-specific countervailing duty rates fails to properly establish an individual countervailing duty rate for each exporter granted a review.

(b) U.S. law specifically prohibits company-specific administrative reviews in aggregate cases. In conducting the Lumber IV investigation on an aggregate basis, the United States has therefore violated Articles 10, 19.3, 19.4, 21.1, 21.2 and 32.1 of the SCM Agreement and Article VI:3 of GATT 1994 because:

(i) Commerce is prohibited under U.S. law from conducting company-specific administrative reviews in this case except for companies with zero or *de minimis* rates, and

(ii) A rate obtained following an aggregate administrative review will replace any company-specific rates arrived at through the expedited review process.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons submitting comments may either send one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above or transmit a copy electronically to *FR0048@ustr.gov,* with ''DS257'' in the subject line. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to 202–395–3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by the that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include nonconfidential comments received by USTR from the public with respect to the dispute; the U.S. submissions to the panel in the dispute, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 02–26761 Filed 10–21–02; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–264]

WTO Dispute Settlement Proceeding Regarding the U.S. Department of Commerce Final Antidumping Determination Concerning Certain Softwood Lumber From Canada

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that, on September 13, 2002, the United States received a request from the Government of Canada for consultations under the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement'') regarding the U.S. Department of Commerce (''DOC'') final determination of sales at less than fair value with respect to certain softwood lumber from Canada. The panel request alleges that the initiation of the investigation, the conduct of the investigation, and the final determination are inconsistent with various provisions of the General Agreement on Tariffs and Trade 1994 (''GATT 1994'') and the Agreement on

Implementation of Article VI of GATT 1994. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before December 1, 2002 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR00498@ustr.gov,* Attn: ''DS264 Dispute'' in the subject line, or (ii) by mail to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the Untied States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: DS264 Dispute, with a confirmation copy sent electronically to the email address above or by fax to 202–395–3640.

FOR FURTHER INFORMATION CONTACT: Amber L. Cottle, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC (202) 395–3581.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised and Legal Basis of the Complaint

The notice of the DOC final determination of sales at less than fair value with respect to certain softwood lumber from Canada was published in the **Federal Register** on April 2, 2002, and the notice of the DOC amended final determination was published on May 22, 2002. The notices explain the basis for the DOC's final determination that certain softwood lumber from Canada is being sold, or is likely to be sold, in the United States at less than fair value.

In its consultation request, Canada describes its claims in the following manner:

The measures it issue include the initiation of the investigation, the conduct of the investigation and the Final Determination. The Government of Canada considers these measures and, in particular, the determinations made and methodologies adopted therein by the United States Department of Commerce under authority of the United States Tariff Act of 1930, to violate the Anti-dumping Agreement and the GATT 1994 (in particular Articles 1 and 18.1 of the Anti-dumping Agreement and Article VI of the GATT 1994) for, among others, the following reasons:

1. The United States Department of Commerce improperly initiated the anti-dumping investigation that resulted in the Final Determination in contravention of Article 5 of the anti-dumping Agreement (including Articles 5.2, 5.3, 5.4 and 5.8). The application to initiate filed by the U.S. applicant failed to provide evidence of dumping, injury and causation that was reasonably available, including prices at which softwood lumber was sold in Canada. As a whole, the application did not contain ''sufficient evidence'' to justify the initiation of an investigation. Further, the initiation of the investigation was not based on an objective and meaningful examination and determination of the degree of support for the application by the domestic industry because the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA), by requiring that a member of the U.S. industry support the application as a condition of receiving payments under the CDSOA, made an objective and meaningful examination of industry support for the application impossible.

2. The United States Department of Commerce improperly applied a number of methodologies inconsistent with Article VI of the GATT 1994 and Articles 1, 2 (including Articles 2.1, 2.2, 2.4 and 2.6) and 9.3 of the Antidumping Agreement as a result of improper and unfair comparisons between the export price and the normal value, resulting in artificial and/or inflated margins of dumping. These included:

(a) Reliance on unrepresentative home market prices and improper determinations that sales of the like products in Canada were not in the ordinary course of trade, the effect of which led the Department of Commerce to disregard a significant proportion of domestic sales of like products (identical or similar goods) for purposes of making price to price comparisons and for purposes of calculating profit in determining constructed values;

(b) Failure to properly allocate costs in calculating the cost of production of the like product in Canada, including the failure to extend the value-based cost allocation methodology to take into account differences in lumber dimension, the effect of which led to improperly determining constructed values and profit, distortions in the application of the sales below cost test, and limiting the use of like products for purposes of making price to price comparison;

(c) Application of the practice of ''zeroing'', the effect of which was to inflate margins of dumping and which, in the recommendations and rulings of the Dispute Settlement Body in an earlier dispute, was found to be consistent with the Anti-dumping Agreement when establishing the existence of margins of dumping;

(d) Failure, when conducting comparisons between like products, to make due allowance for differences that affect price comparability;

(e) The use of an unreasonable amount for profit in the calculation of constructed values;

(f) Failure to apply a reasonable method in calculating amounts for administrative, selling and general expenses, including improper adjustment to export price and an improper allocation of genral and administrative expenses financial expenses; and

(g) Failure to apply a reasonable method to account for by-product revenues as offsets in calculating cost of production.

3. The United States Department of Commerce failed to establish a clear, definitive and proper product scope for investigation and improperly initiated and pursued the investigation with regard to certain products contrary to Articles 5.1, 5.2, 5.4 and 5.8 of the Anti-dumping Agreement. The Department of Commerce further failed to give parties opportunity to defned their interests in contravention of Article X:3(a) of the GATT 1994 and Article 6 of the Anti-dumping Agreement (including Articles 6.1, 6.2, 6.4 and 6.9), by failing to issue timely decisions and provide reasonable schedules for briefing and hearings, and to adequately consider the representations of the parties.

Public Comment: Requirement for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons submitting commerns may either send one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above or transmit a copy electronically to *FR0049@ustr.gov*, with ''DS264'' in the subject line. For documents sent by U.S. mail, USTR requests that the submiter provide a confirmation copy, either electronically or by fax to 202–395–3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that informaiton contained in a comment submitted by that person be treated as confidential business information must certify that such informaton is business confidential

and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; the U.S. submissions to the panel in the dispute, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 02–26762 Filed 10–21–02; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–260]

WTO Dispute Settlement Proceeding Regarding EC Provisional Safeguard Measures Against Imports of Certain Steel Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on September 16, 2002, pursuant to a request from the United States, a panel was established under the Marrakesh Agreement Establishing the World Trade Organization (''WTO'') to examine the provisional safeguard measures imposed by the European Communities (''EC'') against imports of certain steel products. These measures appear to be inconsistent with the EC's obligations under Article XIX of the GATT 1994 and Articles 2, 3, 4, 5, 6, and 12 of the Agreement on Safeguards. USTR invites written comment from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before October 30, 2002, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0038@USTR.GOV,* with ''Dispute on EC Safeguard Measures on Steel'' in the subject line, or (ii) by mail, to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: Dispute on EC Safeguard Measures on Steel, with a confirmation copy sent electronically or by fax to 202–395–3640.

FOR FURTHER INFORMATION CONTACT: L. Daniel Mullaney, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–3581.

SUPPLEMENTARY INFORMATION: Pursuant to Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that on September 16, 2002, a WTO panel was established pursuant to a request by the United States. The panel, which will hold its meetings in Geneva, Switzerland, is expected to issue a report on its findings and recommendations within six to nine months after its establishment.

Major Issues Raised and Legal Basis of the Complaint

The United States considers that provisional safeguard measures taken by the European Communities (''EC'') with regard to imports of certain steel products are inconsistent with the EC's commitments and obligations under the General Agreement on Tariffs and Trade 1994 (''GATT 1994'') and the Agreement on Safeguards (''Safeguards Agreement''). The measures in question (collectively, the ''Safeguard Measures'') include Commission Regulation (EC) No 560/2002 of 27 March 2002, as amended by Commission Regulation (EC) No 950/2002 of 3 June 2002, and Commission Regulation (EC) No 1287/2002 of 15 July 2002, as well as any other amendments thereto or extensions thereof, and any related measures. In particular, the Safeguard Measures appear to be inconsistent with:

(1) Article 2.1 of the Safeguards Agreement and Article XIX:1(a) of the GATT 1994, in that the EC applied the Safeguard Measures to certain steel products in the absence of a determination that such products are being imported in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.

(2) Article 4.1(b) of the Safeguards Agreement, in that the EC did not make a determination of the existence of a threat of serious injury based on facts and not merely on allegation, conjecture or remote possibility.

(3) Article 4.2 (a) of the Safeguards Agreement, in that there was no investigation to determine, and no determination of, whether increased imports have caused or are threatening to cause serious injury, in which the EC evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the domestic industry, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

(4) Article 4.2 (b) of the Safeguards Agreement, in that there was no investigation demonstrating, and no determination of, the existence of a causal link between increased imports of the product concerned and serious injury or threat thereof on the basis of objective evidence. The EC also failed to ensure that injury caused at the same time by factors other than imports was not attributed to increased imports.

(5) Article 4.2(c) of the Safeguards Agreement, in that the EC failed to publish, in accordance with the provisions of Article 3, a detailed analysis of the case under investigation as well as a demonstration of the relevance of the factors examined.

(6) Article 6 of the Safeguards Agreement, in that the Safeguard Measures were not taken pursuant to a

preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury to the domestic industry that produces like or directly competitive products.

(7) Article 6 of the Safeguards Agreement and Article XIX:2 of the GATT 1994 in that the EC took the Safeguard Measures in the absence of critical circumstances where delay would cause damage which it would be difficult to repair.

(8) Article 3 of the Safeguards Agreement, in that:

(a) The Safeguard Measures were not applied following an investigation by the competent authorities of the Member pursuant to procedures previously established and made public in consonance with Article X of the GATT 1994;

(b) The Safeguard Measures were not applied following an investigation which included reasonable public notice to all interested parties and public hearings or other appropriate means in which importers, exporters and other interested parties could present evidence and their views, including the opportunity to respond to the presentation of other parties and to submit their views, *inter alia,* as to whether or not the application of the Safeguard Measures would be in the public interest;

(c) The EC did not publish a report setting forth findings and reasoned conclusions reached on all pertinent issues of fact and law.

(9) Article 5.1 of the Safeguards Agreement, in that the Safeguard Measures were not applied by the EC only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment.

(10) Article 12.1 of the Safeguards Agreement, in that the EC did not immediately notify the Committee on Safeguards upon:

(a) Initiating an investigation relating to serious injury or threat thereof and the reasons for it;

(b) Making a finding of serious injury or threat thereof caused by increased imports; and

(c) Taking a decision to apply or extend a safeguard measure.

(11) Article 12.4 of the Safeguards Agreement, in that the EC failed to make a notification to the Committee on Safeguards before taking the Safeguard Measures.

(12) Article 2.2 of the Safeguards Agreement and Article I of GATT 1994, in that the EC applied its Safeguard Measures to the goods of some WTO Members, while excluding the goods of other countries whose territories are not part of a free trade area or a customs union and who are not developing country WTO Members.

(13) Articles 2.1, 4, 5.1 and 6 of the Safeguards Agreement and Article XIX of GATT 1994, in that there is a lack of parallelism between the products for which an increase in imports was claimed and the products on which the Safeguards Measures were imposed.

(14) Article XIX:1(a) of GATT 1994, in that there were no unforeseen developments, as a result of which a product is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of the like or directly competitive products.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons submitting comments may either send one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above or transmit a copy electronically to *FR0038@ustr.gov,* with ''Dispute on EC Safeguard Measures on Steel'' in the subject line. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to 202–395–3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 3, First Floor, Office of the United States Trade Representative, 1724 F Street, NW., Washington, DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the dispute settlement panel, and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS–260, Dispute on EC Safeguard Measures on Steel) may be made by calling the Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 02–26760 Filed 10–21–02; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Review Under 49 U.S.C. 41720 of Delta/Northwest/Continental Agreements

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Extension of waiting period.

SUMMARY: Delta Air Lines, Northwest Airlines, and Continental Airlines have submitted code-sharing and frequent-flyer program reciprocity agreements to the Department for review under 49 U.S.C. 41720. That statute requires such agreements between major U.S. passenger airlines to be submitted to the Department at least thirty days before the agreements' proposed effective date and authorizes the Department to extend the waiting period for these agreements at the end of the thirty-day period. The Department has determined to extend the waiting period for the Delta/Northwest/Continental

agreements for an additional thirty days, from October 22 to November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: Delta, Northwest, and Continental submitted code-sharing and frequent-flyer program reciprocity agreements to us for review under 49 U.S.C. 41720 on August 23, more than thirty days before the airlines planned to implement these agreements. Under that statute we may extend the waiting period by 150 days for code-sharing agreements and by sixty days for other types of agreements. We have already extended the waiting period for these agreements once by thirty days. 67 FR 59328 (September 20, 2002).

We have been informally reviewing the agreements submitted by Delta, Continental, and Northwest. We are considering the comments submitted by interested parties, the three airlines' agreements, and other information in our possession, and we have been consulting with the Justice Department, which is responsible for enforcing the antitrust laws in the airline industry. Several carriers recently jointly asked the Department to extend the waiting period for the code-share agreement for the full 150-day period permitted by law and grant their request for a more extensive production of evidence from Delta, Continental, and Northwest. That request, received in writing late in the day on October 15, 2002, was made by Air Tran Airways, America West Airlines, Frontier Airlines, JetBlue Airways, Midwest Express Airlines, Southwest Airlines, and Spirit Airlines.

We have again determined that we need more time for our analysis of the issues presented by the Delta/Continental/Northwest joint venture agreements. Those issues are important and require careful consideration. We have therefore determined to extend the waiting period by another thirty days, from October 22 to November 21. We took similar action on the United/US Airways joint venture agreements. 67 FR 59328 (September 20, 2002). We will also consider the joint request made by several carriers to further extend the waiting period for the proposed code-share agreement and for additional evidence and will deal with it separately.

We intend to complete our review as promptly as possible, so that the three airlines will know our views on whether and under what terms they may go forward with the agreements.

Issued in Washington, DC on October 18, 2002.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 02–26973 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–7514]

National Preparedness for Response Exercise Program (PREP)

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability and notice of meeting.

SUMMARY: The U.S. Coast Guard, Research and Special Programs Administration, U.S. Environmental Protection Agency, and Mineral Management Service, in concert with representatives from various State governments, industry, environmental interest groups, and the general public, developed the *National Preparedness for Response Exercise Program (PREP) Guidelines* to reflect the consensus agreement of the entire oil spill response community. This notice announces the availability of the revised 2002 PREP Guidelines and announces the participating agencies' intent to hold a public meeting in November 2002.

DATES: A public meeting will be held from 8:30 a.m. to 11:30 a.m. on November 7, 2002, in Galveston, Texas.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Comments and materials received from the public and the 2002 PREP Guidelines are part of this docket and are available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

The 2002 PREP Guidelines also can be found on the following Web site: *http://www.uscg.mil/hq/nsfcc/nsfweb/.* Hard copies of the PREP Guidelines are available at no cost by writing or faxing the *PREP Coordinator* at Commandant (G–MOR), 2100 Second Street SW., Washington, DC 20593–0001, fax: 202–267–4065. Please indicate the quantity when ordering. Quantities are limited to 10 per order.

The public meeting will be held in Galveston, Texas, at the Moody Gardens Convention Center, One Hope Blvd., Galveston, Texas, 77554.

FOR FURTHER INFORMATION CONTACT: For questions on this notice and general information regarding PREP Guidelines and the schedule, contact Mr. Robert Pond, Office of Response, Plans and Preparedness Division (G–MOR–2), Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, telephone: 202–267–6603, fax: 202–267–4065, or e-mail: *rpond@comdt.uscg.mil.* If you have questions on viewing material in the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone: 202–366–5149.

SUPPLEMENTARY INFORMATION:

Background and Purpose

In 1994, the U.S. Coast Guard (USCG), and the Research and Special Programs Administration (RSPA) of the Department of Transportation, the U.S. Environmental Protection Agency (U.S. EPA), and the Minerals Management Service (MMS) of the Department of Interior, coordinated the development of the PREP Guidelines. Through a series of public workshops involving representatives from many State governments, the regulated community, environmental interest groups, and the general public, the National Preparedness for Response Exercise Program (PREP) Guidelines were crafted to reflect the consensus agreement of the entire oil spill response community regarding an appropriate exercise program, including exercise types, frequency, scope, and objectives.

For their part, the USCG, RSPA, U.S. EPA, and MMS agreed that an industry entity may use the PREP Guidelines as one means of complying with the pollution response exercise requirements in 33 U.S.C. 1321(j). (For USCG rules, see 33 CFR part 154, subpart F (Response Plans for Oil Facilities) and 33 CFR part 155, subpart D (Response Plans); for RSPA rules, see 49 CFR part 194 (Response Plans for Onshore Oil Pipelines); for U.S. EPA rules, see 40 CFR part 112, subpart D (Response Requirements); and for MMS rules, see 30 CFR part 254 (Oil-Spill Response Requirements for Facilities Located Seaward of the Coast Line).)

Since 1994, USCG, RSPA, U.S. EPA, and MMS have hosted public workshops in 1995 (60 FR 19804, April 20, 1995), 1997 (62 FR 36864, July 9, 1997), and 2000 (65 FR 40160, June 29, 2000) to review the PREP Guidelines and consider need for changes. The first two workshops produced recommendations to preserve the 1994 PREP Guidelines without amendment. Based on comments from the 2000 workshop, the USCG, RSPA, U.S. EPA, and MMS recommended amending the

PREP Guidelines to clarify or alter certain exercise parameters and standards.

Key Changes and Clarifications to PREP Guidelines

Several key changes have been made to the PREP Guidelines. The 2002 PREP Guidelines clarify the exercise parameters found in the 1994 version and do not increase or decrease the scope or scale of individual exercises or of the overall program. One exception is the potential frequency for government initiated unannounced exercises, which changes the number of exercises for U.S. EPA regulated facilities from four per year per planning area to no more than 10 percent of such facilities per year.

There also were some minor changes made to individual agency sections and the appendices, with the majority of changes being made to Section 2 ''Guiding Principles.''

Section 2 changes included the following:

- The subsection ''Equipment Deployment Exercises'' was revised to include greater specificity of equipment types to be deployed, along with a more detailed description of the regional Oil Spill Removal Organizations concept. The revision also included encouragement to exercise ''systems'' rather than individual pieces of equipment, and to use equipment deployment exercises to test the effectiveness of response planning strategies.
- The subsection ''Spill Management Team Exercises'' was revised to clarify criteria for allowing multiple planholders to take credit for a single spill management team exercise.
- The subsection ''Area Exercises'' was revised to clarify the scope of an exercise including minimum spill size, a requirement to include industry-funded equipment deployment, and to reiterate that the goal is to exercise the entire response community with the unified command framework.
- The section ''Government Initiated Unannounced Exercises'' was revised to clarify exercise expectations. Among the 2002 revisions are the expectations of satisfactory performance by planholders and to advise them of the change in the number of potential exercises in an EPA region (up to 10 percent of planholders).

Approach to Revision of PREP Guidelines

On June 29, 2000, we published a notice in the **Federal Register** (65 FR 40160) requesting comments on the 1994 PREP Guidelines and announcing a public workshop to address current concerns with the PREP Guidelines.

On August 29, 2000, in Washington, DC, the Coast Guard held a public workshop. Based on the comments, the National Schedule Coordination Committee (NSCC)—comprised of representatives from the Coast Guard, RSPA, U.S. EPA, and MMS—proposed changes to the 1994 PREP Guidelines.

On April 13, 2001, we published a notice of availability and request for comment in the **Federal Register** (66 FR 19282) seeking comments on the proposed changes to the PREP Guidelines.

On August 7, 2001, we published an extension of comment period notice in the **Federal Register** (66 FR 41293) extending the comment period due to a delay in the availability of the proposed changes to the PREP Guidelines.

On March 13, 2002, we published a notice of availability and request for comments in the **Federal Register** (67 FR 11368). This notice advised the public of the proposed final changes to the 2002 PREP Guidelines that have been revised based on a review of the comments made in response to the initial changes proposed in April 2001.

Availability of Document

The 2002 PREP Guidelines are available electronically in this docket or from the sources indicated in **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

The USCG, in conjunction with RSPA, U.S. EPA, and MMS, will hold a public meeting to discuss the 2002 PREP Guidelines on the following date and at the following location: Galveston, Texas, November 7, 2002, from 8:30 a.m. to 11:30 a.m. at the Moody Gardens Convention Center, One Hope Blvd., Galveston, Texas, 77554.

The meeting may conclude before the allotted time if all matters of discussion have been addressed.

Dated: October 16, 2002.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 02–26864 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meetings.

SUMMARY: This notice is to advise interested persons that RSPA will conduct public meetings in preparation for and to report the results of the twenty-second session of the United Nation's Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE) to be held December 2–6, 2002 in Geneva, Switzerland.

DATES: November 20, 2002, 9:30 a.m.–12:30 p.m., Room 6244–6248. December 18, 2002, 9:30 a.m.–12:30 p.m., Room 6244–6248.

ADDRESSES: Both meetings will be held at DOT Headquarters, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bob Richard, International Standards Coordinator, or Duane Pfund, Assistant International Standards Coordinator, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: The primary purpose of the first meeting will be to prepare for the twenty-second session of the UNSCOE and to discuss draft U.S. positions on UNSCOE proposals. The primary purpose of the second meeting will be to provide a briefing on the outcome of the UNSCOE session. Topics to be covered during the public meetings include (1) Requirements for the transport of solids in bulk containers including portable tanks, (2) Harmonized requirements for compressed gas cylinders, (3) Classification of individual substances, (4) Requirements for packagings used to transport hazardous materials including a U.S. proposal to require a repetitive shock test, (5) Requirements for infectious substances and clinical waste, (6) Security of dangerous goods in transport. The public is invited to attend without prior notification. Due to the heightened security measures participants are encouraged to arrive early to allow time for security checks necessary to obtain access to the building.

Documents

Copies of documents for the UNSCOE meeting and the meeting agenda may be obtained by downloading them from the United Nations Transport Division Web site at: *http://www.unece.org/trans/main/dgdb/dgsubc/c32002.html*. This site may also be accessed through RSPA's Hazardous Materials Safety Homepage at *http://hazmat.dot.gov/instandards.htm*. RSPA's site provides additional information regarding the UNSCOE and related matters such as a

summary of decisions taken at the twenty-first session of the UNSCOE.

Frits Wybenga

Deputy Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–26823 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–584 (Sub–No. 1X)]

Canada Southern Railway Company—Abandonment Exemption—in Niagara County, NY

Canada Southern Railway Company (CSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.15-mile line of railroad between milepost 0.0 and milepost 0.15, in the city of Niagara Falls, in Niagara County, NY. The line traverses United States Postal Service Zip Code 14305.

CSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 21, 2002,[1] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 1, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 12, 2002, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to CSR's representative: Diane P. Gerth, Leonard, Street and Deinard Professional Association, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 25, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by CSR's filing of a notice of consummation by October 22, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: October 15, 2002.

By the Board, Beryl Gordon, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–26691 Filed 10–21–02; 8:45 am]

BILLING CODE 4915–00–P

[1] While applicant initially indicated a proposed consummation date of November 15, 2002, because the verified notice was filed on October 2, 2002, consummation may not take place prior to November 21, 2002. Applicant's representative has subsequently confirmed that consummation cannot occur before November 21, 2002.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Activity Under OMB Review; Submission of Audit Reports Part 248

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 9, 2002 (67 FR 51927).

DATES: Written comments should be submitted by November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–14, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone Number (202) 366–4387, Fax Number (202) 366–3383 or e-mail *bernard.stankus@bts.gov.*

Comments: Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information on respondents, in including the use of automated collection techniques or other forms of information technology.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Submission of Audit Reports—Part 248.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2138–0004.

Forms: None.

Affected Public: Large certificated air carriers.

Number of Respondents: 75.

Estimated Time per Response: 15 minutes.

Total Annual Burden: 20 hours.

Needs and Uses: BTS collects independent audited financial reports from U.S. certificated air carriers. Carriers not having an annual audit must file a statement that no such audit has been performed. In lieu of the audit report, BTS will accept the annual report submitted to the stockholders. The audited reports are needed by the Department of Transportation as (1) a means to monitor an air carrier's continuing fitness to operate, (2) reference material used by analysts in examining foreign route cases, (3) reference material used by analyst in examining proposed mergers, (4) a means whereby BTS sends a copy of the report to the International Civil Aviation Organization (ICAO) in fulfillment of a U.S. treaty obligation, and (5) corroboration of a carrier's Form 41 filings.

Donald W. Bright,

Acting Assistant Director, Airline Information, Bureau of Transportation Statistics.

[FR Doc. 02–26821 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Activity Under OMB Review; Reporting Required for International Civil Aviation Organization (ICAO)

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) , this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 9, 2002 (67 FR 51927).

DATES: Written comments should be submitted by November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–14, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone Number (202) 366–4387, Fax Number (202) 366–3383 or e-mail *bernard.stankus@bts.gov*.

Comments: Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information on respondents, in including the use of automated collection techniques or other forms of information technology.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Reporting required for International Civil Aviation Organization.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2138–0039.

Forms: BTS Form EF.

Affected Public: Large certificated air carriers.

Number of Respondents: 40.

Estimated Time per Response: 40 minutes.

Total Annual Burden: 26 hours.

Needs and Uses: As a party to the Convention on International Civil Aviation (Treaty), the United States is obligated to provide ICAO with financial and statistical data on operations of U.S. carriers. Over 99% of the data filed with ICAO is extracted from the air carriers' Form 41 submissions to BTS. BTS Form EF is the means by which BTS supplies the remaining 1% of the air carrier data to ICAO.

Donald W. Bright,

Acting Assistant Director, Airline Information, Bureau of Transportation Statistics.

[FR Doc. 02–26822 Filed 10–21–02; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Comptroller of the Currency Agency Information Collection Activities: Proposed Extension of Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''Recordkeeping Requirements for Securities Transactions—12 CFR part 12.''

DATES: You should submit comments by December 23, 2002.

ADDRESSES: You should direct comments to the Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0142, 250 E Street, SW., Washington, DC 20219. Due to disruptions in the OCC's mail service since September 11, 2001, commenters are encouraged to submit comments by fax or e-mail. Comments may be sent by fax to (202) 874–4448, or by e-mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

A copy of the comments should also be sent to the OMB Desk Officer for the OCC: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or by e-mail to *jlackeyj@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: You can request additional information from

Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Recordkeeping Requirements for Securities Transactions—12 CFR 12.

OMB Number: 1557–0142.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend its approval of the information collection.

The information collection requirements in 12 CFR part 12 are required to ensure national bank compliance with securities laws and to improve the protection afforded persons who purchase and sell securities through banks. The transaction confirmation information provides customers with a record regarding the transaction and provides banks and the OCC with records to ensure compliance with banking and securities laws and regulations. The OCC uses the required information in its examinations to, among other things, evaluate a bank's compliance with the antifraud provisions of the Federal securities laws.

The information collection requirements contained in 12 CFR part 12 are as follows:

Section 12.3 requires a national bank effecting securities transactions for customers to maintain records for at least three years. The records required by this section must clearly and accurately reflect the information required and provide an adequate basis for the audit of the information.

Section 12.4 requires a national bank to give or send to the customer a written notification of transaction or a copy of the registered broker/dealer confirmation relating to the securities transaction.

Sections 12.5(a), (b), (c), and (e) require a national bank, as an alternative to complying with § 12.4, to provide notification to customers of trust transactions, agency transactions, and periodic plan transactions.

Sections 12.7(a)(1) through (a)(3) require a national bank to develop and maintain written securities trading policies and procedures.

Section 12.7(a)(4) requires bank officers and employees to report to the bank all personal transactions in securities made by them or on their behalf in which they have a beneficial interest.

Section 12.8 requires a national bank to file a written request with the OCC for a waiver of one or more of the requirements set forth in §§ 12.2 through 12.7.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 745.

Estimated Total Annual Responses: 745.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 3,913 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 17, 2002.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 02–26831 Filed 10–21–02; 8:45 am]

BILLING CODE 4810–33–P

Federal Register

Tuesday,
October 22, 2002

Part II

Federal Communications Commission

47 CFR Chapter I

Possible Revision or Elimination of Rules; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

Possible Revision or Elimination of Rules

AGENCY: Federal Communications Commission.

ACTION: Review of regulations under the Regulatory Flexibility Act; comments requested.

SUMMARY: This document invites members of the public to comment on the Commission's rules to be reviewed pursuant to Section 610 of the Regulatory Flexibility Act of 1980. The purpose of the review is to determine whether Commission rules whose ten-year anniversary dates are in the years 2000 through 2002, as contained in the Appendix, should be continued without change, amended, or rescinded in order to minimize any significant impact the rules may have on a substantial number of small entities. Upon receipt of comments from the public, comments will be evaluated and action may be taken to rescind or amend the Commission's rules.

DATES: Comments may be filed on or before November 8, 2002.

FOR FURTHER INFORMATION CONTACT: Carolyn Fleming Williams or Karen Beverly, Office of Communications Business Opportunities, Federal Communications Commission, (202) 418–0990.

ADDRESSES: Federal Communications Commission, Office of Secretary, 445 12th Street, SW., Washington, DC 20554.

SUPPLEMENTARY INFORMATION: Each year an opportunity will be created for review and comment by interested parties on the Commission's rules that may require amendment or rescission.

1. Pursuant to the Regulatory Flexibility Act of 1980, see 5 U.S.C. section 610, the Federal Communications Commission (FCC) hereby publishes a plan for the review of rules issued by the agency in calendar years 1990, 1991 and 1992 which have, or might have, a significant economic impact on a substantial number of small entities. The purpose of the review will be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of such rules upon a substantial number of small entities.

2. This document lists the FCC regulations to be reviewed during the next twelve months. In succeeding years, as here, lists will be published for the review of regulations promulgated ten years proceeding the year of review.

3. In reviewing each rule under this plan to minimize the possible significant economic impact on small entities, consistent with the stated objectives of the applicable statutes, the FCC will consider the following factors:

(a) The continued need for the rule;

(b) The nature of complaints or comments received concerning the rule from the public;

(c) The complexity of the rule;

(d) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(e) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

4. Appropriate information has been provided for each rule, including a brief description of the rule and the need for and legal basis of the rule. The public is invited to comment on the rules chosen for review by. All relevant and timely comments will be considered by the FCC before final action is taken in this proceeding. To file formally in this proceeding, participants should file an original and four copies of all comments. Comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

List of Rules for Review Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 610, for 1990, 1991, 1992. All listed rules are in Title 47 of the Code of Federal Regulations.

PART 25—SATELLITE COMMUNICATIONS

Subpart B—Application and Licenses

Brief Description: These rules establish the requirements and conditions under which space and earth stations may be licensed.

Need: To establish proper procedures for submitting the correct information for filing space and earth stations applications.

Legal Basis: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332.

Section Number and Title:

25.110 Filing of applications, fees, and number of copies.
25.111 Additional information.
25.112 Defective applications.
25.113 Construction permits, station licenses, launch authority.
25.114 Applications for space station authorizations.
25.115 Application for earth station authorizations.
25.116 Amendments to applications.
25.117 Modification of station license.
25.118 Modifications not requiring prior authorization.
25.119 Assignment or transfer of control of station authorization.
25.120 Application for special temporary authorization.
25.121 License term and renewals.
25.130 Filing requirements for transmitting earth stations.
25.131 Filing requirements for receive-only earth stations.
25.132 Verification of earth station antenna performance standards.
25.133 Period of construction; certification of commencement of operation.
25.134 Licensing provisions of Very Small Aperture Terminal (VSAT) networks.
25.135 Licensing provisions for earth station networks in the non-voice, non-geostationary mobile-satellite service.
25.136 Operating provisions for earth station networks in the 1.6/2.4 GHz mobile-satellite service.
25.137 Application requirements for earth stations operating with non-U.S. licensed space stations.
25.138 Blanket licensing provisions of GSO FSS Earth Stations in the 18.58–18.8 GHz (space-to-Earth), 19.7–20.2 GHz (space-to-Earth), 28.35–28.6 GHz (Earth-to-space) and 29.5–30.0 GHz (Earth-to-space) bands.
25.140 Qualifications of fixed-satellite space station licensees.
25.141 Licensing provisions for the radio determination satellite service.
25.142 Licensing provisions for the non-voice, non-geostationary mobile-satellite service.
25.143 Licensing provisions for the 1.6/2.4 GHz mobile-satellite service.
25.144 Licensing provisions for the 2.3 GHz satellite digital audio radio service.
25.145 Licensing conditions for the Fixed-Satellite Service in the 20/30 GHz bands.
25.150 Receipt of applications.
25.151 Public notice period.
25.152 Dismissal and return of applications.
25.153 Repetitious applications.
25.154 Opposition to applications and other pleadings.
25.155 Mutually exclusive applications.
25.156 Consideration of applications.
25.160 Administrative sanctions.
25.161 Automatic termination of station authorization.
25.162 Cause for termination of interference protection.
25.163 Reinstatement.

Subpart D—Technical Operations

Brief Description: This rule requires that all video satellite uplink transmissions, licensed under Part 25 be encoded with a signal to identify the

station. The rules specifies that a subcarrier based system will be used to transmit the identification.

Need: The need for better radio spectrum management to control interference, allow flexibility to deal with new technology and standardize the proliferating number of pseudo-automatic identification systems now coming into use make this item necessary. The intended effect is improved radio spectrum management.

Legal Basis: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332.

Section Number and Title:

25.281 Automatic Transmitter Identification System (ATIS).

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

Brief Description: The rule sets forth the requirements and procedures for carriers to file information on their U.S. international telecommunications traffic including minutes and revenues.

Need: The rule provides essential data that is used by both the agency and carriers for international facilities planning, facility authorization, monitoring emerging developments in communications services, analyzing market structures, tracking the balance of payments in international communications services, and market analysis purposes.

Legal Basis: 47 U.S.C. 154, 201, 203, 219.

Section Number and Title:

43.61 Reports of international telecommunications traffic.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Brief Description: The rule sets forth the procedures for U.S. carriers, engaged in international telecommunications, seeking approval to make changes in accounting rates.

Need: The rule provides U.S. carriers with a mechanism to quickly seek agency approval to implement simple accounting rate changes. The rule also enables the Commission to monitor the international accounting rates of carriers to ensure consistency with agency policies and the public interest.

Legal Basis: 47 U.S.C. 154, 201, 211.

Section Number and Title:

64.1001 International settlements policy and modification requests.

Rule	Year added	Bureau or office
1.17	1990	EB
1.65(c)	1990, 1991	EB
1.80(a)(4), (b)(3)	1990	EB
1.791	1990	CCB
1.824	1991	MMB
1.931(a)	1991	WTB

Office of General Counsel

Subpart I—Procedures Implementing the National Environmental Policy Act of 1969

Brief Description: These rules implement the National Environmental Policy Act of 1969, including actions that may have a significant impact on the environment and require the preparation of an Environmental Assessment (EA), and the determination of environmental impacts for the construction of facilities where no preconstruction authorization from the Commission is required.

Need: These rules implement the National Environmental Policy Act of 1969.

Legal Basis: 42 U.S.C. 4321–4335.

Section Number and Title:

1.1307(b) notes 1, 2, 3 Actions that may have a significant environmental effect for which Environmental Assessments (EAs) must be prepared

1.1312 Facilities for which no preconstruction authorization is required.

Subpart P—Implementation of the Anti-Drug Abuse Act of 1988

Brief Description: These rules implement the Anti-Drug Abuse Act of 1988 to determine the eligibility for professional and commercial licenses issued by the Commission with respect to any denials of Federal benefits imposed by Federal or state courts.

Need: These rules implement the Anti-Drug Abuse Act of 1988.

Legal Basis: 21 U.S.C. 862.

Section Number and Title:

1.2001 Purpose.

1.2002 Applicants Required to submit information.

1.2003 Applications affected.

PART 22—PUBLIC MOBILE SERVICES

Subpart H—Cellular Radiotelephone Service

Brief Description: These rules prescribe procedures for Cellular Radiotelephone Service licensees in the public mobile services.

Need: These rules are established to provide procedures for cellular licensees. The rules govern licensing, technical standards, and other matters relating to cellular service.

Legal Basis: 47 U.S.C. 154, 303, 309, 332.

Section Number and Title:

22.911 Cellular geographic service area.

22.943(b) Limitations on assignments and transfers of cellular authorizations.

22.945(c) Interests in multiple applications.

22.947(c) Five year build-out period.

22.949 Unserved area licensing process.

22.951 Minimum coverage requirement.

22.953 Conten and form of applications.

PART 80—STATIONS IN THE MARITIME SERVICES

Brief Description: These rules include radio services in the Maritime Mobile Service, the Maritime Mobile-Satellite Service, the Maritime Radiodetermination Service, and stations in the Fixed Service that support maritime operations. Regardless of service, marine stations are either considered to be stations on shipboard or stations on land. A license is required for each land station. Ship stations are licensed by rule (no individual license needed) when they operate only on domestic voyages and are not required by law to carry a radio. Rules concerning domestic marine communications are matched to requirements of the U.S. Coast Guard, which monitors marine distress frequencies continuously in U.S. waters.

Need: These marine radio service rules are promulgated to promote safety and operational activities of nonfederal maritime activities, including U.S. vessels that traverse international waters. The rules also reduce radio interference among radio users by promoting the efficient use of the radio spectrum.

Legal Basis: Secs. 4, 303, 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450; 3 UST 4726; 12 UST 2377.

Section Number and Title:

Subpart B—Applications and Licenses

80.54 Automated Maritime Telecommunications System (AMTS)—system licensing.

Subpart C—Operating Requirements and Procedures

80.122 Public coast stations using facsimile and data.

80.141 General provisions for ship stations.

Subpart E—General Technical Standards

80.203 Authorization of transmitters for licensing.

80.205 Bandwidths.

80.207 Classes of emission.

80.211 Emission limitations.

80.213 Modulation requirements.

80.223 Special requirements for survival craft stations.

Subpart G—Safety Watch Requirements and Procedures

80.310 Watch required by voluntary vessels.

Subpart H—Frequencies

80.355 Distress, urgency, safety, call and reply Morse code frequencies.
80.357 Morse code working frequencies.
80.363 Frequencies for facsimile.
80.371 Public correspondence frequencies.
80.373 Private communications frequencies.
80.374 Special provisions for frequencies in the 4000–4063 kHz and the 8100–8195 kHz bands shared with the fixed service.
80.375 Radiodetermination frequencies.
80.385 Frequencies for automated systems.
80.387 Frequencies for Alaska fixed stations.

Subpart K—Private Coast Stations and Marine Utility Stations

80.514 Marine VHF frequency coordinating committee(s).

Subpart Q—Compulsory Radiotelegraph Installations for Vessels 1600 Gross Tons

80.802 Inspection of Stations.
80.836 General Exemptions.

Subpart S—Compulsory Radiotelephone Installations for Small Passenger Boats

80.909 Radiotelephone transmitter.
80.913 Radiotelephone receivers.
80.923 Antenna system.
80.931 Test of radiotelephone installation.

Subpart U—Radiotelephone Installations Required by the Bridge-to-Bridge Act

80.1001 Applicability.
80.1011 Transmitter.
80.1013 Receiver.

Subpart V—Emergency Position Indicating Radiobeacons (EPIRB'S)

80.1059 Special Requirements for Class S EPIRB stations.
80.1061 Special Requirements for 406.025 MHz EPIRBs.

Subpart W—Global Maritime Distress and Safety System (GMDSS)

80.1065 Applicability.
80.1067 Inspection of station.
80.1069 Maritime sea areas.
80.1071 Exemptions.
80.1073 Radio operator requirements for ship stations.
80.1074 Radio maintenance personnel for at-sea maintenance.
80.1075 Radio records.
80.1077 Frequencies.
80.1081 Functional Requirements.
80.1083 Ship radio installations.
80.1085 Ship radio equipment-General.
80.1087 Ship radio equipment-Sea area A1.
80.1089 Ship radio equipment-Sea areas A1 and A2.
80.1091 Ship radio equipment-Sea areas A1, A2 and A3.
80.1093 Ship radio equipment-Sea areas A1, A2, A3 and A4.
80.1095 Survival craft equipment.
80.1099 Ship sources of energy.
80.1101 Performance standards.
80.1103 Equipment authorization.
80.1105 Maintenance Requirements.
80.1109 Distress, Urgency, and safety communications.
80.1111 Distress alerting.
80.1113 Transmission of a distress alert.
80.1115 Transmission of a distress alert by a station not itself in distress.
80.1117 Procedure for receipt and acknowledgment of distress alerts.
80.1119 Receipt and acknowledgement of distress alerts by coast stations and coast earth stations.
80.1121 Receipt and acknowledgement of distress alerts by ship stations and ship earth stations.
80.1123 Watch requirements for ship stations.
80.1125 Search and rescue coordinating communications.
80.1127 On-scene communications.
80.1129 Locating and homing signals.
80.1131 Transmissions of urgency communications.
80.1133 Transmissions of safety communications.
80.1135 Transmissions of maritime safety information.

PART 87—AVIATION SERVICES

Brief Description: The Aviation Services consist of three internationally-allocated services. (1) The Aeronautical Mobile Service includes aeronautical advisory stations, aeronautical enroute stations, airport control stations, and automatic weather observation stations. (2) The Aeronautical Radio Navigation Service includes stations used for navigation, obstruction warning, instrument landing, and measurement of altitude and range. (3) The Aeronautical Fixed Service is a system of fixed stations used for point-to-point communications for aviation safety, navigation, or preparation for flight. The Commission regulates the Aviation Services in cooperation with the Federal Aviation Administration.

Need: These aviation radio services rules are promulgated to promote safety and provide systems of non-governmental use of radio for aeronautical communications, aeronautical radio navigation, and search and rescue operations. The rules also reduce radio interference among radio users by promoting the efficient use of the radio spectrum.

Legal Basis: 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151, 152, 153, 154, 155, 156, 301 through 609.

Section Number and Title:

Subpart A–General Information

87.5 Definitions.

Subpart B–Applications and Licenses

87.51 Aircraft earth station commissioning.

Subpart D–Technical Requirements

87.131 Power and emissions.
87.133 Frequency stability.
87.137 Types of emission.
87.139 Emission limitations.
87.141 Modulation requirements.
87.145 Acceptability of transmitters for licensing.
87.147 Authorization of equipment.

Subpart E–Frequencies

87.171 Class of station symbols.
87.173 Frequencies.

Subpart F–Aircraft Stations

87.175 Scope of Service.
87.187 Frequencies.
87.189 Requirements for public correspondence equipment and operations.

Subpart G–Aeronautical Advisory Stations (UNICOMS)

87.213 Scope of Service.
87.215 Supplemental Eligibility.
87.217 Frequencies.

Subpart I–Aeronautical Enroute and Aeronautical Fixed Stations

87.263 Frequencies.

Subpart J–Flight Test Stations

87.303 Frequencies.

Subpart L–Aeronautical Utility Mobile Stations

87.347 Supplemental Eligibility.
87.349 Frequencies.

Subpart O–Airport Control Tower Stations

87.419 Supplemental Eligibility.
87.421 Frequencies.
87.425 Interference.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

Brief Description: These services include both Private Land Mobile Radio (PLMR) services and Commercial Mobile Radio Services (CMRS). PLMR services allow businesses, local governments, public safety entities, educational institutions, hospitals,

service providers and utilities to build their own internal communication systems to meet specialized needs. CMRS provides service to customers. CMRS services regulated under Part 90 include the provision of service to Industrial/Business Pool below 470 MHz on a for-profit basis, the Specialized Mobile Radio Service, the 220 MHz Service, the Location and Monitoring Service, and Private Paging. Channels are in the 30–50, 150–170, 220–222, 420–512, 700, 800, and 900 MHz bands. Some channels are shared; others are exclusive. Frequencies are often assigned in pairs for use in two-way communications. Common uses are for dispatch communications, alerting, monitoring, alarms, operational communications, and the provision of service (either on a private carriage basis or as a Commercial Mobile Radio Service) to others.

Need: These land mobile radio services rules are promulgated to promote flexibility to radio users in meeting their communications needs where communications are used as a tool for businesses to provide their products and services more economically.

Legal Basis: Secs. 4, 303; 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303.

Section Number and Title:

Subpart G—Applications and Authorizations

90.127 Submission and filing of applications.
90.135 Modification of license.

Subpart J—Non-Voice and Other Specialized Operations

90.235 Secondary fixed signaling operations.

Subpart K—Standards for Special Frequencies or Frequency Bands

90.257 Assignment and use of frequencies in the band 72–76 MHz.

Subpart L—Authorizing in the Band 470–512 MHz (UHF–TV Sharing)

90.317 Fixed ancillary signaling and data transmissions.

Subpart S—Regulations Governing Licensing and Use of Frequencies in the 806–824, 851–869, 896–901, and 935–940 MHZ Bands.

90.609 Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems above 800 MHz.
90.619 Frequencies available for use in the U.S./Mexico and U.S./Canada border areas.
90.621 Selection and assignment of frequencies.
90.637 Restrictions on operational fixed stations.
90.655 Special licensing requirements for Specialized Mobile Radio systems.
90.656 Responsibilities of base station licensees of Specialized Mobile Radio systems.
90.658 Loading data required for base station licensees of trunked Specialized Mobile Radio systems to acquire additional channels or to renew trunked systems licensed before June 1, 1993.

PART 95—PERSONAL RADIO SERVICES

Brief Description: The Personal Radio Services provide the general public with short-range wireless communications for a variety of activities. The services include the General Mobile Radio Service (GMRS), the Family Radio Service (FRS), the Radio Control Radio Service (R/C Service), the Citizens Band Radio Service, the 218–219 MHz Service, the Low Power Radio Service (LPRS), the Wireless Medical Telemetry Service (WMTS), and the Medical Implant Communications Service (MICS). GMRS allows short-range two-way communications to facilitate the activities of the licensee and their immediate family members. FRS allows short-range voice communications. The R/C Service allows the remote operation and control devices such as model airplanes and aircraft. The 218–219 MHz Service is a two-way radio service that allows licensees to provide communications services to subscribers in a specific service area. LPRS is used to provide auditory assistance communications for people with disabilities or people requiring language translation, health care related communications, and law enforcement tracking signals. WMTS is used to measure and record physiological parameters and other patient-related information. MICS is used to transmit operational, diagnostic, or therapeutic information concerning medical implant devices to health care professionals.

Need: These personal radio services rules are promulgated to promote flexibility of users to take advantage of new technology and equipment.

Legal Basis: Secs. 4, 303; 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

Section Number and Title:

Subpart D—Citizens Band (CB) Radio Service

95.418 (CB Rule 18) How do I use my CB station in an emergency or to assist a traveler?

Subpart E—Technical Regulations

95.623 R/C transmitter channel frequencies.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Subpart A—Terminology

Brief Description: This rule provides definitions for terms used in rules.

Need: This rule is essential for the implementation and understanding of other rule sections.

Legal Basis: 47 U.S.C. 302.

2.1(c) Definitions.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Subpart B—Allocation, Assignment and Use of Radio Frequencies

Brief Description: These rules display the Table of Frequency Allocations, which sets forth a ''road map'' of the service allocations of radio frequency spectrum throughout the world. The Table of Allocations also indicates how spectrum is allocated among Federal Government users, who are subject to the regulatory jurisdiction of the Department of Commerce's National Telecommunications and Information Administration, and non-Federal users, who are subject to the Commission's jurisdiction. The table further shows the services to which the various spectrum bands are allocated. The precise technical rules governing each service regulated by the Commission, however, are set forth in the several other parts of the Commission's rules.

Need: These rules are promulgated to promote the efficient use of the radio spectrum in order to prevent harmful interference among users of radio frequencies, to ensure safety of life and property, and to promote interoperability among radio frequencies throughout the world.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title:

2.106 Table of Frequency Allocations

Subpart J—Equipment Authorization Procedures

Brief Description: These rules provide technical standards for radio equipment and their part and components.

Need: These rules permit the Commission to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and to promote the efficient utilization of the spectrum.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title:

2.948 Description of measurement facilities
2.1033(b)(11) Application for certification
2.1055(a)(2) Measurements required; Frequency stability

Subpart K—Importation of Devices Capable of Causing Harmful Interference

Brief Description: These rules are designed to prevent interference from radio-frequency devices and to facilitate the filing of FCC Form 740 information regarding equipment importation.

Need: These rules control technical criteria, reducing filing and handling burden on both importers and the federal government, including the U.S. Customs Service.

Legal Basis: 27 U.S.C. 154(I), 302, 303(r).

Section Number and Title:

2.1201 Purpose
2.1202 Exclusions
2.1203 General requirement for entry into the U.S.A.
2.1204 Import conditions
2.1205 Filing of required declaration
2.1207 Examination of imported equipment

Subpart N—FCC Procedure for Testing Class A, B, and S Emergency Position Indicating Radiobeacons (EPIRBs)

Brief Description: These rules set standards for testing Class A, B, and S Emergency Position Indicating Radiobeacons (EPIRBs)

Need: These rules are necessary to provide manufacturers with information necessary to develop EPIRB equipment that will comply with technical standards, and to ensure the appropriate measurement of such equipment to determine its compliance with our technical rules.

Legal Basis: 47 U.S.C. 154, 302

Section Number and Title:

2.1 Introduction
2.1503 Test environment
2.1505 Test instrumentation and equipment
2.1507 Test frequencies
2.1509 Environmental and duration tests
2.1511 Measurements of radiated emissions
2.1513 Measurements of modulation characteristics
2.151 Spectral Measurements
2.1517 Data recording/reporting requirements

PART 5—EXPERIMENTAL RADIO SERVICE (OTHER THAN BROADCAST)

Subpart B—Applications and Licenses

Brief Description: These rules set out eligibility, application, licensing and operating procedures and requirements for experimental stations.

Need: These rules permit the experimentation in new radio technology and applications while ensuring the protection of incumbent services.

Legal Basis: 47 U.S.C. 154, 302, 307.

Section Number and Title:

5.51(c) Eligibility of license
5.53(b) Stations authorization required

PART 15—RADIOFREQUENCY DEVICES

Brief Description: These rules provide the parameters necessary to permit the unlicensed operation of radiofrequency devices, including specification of the levels of wanted and unwanted emissions and frequencies of permitted operation

Need: These rules are necessary to promote the efficient use of the radio spectrum by preventing harmful interference to licensed radio services that share the same or nearby spectrum as unlicensed devices. Such licensed services include broadcast, cellular, safety-of-life communications, U.S. Government operations, and others.

Legal Basis: 47 U.S.C. 154, 302, 307.

Section Number and Title:

Subpart A—General

15.3 Definitions
15.31 Measurement standards
15.35 Measurement detector functions and bandwidths
15.13 Transition provisions for compliance with the rules

Subpart B—Unintentional Radiators

15.107 Conducted limits
15.109 Radiated emission limits
15.115 TV interface devices, including cable system terminal devices
15.119 Closed caption decoder requirements for analog television receivers

Subpart C—Intentional Radiators

15.203 Antenna requirement
15.205 Restricted bands of operation
15.207 Conducted limits
15.209 Radiated emission limits; general requirements
15.214 Cordless telephones
15.221 Operation in the band 525–1705 kHz
15.229 Operation in the band 40.66–40.70 MHz
15.237 Operation in the bands 72.0–73.0 MHz, 74.6–74.8 MHz, and 75.2–76.0 MHz
15.245 Operation within the bands 902–928 MHz, 2435–2465 MHz, 5785–5815 MHz, 10500–10550 MHz, and 14075–14175 MHz
15.247 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz
15.249 Operations within the bands 902–928 MHz, 2400–2483.5 MHz, 5725–2875 MHz, and 24.0–24.25 GHz 6

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Subpart A— Terminology

Brief Description: This rule provides definitions for terms used in rules.

Need: This rule is essential for the implementation and understanding of other rule sections.

Legal Basis: 47 U.S.C. 302

Section Number and Title:

2.1(c) Definitions

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Subpart B—Allocation, Asignment and Use of Radio Frequencies

Brief Description: These rules display the Table of Frequency Allocations, which sets forth a ''road map'' of the service allocations of radio frequency spectrum throughout the world. The Table of Allocations also indicates how spectrum is allocated among Federal Government users, who are subject to the regulatory jurisdiction of the Department of Commerce's National Telecommunications and Information Administration, and non-Federal users, who are subject to the Commission's jurisdiction. The table further shows the services to which the various spectrum bands are allocated. The precise technical rules governing each service regulated by the Commission, however, are set forth in the several other parts of the Commission's rules.

Need: These rules are promulgated to promote the efficient use of the radio spectrum in order to prevent harmful interference among users of radio frequencies, to ensure safety of life and property, and to promote interoperability among radio frequencies throughout the world.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title:

2.107 Table of Frequency Allocations

Subpart J—Equipment Authorization Procedures

Brief Description: These rules provide technical standards for radio equipment and their part and components.

Need: These rules permit the Commission to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and to promote the efficient utilization of the spectrum.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title:

2.948 Description of measurement facilities

2.1033(b)(11) Application for certification
2.1055(a)(2) Measurements required; Frequency stability

Subpart K—Importation of Devices Capable of Causing Harmful Interference

Brief Description: These rules are designed to prevent interference from radio-frequency devices and to facilitate the filing of FCC Form 740 information regarding equipment importation.

Need: These rules control technical criteria, reducing filing and handling burden on both importers and the federal government, including the U.S. Customs Service.

Legal Basis: 27 U.S.C. 154(I), 302, 303(r).

Section Number and Title:

2.1201 Purpose
2.1202 Exclusions
2.1203 General requirement for entry into the U.S.A.
2.1204 Import conditions
2.1205 Filing of required declaration
2.1207 Examination of imported equipment

Subpart N—FCC Procedure for Testing Class A, B, and S Emergency Position Indicating Radiobeacons (EPIRBs)

Brief Description: These rules set standards for testing Class A, B, and S Emergency Position Indicating Radiobeacons (EPIRBs)

Need: These rules are necessary to provide manufacturers with information necessary to develop EPIRB equipment that will comply with technical standards, and to ensure the appropriate measurement of such equipment to determine its compliance with our technical rules.

Legal Basis: 47 U.S.C. 154, 302

Section Number and Title:

2.1502 Introduction
2.1503 Test environment
2.1506 Test instrumentation and equipment
2.1508 Test frequencies
2.1510 Environmental and duration tests
2.1512 Measurements of radiated emissions
2.1514 Measurements of modulation characteristics
2.1516 Spectral Measurements
2.1518 Data recording/reporting requirements

PART 5—EXPERIMENTAL RADIO SERVICE (OTHER THAN BROADCAST)

Subpart B—Applications and Licenses

Brief Description: These rules set out eligibility, application, licensing and operating procedures and requirements for experimental stations.

Need: These rules permit the experimentation in new radio technology and applications while ensuring the protection of incumbent services.

Legal Basis: 47 U.S.C. 154, 302, 307.

Section Number and Title:

5.51(c) Eligibility of license
5.53(b) Stations authorization required

PART 15—RADIO FREQUENCY DEVICES

Brief Description: These rules provide the parameters necessary to permit the unlicensed operation of radiofrequency devices, including specification of the levels of wanted and unwanted emissions and frequencies of permitted operation.

Need: These rules are necessary to promote the efficient use of the radio spectrum by preventing harmful interference to licensed radio services that share the same or nearby spectrum as unlicensed devices. Such licensed services include broadcast, cellular, safety-of-life communications, U.S. Government operations, and others.

Legal Basis: 47 U.S.C. 154, 302, 307.

Section Number and Title:

Subpart A—General

15.4 Definitions
15.32 Measurement standards
15.36 Measurement detector functions and bandwidths
15.38 Transition provisions for compliance with the rules

Subpart B—Unintentional Radiators

15.108 Conducted limits
15.110 Radiated emission limits
15.116 TV interface devices, including cable system terminal devices
15.120 Closed caption decoder requirements for analog television receivers

Subpart C—Intentional Radiators

15.204 Antenna requirement
15.206 Restricted bands of operation
15.208 Conducted limits
15.210 Radiated emission limits; general requirements
15.215 Cordless telephones
15.222 Operation in the band 525–1705 kHz
15.229 Operation in the band 40.66–40.70 MHz
15.238 Operation in the bands 72.0–73.0 MHz, 74.6–74.8 MHz, and 75.2–76.0 MHz
15.246 Operation within the bands 902–928 MHz, 2435–2465 MHz, 5785–5815 MHz, 10500–10550 MHz, and 14075–14175 MHz
15.248 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz
15.250 Operations within the bands 902–928 MHz, 2400–2483.5 MHz, 5725–2875 MHz, and 24.0–24.25 GHz

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

Subpart A—General

Brief Description: The rules and regulations set forth in this section provide for the certification of cable television systems and for their operation in conformity with standards for carriage of television broadcast signals, program exclusivity, cablecasting, access channels, and related matters.

Need: Theses rules prescribe definitions of cable television terms and requirements for waivers for special relief, enforcement, complaints, as well as declaratory ruling procedures.

Legal basis: 47 U.S.C. 154, 303, 339

Section Number and Title:

76.5(jj) Definitions: Rural area.
76.5(kk) Definitions: Technically integrated.
76.7(e) General special relief, waiver, enforcement, complaint, show cause, forfeiture, and declaratory ruling procedures. Additional procedures and written submissions.

Subpart D—Carriage of Television Broadcast Signals

Brief Description: These rules provide for the carriage of television broadcast signals on cable television systems. Subject to the Commission's network nonduplication, syndicated exclusivity and sports broadcasting rules, cable systems must carry the entirety of the program schedule of every local television station carried pursuant to the Commission's mandatory carriage provisions or the retransmission consent provisions. A broadcaster and a cable operator may negotiate for partial carriage of the signal where the station is not eligible for must-carry rights, either because of the station's failure to meet the requisite definitions or because the cable system is outside the station's market area.

Need: These rules prescribe requirements and obligations concerning cable television system carriage of television broadcast signals.

Legal basis: 47 U.S.C. 154

Section Number and Title:

76.54(c) Significantly viewed signals, method to be followed for special showings.

Subpart G—Cablecasting

Brief Description: These rules provide for origination cablecasting concerning legally qualified candidates for public office, and rates charged for use of cable television systems by candidates in connection with campaign activities, including political files and fairness doctrines. Also, the rules include

information concerning the rates, terms, conditions and all discounts and privileges offered to commercial advertisers be disclosed and made available to candidates They also prescribe provisions for origination cablecasting for any advertisements of or information concerning any lottery, gift, enterprise, or similar scheme offering prizes dependent in whole or in part upon lot of chance.

Need: These rules prescribe requirements that enable legally qualified political candidates to use cable television facilities.

Legal basis: 47 U.S.C. 154

Section Number and Title:

76.205 Origination cablecasts by legally qualified candidates for public office; equal opportunities.

76.206(a)(1)(i)(ii) Candidates Rates. Charges for use of cable television systems.

76.206(2) Candidates Rates. Charges for use of cable television systems.

76.207 Political file (This section was renumbered as Section 76.1701 pursuant to the Commission's reorganization and renumbering of Section 76 as part of the 1998 Biennial Review-Multichannel Video and Cable Television Service, 65 FR 53610).

76.213(c) Lotteries.

76.213(e) Lotteries.

76.221(a) Sponsorship identification. (This section was renumbered as Section 76.1715 pursuant to the Commission's reorganization and renumbering of Section 76 as part of the 1998 Biennial Review-Multichannel Video and Cable Television Service, 65 FR 53610).

76.225 Commercial limits in children's programs

Subpart H—General Operating Requirements

Brief Description: These rules provide guidelines for general operation requirements including customer service obligations and cable records which must be made available to the public for inspection are provided for in this section.

Need: These rules prescribe general operating and recordkeeping requirements for cable television systems.

Legal basis: 47 U.S.C. 154, 521

Section number and Title:

76.305(a) Records to be maintained locally by cable system operators. Recordkeeping requirements. (This section was renumbered as 76.1700(a) pursuant to the Commission's reorganization and renumbering of Section 76 as part of the 1998 Biennial Review—Multichannel Video and Cable Television Service, 65 FR 53610).

76.305(c) Records to be maintained locally by cable system operators. (This section was renumbered as 76.1700(c) pursuant to the Commission's reorganization and renumbering of Section 76 as part of the 1998 Biennial Review—Multichannel Video and Cable Television Service). (65 FR 53610)

Subpart J—Ownership of Cable Systems

Brief Description: The Commission rules restrict the ability of television broadcast stations, national television networks, MMDS, and SMATV systems to own or control interests in cable systems. These rules also restrict the ownership interest of cable operators and their ability to own or control video programming services. While there are no prohibitions on foreign ownership of cable television systems, foreign governments or their representatives may not own CARS stations.

Need: This section prescribes rules for the diversity of cable television system ownership and restrictions on ownership interests by video programming providers.

Legal basis: 47 U.S.C. 154, 533

Section Number and Title:

76.501 Cross-ownership.

Subpart K—Technical Standards

Brief description: These rules provide technical performance standards for the operation of cable television systems to ensure the delivery of satisfactory television signals to cable subscribers. Local franchising authorities are generally authorized to enforce these technical standards through their franchising process.

Need: These rules prescribe technical standards applicable to cable television service.

Legal basis: 47 U.S.C. 154, 303, and 601

Section Number and Title:

76.601 (c)(1) Performance Tests

76.601 (c)(2) Performance Tests

76.601 (c)(4) Performance Tests

76.601 Note Performance Tests

76.605 (a) Technical Standards

76.605 (b) Technical Standards

76.605 (Note 1) Note 1

76.605 (Note 2) Note 2

76.605 (Note 3) Note 3

76.605 (Note 4) Note 4

76.605 (Note 5) Note 5

76.605 (Note 6) Note 6

76.606 Closed Captioning

76.607 Complaint Resolution (This section was renumbered as Section 76.1713 pursuant to the Commission's reorganization and renumbering of Section 76 as part of the 1998 Biennial Review—Multichannel Video and Cable Television Service, 65 FR 53610).

76.609 (d)(2) Measurements

76.609 (e) Measurements

76.609 (g) Measurements

76.609 (h)(2) Measurements

76.609 (j) Measurements

PART 78—CABLE TELEVISION RELAY SERVICE

Subpart A—General

Brief Description: The rules and regulations prescribe regulations, definitions and other pertinent rules relating to cable television relay service (CARS).

Need: These rules set forth guidelines for the licensing and operation of fixed or mobile cable television relay service stations (CARS) used for the transmission of television and related audio signals, signals of standard and FM broadcast stations, signals of instructional television fixed stations, and cablecasting from the point of reception to a terminal point from which the signals are distributed to the public by cable.

Legal basis: 47 U.S.C. 154, 303

Section Number and Title:

78.3 Other pertinent rules

78.5 (g) Definitions: Unattended operation.

Subpart B—Applications and Licenses

Brief Description: These rules set forth procedures for applying for licenses to operate cable antenna relay service stations. Cable systems uses these microwave relay stations to obtain certain signals when it is impractical to use cable delivery. Cable operators may purchase microwave relay service from companies providing such common carrier services, or they may operate their own relay stations licensed by the Commission.

Need: These rules prescribe application and licensing requirements applicable to cable television relay service.

Legal basis: 47 U.S.C. 154, 303.

Section Number and Title:

78.11 (a) Permissible service

78.11 (c) Permissible service

78.11 (d) Permissible service

78.11 (e) Permissible service

78.11 (f) Permissible service

78.11 (g) Permissible service

78.13 (d) Eligibility for license

78.15 (c) Contents of applications

78.27 (a) License conditions

78.33 (b) Special temporary authority

78.105 (a)(1) Antenna systems

78.105 (b) Antenna systems

PART 1—PRACTICE AND PROCEDURE

Subpart C—Rulemaking Proceedings

Brief Description: This rule requires that, whenever an expression of interest has been filed in a proceeding to amend the FM or TV Table of Allotments, and the filing party seeks to dismiss or withdraw the expression of interest, the party must file with the Commission a

request for approval of the dismissal or withdrawal.

Need: Without the requirement, the Commission could not monitor the Tables.

Legal Basis: 47 U.S.C. 154, 303, 307.

Section Number and Title:

1.420 (j) Additional procedures in proceedings for amendment of the FM or TV Tables of Allotments.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

Subpart K—Multipoint Distribution Service

Brief Description: These rules prescribe procedures for Multipoint Distribution Service (MDS) licensees in the domestic public fixed radio services.

Need: These rules are established to provide procedures for common carrier MDS licensees. These rules supply requirements for cable television and the competitive bidding process; instructions for specific application forms, partitioned service areas, basic trading areas, and all other procedures applicable to MDS.

Legal Basis: 47 U.S.C. 151, 154, 201, 202, 203 204, 205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 552, 554, 602.

Section Number and Title:

21.911 Annual reports.

21.914 Mutually-exclusive MDS applications.

PART 73—RADIO BROADCAST SERVICES

Subpart A—AM Broadcast Stations

Brief Description: These rules provide for compliance and authorization of AM radio equipment and licenses.

Need: These rules prescribe certain technical requirements and procedures for AM broadcast radio services.

Legal Basis: 47 U.S.C. 154, 303, 334, 336.

Section Number and Title:

73.35 Calculation of improvement factors.

73.151 Field strength measurements to establish performance of directional antennas.

73.152 Modification of directional antenna data.

73.183 Groundwave signals.

Subpart B—FM Broadcast Stations

Brief Description: These rules provide for compliance and authorization of FM radio equipment and licenses.

Need: These rules prescribe certain technical requirements and procedures for FM broadcast radio services.

Legal Basis: 47 U.S.C. 154, 303, 334, 336.

Section Number and Title:

73.208 Reference points and distance computations.

73.215 Contour protection for short stations.

Subpart E—Television Broadcast Stations

Brief Description: These rules provide for compliance and authorization of television broadcast equipment and licenses.

Need: These rules prescribe certain technical requirements and operating procedures for television broadcast services.

Legal Basis: 47 U.S.C. 154, 155, 303, 334, 336.

Section Number and Title:

73.670 Commercial limits in children's programs.

73.687 Transmission system requirements.

Subpart H—Rules Applicable to all Broadcast Stations

Brief Description: These rules provide for compliance and authorization of all broadcast services.

Need: These rules prescribe operating procedures applicable to all broadcast services.

Legal Basis: 47 U.S.C. 154, 303, 334, 336.

Section Number and Title:

73.1212 Sponsorship identification; list retention; related requirements.

73.1217 Broadcast hoaxes.

73.1942 Candidate rates.

73.1943 Political file.

73.1944 Reasonable access.

73.3556 Duplication of programming on commonly owned or time brokered stations.

73.3588 Dismissal of petitions to deny or withdrawal of informal objections.

73.3589 Threats to file petitions to deny or informal objections.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Subpart D—Remote Pickup Broadcast Stations

Brief Description: This rule prescribes the frequency, type of equipment and method that a remote pickup broadcast station shall use when identifying itself on the air.

Need: Operators identify their remote pickup broadcast stations using the means described in this rule. Without this rule, the Commission and the public would be unable to identify the station.

Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.482 Station identification.

Subpart E—Aural Broadcast Auxiliary Stations

Brief Description: This rule assists in prescribing operating procedures exclusive to aural broadcast auxiliary stations.

Need: This rule describes the different classes of aural broadcast auxiliary stations, which assists parties in determining which operating procedures apply to a particular station.

Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.501 Classes of aural broadcast auxiliary stations.

Subpart I—Instructional Television Fixed Service

Brief Description: These rules prescribe operating procedure exclusive to instructional television fixed service stations.

Need: These rules promote procedures for instructional television fixed service (ITFS) broadcasting stations, frequencies on fixed broadcast stations, fixed service applications, multi-channel distribution and all other procedures applicable to television fixed service.

Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.986 Involuntary ITFS station modifications.

74.990 Use of available instructional television fixed service frequencies by wireless cable entities.

74.991 Wireless cable application procedures.

74.992 Access to channels licensed to wireless cable entities.

Subpart L—FM Broadcast Translator Stations and FM Broadcast Booster Stations

Brief Description: These rules prescribe operating procedures exclusive to FM broadcast translator and FM broadcast booster stations.

Need: These rules provide procedures pertaining to transmitting FM signal channels for primary stations, FM radio broadcast stations, and FM booster stations.

Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.1201 Definitions.

74.1205 Protection of channel 6 TV broadcast stations.

PART 1—PRACTICE AND PROCEDURE

Subpart C—Rulemaking Proceedings

Brief Description: This rule requires that, whenever an expression of interest

has been filed in a proceeding to amend the FM or TV Table of Allotments, and the filing party seeks to dismiss or withdraw the expression of interest, the party must file with the Commission a request for approval of the dismissal or withdrawal.

Need: Without the requirement, the Commission could not monitor the Tables.

Legal Basis: 47 U.S.C. 154, 303, 307.

Section Number and Title:

1.420 (j) Additional procedures in proceedings for amendment of the FM or TV Tables of Allotments.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

Subpart K—Multipoint Distribution Service

Brief Description: These rules prescribe procedures for Multipoint Distribution Service (MDS) licensees in the domestic public fixed radio services.

Need: These rules are established to provide procedures for common carrier MDS licensees. These rules supply requirements for cable television and the competitive bidding process; instructions for specific application forms, partitioned service areas, basic trading areas, and all other procedures applicable to MDS.

Legal Basis: 47 U.S.C. 151, 154, 201, 202, 203, 204, 205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 552, 554, 602.

Section Number and Title:

21.911 Annual reports.
21.914 Mutually-exclusive MDS applications.

PART 73—RADIO BROADCAST SERVICES

Subpart A–AM Broadcast Stations

Brief Description: These rules provide for compliance and authorization of AM radio equipment and licenses.

Need: These rules prescribe certain technical requirements and procedures for AM broadcast radio services.

Legal Basis: 47 U.S.C. 154, 303, 334, 336.

Section Number and Title:

73.35 Calculation of improvement factors.
73.151 Field strength measurements to establish performance of directional antennas.
73.152 Modification of directional antenna data.
73.183 Groundwave signals.

Subpart B—FM Broadcast Stations

Brief Description: These rules provide for compliance and authorization of FM radio equipment and licenses.

Need: These rules prescribe certain technical requirements and procedures for FM broadcast radio services.

Legal Basis: 47 U.S.C. 154, 303, 334, 336.

Section Number and Title:

73.208 Reference points and distance computations.
73.215 Contour protection for short-spaced stations.

Subpart E—Television Broadcast Stations

Brief Description: These rules provide for compliance and authorization of television broadcast equipment and licenses.

Need: These rules prescribe certain technical requirements and operating procedures for television broadcast services.

Legal Basis: 47 U.S.C. 154, 155, 303, 334, 336.

Section Number and Title:

73.670 Commercial limits in children's programs.
73.687 Transmission system requirements.

Subpart H—Rules Applicable to All Broadcast Stations

Brief Description: These rules provide for compliance and authorization of all broadcast services.

Need: These rules prescribe operating procedures applicable to all broadcast services.

Legal Basis: 47 U.S.C. 154, 303, 334, 336.

Section Number and Title:

73.1212 Sponsorship identification; list retention; related requirements.
73.1217 Broadcast hoaxes.
73.1942 Candidate rates.
73.1943 Political file.
73.1944 Reasonable access.
73.3556 Duplication of programming on commonly owned or time brokered stations.
73.3588 Dismissal of petitions to deny or withdrawal of informal objections.
73.3589 Threats to file petitions to deny or informal objections.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Subpart D—Remote Pickup Broadcast Stations

Brief Description: This rule prescribes the frequency, type of equipment and method that a remote pickup broadcast station shall use when identifying itself on the air.

Need: Operators identify their remote pickup broadcast stations using the means described in this rule. Without this rule, the Commission and the public would be unable to identify the station.

Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.482 Station identification.

Subpart E—Aural Broadcast Auxiliary Stations

Brief Description: This rule assists in prescribing operating procedures exclusive to aural broadcast auxiliary stations.

Need: This rule describes the different classes of aural broadcast auxiliary stations, which assists parties in determining which operating procedures apply to a particular station.

Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.501 Classes of aural broadcast auxiliary stations.

Subpart I—Instructional Television Fixed Service

Brief Description: These rules prescribe operating procedure exclusive to instructional television fixed service stations.

Need: These rules promote procedures for instructional television fixed service (ITFS) broadcasting stations, frequencies on fixed broadcast stations, fixed service applications, multi-channel distribution and all other procedures applicable to television fixed service.

Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.986 Involuntary ITFS station modifications.
74.990 Use of available instructional television fixed service frequencies by wireless cable entities.
74.991 Wireless cable application procedures.
74.992 Access to channels licensed to wireless cable entities.

Subpart L—FM Broadcast Translator Stations and FM Broadcast Booster Stations

Brief Description: These rules prescribe operating procedures exclusive to FM broadcast translator and FM broadcast booster stations.

Need: These rules provide procedures pertaining to transmitting FM signal channels for primary stations, FM radio broadcast stations, and FM booster stations.

Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.1201 Definitions.
74.1205 Protection of channel 6 TV broadcast stations.

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Need: Without the requirement, the Commission could not monitor the Tables.

Legal Basis: 47 U.S.C. 154, 303, 307.

Section Number and Title:

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Subpart A—AM Broadcast Stations

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Need: These rules prescribe certain technical requirements and procedures for AM broadcast radio services.

Legal Basis: 47 U.S.C. 154, 303, 334, 336.

Section Number and Title:

73.35 Calculation of improvement factors.
73.151 Field strength measurements to establish performance of directional antennas.
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73.183 Groundwave signals.

Subpart B—FM Broadcast Stations

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Need: These rules prescribe certain technical requirements and procedures for FM broadcast radio services.

Legal Basis: 47 U.S.C. 154, 303, 334, 336.

Section Number and Title:

73.208 Reference points and distance computations.
73.215 Contour protection for short-spaced stations.

Subpart E—Television Broadcast Stations

Brief Description: These rules provide for compliance and authorization of television broadcast equipment and licenses.

Need: These rules prescribe certain technical requirements and operating procedures for television broadcast services.

Legal Basis: 47 U.S.C. 154, 155, 303, 334, 336.

Section Number and Title:

73.670 Commercial limits in children's programs.
73.687 Transmission system requirements.

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Legal Basis: 47 U.S.C. 154, 303, 334, 336.

Section Number and Title:

73.1212 Sponsorship identification; list retention; related requirements.
73.1217 Broadcast hoaxes.
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73.3556 Duplication of programming on commonly owned or time brokered stations.
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Section Number and Title:

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Section Number and Title:

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Subpart I—Instructional Television Fixed Service

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Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.986 Involuntary ITFS station modifications.
74.990 Use of available instructional television fixed service frequencies by wireless cable entities.
74.991 Wireless cable application procedures.
74.992 Access to channels licensed to wireless cable entities.

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Brief Description: These rules prescribe operating procedures exclusive to FM broadcast translator and FM broadcast booster stations.

Need: These rules provide procedures pertaining to transmitting FM signal channels for primary stations, FM radio broadcast stations, and FM booster stations.

Legal Basis: 47 U.S.C. 154, 303, 307, 554.

Section Number and Title:

74.1201 Definitions.
74.1205 Protection of channel 6 TV broadcast stations.

Common Carrier Bureau's List of Rules for Review Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 610 for 2000, 2001, 2002

All listed rules are in Title 47 of the Code of Federal Regulations.

PART 1—PRACTICE AND PROCEDURE

Subpart I—Procedures Implementing the National Environmental Policy Act of 1969

Brief Description: The rules contained in subpart 1 implement the requirements of the National Environmental Policy Act (NEPA) as well as a series of other federal environmental laws, such as the Endangered Species Act of 1973, as amended, the National Historic Preservation Act of 1966, the Wilderness Act of 1964, as amended, laws relating to Indian Ceremonial Sites and the Wildlife Refuge Laws. In addition the Commission's environmental rules implement Executive Orders regarding flood plains and wetlands regulation. By statute and/or as set forth in the regulations of the Council on Environmental Quality (CEQ), the Commission is responsible for ensuring compliance with these laws. The rules also identify certain special issues for consideration, including the impact of high-intensity white lights on towers in residential neighborhoods and the effect of radiofrequency emissions on the human environment.

Need: The Commission's environmental rules identify those sensitive environmental issues which Commission licensees must address. As the primary Federal agency managing and licensing radio spectrum broadcasters, wireless telephone carriers and other public and private radio users, the Commission complies with NEPA by requiring its licensees to assess and, if found, report the potential environmental consequences of their proposed projects.

Legal Basis: 47 U.S.C. 154(i), 154(j), and 303(r).

Section Number and Title:

1.1303 Scope.
1.1306 Actions which are categorically excluded from environmental processing.
1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.
1.1312 Facilities for which no preconstruction authorization is required.

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

Brief Description: This rule contains procedures and standards for allocating telephone company investment, expenses, taxes, and reserves between the state and federal jurisdictions.

Need: This rule permits carriers that serve high-cost areas to allocate additional local loop costs to the interstate jurisdiction and recover those costs through the universal service mechanism.

Legal Basis: Sec. 4; 48 Stat. 1066, as amended, 47 U.S.C. 154. Sec. 205, 219, 220, 221(c), 48 Stat. 1077 as amended, 1078; 47 U.S.C. 154, 205, 219, 220, 221(c).

Subpart F—Universal Service Fund

Section Number and Title:

36.601 General.
36.621 Study area total unseparated loop cost.
36.622 National and study area average unseparated loop costs.

PART 61—TARIFFS

Subpart H—Applications for Special Permission

Brief Description: The Part 61 rules are designed to implement the provisions of sections 201, 202, 203 and 204 of the Communications Act and ensure that rates are just, reasonable, and not unjustly or unreasonably discriminatory. The Part 61 rules govern the filing, form, content, public notice periods, and accompanying support materials for tariffs. Part 61 rules also establish the pricing rules and related requirements that apply to incumbent local exchange carriers that are subject to price cap regulation.

Need: At the time the Commission implemented the Treasury Department Lockbox Collection Program for all fees, requiring that submissions with fees be filed only with the lockbox bank in Pittsburgh, the tariff rules were revised to specify that any special permission application must be filed with the fee payment at the lockbox bank, while the attachments must be filed at the Office of the Secretary.

Legal Basis: 47 U.S.C. 154, 201, 202, 203, 205, 403.

Section Numbers and Titles:

61.151 Scope.
61.152 Terms of applications and grants.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Subpart I—Procedures Implementing the Telecommunication Relay Services and Related Customer Premises Equipment for Persons With Disabilities

Brief Description: Title IV of the Americans with Disabilities Act (ADA), which is codified at section 225 of the Communications Act of 1934, as amended (the Act), mandates that the Commission ensure that interstate and intrastate telecommunications relay services (TRS) are available, to the extent possible and in the most efficient manner, to individuals in the United States with hearing and speech disabilities. Title IV aims to further the Act's goal of universal service by providing to individuals with hearing or speech disabilities, telephone services that are functionally equivalent to those available to individuals without such disabilities. The ADA requires the Commission to establish functional requirements, guidelines, and operational procedures for TRS, and to establish minimum standards for carriers' provisioning of TRS. To establish a TRS that provides services which are functionally equivalent to telephone services available to voice users, Congress directed, among other things, that the Commission prohibit TRS providers from ''failing to fulfill the obligations of common carriers by refusing calls.''

On July 26, 1991, the Commission released its First Report and Order on TRS. This item stated that, ''the Commission is amending its rules to require that each common carrier providing telephone voice transmission services shall, no later than July 26, 1993, provide throughout the area in which it offers service, telecommunications relay services (TRS), individually, through designees, through a competitively selected vendor, or in concert with other carriers.''[1] This Report and Order adopted the Commission's Part 64, subpart F, rules.

In addition, one part of payphone service within the purview of NSD (Part 64, Subpart F) concerns TRS. In its First Report and Order on TRS (1991), the

[1] Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Report and Order and Request for Comments, CC Docket No. 90–571, 6 FCC Rcd 4657 (1991) (1991 Report and Order). *See* 47 CFR § 64.604(a)(3).

Commission interpreted the ADA to require TRS providers to handle any type of call normally provided by common carriers, including coin sent paid TRS calls. Due to technical concerns, the Commission has not been able to enforce this requirement. Presently, a Report and Order is being written which would eliminate this requirement.

Need: This rule implements the provisions of the ADA of 1990.

Legal Basis: 47 U.S.C. 51, 54(I), 54(j), 201–205, and 403.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Subpart B—Restrictions on Indecent Telephone Message Services

Brief Description: This rule implements the provisions of section 223(b) of the Act relating to defenses to prosecution for indecent commercial communications.

Need: This rule is intended to implement the statutory restrictions on commercial provision by telephone of indecent communications.

Legal Basis: Sec. 1, 4, 218–220, 223, 48 Stat. 1070, as amended; 47 U.S.C. 151, 154, 218–220, 223.

Section Number and Title:

64.201 Restrictions on indecent telephone message services.

Subpart G—Furnishing of Enhanced Services and Customer-Premises Equipment by Bell Operating Companies; Telephone Operator Services

Brief Description: This rule sets forth information that must be made available by operator service providers to consumers.

Need: This rule protects consumers by ensuring that they have access to useful information about the rates charged by operator service providers, and that they are able to reach the operator service provider of their choice.

Legal Basis: Sec. 1, 4, 218–220, 226, 48 Stat. 1070, as amended; 47 U.S.C. 151, 154, 218–220, 226.

Section Number and Title:

64.703 Consumer information.
64.707 Public dissemination of information by providers of operating services.
64.708 Definitions.

Subpart L—Restrictions on Telephone Solicitation

Brief Description: This rule imposes restrictions on telephone solicitation.

Need: This rule adopts measures to implement requirements designed to protect telephone subscribers from unsolicited telephone calls without unnecessarily restricting legitimate telephone marketing and sales.

Legal Basis: Sec. 1, 4, 218–220, 227, 48 Stat. 1070, as amended; 47 U.S.C. 151, 154, 218–220, 227.

Section Number ant Title:

64.1200 Delivery restrictions.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Subpart N—Expanded Interconnection

Brief Description: This rule requires that larger incumbent local exchange carriers (LECs), which do not participate in the National Exchange Carrier Association tariff, must provide expanded interconnection. Subpart N requires these incumbent LECs to allow other parties to interconnect with their networks through physical or virtual collocation for the provision of interstate access and switched transport services. Any interested party, including competitive LECs, interexchange carriers, and end users may take expanded interconnection from the LECs subject to this rule.

Need: This rule promotes increased competition in the provision of interstate services by removing barriers to competitive provision of special access and switched transport services. In particular, subpart N makes collocation and interconnection available to parties not covered by Part 51 of the Commission's rules such as large businesses and universities.

Legal Basis: 47 U.S.C. 151, 154, and 201–205.

Section Number and Title:

64.1401 Expanded interconnection.
64.1402 Rights and responsibilities of interconnectors.

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

Subpart A—General

Brief Description: This rule defines the point of demarcation between customer premises telephone wiring and the line owned and/or controlled by the local exchange carrier.

Need: This rule is necessary to establish competition in the provision and maintenance of inside wire.

Legal Basis: 47 U.S.C. 151–154, 201–205, and 303(r).

Section Number and Title:

68.3 Definitions (Demarcation Point).
68.105 Minimum Point of Entry and Demarcation Point.

Brief Description: This rule requires that all telephones be compatible with hearing aid devices.

Need: This rule implements the provisions of the Hearing Aid Compatibility Act of 1988.

Legal Basis: 47 U.S.C. 151–154, 201–205, and 303(r).

Section Number and Title:

68.4 Hearing-aid Compatible Telephones.

Subpart B—Conditions on Use of Terminal Equipment

Brief Description: This rule authorizes telecommunications common carriers to discontinue service when harm occurs originating from customer-installed equipment.

Need: This rule allows telecommunications common carriers to avoid harm to the public switched telephone network and to other customers' service originating from customer-installed wiring or equipment.

Legal Basis: 47 U.S.C. 151–154, 201–205, and 303(r).

Section Number and Title:

68.108 Incidence of harm.

Brief Description: This rule requires the providers of wireline telecommunications notify customers that a temporary discontinuance of service may be required; afford the customer the opportunity to take corrective action; and, inform the customer of his right to file a complaint with the Commission.

Need: This rule specifies that public buildings and businesses must make available hearing aid compatible telephones, and by what date.

Legal Basis: 47 U.S.C. 151–154, 201–205, and 303(r).

Section Number and Title:

68.112 Hearing aid-compatibility.

Subpart C—Terminal Equipment Approval Procedures

Brief Description: This rule states the requirements pertaining to customer installation of inside wire that will protect the public switched telephone network.

Need: The rule directs customer premises wiring to be installed in such a way that it will not harm the public switched telephone network.

Legal Basis: 47 U.S.C. 151–154, 201–205, and 303(r).

Section Number and Title:

68.213 Installation of other than ''fully protected'' non-system simple customer premises wiring.

Subpart D—Conditions for Terminal Equipment Approval

Brief Description: This rule requires automatic dialing devices that deliver a recorded message to release the called party's telephone line promptly.

Need: Prior to this rule, automatic dialing devices delivering a recorded message could and did prevent a called party from acquiring a dial tone for an extended period of time. This rule avoids situations in which a called party cannot access his telephone line to make emergency and other calls.

Legal Basis: 47 U.S.C. 151–154, 201–205, and 303(r).

Section Number and Title:

68.318(c) Line seizure by automatic telephone dialing systems.

Brief Description: This rule requires that all customer premises equipment and software be capable of accessing operator service providers using equal access codes.

Need: This rule facilitates competition among operator service providers by requiring that all callers have access to 10XXX code services.

Legal Basis: 47 U.S.C. 151–154, 201–205, and 303(r).

Section Number and Title:

68.318(e) Requirement that registered equipment allow access to common carriers.

PART 69—ACCESS CHARGES

Subpart B—Computation of Charges

Brief Description: The Part 69 rules are designed to implement the provisions of sections 201 and 202 of the Communications Act and protect consumers by preventing the exercise of market power by incumbent local exchange carriers by ensuring that rates are just, reasonable, and not unjustly or unreasonably discriminatory. The requirement for a certain minimum set of access charge rate elements and the rate calculation rules for rate-of-return carriers also greatly reduce the resources required in the tariff review process.

Need: Section 69.101 was adopted to replace rate-of-return regulation with a form of incentive regulation, one that directly limits rates by means of price caps, for the largest local exchange carriers. Section 69.119 was adopted to stimulate the introduction of innovative new enhanced services. Section 69.120 established a new switched access element for queries by interexchange carriers to local exchange carrier line information databases. Section 69.127 was adopted to encourage efficient use of transport facilities by allowing pricing that reflects costs, creating a rate structure conducive to interexchange competition, and avoiding interference with the development of interstate access competition.

Legal Basis: 47 U.S.C. 154, 201, 202, 203, 205, 403.

Section Numbers and Titles:

69.101 General.
69.119 Basic service element expedited approval process.
69.120 Line information database.
69.127 Transitional equal charge rule.

Subpart D—Apportionment of Net Investment

Brief Description: The Part 69 rules protect customers from the exercise of market power by incumbent local exchange carriers. The requirement for a minimum set of access charge rate elements and the pricing rules for both rate-of-return and price-cap LECs greatly reduce the Commission resources required to ensure carrier compliance with sections 201 and 202 of the Communications Act. These requirements also greatly facilitate analysis of access charges by other interested parties.

Need: Section 69.301 was adopted to facilitate more cost-based pricing and greater efficiency in the provision of transport service.

Legal Basis: 47 U.S.C. z154, 201, 202, 203, 205, 218, 220, 403.

Section Number and Title:

69.301 General.

Subpart G—Exchange Carrier Association

Brief Description: The Part 69 rules also provide for the establishment of the National Exchange Carrier Association (NECA), which files tariffs on behalf of many of the smaller, rate-of-return local exchange carriers. Annual access tariff filings, including the average schedule formula changes filed by the National Exchange Carrier Association, were adopted to assure that rates would be reasonable, would reflect rules changes, and would become more closely aligned with costs.

Need: Previously, the National Exchange Carrier Association was required to file updates to its average schedule formula, or certify that no change was required, by June 30 each year, which was six months before the January 1 effective date of the annual access tariffs. In the same rulemaking that changed the effective date for annual access tariffs from January 1 to July 1, the average schedule formula filing deadline was extended from June 30 to December 31 each year, six months before the effective date for annual access tariffs.

Legal Basis: 47 U.S.C. 154, 201, 202, 203, 205, 218, and 403 and 5 U.S.C. 553.

Section Numbers and Titles:

69.606 Computation of average schedule company payments.

[FR Doc. 02–26429 Filed 10–21–02; 8:45 am]

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Federal Register

Tuesday,
October 22, 2002

Part III

Department of Labor

Secretary's Order 2–2002; Delegation of Authorities and Assignment of Responsibilities to the Assistant Secretary for Policy; Notice

DEPARTMENT OF LABOR

Office of the Secretary

Secretary's Order 2–2002; Delegation of Authorities and Assignment of Responsibilities to the Assistant Secretary for Policy

1. Purpose

To define and delegate authorities and responsibilities to the Assistant Secretary for Policy.

2. Authorities and Directives Affected

a. Authorities

This Order is issued pursuant to 29 U.S.C. 551 *et seq.*; 5 U.S.C. 301; 5 U.S.C. 5315; the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act [*see* 5 U.S.C. 601 *et seq.* and 15 U.S.C. 657]; the Federal Advisory Committee Act [5 U.S.C. App.]; General Services Administration regulations governing Federal Advisory Committee management (41 C.F.R. 102–3, Subpart A); Executive Order 12838, ''Termination and Limitation of Federal Advisory Committees'' (February 10, 1993); Executive Order 12866, ''Regulatory Planning and Review'' (September 30, 1993), as amended by Executive Order 13258 (February 26, 2002); Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' (August 13, 2002); and Office of Management and Budget Circular A–135, ''Management of Federal Advisory Committees'' (October 5, 1994).

b. Directives Affected

(1) This Order does not affect the authorities and responsibilities assigned by any other Secretary's Order, unless otherwise expressly so provided in this or another Order.

(2) Secretary's Order 2–82, which delegated authority and assigned responsibilities to the Assistant Secretary for Policy (OASP), is cancelled.

(3) This Order does not affect Secretary's Order 2–2000, which establishes policy and assigns responsibilities for the development, implementation, institutionalization, and continuing support of Department of Labor public Internet services.

(4) This Order does not affect the procurement and contracting authority of the Assistant Secretary for Administration and Management. (*see* Secretary's Order 4–76.)

3. Background

The Office of the Assistant Secretary for Policy (OASP) has traditionally provided advice and assistance to the Secretary and Deputy Secretary in a number of areas, including policy development, program implementation, program evaluations, research, budget and performance analysis, and legislative and other policy support. The Secretary of Labor advises the President and represents the Department of Labor (DOL or Department) in Cabinet deliberations dealing with significant and complex issues of, *e.g.*, a scientific, financial, and statistical nature, particularly as these issues have an impact on the welfare of the American workforce. The accelerating rate of technological and economic change compels the availability to the Secretary of a cadre of skilled analysts who can respond quickly to urgent policy matters. Thus, this Order refocuses OASP's role to provide support, analysis, and advice to the Secretary and Deputy Secretary on policy, programmatic, technical, regulatory, and compliance assistance issues.

This Order also compiles current OASP responsibilities and delineates additional responsibilities, including institutionalization of the Office of Economic Policy and Analysis, the Office of Regulatory Policy, the Office of Programmatic Policy, and the Office of Research and Technology Policy. The Order also addresses OASP's role with respect to the Policy Planning Board (*see* Secretary's Order 3–2002); the management of compliance with the Federal Advisory Committee Act and related laws and regulations; the requirements of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA); the coordination and management of the overall DOL public web site presence; and the administration of the DOL Working Partners for an Alcohol and Drug-Free Workplace program.

Finally, this Order and concurrently issued Secretary's Order 4–2002 (Office of Small Business Programs) substantially consolidate and restructure the Department's compliance assistance programs and enhance its outreach efforts. Compliance assistance has become an essential and integral part of how the Department conducts its business and fulfills its mission. In order to avert and deter violations of wage, safety, employee benefits, and other laws that it administers, the Department must offer strong, effective compliance assistance programs. Employers and employees must have access to clear, accurate, and understandable information on achieving compliance with laws under the Department's jurisdiction. This Order consequently establishes the position of Chief Compliance Assistance Officer within OASP and also assigns to OASP the responsibility of assuring the Department's full, effective, and resourceful implementation of compliance assistance initiatives.

4. Delegation of Authorities and Assignment of Responsibilities

a. *The Assistant Secretary for Policy* is delegated authority and assigned responsibility for:

(1) Advising the Secretary and Deputy Secretary and supervising the preparation of studies, analyses, public statements and other policy statements with respect to the Secretary's duties in the areas of policy and economic policy formulation, including the impact of Departmental policies and programs on general economic policy.

(2) Consistent with Secretary's Order 3–2002, providing analytic and administrative leadership and support for the Department's Policy Planning Board.

(3) Establishing the following offices and positions within OASP:

(a) An Office of Compliance Assistance, to be headed by a Chief Compliance Assistance Officer, which will implement, manage, and coordinate Departmental compliance assistance policies, initiatives and programs, including Department-wide cross-cutting initiatives.

(b) An Office of Economic Policy and Analysis, to be headed by a Chief Economist, which will implement, manage, and coordinate Departmental economic policy and analysis.

(c) An Office of Regulatory Policy, to be headed by a Director, which will implement, manage, and coordinate Departmental regulatory policy.

(d) An Office of Programmatic Policy, to be headed by a Director, which will implement, manage, and coordinate Departmental programmatic policy.

(e) An Office of Research and Technology Policy, to be headed by a Director, which will implement, manage, and coordinate Departmental research and technology policy.

(4) Providing the analytical support required by the Secretary, Deputy Secretary, and Policy Planning Board with respect to policy issues and trends which require economic analyses or other expertise, including:

(a) Providing analysis of issues in the macroeconomic and microeconomic policy areas.

(b) Preparing recommendations and analyses with respect to long- and short-term economic trends, preparing economic studies and analyses related

to the formulation of policy, and preparing economic analyses relating to economic impact of Departmental policies, regulations, and programs on general administration policy within the United States.

(5) In consultation with the Office of the Solicitor, representing the Secretary in a variety of forums attended by officials in the government and with appropriate outside parties and maintaining continuous and personal liaison with those groups and the White House on matters involving policy, Departmental programs, economic issues, regulations, or compliance assistance.

(6) Reviewing cross-cutting activities within the Department as they pertain to the Secretary's broader policy functions, including Government Performance Results Act and other Departmental reports, budget and legislative proposals, and Congressional reports, and coordinating selected reports to OMB and other agencies.

(7) Conducting appropriate research and evaluation activities in accord with the Secretary's selected priorities within the Department.

(8) In consultation with the Office of the Solicitor, and primarily through the Office of Compliance Assistance, providing general oversight of, and guidance for, the Department's compliance with the Regulatory Flexibility Act, as amended by SBREFA, and related laws (including EO 12866, EO 13272, or equivalent executive orders), including such activities as:

(a) Developing and implementing the written Departmental policies and procedures concerning the potential impact of draft rules on small entities, as required by Section 3(a) of EO 13272.

(b) Providing analysis, guidance, review, and technical assistance, as necessary, to program agencies which are preparing required studies such as regulatory impact and flexibility studies.

(c) Providing guidance and technical assistance, as necessary, to program agencies during the Small Business Advocacy Review Panel process (if applicable).

(d) Preparing, coordinating, and reviewing the Department's Semi-Annual Regulatory Agenda.

(e) In coordination with the Office of Small Business Programs, acting as the Department's liaison with the Small Business Administration (SBA), including SBA's Chief Counsel for Advocacy under SBREFA.

(f) Consistent with Secretary's Order 3–2002, providing analysis for the Policy Planning Board.

(9) In consultation with the Office of the Solicitor, ensuring that the Department meets the requirements for advisory committee operations set forth in the Federal Advisory Committee Act, as well as related laws, regulations, and guidance, by

(a) Serving as the Department's Advisory Committee Management Officer.

(b) Coordinating with DOL Agency Heads and the White House Liaison on the appointment of individuals to advisory committees.

(c) Providing administrative oversight and direction for the Department's advisory committees to assure that requirements are met regarding charters, membership notice, conduct, planning, reporting, and termination of committee operations.

(10) Consistent with DOL Secretary's Order 2–2000, coordinating and managing the overall public web site presence to ensure that web site-based information and services are cohesive, accessible, timely, accurate, and authoritative.

(11) Administering the Department's Working Partners for an Alcohol and Drug-Free Workplace Program and its Small Business initiative.

(12) Coordinating and consulting, as appropriate, with other DOL agencies in fulfilling the above responsibilities.

(13) Performing any additional or similar duties which may be assigned by the Secretary.

b. *The Assistant Secretary for Administration and Management* is delegated authority and assigned responsibility for:

(1) Ensuring that any transfer of budgetary resources arising from this Order is fully consistent with the established requirements of the Department and that consultation and negotiation, as appropriate, with representatives of any employees affected by this exchange of responsibilities are conducted.

(2) Ensuring that appropriate administrative and management support is furnished, as required, for the efficient and effective operation of these programs.

c. *The Solicitor of Labor* is responsible for providing legal advice and assistance to all Department of Labor officials relating to implementation and administration of all aspects of this Order.

d. *DOL Agency heads* are responsible for coordinating with OASP on policies and activities relating to the mission of their respective agencies, including:

(1) In consultation with the Office of the Solicitor, fulfilling the requirements of the Regulatory Flexibility Act, as amended by SBREFA, and related laws, including appropriate coordination with small entities in the development of rules, production of plain language compliance guides, and responding to requests for information.

(2) In consultation with the Office of the Solicitor, implementing the requirements of the Federal Advisory Committee Act, and related laws, regulations and guidance for all committees within their jurisdiction.

(3) Ensuring that reports concerning degree of achievement of the above objectives are accurate and submitted in a timely manner.

5. Reservation of Authority and Responsibility

a. The submission of reports and recommendations to the President and the Congress concerning the administration of statutory or administrative provisions is reserved to the Secretary.

b. This Secretary's Order does not affect the authorities or responsibilities of the Office of Inspector General under the Inspector General Act of 1978, as amended, or under Secretary's Order 2–90 (January 31, 1990).

6. Redelegation/Reassignment of Authority

All authorities and responsibilities enumerated in this Order may be redelegated or reassigned within OASP.

7. Effective Date

This Order is effective immediately.

Dated: October 10, 2002.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 02–26739 Filed 10–21–02; 8:45 am]

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Federal Register

Tuesday,
October 22, 2002

Part IV

Department of Labor

Secretary's Order 4–2002; Office of Small Business Programs; Notice

DEPARTMENT OF LABOR

Office of the Secretary

Secretary's Order 4–2002; Office of Small Business Programs

1. Purpose

To define the authorities and responsibilities of the Office of Small Business Programs (OSBP) in the Department of Labor (DOL or Department).

2. Authority and Directives Affected

a. Authorities

This Order is issued pursuant to 29 U.S.C. 551 *et seq.*; 5 U.S.C. 301; the Small Business Act [15 U.S.C. 631 *et seq.*], including section 15(k) [15 U.S.C. 944(k)]; the Historically Underutilized Business Zone Act of 1997 [15 U.S.C. 631 note]; the Regulatory Flexibility Act [see 5 U.S.C. 601 *et seq.*]; the Small Business Regulatory Enforcement Fairness Act [see 5 U.S.C. 601 *et seq.* and 15 U.S.C. 657]; Executive Order 12432, ''Minority Business Enterprise Development'' (EO 12432) (July 14, 1983); Executive Order 12928, ''Promoting Procurement with Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals, Historically Black Colleges and Universities [HBCUs], and Minority Institutions' (EO 12928) (September 16, 1994); Executive Order 13125, as amended by Executive Order 13216, ''Increasing Opportunity and Improving Quality of Life of Asian Americans and Pacific Islanders' (EO 13125) (June 7, 1999); Executive Order 13230, ''President's Advisory Commission on Educational Excellence for Hispanic Americans'' (EO 13230) (October 12, 2001); Executive Order 13256, ''President's Board of Advisors on Historically Black Colleges and Universities'' (EO 13256) (February 12, 2002); and Executive Order 13270, ''Tribal Colleges and Universities.''

b. Directives Affected

(1) This Order does not affect the authorities and responsibilities assigned by any other Secretary's Order, unless otherwise expressly so provided in this or another Order.

(2) Secretary's Order 2–97 is cancelled.

(3) This Order does not affect the procurement and contracting authority of the Assistant Secretary for Administration and Management. (*see* Secretary's Order 4–76.)

3. Background

This Secretary's Order and concurrently issued Secretary's Order 2–2002 (Assistant Secretary for Policy) substantially consolidate and restructure the Department's compliance assistance programs and enhance its outreach efforts. Specifically, this Order reflects the transfer, to the Assistant Secretary for Policy by Secretary's Order 2–2002, of OSBP's prior responsibilities with respect to Departmental compliance assistance efforts for certain constituencies, oversight of the Department's advisory committees, and certain responsibilities under the Small Business Regulatory Enforcement Fairness Act (SBREFA).

OSBP retains its function as the Department's ombudsman for small businesses under SBREFA, as well as its responsibilities for the Department's relationship with minority communities and populations, businesses, and academic institutions, under related executive orders, such as Executive Orders 12432, 12928, 13125, 13216, 13230, 13256, and 13270. Under these directives, the Department promotes efforts to increase the involvement of minority businesses, Historically Black Colleges and Universities, Tribal Colleges and Universities, Asian American and Pacific Islanders, and Hispanic Americans in the Department's programs, including procurement; develops related Departmental policy and guidelines; establishes program plans; and monitors and reports on results achieved.

4. Delegation of Authority and Assignment of Responsibilities

a. *The Director, Office of Small Business Programs* is responsible for:

(1) Ensuring that the Department fulfills its responsibility to provide procurement opportunities for small business concerns, small disadvantaged businesses, women-owned small businesses, Historically Underutilized Business Zone (HUBZone) businesses, and businesses owned by service-disabled veterans, including:

a. Establishing DOL and agency goals, in cooperation with agencies and in accordance with 15 U.S.C. 644, for the participation by such entities in appropriate procurement actions.

b. Consulting with the Small Business Administration (SBA) as necessary and preparing the annual plan and annual report from the Secretary to the SBA Administrator on participation of small entities in procurement actions by the Department.

c. Conducting outreach programs, seminars, and similar initiatives for such entities and acting as the Department's liaison to such entities for program procurement activities.

d. Providing training regarding utilization of small and disadvantaged businesses to DOL employees whose duties and functions relate to procurement.

e. Ensuring the Department's compliance with the procurement and property disposal requirements of section 223(a) of the Small Business Act (15 U.S.C. 637(b)).

f. Acting as the Department's Director of the Office of Small and Disadvantaged Business Utilization.

(2) Ensuring that small business specialists are appointed throughout the Department, and are trained in performing their duties.

(3) Publishing information materials required by sections 8 and 15 of the Small Business Act.

(4) Acting as the Department's ombudsman to small businesses, including responding to inquiries or complaints arising under SBREFA.

(5) Serving, in coordination with OASP, as the Department's liaison with the SBA's Small Business and Agriculture Regulatory Enforcement Ombudsman and providing the Department's response and other input related to the SBA Ombudsman's Regulatory Fairness Recommendations Report to Congress.

(6) Acting as the Department's liaison to minority businesses and institutions; planning, coordinating, monitoring, evaluating, and reporting on the Department's related activities under Executive Orders 12432 and 12928, including efforts to increase the involvement of minority businesses in the Department's programs and plans; coordination of related memoranda of understanding; and service as the Department's liaison to the Department of Commerce's Minority Business Development Agency.

(7) Acting as the Department's liaison to Tribal Colleges and Universities; planning, coordinating, monitoring, evaluating, and reporting on the Department's related activities under EO 13270, including efforts to increase the involvement of Tribal Colleges and Universities in the Department's programs and plans; coordination of related memoranda of understanding; and service as the Department's liaison to the President's Board of Advisors on Tribal Colleges and Universities and the White House Initiative on Tribal Colleges and Universities.

(8) Acting as the Department's liaison to Asian Americans and Pacific Islanders; planning, coordinating, monitoring, evaluating, and reporting on the Department's activities under EO 13125, as amended by EO 13216, including efforts to increase the

involvement of Asian Americans and Pacific Islanders in the Department's programs and plans; coordination of related memoranda of understanding; and service as the Department's liaison to the President's Advisory Commission on Asian Americans and Pacific Islanders and the White House Initiative on Asian Americans and Pacific Islanders.

(9) Acting as the Department's liaison to Hispanic Americans; planning, coordinating, monitoring, evaluating, and reporting on the Department's activities under EO 13230, including efforts to increase the involvement of Hispanic Americans in the Department's programs and plans; coordination of related memoranda of understanding; and service as the Department's liaison to the President's Advisory Commission on Educational Excellence for Hispanic Americans and the White House Initiative on Educational Excellence for Hispanic Americans.

(10) Acting as the Department's liaison to HBCUs; planning, coordinating, monitoring, evaluating, and reporting on the Department's related activities under Executive Orders 12928 and 13256, including efforts to increase the participation of HBCUs in the Department's programs and plans; coordination of related memoranda of understanding; and service as the Department's liaison to the President's Board of Advisors on HBCUs and the White House Initiative on HBCUs.

(11) Coordinating, as necessary, with the Office of the Assistant Secretary for Policy on compliance assistance initiatives.

(12) Coordinating, as necessary, with the Assistant Secretary for Administration and Management on procurement actions related to OSBP's responsibilities under this Order and on consolidation of the Department's Annual Acquisition Plan and Procurement Forecast (AAP–PF).

(13) Coordinating and consulting, as appropriate, with other DOL agencies in fulfilling the above responsibilities.

(14) Performing any additional or similar duties which may be assigned by law or by the Secretary.

b. *The Assistant Secretary for Administration and Management* is delegated authority and assigned responsibility for:

(1) Ensuring that any transfer of resources affecting this Order is fully consistent with the established requirements of the Department and that consultation and negotiation, as appropriate, with representatives of any employees affected by this exchange of responsibilities are conducted.

(2) Ensuring that appropriate administrative and management support is furnished, as required, for the efficient and effective operation of these programs.

(3) Coordinating, as necessary, with the Director of the Office of Small Business Programs on procurement actions related to their responsibilities under this Order and on consolidation of the Department's AAP–PF.

c. *The Solicitor of Labor* is responsible for providing legal advice and assistance to all Department of Labor officials relating to implementation and administration of all aspects of this Order.

d. *DOL Agency Heads* are responsible for:

(1) Developing Agency annual acquisition plans, and annual small and disadvantaged business utilization plans, consistent with Agency responsibilities.

(2) Developing Agency minority institution activity plans, consistent with Agency responsibilities, to promote the objectives of Executive Orders 12432, 12928, 13125, 13216, 13230, 13256, and 13270 or similar laws.

(3) Conferring with Agency program and procurement officials to establish Agency monetary procurement goals, minority institution commitments, minority business development plans, and ensuring that Agency program and procurement officials cooperate to achieve these objectives.

(4) Ensuring that reports concerning degree of achievement of the above objectives are accurate and submitted in a timely manner.

5. Reservations of Authority and Responsibility

a. The submission of reports and recommendations to the President and the Congress concerning the administration of statutory or administrative provisions is reserved to the Secretary, as is the submission of the Department's annual plan and annual report to the SBA on participation by small business concerns, small disadvantaged businesses, women-owned small businesses, HUBZone businesses, and businesses owned by service-disabled veterans, in the Department's procurement actions.

b. This Secretary's Order does not affect the authorities or responsibilities of the Office of Inspector General under the Inspector General Act of 1978, as amended, or under Secretary's Order 2–90 (January 31, 1990).

6. Transfer of Authority

The Director of the Office of Small Business Programs may transfer the authority and responsibility set forth in paragraphs 4a(6)–(10) to other agency heads, as appropriate.

7. Effective Date

This Order is effective immediately.

Dated: October 10, 2002.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 02–26738 Filed 10–21–02; 8:45 am]

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Federal Register

Tuesday,
October 22, 2002

Part V

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Miscellaneous Revisions to Regulations Within the North Carolina State and County Implementation Plans; Final and Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC 89–200240(a); FRL–7395–5]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Miscellaneous Revisions to Regulations Within the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On April 13, 1999, the North Carolina Department of Environment and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions include amending regulations relating to ozone, particulate matter, and other miscellaneous rules within the Air Pollution Control Requirements subchapter. In addition, North Carolina has also submitted rule revisions to the General Provisions, Construction and Operations Permits and Exclusionary Rules sections of their Air Quality Permits Subchapter. The purpose of these revisions is to make the revised regulations consistent with the requirements of the Clean Air Act as amended in 1990. The EPA is approving these revisions.

DATES: This direct final rule is effective December 23, 2002 without further notice, unless EPA receives adverse comment by November 21, 2002. If adverse comment is received, EPA 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.

ADDRESSES: All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Randy Terry, 404/562–9032.

North Carolina Department of Environment and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy B. Terry at 404/562–9032, or by electronic mail at *terry.randy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 13, 1999, the North Carolina Department of Environment and Natural Resources, submitted revisions to the North Carolina SIP. These revisions include the amending of regulations relating to ozone, particulate matter, and other miscellaneous rules within the Air Pollution Control Requirements subchapter. In addition North Carolina has also submitted rule revisions to the General Provisions, Construction and Operations Permits and Exclusionary Rules sections of their Air Quality Permits Subchapter. A detailed analysis of each of the major revisions submitted is listed below.

II. Analysis of North Carolina's Submittal

Subchapter 2D

.0405 Ozone, and .0410 PM 2.5 Particulate Matter

These rules were amended to adopt the federal revisions to the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter as state air quality standards.

.0503 Particulates From Fuel Burning Indirect Heat Exchangers, .0504 Particulates From Wood Burning Indirect Heat Exchangers

These rules were updated to add new definitions for ''functionally dependant,'' ''indirect heat exchanger,'' and ''plant site.''

Subchapter 2Q

.0102 Activities Exempted From Permit Requirements

This rule has been amended to clarify permit exemptions for municipal solid waste landfills that are not required to have a title V permit and to add a paragraph for exemptions when there is no applicable requirement under title V.

.0103 Definitions

This rule has been amended to add a definition for ''Sawmill.''

.0107 Confidential Information

This rule was amended to revise the deadline in which the Director is required to respond to a request to treat information as confidential and to add language that clarifies that such information is to be treated as confidential until the Director decides that the information is not confidential.

.0300 Construction and Operating Permits

This section was revised, by adding headings, to each subparagraph under rule .0304 Applications to clarify the process of applications. These headings cover items such as obtaining and filing applications, information to accompany application, when to file applications for permit renewal, ownership or name change and requesting additional information. In addition, rule .0511 Synthetic Minor Facilities has been moved and is now listed as rule .0315.

.0800 Exclusionary Rules

This section was revised to add language clarifying that coverage under this section is voluntary and explains the procedure for an owner or operator to request that their facility not be covered by this section. Additionally, a new rule was added that applies to facilities whose only sources requiring a permit are one or more peak shaving generators and their associated fuel storage tanks.

III. Final Action

EPA is approving the aforementioned changes to the SIP because the revisions are consistent with Clean Air Act and EPA regulatory requirements. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective December 23, 2002 without further notice unless the Agency receives adverse comments by November 21, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 23, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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. 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 1, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart II—North Carolina

2. Section 52.1770(c), Table 1 is amended to read as follows:

a. Revise column heading ''Comments'' to read ''Explanations.''

b. Under Subchapter 2D by revising entries for ''.0405,'' ''.0503,'' ''.0504,'' and adding in numerical order a new entry for ''.0410.''

c. Under Subchapter 2Q by revising entries ''.0102,'' ''.0103,'' ''.0107,'' ''.0304,'' ''.0306,'' ''.0309,'' ''.0801,'' ''.0803,'' and ''.0808'' and adding in numerical order a new entry for ''.0314'' and ''.0315.''

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

TABLE 1.—EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
Subchapter 2D Air Pollution Control Requirements				
*	*	*	*	*
Section .0400 Ambient Air Quality Standards				
*	*	*	*	*
Sect. .0405	Ozone	05/01/99	10/22/02, 2002, [FR cite].	

TABLE 1.—EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Sect. .0410	PM 2.5 Particulate Matter	05/01/99	10/22/02, [FR cite].	
Section .0500 Emission Control Standards				
*	*	*	*	*
Sect. .0503	Particulates From Fuel Burning Indirect Heat Exchangers.	05/01/99	10/22/02, [FR cite].	
Sect. .0504	Particulates From Wood Burning Indirect Heat Exchangers.	05/01/99	10/22/02, [FR cite].	
*	*	*	*	*
Subchapter 3Q—Air Quality Permits				
Section .0100 General Provisions				
*	*	*	*	*
Sect. .0102	Activities Exempted From Permit Requirements.	05/01/99	10/22/02, [FR cite].	
Sect. .0103	Definitions	05/01/99	10/22/02, [FR cite].	
*	*	*	*	*
Sect. .0107	Confidential Information	05/01/99	10/22/02, [FR cite].	
*	*	*	*	*
Section .0300 Construction and Operation Permits				
*	*	*	*	*
Sect. .0304	Applications	07/01/99	10/22/02, [FR cite].	
*	*	*	*	*
Sect. .0306	Permits Requiring Public Participation	07/01/99	10/22/02, [FR cite].	
*	*	*	*	*
Sect. .0309	Termination, Modification and Revocation of Permits.	07/01/99	10/22/02, [FR cite].	
*	*	*	*	*
Sect. .0314	General Permit Requirements	07/01/99	10/22/02, [FR cite].	
Sect. .0315	Synthetic Minor Facilities	07/01/99	10/22/02, [FR cite].	
*	*	*	*	*
Section .0800 Exclusionary Rules				
Sect. .0801	Purpose and Scope	05/01/99	10/22/02, [FR cite].	
*	*	*	*	*
Sect. .0803	Coating, Solvent Cleaning, Graphic Arts Operations.	05/01/99	10/22/02, [FR cite].	
*	*	*	*	*
Sect. .0808	Peak Shaving Generators	07/01/99	10/22/02, [FR cite].	

[FR Doc. 02–26569 Filed 10–21–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC89–200240(b); FRL–7395–4]

Approval and Promulgation of Implementation Plans North Carolina: Approval of Miscellaneous Revisions to Regulations Within the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the North Carolina Department of Environment and Natural Resources, for the purpose of amending regulations relating to ozone, particulate matter, and other miscellaneous rules within, the Air Pollution Control Requirements subchapter. In addition North Carolina has also submitted rule revisions to the General Provisions, Construction and Operations Permits and Exclusionary Rules sections of their Air Quality Permits Subchapter. In the Final Rules section of this **Federal Register**, the EPA is approving the North Carolina SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before November 21, 2002.

ADDRESSES: All comments should be addressed to: Randy Terry; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Randy Terry, 404/562–9032.

North Carolina Department of Environment and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy B. Terry, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9032. Mr. Terry can also be reached via electronic mail at *terry.randy@epa.gov.*

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

Dated: October 1, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–26570 Filed 10–21–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC 92–200238b; FRL–7395–3]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Miscellaneous Revisions to Regulations Within the Forsyth County Local Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On July 30, 1999, the Forsyth County Environmental Affairs Department through, the North Carolina Department of Environment and Natural Resources, submitted revisions to the Forsyth County Local Implementation Plan (LIP). These revisions include amending regulations relating to ozone, particulate matter, the monitoring: recordkeeping: reporting section and other miscellaneous rules within, the Air Pollution Control Requirements subchapter. In addition Forsyth County has also submitted rule revisions to the General Provisions, Construction and Operations Permits and Exclusionary Rules sections of their Air Quality Permits Subchapter. The purpose of these revisions is to make the revised regulations consistent with the requirements of the Clean Air Act as amended in 1990. The EPA is approving these revisions.

DATES: This direct final rule is effective December 23, 2002 without further notice, unless EPA receives adverse comment by November 21, 2002. If adverse comment is received, EPA 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.

ADDRESSES: All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Randy Terry, 404/562–9032.

North Carolina Department of Environment and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

Forsyth County Environmental Affairs Department, 537 North Spruce Street, Winston-Salem, North Carolina 27101.

FOR FURTHER INFORMATION CONTACT: Randy B. Terry at 404/562–9032, or by electronic mail at *terry.randy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 30, 1999, the Forsyth County Environmental Affairs Department, through the North Carolina Department of Environment and Natural Resources, submitted revisions to the Forsyth County LIP. These revisions include the amending of regulations relating to ozone, particulate matter, the monitoring: recordkeeping: reporting section and other miscellaneous rules within, the Air Pollution Control Requirements subchapter. In addition Forsyth County has also submitted rule revisions to the General Provisions, Construction and Operations Permits and Exclusionary Rules sections of their Air Quality Permits Subchapter. A detailed analysis of each of the major revisions submitted is listed below.

II. Analysis of Forsyth County's Submittal

Subchapter 3A

.0110 CFR Dates and .0112 ASTM Dates

These rules were moved to section 3D, rule .0104 and added language that allows for automatically including any future amendments to both the Code of Federal Regulations (CFR) and American Society of Testing Material (ASTM) unless a specific rule specifies otherwise.

Subchapter 3D

.0405 Ozone, and .0410 PM 2.5 Particulate Matter

These rules were amended to adopt the revisions to the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter.

.0501 Compliance With Emission Control Standards, .0503 Particulates From Fuel Burning Indirect Heat Exchangers, .0504 Particulates From Wood Burning Indirect Heat Exchangers

These rules were clarified to provide more detailed explanations of the ASTM and updated to add new definitions for ''functionally dependant,'' ''indirect heat exchanger,'' and ''plant site.''

Section .0600 Monitoring: Recordkeeping: Reporting

This section was amended to clarify and revise existing rules, add general requirements, extend alternative and monitoring and reporting procedures, require a quality assurance monitoring program and add a compliance assurance monitoring rule.

.0903 Recordkeeping: Reporting: Monitoring

This rule was amended to include language that requires the owner or operator of any volatile organic compound (VOC) emission source, or control equipment subject to the requirements of this section to comply with the monitoring, recordkeeping, and reporting requirements in section .0600 of this Subchapter.

Subchapter 3Q

.0102 Activities Exempted From Permit Requirements

This rule has been amended to clarify permit exemptions for municipal solid waste landfills that are not required to have a title V permit and to add a paragraph for exemptions when there is no applicable requirement under title V.

.0103 Definitions

This rule has been amended to add a definition for ''Sawmill.''

.0107 Confidential Information

This rule was amended to revise the deadline in which the Director is required to respond to a request to treat information as confidential and to add language that clarifies that such information is to be treated as confidential until the Director decides that the information is not confidential.

.0300 Construction and Operating Permits

This section was revised, by adding headings, to each subparagraph under rule .0304 Applications to clarify the process of applications. These headings cover items such as obtaining and filing applications, information to accompany application, when to file applications for permit renewal, ownership or name change and requesting additional information. In addition, rule .0511 Synthetic Minor Facilities has been moved and is now listed as rule .0315.

.0800 Exclusionary Rules

This section was revised to add language clarifying that coverage under this section is voluntary and explains the procedure for an owner or operator to request that their facility not be covered by this section. Additionally, a new rule was added that applies to facilities whose only sources requiring a permit are one or more peak shaving generators and their associated fuel storage tanks.

III. Final Action

EPA is approving the aforementioned changes to the SIP because the revisions are consistent with Clean Air Act and EPA regulatory requirements. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective December 23, 2002 without further notice unless the Agency receives adverse comments by November 21, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 23, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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. 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 19, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR Part 52 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 II—North Carolina

2. Section 52.1770(c), Table 2 is amended to read as follows:

a. By adding Subchapter 3A to beginning of table.

b. Under Subchapter 3D by adding in numerical order new entries for ''Section .100,'' ''Section .0400,'' ''Section .0500,'' ''Section .0600,'' and ''Section .0900.''

c. Under Subchapter 3Q by revising entries ''.0102'' and ''.0103,'' adding in numerical order a new entry for ''.0107,'' and adding new ''Sections .0300 and .0800.''

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

TABLE 2.—EPA APPROVED FORSYTH COUNTY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
	Subchapter 3A Air Quality Control			
	Sectioon .100 In General			
Sect .0110	CFR Dates	05/24/99	10/22/02, [FR cite]	Repealed.
Sect. .0112	ASTM Dates	05/24/99	10/22/02, [FR cite]	Repealed.
	Subchapter 3D Air Pollution Control Requirements			
	Section .100 Definitions and References			
Sect. .0104	Incorporation By Reference	05/24/99	10/22/02, [FR cite].	
	Section .0400 Ambient Air Quality Standards			
Sect. .0405	Ozone	05/24/99	10/22/02, [FR cite].	
Sect. .0410	PM 2.5 Particulate Matter	05/24/99	10/22/02, [FR cite].	
	Section .0500 Emission Control Standards			
Sect. 0501	Compliance With Emission Control Standards	05/24/99	10/22/02, [FR cite].	
Sect. .0503	Particulates From Fuel Burning Indirect Heat Exchangers.	05/24/99	10/22/02, [FR cite].	
Sect. .0504	Particulates From Wood Burning Indirect Heat Exchangers.	05/24/99	10/22/02, [FR cite].	
	Section .0600 Monitoring: Recordkeeping: Reporting			
Sect. .0601	Purpose and Scope	05/24/99	10/22/02, [FR cite].	
Sect. .0602	Definitions	05/24/99	10/22/02, [FR cite].	
Sect. 0604	Exceptions to Monitoring and Reporting Requirements.	05/24/99	10/22/02, [FR cite].	
Sect. .0605	General Recordkeeping and Reporting Requirements.	05/24/99	10/22/02, [FR cite].	
Sect. .0606	Sources Covered By Appendix P of 40 CFR Part 51.	05/24/99	10/22/02, [FR cite].	
Sect. .0607	Large Wood and Wood-Fossil fuel Combination Units.	07/01/99	10/22/02, [FR cite].	
Sect. .0608	Other Large Coal or Residual Oil Burners	05/24/99	10/22/02, [FR cite].	
Sect. .0610	Federal Monitoring Requirements	05/24/99	10/22/02, [FR cite].	
Sect. .0611	Monitoring Emissions From Other Sources	05/24/99	10/22/02, [FR cite].	
Sect. .0612	Alternative Monitoring and Reporting Procedures	05/24/99	10/22/02, [FR cite].	
Sect. .0613	Quality Assurance Program	05/24/99	10/22/02, [FR cite].	
Sect. .0614	Compliance Assurance Monitoring	05/24/99	10/22/02, [FR cite].	
	Section .0900 Volatile Organic Compounds			
Sect. .0903	Recordkeeping: Reporting: Monitoring	05/24/99	10/22/02, [FR cite].	
*	*	*	*	*
	Subchapter 3Q—Air Quality Permits			
	Section .0100 General Provisions			
Sect. .0102	Activities Exempted From Permit Requirements	05/24/99	10/22/02, [FR cite].	
Sect. .0103	Definitions	05/24/99	10/22/02, [FR cite].	
Sect. .0107	Confidential Information	05/24/99	10/22/02, [FR cite].	
	Section .0300 Construction and Operation Permits			
Sect. .0304	Applications	07/01/99	10/22/02, [FR cite].	
Sect. .0306	Permits Requiring Public Participation	07/01/99	10/22/02, [FR cite].	
Sect. .0309	Termination, Modification and Revocation of Permits.	07/01/99	10/22/02, [FR cite].	
Sect. .0314	General Permit Requirements	05/24/99	10/22/02, [FR cite].	
Sect. .0315	Synthetic Minor Facilities	07/01/99	10/22/02, [FR cite].	

TABLE 2.—EPA APPROVED FORSYTH COUNTY REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
	Section .0800 Exclusionary Rules			
Sect. .0801	Purpose and Scope	05/24/99	10/22/02, [FR cite].	
Sect. .0803	Coating, Solvent Cleaning, Graphic Arts Operations.	05/24/99		
Sect. .0808	Peak Shaving Generators	07/01/99	10/22/02, [FR cite].	

[FR Doc. 02–26571 Filed 10–21–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC92–200238a; FRL–7395–2]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Miscellaneous Revisions to Regulations Within the Forsyth County Local Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the Local Implementation Plan (LIP) revision submitted by the Forsyth County Environmental Affairs Department, through the State of North Carolina, for the purpose of amending regulations relating to ozone, particulate matter, the monitoring: recordkeeping: reporting section and other miscellaneous rules within, the Air Pollution Control Requirements subchapter. In addition Forsyth County has also submitted rule revisions to the General Provisions, Construction and Operations Permits and Exclusionary Rules sections of their Air Quality Permits Subchapter. In the Final Rules section of this **Federal Register**, the EPA is approving the Forsyth County LIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before November 21, 2002.

ADDRESSES: All comments should be addressed to: Randy Terry; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Randy Terry, 404/562–9032.

Forsyth County Environmental Affairs Department, 537 North Spruce Street, Winston-Salem, North Carolina 27101.

North Carolina Department of Environment and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy B. Terry, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9032. Mr. Terry can also be reached via electronic mail at *terry.randy@epa.gov.*

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

Dated: September 19, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–26572 Filed 10–21–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC 98–200237a; FRL–7377–8]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Miscellaneous Revisions to The Mecklenburg County Local Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 25, 2001, the Mecklenburg County Department of Environmental Protection, through the North Carolina Department of Environment and Natural Resources, submitted revisions to the Mecklenburg County Local Implementation Plan (LIP). These revisions include the amending of volatile organic compound (VOC) emissions and other miscellaneous revisions. Additionally, Mecklenburg County Air Pollution Control Ordinance (MCAPCO) 2.0950 Interim Standards For Certain Source Categories is being repealed. The purpose of these revisions is to make the revised regulations consistent with the State Implementation Plan for North Carolina and the requirements of the Clean Air Act as amended in 1990. The EPA is approving these revisions.

DATES: This direct final rule is effective December 23, 2002 without further notice, unless EPA receives adverse comment by November 21, 2002. If adverse comment is received, EPA 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.

ADDRESSES: All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Randy Terry, 404/562–9032.

North Carolina Department of Environment and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

Mecklenburg County Department of Environmental Protection, 700 North Tryon Street, Charlotte, North Carolina 28202–2236.

FOR FURTHER INFORMATION CONTACT: Randy B. Terry at 404/562–9032, or by electronic mail at *terry.randy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 25, 2001, the Mecklenburg County Department of Environmental Protection, through the North Carolina Department of Environment and Natural Resources, submitted revisions to the Mecklenburg county LIP. These revisions include definitions, VOC emissions, transportation conformity, and general provisions regulations. A detailed analysis of each of the major revisions submitted is listed below.

II. Analysis of Mecklenburg County's Submittal

MCAPCO 1.5102 Definition of Terms

This rule was revised to remove the definition of ''irrevocable contract.''

MCAPCO 1.5211 Applicability

This rule was amended to remove language that prohibited permits for sources listed in paragraph (c), of this regulation, to contain construction and operating conditions which allow minor equipment and product additions/substitutions and/or minor increases in emissions of certain air pollutants.

MCAPCO 2.0518 Miscellaneous Volatile Organic Compounds Emissions

This rule has been amended to add language that explains facilities do not need to comply with the requirements of paragraph (d) of this regulation if they comply with MCAPCO regulation 2.0958. This amendments make it the facilities responsibility to notify MCDEP prior to choosing compliance with MCAPCO 2.0958 and to modify the permit to construct and operate issued in accordance with MCAPCO Section 1.5200.

The following rules from the North Carolina SIP are being adopted in full by reference into the Mecklenburg county LIP.

15 A NCAC 2D

.0523 Control of Conical Incinerators (MCAPCO 2.0523)
.0610 Delegation Federal Monitoring Requirements (MCAPCO 2.0610)
.0902 Applicability (MCAPCO 2.0902)
.0951 Miscellaneous Volatile Organic Compounds Emissions (MCAPCO 2.0951)
.0958 Work Practices for Sources of Volatile Organic Compounds (MCAPCO 2.0958)

The following rule was repealed previously in the North Carolina SIP and is now being repealed in the Mecklenburg LIP.

.0950 Interim Standards for Certain Source Categories (MCAPCO 2.0950)

III. Final Action

EPA is approving the aforementioned changes to the SIP because the revisions are consistent with Clean Air Act and EPA regulatory requirements. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective December 23, 2002 without further notice unless the Agency receives adverse comments by November 21, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 23, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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. 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 14, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

PART 52—[AMENDED]

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

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

Subpart II—North Carolina

2. Section 52.1770(c) is amended by adding a new table 3 to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

TABLE 3.—EPA APPROVED MECKLENBURG COUNTY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Article 1.000 Permitting Provisions For Air Pollution Sources, Rules and Operating Regulations For Acid Rain Sources, Title V and Toxic Air Pollutants				
Section 1.5100 General Provisions and Administrations				
1.5102	Definition of Terms	11/21/00	10/22/02, [FR cite]	
Section 1.5200 Air Quality Permits				
1.5211	Applicability	11/21/00	10/22/02, [FR cite]	
Article 2.0000 Air Pollution Control Regulations and Procedures				
Section 2.0500 Emission Control Standards				
2.0518	Miscellaneous Volatile Organic Compounds Emissions.	11/21/00	10/22/02, [FR cite]	
2.0523	Control of Conical Incinerators	11/21/00	10/22/02, [FR cite]	
Section 2.0600 Air Pollutants: Monitoring: Reporting				
2.0610	Delegation Federal Monitoring Requirements	11/21/00	10/22/02, [FR cite]	
Section 2.0900 Volatile Organic Compounds				
2.0902	Applicability	11/21/00	10/22/02, [FR cite]	
2.0950	Interim Standards for Certain Source Categories	11/21/00	10/22/02, [FR cite]	

TABLE 3.—EPA APPROVED MECKLENBURG COUNTY REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
2.0951	Miscellaneous Volatile Organic Compounds Emissions.	11/21/00	10/22/02, [FR cite]	
2.0958	Work Practices for Sources of Volatile Organic Compounds.	11/21/00	10/22/02, [FR cite]	

[FR Doc. 02–23582 Filed 10–21–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC98–200237b; FRL–7377–7]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Miscellaneous Revisions to The Mecklenburg County Local Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the Local Implementation Plan (LIP) revision submitted by the Mecklenburg County Department of Environmental Protection, through the State of North Carolina, for the purpose of approving regulations pertaining to volatile organic compound emissions and other miscellaneous sections of the Mecklenburg County Air Pollution Control Ordinance. In the Final Rules section of this **Federal Register,** the EPA is approving the Mecklenburg county LIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule.

The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before November 21, 2002.

ADDRESSES: All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Randy Terry, 404/562–9032.

Mecklenburg County Department of Environmental Protection 700 North Tryon Street, Charlotte, North Carolina 28202–2236.

North Carolina Department of Environment and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy B. Terry at 404/562–9032, or by electronic mail at *terry.randy@epa.gov.*

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

Dated: August 14, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–23583 Filed 10–21–02; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Tuesday,
October 22, 2002

Part VI

General Services Administration

Privacy Act of 1974; System of Records; Notice

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; System of Records

AGENCY: General Services Administration.

ACTION: Notice of a new system of records subject to the Privacy Act of 1974.

SUMMARY: The General Services Administration (GSA) is providing notice of intent to revise the Credit Data on Individual Debtors (GSA/PPFM–7) system of records. The revision incorporates new and revised laws and regulations and reflects organizational and procedural changes in GSA since the last update.

DATES: Comments on the proposed revision must be provided by November 21, 2002. The revised system or records will become effective without further notice on November 21, 2002 unless comments require otherwise.

ADDRESSES: GSA Privacy Act Officer, General Services Administration (GSA), CAI, 1800 F Street, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jinaita Kanarchuk by phone, (202) 501–1452, or e-mail *jinaita.kanarchuk@gsa.gov.*

GSA/PPFM–7

SYSTEM NAME:

Credit Data on Individual Debtors.

SYSTEM LOCATION:

Records are located at the following GSA Central Office and Regional addresses of the GSA Office of Finance:

- GSA Building, 1800 F Street, NW., Washington, DC 20405.
- 1500 East Bannister Road, Kansas City, MO 64131.
- Fritz G. Lanham Federal Building, 819 Taylor Street, Fort Worth TX 76102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered include employees, former employees, and other individuals who are indebted to GSA or any other agency or department of the United States; a State, territory or commonwealth of the United States, or the District of Columbia (hereinafter collectively referred to as ''States''); or individuals that may become indebted to GSA or another agency or department of the United States as the result of a privately owned vehicle (POV) being involved in an accident with a GSA Fleet vehicle.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may contain information from commercial and agency investigative reports showing debtors' assets, liabilities, income, and expenses; identifying information, such as names and taxpayer identification numbers (TINs) (*i.e.,* Social Security Numbers or employer identification numbers); debtor contact information, such as work and home address, and work and home telephone numbers; and name of employer and employer address. The records for claims against nongovernmental individuals (*i.e.,* claims arising from vehicle accidents) may contain information on privately owned vehicles (POVs), including, but not limited to: (a) The owner, year, make, model, tag number and State of the vehicle; and (b) the driver's or owner's insurance company information, including name, address, telephone number and policy number. Debts include unpaid taxes, loans, assessments, fines, fees, penalties, overpayments, advances, extensions of credit from sales of goods or services, third party claims, and other amounts of money or property owed to, or collected by, GSA, any other Federal entity or a State, including past due support that is being enforced by a State.

The records also may contain information about: (a) The debt, such as the original amount of the debt, the debt account number, the date of debt origination, the amount of delinquency or default, date of delinquency or default, the basis for the debt, the amounts accrued for interest, penalties, and administrative costs; and the payments on the account; (b) actions taken to collect or resolve the debt, such as demand letters or invoices sent, documents or information required for referral of accounts to collection agencies, to other Federal entities, or for litigation, and notes taken regarding telephone or other communications related to the collection or resolution of the debt; and (c) the referring or collecting governmental entity that is collecting or is owed the debt, such as the name, telephone number, and address of the governmental entity contact.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3) and 3711(e), as amended by the Debt Collection Act of 1982, 5 U.S.C. 5514; the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 et seq.; Cash Management Improvement Act Amendments of 1992, 31 U.S.C. 3335, 3718, 3720A and 6503; Deficit Reduction act of 1984, Pub. L. 98–369, 98 Stat. 494 (codified as amended in scattered sections of 26 U.S.C.); Taxpayer Relief Act of 1997, Pub. L. 105–34, 11 Stat. 788 (codified in scattered sections of 26 U.S.C.); Internal Revenue Service Restructuring And Reform Act of 1998, Pub. L. 105–206, 112 Stat. 685 (codified in scattered sections of 26 U.S.C.); 26 U.S.C. 6402; 26 U.S.C. 6331; 31 U.S.C. Chapter 37 (Claims), Subchapter I (General) and Subchapter II (Claims of the U.S. Government); Title 31 Code of Federal Regulations, Chapter IX, parts 901–904.

PURPOSE(S):

The purpose of the system is to assemble and maintain information on individuals who are indebted to GSA, other Federal entities, and States for the purpose of effecting enforced collections from the debtors, including past due support enforced by States. The information contained in the records is maintained for the purpose of taking action to facilitate collection and resolution of debts using various methods, including, but not limited to, requesting repayment of debt by telephone or in writing, pursuing offset, levy, administrative wage garnishment, centralized salary offset, referral to collection agencies or litigation, and using other collection or resolution methods authorized or required by law. The information is also maintained for the purpose of providing collection information about the debt to other Federal entities or States collecting the debt, providing statistical information on debt collection operations, and testing and developing enhancements to computer systems containing the records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THEIR PURPOSE FOR USING THE SYSTEM:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, 5 U.S.C. 552a(b), GSA may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. A record from this system may be used where pertinent in any legal proceeding before a court, magistrate, or administrative body in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings.

b. A record from this system may be disclosed to the Department of Justice, United States Attorney, or Department of the Treasury for the purpose of litigation or in anticipation of litigation to enforce collection of a delinquent debt or to obtain the Department of Justice's concurrence in a decision to compromise, suspend, or terminate collection action on a debt and GSA determines that the disclosure is relevant or necessary to the litigation.

c. A record from this system may be disclosed to a congressional office on behalf of and at the request of the individual who is the subject of the record.

d. A record from this system may be disclosed to any Federal agency where the debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect a debt owed the Federal government on GSA's behalf. GSA may negotiate with the debtor for voluntary repayment or may initiate administrative or salary offset procedures or other authorized debt collection methods under the provisions of the Debt Collection Act of 1982, 5 U.S.C. 5514, or the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 et seq.

e. In the event that a record in this system indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, particular program statute, or regulation, rule, order, or license issued pursuant thereto, the relevant record may be referred to the appropriate Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, order, or license.

f. A record from this system may be disclosed to any Federal, State or local agency, U.S. Territory or commonwealth, or the District of Columbia, or their agents or contractors, including private collection agencies (consumer and commercial):

(1) To facilitate the collection of debts through the use of any combination of various debt collection methods required or authorized by law, including, but not limited to: Requests for repayment by telephone or in writing; negotiation of voluntary repayment or compromise agreements; offsets of Federal payments, which may include the disclosure of information contained in the records for the purpose of providing the debtor with appropriate pre-offset notice and to otherwise comply with offset prerequisites, to facilitate voluntary repayment in lieu of offset, and to otherwise effectuate the offset process; referral of debts to private collection agencies, to Treasury-designated debt collection centers, or for litigation; obtaining administrative and court-ordered wage garnishment; conducting debt sales; publishing names and identities of delinquent debtors in the media or other appropriate places; creating a Centralized Salary Offset program; and pursuing any other debt collection method authorized by law.

(2) To conduct computerized comparisons to locate Federal payments to be made to debtors.

(3) To conduct authorized computer matching programs in compliance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a, to identify and locate individuals receiving Federal payments (including but not limited to salaries, wages and benefits), which may include the disclosure of information contained in the records for the purpose of requesting voluntary repayment or implementing Federal employee salary offset or other offset procedures.

(4) To collect a debt owed to GSA, another Federal entity, or State through the offset of payments made by States, territories, commonwealths, or the District of Columbia.

(5) To account for or report on the status of debts for which such entity has a financial or other legitimate need for the information in the performance of official duties.

(6) To deny Federal financial assistance in the form of loans or loan guarantees to an individual who owes a delinquent debt to GSA or another Federal entity or who owes delinquent child support that has been referred to GSA for collection by administrative offset.

(7) To develop, enhance, and/or test databases, matching communications, or other computerized systems that facilitate debt collection processes.

(8) To provide assistance with any other appropriate debt collection purpose.

g. A record from this system may be disclosed to any individual or other entity receiving Federal payments in conjunction with payments made to a debtor for the purpose of providing notice of an information about offsets from such Federal payments.

h. A record from this system may be disclosed to any individual or entity:

(1) To facilitate the collection of debts through the use of any combination of various debt collection methods required or authorized by law, including, but not limited to: pursuing administrative or court-ordered wage garnishment; reporting information to commercial credit bureaus; conducting asset searches; publishing the names and identities of delinquent debtors in the media or other appropriate places; conducting debt sales; or initiating Centralized Salary Offsets.

(2) To deny Federal financial assistance in the form of loans or loan guarantees to an individual who owes a delinquent debt to the United States or delinquent child support that has been referred to GSA for collection by administrative offset.

(3) To pursue any other appropriate debt collection purpose.

i. A record from this system may be disclosed to credit reporting agencies or credit bureaus for the purpose of adding to a credit history file or obtaining a credit history file or comparable credit information for use in debt collection. As authorized by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 *et seq.,* GSA may report current (not delinquent) and delinquent consumer or commercial debts to these entities to aid the collection of debts, typically by providing an incentive to the person to repay the debt in a timely manner. GSA may report on delinquent debts to the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS).

j. A record from this system may be disclosed to the Internal Revenue Service and applicable State and local governments for tax reporting purposes. Under the provisions of the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 *et seq.,* GSA is permitted to provide the Department of Treasury with Form 1099–C information on canceled or forgiven debts so that the Department of Treasury may file the form on GSA's behalf with the IRS. W–2 and 1099 Forms contain information on items to be considered as income to an individual, including payments to persons not treated as employees (*e.g.,* fees paid to consultants and experts) and amounts written-off as legally or administratively uncollectible in whole or in part.

k. A record from this system may be disclosed to banks enrolled in the Treasury Credit Card Network to collect a payment or debt when the individual has given his or her credit card number for this purpose.

1. A record from this system may be disclosed to the Department of Treasury or other Federal agency with whom GSA has entered into an agreement establishing the terms and conditions for debt collection cross servicing operations on behalf of GSA to satisfy, in whole or in part, debts owed to the United States. Cross servicing includes the possible use of all debt collections

tools such as administrative offset, referral to debt collection contractors, and referral to the Department of Justice.

m. Records from this system may be disclosed to the Department of Treasury, government corporations, State or local agencies, or other Federal agencies to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the United States under certain programs administered by the GSA in order to collect the debts under the provisions of the Debt Collection Act of 1982, as amended, 5 U.S.C. 5514, or the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 *et seq.,* by voluntary payment or administrative or salary offset procedures.

n. A record from this system may be disclosed to the National Archives and Records Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

o. A record from this system may be disclosed to, or received from, the Department of Treasury for the purpose of allowing the GSA National Payroll Center (NPC) to participate in the Centralized Salary Offset (CSO) program, or similar offset program. Agencies must notify the Department of Treasury of all delinquent debts over 180 days past due so that recovery may be made by centralized administrative offset. This includes debts that GSA seeks to recover from the pay account of an employee of another agency by salary offset, or by another agency seeking recovery from a GSA employee, including client agency employees, by salary offset.

p. A record from this system may be disclosed to, or received from, another agency or department of the United States when a GSA Fleet vehicle has been involved in an accident with an individual or commercial POV.

Disclosure to consumer reporting agencies: Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, as amended, 31 U.S.C. 3701(a)(3) and 3711(e).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper form in file folders stored in lockable metal filing cabinets and in electronic form in computers or on transportable electronic media including but not limited to, floppy discs, CD–ROMs or zip disks.

RETRIEVABILITY:

Credit data is maintained by debtor name and claim number and is cross-referenced with the Social Security Number (when available) to verify name and address.

SAFEGUARDS:

When not in use by authorized personnel, records are stored in lockable metal filing cabinets. Electronic files are protected by the use of passwords.

RETENTION AND DISPOSAL:

The records are a part of the GAO site auditing collection files and are cut off at the end of the fiscal year, held 1 year, and then retired under Record Group 217 (GAO). Records created prior to July 2, 1975, will be retained by GAO for 10 years and 3 months after the period of the account. Records created on or after July 2, 1975, will be retained by GAO for 6 years and 3 months after the period of the account.

SYSTEM MANAGER(S) AND ADDRESS:

Branch Chief (BCDR), Financial Initiatives Division, Office of Finance, Office of the Chief Financial Officer, General Services Administration, Room 3121, 1800 F Street, NW., Washington, DC 20405.

NOTIFICATION PROCEDURE:

Inquiries by individuals under the Privacy Act of 1974, as amended (5 U.S.C. 552a) regarding claims pertaining to themselves should be addressed to the system manager. All individuals making inquiries should provide as much descriptive information as possible to identify the particular record desired. The system manager will advise as to whether GSA maintains the records requested by the individual.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the system manager and should include the individual's name and address.

CONTESTING RECORDS PROCEDURES:

GSA rules for contesting the contents of the records and for appealing initial determinations are promulgated in 41 CFR 105.64.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from individual debtors; credit bureaus; agency investigative reports; other GSA systems of records; Federal and State agencies to which debts are owed; Federal employing agencies and other entities that employ the individual; Federal and State agencies issuing payments; collection agencies; locator and asset search companies; Federal, State or local agencies furnishings identifying information and/or addresses of debtors; or from public documents.

Dated: October 17, 2002.

Daniel K. Cooper,

Director, Information Management Division.

[FR Doc. 02–26843 Filed 10–21–02; 8:45 am]

BILLING CODE 6820–34–M

Federal Register

Tuesday,
October 22, 2002

Part VII

Department of Labor

Secretary's Order 5–2002; Delegation of Authority and Assignment of Responsibility to the Assistant Secretary for Occupational Safety and Health; Notice

DEPARTMENT OF LABOR

Office of the Secretary

Secretary's Order 5–2002; Delegation of Authority and Assignment of Responsibility to the Assistant Secretary for Occupational Safety and Health

1. Purpose

To delegate authority and assign responsibility to the Assistant Secretary for Occupational Safety and Health.

2. Authorities and Directives Affected.

a. Authorities

This Order is issued pursuant to 29 U.S.C. 551 *et seq.*; 5 U.S.C. 301; 5 U.S.C. 5315; the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, *et seq.*; the Walsh-Healey Public Contracts Act of 1936, as amended, 41 U.S.C. 35, 37–41, 43–45; the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 351–354, 356–357; the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 329, 333; the Maritime Safety Act of 1958, 33 U.S.C. 941; the National Foundation on the Arts and the Humanities Act of 1965, 20 U.S.C. 954(m)(2); 5 U.S.C. 7902 and any executive order thereunder, including Executive Order 12196 (''Occupational Safety and Health Programs for Federal Employees'') (February 26, 1980); the Surface Transportation Assistance Act of 1982, 49 U.S.C. 31105; the Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. 2651; the International Safe Container Act, 46 U.S.C. App.1506; the Safe Drinking Water Act, 42 U.S.C. 300j–9(i); the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9610 (a)—(d); the Federal Water Pollution Control Act, 33 U.S.C. 1367; the Toxic Substances Control Act, 15 U.S.C. 2622; the Solid Waste Disposal Act, 42 U.S.C. 6971; the Clean Air Act, 42 U.S.C. 7622; the Wendell H. Ford Aviation Investment and Reform Act For the 21st Century, 49 U.S.C. 42121; the Sarbanes-Oxley Act of 2002, 18 U.S.C. 1514A.

b. Directives Affected

Secretary's Order 3–2000 is cancelled.

3. Background

This Order constitutes the basic Secretary's Order for the Occupational Safety and Health Administration (OSHA), superseding Order 3–2000. This Order delegates and assigns responsibility to OSHA for enforcement of Section 806 (protection for employees of publicly-traded companies providing evidence of fraud) of Pub. L. 107–204, the Sarbanes-Oxley Act of 2002, 18 U.S.C. 1514A, and makes other minor conforming modifications. All other authorities and responsibilities set forth in this Order were delegated or assigned previously to the Assistant Secretary for OSHA in Secretary's Order 3–2000, and this Order continues those delegations and assignments in full force and effect, except as expressly modified herein.

4. Delegation of Authority and Assignment of Responsibility

a. *The Assistant Secretary for Occupational Safety and Health.* (1) The Assistant Secretary for Occupational Safety and Health is delegated authority and assigned responsibility for administering the safety and health, and whistleblower, programs and activities of the Department of Labor, except as provided in paragraph 4.a.(2) below, under the designated provisions of the following laws:

(a) Occupational Safety and Health Act of 1970, 29 U.S.C. 651, *et seq.*

(b) Walsh-Healey Public Contracts Act of 1936, as amended, 41 U.S.C. 35, 37–41, 43–45.

(c) McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 351–354, 356–357.

(d) Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 329, 333.

(e) Maritime Safety Act of 1958, 33 U.S.C. 941.

(f) National Foundation on the Arts and the Humanities Act of 1965, 20 U.S.C. 954(m)(2).

(g) 5 U.S.C. 7902 and any executive order thereunder, including Executive Order 12196 (''Occupational Safety and Health Programs for Federal Employees'') (February 26, 1980).

(h) Surface Transportation Assistance Act of 1982, 49 U.S.C. 31105.

(i) Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. 2651.

(j) International Safe Container Act, 46 U.S.C. App.1506.

(k) Safe Drinking Water Act, 42 U.S.C. 300j-9(i).

(l) Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851.

(m) Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9610 (a)—(d).

(n) Federal Water Pollution Control Act, 33 U.S.C. 1367.

(o) Toxic Substances Control Act, 15 U.S.C. 2622.

(p) Solid Waste Disposal Act, 42 U.S.C. 6971.

(q) Clean Air Act, 42 U.S.C. 7622.

(r) Wendell H. Ford Aviation Investment and Reform Act For the 21st Century, 49 U.S.C. 42121.

(s) Sarbanes-Oxley Act of 2002, 18 U.S.C. 1514A.

(t) Responsibilities of the Secretary of Labor with respect to safety and health, or whistleblower, provisions of any other Federal law except those responsibilities which are assigned to another DOL agency.

(2) The authority of the Assistant Secretary for Occupational Safety and Health under the Occupational Safety and Health Act of 1970 does not include authority to conduct inspections and investigations, issue citations, assess and collect penalties, or enforce any other remedies available under the statute, or to develop and issue compliance interpretations under the statute, with regard to the standards on:

(a) Field sanitation, 29 CFR 1928.110; and

(b) Temporary labor camps, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in ''agricultural employment'' within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that the Assistant Secretary for Occupational Safety and Health retains enforcement responsibility over temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

Nothing in this Order shall be construed as derogating from the right of States operating OSHA-approved State plans under 29 U.S.C. 667 to continue to enforce field sanitation and temporary labor camp standards if they so choose. The Assistant Secretary for OSHA retains the authority to monitor the activity of such States with respect to field sanitation and temporary labor camps. Moreover, the Assistant Secretary for OSHA retains all other agency authority and responsibility under the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps, such as rulemaking authority.

(3) The Assistant Secretary for OSHA is hereby delegated authority and assigned responsibility to invoke all appropriate claims of governmental privilege, arising from the functions of OSHA, following personal consideration of the matter, and in accordance with the following guidelines:

(a) Informant's Privilege (to protect from disclosure the identity of any person who has provided information to

OSHA in matters arising under an authority delegated or assigned in this paragraph): A claim of privilege may be asserted where the Assistant Secretary has determined that disclosure of the privileged matter may: (1) Interfere with an investigative or enforcement action taken by OSHA under an authority delegated or assigned to OSHA in this paragraph; (2) adversely affect persons who have provided information to OSHA; or (3) deter other persons from reporting a violation of law or other authority delegated or assigned to OSHA in this paragraph.

(b) Deliberative Process Privilege (to withhold information which may disclose pre-decisional intra-agency or inter-agency deliberations, including the analysis and evaluation of fact, written summaries of factual evidence, and recommendations, opinions or advice on legal or policy matters in matters arising under this paragraph): A claim of privilege may be asserted where the Assistant Secretary has determined that disclosure of the privileged matter would have an inhibiting effect on the agency's decision-making processes.

(c) Privilege for Investigational Files Compiled for Law Enforcement Purposes (to withhold information which may reveal OSHA's confidential investigative techniques and procedures): The investigative file privilege may be asserted where the Assistant Secretary has determined the disclosure of the privileged matter may have an adverse impact upon OSHA's implementation of an authority delegated or assigned in this paragraph, by: (1) Disclosing investigative techniques and methodologies; (2) deterring persons from providing information to OSHA; (3) prematurely revealing the facts of OSHA's case; or (4) disclosing the identities of persons who have provided information under an express or implied promise of confidentiality.

(d) Prior to filing a formal claim of privilege, the Assistant Secretary shall personally review all documents sought to be withheld (or, in a case where the volume is so large that all of them cannot be personally reviewed in a reasonable time, an adequate and representative sample of such documents), together with a description or summary of the litigation in which the disclosure is sought.

(e) In asserting a claim of governmental privilege, the Assistant Secretary may ask the Solicitor of Labor, or the Solicitor's representative, to file any necessary legal papers or documents.

(4) The Assistant Secretary for Occupational Safety and Health is also delegated authority and assigned responsibility for:

(a) Serving as Chairperson of the Federal Advisory Council on Occupational Safety and Health, as provided for by Executive Order 12196.

(b) Coordinating Agency efforts with those of other officials or agencies having responsibilities in the occupational safety and health area.

b. *The Assistant Secretary for Occupational Safety and Health and the Assistant Secretary for Employment Standards* are directed to confer regularly on enforcement of the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps (see paragraph 4.a.(2) of this Order), and to enter into any memoranda of understanding which may be appropriate to clarify questions of coverage which arise in the course of such enforcement.

c. *The Solicitor of Labor* is responsible for providing legal advice and assistance to all Department of Labor officials relating to implementation and administration of all aspects of this Order. The bringing of legal proceedings under those authorities, the representation of the Secretary and/or other officials of the Department of Labor, and the determination of whether such proceedings or representations are appropriate in a given case, are delegated exclusively to the Solicitor.

d. *The Commissioner of Labor Statistics* is delegated authority and assigned responsibility for:

(1) Furthering the purpose of the Occupational Safety and Health Act by developing and maintaining an effective program of collection, compilation, analysis, and publication of occupational safety and health statistics consistent with the provisions of Secretary's Orders 4–81 and 5–95.

(2) Making grants to states or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics under Sections 18, 23, and 24 of the Occupational Safety and Health Act.

(3) Coordinating the above functions with the Assistant Secretaries for Occupational Safety and Health and Employment Standards.

5. Reservation of Authority and Responsibility

a. The submission of reports and recommendations to the President and the Congress concerning the administration of the statutory provisions and Executive Orders listed in paragraph 4.a. above is reserved to the Secretary.

b. The commencement of legal proceedings under the statutory provisions listed in paragraph 4.a. above, except proceedings before Department of Labor administrative law judges and the Administrative Review Board under the statutes identified in paragraph 4.a.(1)(h) or paragraphs 4.a.(1)(k-t) above, is reserved to the Secretary. The Solicitor will determine in each case whether such legal proceedings are appropriate and may represent the Secretary in litigation as authorized by law.

c. Nothing in this Order shall limit or modify the delegation of authority and assignment of responsibility to the Administrative Review Board by Secretary's Order 1–2002 (September 24, 2002).

6. Redelegation of Authority

The Assistant Secretary for Occupational Safety and Health, the Solicitor of Labor, and the Commissioner of Labor Statistics may redelegate authority delegated in this Order.

7. Effective Date

This delegation of authority and assignment of responsibility is effective immediately.

Dated: October 10, 2002.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 02–26836 Filed 10–21–02; 8:45 am]

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Making further continuing appropriations for the fiscal year 2003, and for other purposes. (Oct. 18, 2002; 116 Stat. 1503)

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