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Presidential Documents

Title 3—

The President

Proclamation 7616 of October 31, 2002

To Implement the Andean Trade Promotion and Drug Eradication Act

By the President of the United States of America

A Proclamation

1. Section 3103 of the Andean Trade Promotion and Drug Eradication Act (title XXXI of the Trade Act of 2002, Public Law 107–210) (ATPDEA) amended section 204(b) of the Andean Trade Preference Act (19 U.S.C. 3203(b)) (ATPA) to provide that certain preferential tariff treatment may be provided to eligible articles that are the product of any country that the President designates as an ''ATPDEA beneficiary country'' pursuant to section 204(b)(6)(B) of the ATPA, as amended, provided that the President determines that the country has satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the North American Free Trade Agreement (NAFTA).

2. Section 3103(a)(2) of the ATPDEA amended section 204(b) of the ATPA to authorize the President to proclaim duty-free treatment for any article described in section 204(b)(1)(A) through (D) of the ATPA, as amended, that is the growth, product, or manufacture of an ATPDEA beneficiary country, that is imported directly into the customs territory of the United States from an ATPDEA beneficiary country, and that meets the requirements of section 204 of the ATPA, as amended, if the President determines that such article is not import-sensitive in the context of imports from ATPDEA beneficiary countries, provided that the President determines that the country has satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the NAFTA.

3. Section 3103(a)(2) of the ATPDEA amended section 204(b) of the ATPA to provide that eligible textile and apparel articles of a designated ATPDEA beneficiary country shall enter the United States free of duty and free of quantitative limitations, provided that the President determines that the country has satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the NAFTA.

4. Section 3103(a)(2) of the ATPDEA amended section 204(b) of the ATPA to provide that eligible tuna products of a designated ATPDEA beneficiary country shall enter the United States free of duty and free of quantitative limitations, provided that the President determines that the country has satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the NAFTA.

5. Section 203(e)(2)(A) of the ATPA (19 U.S.C. 3202(e)(2)(A)) requires the President to publish in the **Federal Register** notice of proposed action under section 203(e)(1) of the ATPA (19 U.S.C. 3202(e)(1)) at least 30 days prior to taking such action. Section 212(e)(2)(A) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2702(e)(2)(A)) requires the President to publish in the **Federal Register** notice of proposed action under section 212(e)(1) of the CBERA (19 U.S.C. 2702(e)(1)) at least 30 days prior to taking such action.

6. In order to implement the tariff treatment provided under the ATPDEA, it is necessary to modify the Harmonized Tariff Schedule of the United States (HTS).

7. Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) (1974 Trade Act) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including section 604 of the 1974 Trade Act, do proclaim as follows:

(1) I have designated the following countries as ATPDEA beneficiary countries pursuant to section 204(b)(6)(B) of the ATPA, as amended, and have determined that these countries have satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the NAFTA:

Bolivia

Colombia

Ecuador

Peru.

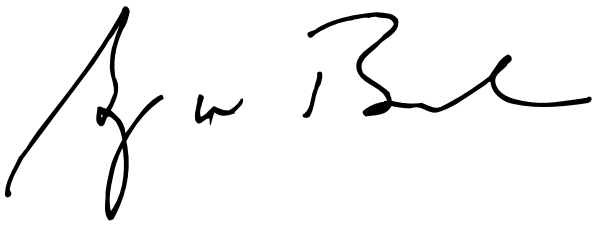
(2) In order to provide for the preferential treatment provided for in section 204(b) of the ATPA, as amended, the HTS is modified as provided in the annex to this proclamation.

(3) The functions of the President under section 203(e)(2)(A) of the ATPA and section 212(e)(2)(A) of the CBERA with respect to publishing notice of this proclamation are delegated to the United States Trade Representative.

(4) Any provisions of previous proclamations and Executive Orders that are inconsistent with this proclamation are superseded to the extent of such inconsistency.

(5) This proclamation is effective on the date of signature.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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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ANNEX

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date of signature, the Harmonized Tariff Schedule of the United States (HTS) is modified as follows:

A. General note 3(c)(i) is modified by deleting "Andean Trade Preference Act.....J or J*" and by inserting in lieu thereof "Andean Trade Preference Act or Andean Trade Promotion and Drug Eradication Act.....J, J* or J+".

B. General note 11(d) is modified by–

(i) deleting from subdivision (i) of such note the phrase "which are subject to textile agreements" and by inserting in lieu thereof "which were not eligible articles for purposes of this note on January 1, 1994";

(ii) deleting from subdivision (ii) of such note the phrase ", except goods of subheadings 6402.20.00 and 6405.90.20 of the HTS" and by inserting in lieu thereof "not designated as of August 6, 2002, as eligible for purposes of the U.S. Generalized System of Preferences under title V of the Trade Act of 1974";

(iii) deleting from subdivision (iii) of such note the semicolon after the word "containers" and by inserting in lieu thereof the phrase ", other than tuna in foil or other flexible airtight containers weighing with their contents not more than 6.8 kg each";

(iv) deleting the text of subdivision (vi) of such note and by inserting in lieu thereof the following:

> "handbags, luggage, flat goods, work gloves and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the U.S. Generalized System of Preferences under title V of the Trade Act of 1974;"

(v) deleting the period at the end of subdivision (ix) of such note and by inserting a semicolon in lieu thereof, and by inserting the following new clause immediately below such subdivision:

> "provided that, in the case of goods described in subdivisions (ii), (iv), (v) and (vi), the President may proclaim duty-free treatment for any article that is the growth, product or manufacture of a country both listed in subdivision (a) of this note and enumerated below, where such article is imported directly into the customs territory of the United States from a designated Andean Trade Promotion and Drug Eradication Act (ATPDEA) beneficiary country that satisfies the customs requirements of the ATPDEA and is enumerated below, if the President determines that such article is not import-sensitive in the context of imports from a country or countries enumerated below:
>
> Bolivia
> Colombia
> Ecuador
> Peru
>
> Such goods shall be designated in the "Special" subcolumn following the rate of duty of "Free" by the symbol "J+" in parentheses. Goods described in subdivisions (i), (iii), (vii), (viii) and (ix) of this note and the product of a country enumerated herein shall not be eligible for such duty-free treatment under the terms of this note." and

(vi) deleting subdivision (e) of such note.

C. The following provisions of the HTS are each modified by inserting, in the "Special" subcolumn after the duty rate of "free", in alphabetical sequence in the parenthetical expression the symbol "J+":

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9108.90.95
9110.11.00
9110.12.00
9110.19.00
9111.10.00
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9114.30.40
9114.30.80
9114.40.20
9114.40.60
9114.90.15
9114.90.40

D. U.S. note 7 to subchapter II of chapter 98 is modified by inserting the following new subdivision in sequence:

"(c) For purposes of heading 9802.00.80, duty-free treatment shall be accorded only to textile luggage assembled in a designated Andean Trade Promotion and Drug Eradication Act beneficiary country enumerated in U.S. note 1 to subchapter XXI of this chapter from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States."

E. Chapter 98 of the HTS is further modified by adding at the end thereof the following new subchapter XXI, as set forth below:

"SUBCHAPTER XXI

GOODS ELIGIBLE FOR SPECIAL TARIFF BENEFITS UNDER THE ANDEAN TRADE PROMOTION AND DRUG ERADICATION ACT

U.S. Notes

1. The tariff treatment provided in this subchapter shall be accorded only to goods that are described in the subheadings of this subchapter and imported directly into the customs territory of the United States from a designated Andean Trade Promotion and Drug Eradication Act (ATPDEA) beneficiary country that satisfies the customs requirements of the ATPDEA and is enumerated below. The following countries have been designated by the President as ATPDEA beneficiary countries that satisfy the customs requirements of the ATPDEA and, therefore, are to be afforded the tariff treatment provided for in this subchapter:

Bolivia
Colombia
Ecuador
Peru

2. (a) For purposes of eligibility for duty-free treatment under subheading 9821.01.01, such tuna--

(i) must be harvested by United States vessels or by ATPDEA beneficiary country vessels, and

(ii) must have been prepared or preserved in any manner in an ATPDEA beneficiary country enumerated in note 1 to this subchapter.

Such tuna shall enter the United States free of any quantitative restrictions.

(b) The term "United States vessels" includes any vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code; and the term "ATPDEA beneficiary country vessels" includes any vessel–

(i) which is registered or recorded in an ATPDEA beneficiary country enumerated in note 1 to this subchapter,

(ii) which sails under the flag of such an ATPDEA beneficiary country,

(iii) which is at least 75 percent owned by nationals of such an ATPDEA beneficiary country or by a company having its principal place of business in such an ATPDEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the supervisory board and the majority of the members of such boards are nationals of such an ATPDEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by such an ATPDEA beneficiary country or by public bodies or nationals of an ATPDEA beneficiary country;

(iv) of which the master and officers are nationals of such an ATPDEA beneficiary country; and

(v) of which at least 75 percent of the crew are nationals of such an ATPDEA beneficiary country.

3. (a) Except as provided in this note, textile and apparel articles described in subheadings 9821.11.01 through 9821.11.25, inclusive, of this subchapter that are imported directly into the customs territory of the United States from a designated ATPDEA beneficiary country enumerated in U.S. note 1 to this subchapter shall be eligible to enter free of duty and free of any quantitative limitations, restrictions or consultation levels except as provided in this subchapter, under the terms of the provisions set forth in such subheadings and applicable legal notes, as indicated by the rate of duty of "Free" in the "Special" subcolumn for such provisions.

(b) For purposes of subheading 9821.11.16, goods entered under this provision must be certified, by a competent authority of a designated ATPDEA beneficiary country enumerated in U.S. note 1 to this subchapter, as eligible products of such country, in accordance with requirements established by the appropriate U.S. government authority.

(c) For purposes of subheading 9821.11.19, imports of brassieres of a producer or an entity controlling production, during the 12-month period beginning on October 1, 2003, and during each of the two succeeding 12-month periods and the time period beginning October 1, 2006 and ending December 31, 2006, shall be eligible for preferential treatment under this subheading only if the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of all such articles of that producer or entity that are entered and eligible during the preceding 12-month period is at least 75 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this subheading during the preceding 12-month period. If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 12-month period, then all such apparel articles of that producer or entity shall be ineligible for preferential treatment under this subheading during any succeeding 12-month period until the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of such articles of that producer or entity entered during the preceding 12-month period is at least 85 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained all such articles of that producer or entity that are entered and eligible under this clause during the preceding 12-month period.

(d) For purposes of subheading 9821.11.25, the duty-free treatment afforded to goods imported under such subheading shall be limited, in each of the time periods set forth herein, to an aggregate quantity not to exceed the applicable percentage set forth herein in aggregate square meter equivalents of all apparel articles imported into the United States in the preceding one-year period for which data are available:

Time Period	Applicable Percentage
October 1, 2002 through September 30, 2003	2%
October 1, 2003 through September 30, 2004	2.75%
October 1, 2004 through September 30, 2005	3.5%
October 1, 2005 through September 30, 2006	4.25%
October 1, 2006 through December 31, 2006	5%

The aggregate quantity of imports allowed during each enumerated time period shall be published in the Federal Register by the Committee for the Implementation of Textile Agreements.

(e) For purposes of subheading 9821.11.25, duty-free treatment shall be afforded to goods imported under such subheading whether or not the apparel articles are also made from any of the fabrics, fabric components formed or components knit-to-shape described in subheadings 9821.11.01 through 9821.11.10, inclusive, unless such articles are made exclusively from any of the fabrics, fabric components formed or components knit-to-shape described in such subheadings.

4. (a) A textile or apparel article otherwise eligible for preferential treatment under the provisions of this subchapter shall not be ineligible for such treatment because the article contains–

(i) findings or trimmings of foreign origin, if the value of such findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article;

(ii) certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings of foreign origin) does not exceed 25 percent of the cost of the components of the assembled article, unless

the appropriate U.S. government authority terminates such treatment in a determination published in the Federal Register; or

(iii) yarns not wholly formed in the United States or in one or more designated ATPDEA beneficiary countries enumerated in U.S. note 1 to this subchapter, provided that the total weight of all such yarns is not more than 7 percent of the total weight of the good.

(b) For purposes of subdivision (a)(i) above, findings or trimmings eligible under such subdivision include sewing thread, hooks and eyes, snaps, buttons, "bow buds", decorative lace trim, elastic strips, zippers (including zipper tapes), labels, and other similar products.

(c) For purposes of subdivision (a)(ii) above, the interlinings eligible under such subdivision include only a chest type plate, "hymo" piece or "sleeve header", of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

(d) For purposes of subheadings 9821.11.01 through 9821.11.13, inclusive, and subheading 9821.11.25, an article otherwise eligible for preferential treatment under such subheadings shall not be ineligible because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable in subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00 or 5402.61.00 of the tariff schedule that is entered free of duty as a product of Israel under the terms of general note 8 to the tariff schedule or as a good of Canada or a good of Mexico under the terms of general note 12 to the tariff schedule.

	Articles imported from a designated ATPDEA beneficiary country enumerated in U.S. note 1(a) to this subchapter:		
9821.01.01	Tuna in foil or in flexible airtight containers, the foregoing weighing with their contents not more than 6.8 kg each, under the terms of U.S. note 2 to this subchapter...	Free	
	Apparel articles sewn or otherwise assembled in one or more such countries, or the United States, or both, exclusively from any of the following:		
9821.11.01	Fabrics or fabric components wholly formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States or in one or more such countries (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 of the tariff schedule and are formed in the United States), provided that, if such apparel articles are assembled from knitted or crocheted fabrics or from woven fabrics, all dyeing, printing and finishing of the fabrics is carried out in the United States.....	Free	
9821.11.04	Fabrics or fabric components formed or components knit-to-shape in one or more such countries, from yarns wholly formed in one or more such countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 of the tariff schedule and are formed in one or more such countries) or components are in chief value of llama, alpaca or vicuña.....	Free	

	[Articles...:]	
	[Apparel...:]	
9821.11.07	Fabrics or yarns, provided that such apparel articles of such fabrics or yarns would be considered an originating good under the terms of general note 12(t) to the tariff schedule without regard to the source of the fabric or yarn if such apparel article had been imported from the territory of Canada or the territory of Mexico directly into the customs territory of the United States	Free
9821.11.10	Fabrics or yarns designated by the appropriate U.S. government authority in the Federal Register as fabrics or yarns that cannot be supplied by the domestic industry in commercial quantities in a timely manner, under any terms as such authority may provide	Free
9821.11.13	Combinations of fabrics, fabric components, knit-to-shape components or yarns described in two or more subheadings from 9821.11.01 through 9821.11.10, inclusive	Free
9821.11.16	Handloomed, handmade or folklore textile and apparel goods, under the terms of U.S. note 3(b) to this subchapter	Free
9821.11.19	Brassieres classifiable in subheading 6212.10 of the tariff schedule, both cut and sewn or otherwise assembled in the United States, or one or more such countries, or both, subject to the provisions of U.S. note 3(c) to this subchapter	Free
9821.11.22	Textile luggage assembled in one or more such countries from fabric cut in one or more such countries from fabric wholly formed in the United States from yarns wholly formed in the United States	Free
9821.11.25	Apparel articles sewn or otherwise assembled in one or more such countries from fabrics or from fabric components formed or from components knit-to-shape in one or more such countries, from yarns wholly formed in the United States or in one or more such countries (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 of the tariff schedule and are formed in one or more such countries); the foregoing apparel articles imported under the terms of U.S. note 3(d) and U.S. note 3(e) to this subchapter	Free"

F. Chapter 16 of the HTS is modified by:

(i) deleting from additional U.S. note 3 to such chapter "1604.14.20" and inserting in lieu thereof "1604.14.22".

(ii) for the Rates of Duty 1-Special subcolumn in HTS subheading 1604.14.22, on January 1 for each of the years listed below, deleting the rate of duty followed by the symbol "MX,R" in parentheses and inserting in lieu thereof the rate of duty specified:

2003	2004	2005	2006	2007	2008
2%	1.6%	1.2%	0.8%	0.4%	Free

(iii) for the Rates of Duty 1-Special subcolumn in HTS subheading 1604.14.22, on January 1 for each of the years listed below, deleting the rate of duty followed by the symbol "JO" in parentheses and inserting in lieu thereof the rate of duty specified:

2003	2004
1.5%	Free

[FR Doc. 02–28258
Filed 11–4–02; 8:45 am]
Billing code 3190–01–C

Presidential Documents

Proclamation 7617 of October 31, 2002

National Alzheimer's Disease Awareness Month, 2002

By the President of the United States of America

A Proclamation

Alzheimer's Disease robs its victims of their independence and identity and greatly affects the lives of their loved ones. This disease and other forms of dementia afflict approximately 50 percent of Americans age 85 and older. Due to the rapid growth of our elderly population, experts expect that the number of individuals who will develop this debilitating illness will dramatically increase. As we observe National Alzheimer's Disease Awareness Month, we rededicate ourselves to fighting this devastating affliction and to supporting Alzheimer's patients, their families, and their caregivers.

Alzheimer's Disease harms its victims by altering the brain's chemistry and disrupting signals to the brain by attacking cells, nerves, and transmitters. Those who develop Alzheimer's Disease may experience memory lapses, confusion, or mood swings. They can also become withdrawn and depressed due to lost confidence, and they have significant problems communicating. These symptoms usually worsen over time and, in most cases, patients eventually need help with all of their daily activities.

Researchers at the National Institutes of Health (NIH) and in the private sector are working to understand how Alzheimer's develops. We hope that their advances will lead to new methods for early diagnosis, new medications that will aid Alzheimer's patients in all stages of the disease, and ultimately a cure for this debilitating illness. Recent studies suggest that commonly used substances, including certain vitamins and anti-inflammatory drugs, may help prevent Alzheimer's Disease. In addition, we are working to increase understanding of the genetic and nongenetic risk factors that may influence the development of this disease.

As we continue to pursue better prevention and treatment regimes, we remain committed to caring for those now afflicted with Alzheimer's disease. Alzheimer's patients generally live for an average of 8 to 10 years after they are diagnosed. As the disease progresses, patients require increased support from families and caregivers.

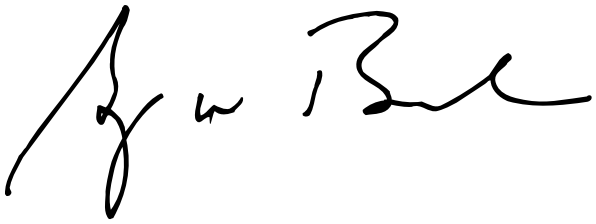
Scientists at the NIH and the Department of Veterans Affairs are continuing their research to help improve patient care and ease the burdens of caregivers at home and in nursing facilities. The Administration on Aging is working to develop best practices for serving persons with Alzheimer's disease and assisting States as they attempt to improve their responsiveness and the accessibility of home and community-based long-term care services and other support resources. My Administration is increasing access to available information, education, and referrals about diagnostic and treatment services for those afflicted with Alzheimer's Disease.

During National Alzheimer's Disease Awareness Month, I commend the members of our research community for their commitment to improving diagnosis and treatment for Alzheimer's Disease; and I encourage those suffering from or at risk for Alzheimer's to participate in clinical treatment studies and therapy trials. These studies and trials have been and continue to be an important part of our progress against this disease. I also commend

the families and caregivers of individuals suffering from Alzheimer's disease who provide the care and support to their loved ones and carry the daily burden of this tragic disease.

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 November 2002 as National Alzheimer's Disease Awareness Month. I call upon the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 02–28259
Filed 11–4–02; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7618 of October 31, 2002

National Diabetes Month, 2002

By the President of the United States of America

A Proclamation

Diabetes is a chronic disease that affects approximately 17 million Americans. During National Diabetes Month, we renew our commitment to preventing and eradicating this illness.

Diabetes interferes with the body's ability to process sugars normally and can lead to adverse complications of the eyes, heart, kidneys, or nerves. There are two major types of diabetes, and both have debilitating effects on organ systems. Type 1 diabetes, also known as juvenile diabetes, is an autoimmune disorder that destroys insulin-producing cells in the pancreas. The young people who are affected by this disease must maintain their health by taking insulin and carefully regulating their diets. Type 2 diabetes, which is also known as ''adult onset diabetes,'' is a metabolic disorder that is linked to a combination of genetics, excess weight, and lack of exercise. The most common form of diabetes is type 2, which comprises 95 percent of the diabetes cases in our Nation. It usually occurs in adults but now also affects a growing number of children who do not get enough exercise. At least 16 million Americans are currently at high risk of developing type 2 diabetes.

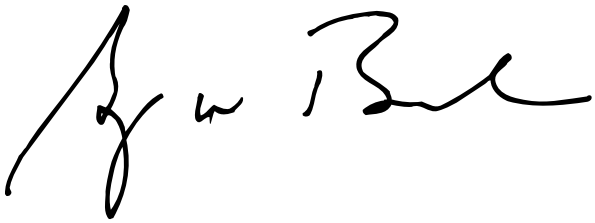
To ensure the future health of our Nation, Americans must safeguard our children and our families from diabetes by encouraging good health and regular exercise. Following the guidelines for good nutrition, getting enough physical exercise, and maintaining proper weight can help prevent diabetes and aid those suffering from it to reduce the chance of severe complications associated with the disease. Doctors have found that even minor weight loss in patients with type 2 diabetes can improve glucose control, decrease dependence on medications, and enhance quality of life.

My Administration is committed to fighting diabetes and its complications through advanced research funded by the National Institutes of Health (NIH), improved medical treatments, and education. In fiscal year 2002, the NIH dedicated approximately $781 million to diabetes research. My Administration will continue to support NIH's important efforts in this area as well as other scientists and researchers who are working to prevent, manage, and cure this disease. Through the National Diabetes Education Program, a joint effort of the NIH and the Centers for Disease Control and Prevention, we are educating Americans about the diabetes risk factors and encouraging them to make simple changes in their life that will help them stay healthy and prevent this serious disease. We are also working with volunteers from the American Diabetes Association, Juvenile Diabetes Research Foundation, and other organizations to raise awareness of diabetes in our communities and to provide assistance for families who have loved ones with diabetes.

As we observe National Diabetes Awareness Month, I encourage all Americans to help fight this disease by making healthy lifestyle choices and by providing support to those suffering from diabetes. We can help overcome diabetes and give hope and comfort to countless individuals in the United States and around the world.

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 November 2002 as National Diabetes Month. I call on all Americans to increase their awareness of the risk factors and symptoms related to diabetes and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 02–28260
Filed 11–4–02; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register

Vol. 67, No. 214

Tuesday, November 5, 2002

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–13–AD; Amendment 39–12939; AD 2002–22–13]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc. FMC–4200, FMC–5000, and FMC–6000 Flight Management Computers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Rockwell Collins, Inc. (Rockwell Collins) FMC–4200, FMC–5000, and FMC–6000 flight management computers (FMC) that are installed on airplanes. This AD requires you to remove the affected FMC unit and replace it with a new FMC unit or an FMC unit that has been modified to correct a problem with the flight management system (FMS) accepting new information when an existing procedure or flight plan is changed. This AD is the result of a report that an aircraft proceeded beyond the published altitude constraint on an arrival procedure. The actions specified by this AD are intended to prevent the FMC from retaining and displaying original altitude constraints when an edit or a replacement is made to a procedure or flight plan that shares a waypoint with another procedure or an airway, and there is an altitude constraint on the shared waypoint. Such a condition could cause the pilot to fly the airplane out of the range of the correct altitude constraint. This condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

DATES: This AD becomes effective on December 20, 2002.

ADDRESSES: You may get the service information referenced in this AD from Rockwell Collins, Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498; telephone: (319) 295–2512; facsimile: (319) 295–5064. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–13–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: Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Rm 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407. E-mail address: *Roger.Souter@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The FAA received a report of an incident that occurred during a flight arriving in Toronto, Ontario. A change in the flight management computer (FMC) had been made to the original flight plan changing the altitude constraint to 8,000 feet–11,000 feet. However, the flight management system (FMS) retained the altitude constraint of the original flight plan of 10,000 feet–14,000 feet. The pilot was unaware of this situation occurring, which resulted in the descent of the airplane beyond the published altitude constraint on the arrival procedure.

When the FMC is operating correctly and a change is made, the FMS allows the pilot to delete information associated with a procedure or flight plan by deleting the procedure or by replacing the procedure.

Rockwell Collins FMC–4200, FMC–5000, and FMC–6000 flight management computers could be installed on, but not limited to, the following aircraft:

- Raytheon Model Beechjet 400A and Model 400T (T–1A) airplanes;
- Bombardier Model CL–600–2B19 Regional Jet Series 100 airplanes; and
- Bombardier Model CL–600–2B16 (variant CL–604) airplanes.

What is the potential impact if FAA took no action? As described above, such erroneous altitude constraints retained by the FMS could cause the pilot to fly the airplane out of the range of the correct altitude constraint. This condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

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 Rockwell Collins FMC–4200, FMC–5000, and FMC–6000 flight management computers (FMC) that are installed on airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 10, 2002 (67 FR 45678). The NPRM proposed to require you to remove the affected FMC unit and replace it with a new FMC unit or an FMC unit that has been modified to correct a problem with the flight management system (FMS) accepting new information when an existing procedure or flight plan is changed.

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: List Affected FMC Units by Part Numbers in Addition to Model Number

What is the commenter's concern? Two commenters state that there are numerous part numbers associated with each FMC model number that are not affected by the proposed AD. The commenters state that only seven part numbers are actually affected by the proposed AD as specified in Rockwell Collins Operator Bulletin 99–11, dated September 1999. The way the proposed AD is currently written, an owner/operator of an aircraft with any of the specified model FMCs installed would be subject to the proposed AD. Therefore, adding specific affected part numbers in the AD will significantly reduce the burden on owners/operators of aircraft equipped with the specified FMC model.

What is FAA's response to the concern? We concur with the commenters and will clearly identify the seven affected FMC part numbers in the AD.

Comment Issue No. 2: Remove the Manufacturer's Service Bulletins From the Procedures Requirements of the Proposed AD and List Acceptable Replacement FMC Part Numbers

What is the commenter's concern? The corrective action required is to modify the affected FMC unit. Only a Rockwell Collins Service Center is authorized to modify (rework) the affected FMC units. The modification includes changing the FMC part number when the unit is reworked. Therefore, it is irrelevant whether an owner/operator has a reworked unit or a newly manufactured unit installed provided the part number is correct.

What is FAA's response to the concern? We concur with the commenters and will include a list of acceptable replacement part numbers in the proposed AD. We will not reference the individual service bulletins in the AD.

Comment Issue No. 3: Add a Note in the AD Alerting Owners/Operators That Certain FMC Part Numbers Affect Other Installed Avionics Units

What is the commenter's concern? The commenter states that all of the FMC corrective actions involve a change in the FMC part number. Before a part number has been certified for installation on the particular aircraft, through either the Type Certification or Supplemental Type Certification process, you should also determine whether additional avionics units need to be upgraded at the same time to be compatible with the selected FMC part number. The commenter suggests that a note to this effect be included in the AD.

What is FAA's response to the concern? We concur with the commenter and will include a note in the AD to address this concern.

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 additions discussed previously and minor editorial corrections. We have determined that these additions and 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 700 affected Rockwell Collins FMC–4200, FMC–5000, and FMC–6000 flight management computers could be installed on airplanes in the U.S. registry. Some airplanes have more than one unit installed.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the modification:

Labor cost	Parts cost	Total cost per FMC unit
4 workhours per FMC unit X $60 per hour = $240.	$500 per FMC unit	$740

Compliance Time of This AD

What would be the compliance time of this AD? The compliance time of this AD is ''within the next 24 calendar months after the effective date of this AD, unless already accomplished.''

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? The compliance of this AD is presented in calendar time instead of hours TIS because the condition exists regardless of airplane operation. The FMS retention of invalid altitude constraint information could occur regardless of the number of times and hours the airplane was operated. For these reasons, FAA has determined that a compliance based on calendar time should be utilized in this AD in order to ensure that the unsafe condition is addressed in a reasonable time period on all airplanes that have an affected Rockwell FMC–4200, FMC–5000, or FMC–6000 flight management computer installed.

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, 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 adding a new AD to read as follows:

2002–22–13 Rockwell Collins, Inc.: Amendment 39–12939; Docket No. 2000–CE–13–AD.

(a) *What airplanes are affected by this AD?* This AD affects Rockwell Collins flight management computers (FMC) specified in paragraph (a)(1) that are installed on, but not limited to, the aircraft specified in paragraph (a)(2).

(1) *Rockwell Collins flight management computers:* The following presents the affected FMC models and part numbers:

Affected FMC model No.	Affected FMC Collins part No.
FMC–4200	822–0783–002
FMC–4200	822–0783–006
FMC–4200	822–0783–010
FMC–5000	822–0891–001
FMC–6000	822–0868–004
FMC–6000	822–0868–010
FMC–6000	822–0868–021

(2) *Affected airplanes:* The following presents a list of aircraft (certificated in any

category) that the affected Rockwell Collins FMC units are installed on (other airplanes could have the installation):

Type certificate holder	Affected airplanes
Raytheon	Model Beechjet 400A and Model 400T (T–1A).
Bombardier ..	Model CL–600–2B19 Regional Jet Series 100 and Model CL–600–2B16 (variant CL–604).

(b) *Who must comply with this AD?* Anyone who wishes to operate an aircraft equipped with one of the affected FMCs must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the FMC from retaining original information when an edit is made to a procedure or flight plan. Such a condition could cause the pilot to fly the airplane out of the range of the correct altitude constraint. This condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

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

Actions	Compliance
(1) Remove the affected FMC unit specified in paragraph (a)(1) of this AD and install a modified or new FMC unit (as specified in paragraph (e) of this AD) in accordance with the applicable maintenance manual.	Within the next 24 calendar months after December 20, 2002 (the effective date of this AD), unless already accomplished.
(2) Do not install, on any aircraft, an affected FMC unit specified in paragraph (a)(1) of this AD that has not been modified to the replacement part number specified in paragraph (e) of this AD.	As of December 20, 2002 (the effective date of this AD).

Note 1: When selecting a replacement FMC part number, determine if the part number has been certified for installation on the particular aircraft through either the Type Certification or Supplemental Type Certification process. Also, determine whether additional avionics units must be upgraded at the same time to be compatible with the selected replacement FMC part number.

(e) *What are the acceptable replacement FMC part numbers?*

FMC affected part No.	Acceptable replacement FMC part No.
822–0783–002	822–0783–011 or 822–0783–013
822–0783–006	822–0783–011 or 822–0783–013
822–0783–010	822–0783–011 or 822–0783–013
822–0891–001	822–0891–005 or 822–0891–008
822–0868–004	822–0868–029, 822–0868–030, 822–0868–031, or 822–0868–032
822–0868–010	822–0868–029, 822–0868–030, 822–0868–031, or 822–0868–032
822–0868–021	822–0868–029, 822–0868–030, 822–0868–031, or 822–0868–032

(f) *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 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.

Note 2: 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 (f) 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.

(g) *Where can I get information about any already-approved alternative methods of compliance?* Contact Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Rm 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407. E-mail address: *Roger.Souter@faa.gov.*

(h) *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 sections 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.

(i) *When does this amendment become effective?* This amendment becomes effective on December 20, 2002.

Issued in Kansas City, Missouri, on October 28, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–28052 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30337; Amdt. No. 3029]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations and

instrument flight rules at the affected airports.

DATES: This rule is effective November 5, 2002. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 5, 2002.

ADDRESSES: Availability of matters incorporated by reference by the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located.
3. The Flight Inspection Area Office which originated the SIAP; or,
4. The Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by Superintendence of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 976.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expansive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment states the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective data at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). IN developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on October 25, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective November 28, 2002*

Camden, AR, Harrell Field, VOR/DME RWY 36, Amdt 9
Camden, AR, Harrell Field, NDB RWY 18, Amdt 11
Camden, AR, Harrell Field, RNAV (GPS) RWY 18, Orig
Camden, AR, Harrell Field, RNAV (GPS) RWY 36, Orig
Seymour, IN, Freeman Muni, RNAV (GPS) RWY 23, Orig
Portland, ME, Portland Intl Jetport, RADAR–1, Orig
Portland, ME, Portland Intl Jetport, RNAV (GPS) RWY 18, Orig
Portland, ME, Portland Intl Jetport, RNAV (GPS) RWY 36, Orig
Portland, ME, Portland Intl Jetport, GPS RWY 18, Orig, CANCELLED
Portland, ME, Portland Intl Jetport, GPS RWY 36, Orig, CANCELLED

Akron, OH, Akron-Canton Regional, RNAV (GPS) RWY 14, Orig
Akron, OH, Akron-Canton Regional, RNAV (GPS) RWY 32, Orig

** * * Effective January 23, 2003*

Dumas, AR, Billy Free Municipal, NDB RWY 36, Orig-A, CANCELLED
Mountain View, AR, Mountain View Wilcox Memorial Field, NDB–A, Amdt 2
St. Petersburg-Clearwater, FL, St. Petersburg-Clearwater Intl, VOR/DME RWY 17L, Orig
St. Petersburg-Clearwater, FL, St. Petersburg-Clearwater Intl, VOR RWY 17L, Amdt 11B, CANCELLED
Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, CONVERGING ILS RWY 18L, Amdt 3D, CANCELLED
Dallas-Fort Worth, TX, Dallas-Forth Worth Intl, ILS RWY 18L, Amdt 17C, CANCELLED
Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, VOR/DME RNAV RWY 31, Orig-A, CANCELLED
Edna, TX, Jackson County, NDB or GPS–A, Amdt 1, CANCELLED

The FAA published the following procedure in Docket No. 30323; Amdt. No. 3023 to Part 97 of the Federal Aviation Regulations (Vol. 67, FR No. 183, page 59159; dated Friday, September 20, 2002) under section 97.29 effective October 31, 2002 which is hereby rescinded:

Camden, AR, Harrell Field, VOR/DME RWY 36 Amdt 9
Camden, AR, Harrell Field, NDB RWY 18, Amdt 11
Camden, AR, Harrell Field, RNAV (GPS) RWY 18, Orig
Camden, AR, Harrell Field, RNAV (GPS) RWY 36, Orig

[FR Doc. 02–27847 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Houston-Galveston-02–018]

RIN 2115–AA97

Security Zones; Captain of the Port Houston-Galveston Zone

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing security zones within the ports of Houston, Morgan's Point, Bayport, Texas City, and Freeport, Texas. These zones are being established to protect waterfront facilities, persons, and vessels from subversive or terrorist acts. Entry of persons and vessels into these zones is prohibited except as authorized by this rule or by the Captain of the Port Houston-Galveston.

DATES: This section is effective from 8 a.m. on October 15, 2002 through 8 a.m. on April 15, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Houston-Galveston-02–018] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Houston-Galveston, 9640 Clinton Dr, Galena Park, TX 77547 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade (LTJG) George Tobey, Port Waterways Management, Marine Safety Office Houston-Galveston, TX at (713) 671–5100.

SUPPLEMENTARY INFORMATION:

Regulatory Information

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

On June 11, 2002 the Coast Guard published a temporary final rule entitled ''Security Zones; Captain of the Port Houston-Galveston Zone'' [COTP Houston-Galveston-02–011] (67 FR 39851). This rule was required to respond to security concerns within the Captain of the Port Houston-Galveston zone following the September 11, 2001 attacks on the World Trade Center towers in New York City and the Pentagon in Washington DC. October 15, 2002 is the expiration date of that rule.

National security and intelligence officials continue to warn that future terrorist attacks against United States interests are likely. The Captain of the Port Houston-Galveston is establishing a new temporary final rule that encompasses many of the same areas covered in the expiring rule. Any delay in making this new rule effective would be contrary to the public interest because immediate action is necessary to protect against the possible loss of life, injury, or damage to property.

On June 11, 2002, we published an NPRM entitled ''Security Zones; Captain of the Port Houston-Galveston Zone'' [COTP Houston-Galveston-02–009] (67 FR 39919). The NPRM proposed to replace the existing temporary security zones with permanent zones. The comment period for the NPRM expired on August 12, 2002. We received only two comments on this rule and both of these comments asked for information on how to comment on the proposed rule. As a result of these comments and to reflect changes in the size of the security zones in this rule the Coast Guard intends to issue a supplemental notice of proposed rule making and reopen the comment period.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. The President has continued the national emergencies he declared following those attacks (67 FR 58317 (Sep. 13, 2002) (continuing the emergency declared with respect to terrorist attacks); 67 FR 59447 (Sep. 20, 2002) (continuing emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the terrorist attacks (E.O. 13,273, 67 FR 56215 (Sep. 3, 2002) (security of U.S. endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations). In response to these terrorist acts, heightened awareness and security of our ports and harbors became necessary. To enhance security the Captain of the Port Houston-Galveston established temporary security zones published in the **Federal Register** on June 11, 2002 (67 FR 39851). The original rule established security zones within the ports of Houston, Bayport, Texas City and Freeport, TX.

In order to provide continuous protection while permanent zones are being promulgated through notice and comment rule making the Coast Guard is establishing a new temporary final rule for the ports of Houston, Morgan's Point, Bayport, Texas City and Freeport, TX. This rule establishes distinct security zones in these areas with slight modifications from the previous rule and includes the addition of a new zone for Morgan's Point, TX. The Morgan's Point security zone was originally proposed in the NPRM published on June 11, 2002 (67 FR 39919). We received no comments or objections regarding the security zone for Morgan's Point.

These zones are being established to protect waterfront facilities, persons, and vessels from subversive or terrorist acts. They are being established around areas concentrated with commercial facilities considered critical to national security. This rule is designed to restrict access to vessels engaged, or assisting in commerce with waterfront facilities

within the security zones, vessels operated by port authorities, vessels operated by waterfront facilities within the security zones, and vessels operated by federal, state, county or municipal agencies. By limiting access to these areas the Coast Guard is increasing the opportunity for detection and reducing potential methods of attack on vessels, waterfront facilities within the security zones, and adjacent population centers located near the zones.

The size of the Houston security zone remains unchanged from the original rule and NPRM. It includes the Houston Ship Channel and all associated turning basins, bounded by a line drawn between Houston Ship Channel Light 132 and Houston Ship Channel Light 133 west to the T & N Rail Road Swing Bridge at the entrance to Buffalo Bayou, including all waters adjacent to the ship channel from shoreline to shoreline and the first 200 yards of connecting waterways.

The Morgan's Point security zone includes the waters of Barbours Cut Ship Channel and Turning Basin west of a line drawn between Junction Light ''Barbours Cut'' and Houston Ship Channel Light 91.

The security zone for Bayport is being increased to create a zone slightly larger than that published in the original rule and NPRM. This will have a minimal impact on vessel traffic because the northern portion of the ship channel remains open. The Bayport security zone includes all waters of the Port of Bayport, Bayport Ship Channel and Bayport Turning Basin south of latitude 29°36′45″ N and west of the Bayport Ship Channel Light 9.

The security zone for Texas City increases the size of the zone to provide protection for facilities which were previously just outside of the zone. The Texas City security zone includes all waters of the Port of Texas City Channel, Turning Basin and Industrial Canal containing South and West of a line drawn from Texas City Channel Light 19 through Cut B Inner Range Front Light and terminating on land in position 29°23′16″ N, 94°53′15″ W.

The security zones for Freeport have been modified to reflect the zones as they are described in the NPRM. These zones are slightly smaller than those in the original rule and are now drawn along more natural boundaries. The Dow Barge Canal security zone contains all waters bounded by its junction with the Intracoastal Waterway from a line drawn between an eastern point at 28°56′48″ N, 95°18′20″ W and a western point at 28°56′40″ N, 95°18′33″ W. The Brazos Harbor security zone contains all waters west of a line drawn between the northern point at 28°56′27″ N, 95°20′00″ W, and the southern point 28°56′09″ N, 95°20′00″ W.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The impacts on routine navigation are expected to be minimal. Vessels engaged or assisting, in commerce with facilities located within the zones or having the express permission of the Captain of the Port Houston-Galveston, are authorized entry under this rule.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This security zone will not have an impact on a substantial number of small entities because this rule will not obstruct the regular flow of commercial vessel traffic conducting business within the zones. Other vessels may seek permission for entry into the zone from the Captain of the Port Houston-Galveston.

If you are a small business entity and are significantly affected by the regulation please contact LTJG George Tobey at U.S. Coast Guard Marine Safety Office Houston-Galveston, TX at (713) 671–5100.

Assistance for Small Entities

Under section 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 could better evaluate its effects on them and participate in the rulemaking process.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health

Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T08–108 is added to read as follows:

§ 165.T08–108 Security Zones; Captain of the Port Houston-Galveston Zone.

(a) *Location.* The following areas are designated as security zones:

(1) Houston, TX. The Houston Ship Channel and all associated turning basins, bounded by a line drawn between Houston Ship Channel Light 132 (LLNR–24445) and Houston Ship Channel Light 133 (LLNR–24450) west to the T & N Rail Road Swing Bridge at the entrance to Buffalo Bayou, including all waters adjacent to the ship channel from shoreline to shoreline and the first 200 yards of connecting waterways.

(2) Morgan's Point, TX. The Barbours Cut Ship Channel and Turning Basin containing all waters west of a line drawn between Junction Light ''Barbours Cut'' 29°41′12″ N, 94°59′12″ W (LLNR–23525), and Houston Ship Channel Light 91, 29°41′00″ N, 94°59′00″ W (LLNR–23375) (NAD 1983).

(3) Bayport, TX. The Port of Bayport, Bayport Ship Channel and Bayport Turning Basin containing all waters south of latitude 29°36′45″ N and west of the Bayport Ship Channel Light 9 (LLNR–23295) (NAD 1983).

(4) Texas City, TX. The Port of Texas City Channel, Turning Basin and Industrial Canal containing all waters bounded by the area South and West of a line drawn from Texas City Channel Light 19 (LLNR 24810) through Cut B Inner Range Front Light (LLNR 24765) and terminating on land in position 29°23′16″ N, 94°53′15″ W (NAD 1983).

(5) Freeport, TX. (i) The Dow Barge Canal containing all waters bounded by its junction with the Intracoastal Waterway, by a line drawn between the eastern point at 28°56′48″ N, 95°18′20″ W, and the western point at 28°56′40″ N, 95°18′33″ W (NAD 1983).

(ii) The Brazos Harbor containing all waters west of a line drawn between the northern point at 28°56′27″ N, 95°20′00″ W, and the southern point 28°56′09″ N, 95°20′00″ W (NAD 1983) at its junction with the Old Brazos River Cut.

(b) *Effective dates.* This section is effective from 8 a.m. on October 15, 2002 through 8 a.m. on April 15, 2003.

(c) *Regulations.* (1) Entry into these zones is prohibited except for the following:

(i) Commercial vessels operating at waterfront facilities within these zones;

(ii) Commercial vessels transiting directly to or from waterfront facilities within these zones;

(iii) Vessels providing direct operational/logistic support to commercial vessels within these zones;

(iv) Vessels operated by the appropriate port authority or by facilities located within these zones; and

(v) Vessels operated by Federal, State, county, or municipal agencies.

(2) Other persons or vessels requiring entry into a zone described in this section must request express permission to enter from the Captain of the Port Houston-Galveston, or his designated representative.

(3) To request permission as required by these regulations contact ''Houston Traffic'' via VHF Channels 11/12 or via phone at (713) 671–5103.

(4) All persons and vessels shall comply with the instructions of the Captain of the Port Houston-Galveston and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: October, 11 2002.

Kevin S. Cook,

Captain, U.S. Coast Guard, Captain of the Port Houston-Galveston.

[FR Doc. 02–28090 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[OEI–2002–0005; FRL–7404–4]

RIN 2025–AA04

Revised Freedom of Information Act Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document revises subpart A of the Environmental Protection Agency (EPA or Agency) regulations implementing the Freedom of Information Act (FOIA). EPA is streamlining and condensing its regulations, in accordance with the principles of the National Performance Review, and is using simpler language whenever possible. In addition, the regulations contain new provisions implementing the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA) and update cost figures for calculating and charging fees.

EFFECTIVE DATE: November 5, 2002.

FOR FURTHER INFORMATION CONTACT: Betty A. Lopez, Records, Privacy and

FOIA Branch, Collection Strategies Division, Office of Information Collection, Office of Environmental Information (OEI), EPA, 1200 Pennsylvania Ave, NW. (2822T), Washington, DC 20460. Phone, (202) 566–1667; Fax, (202) 566–2147. e-mail, *hq.foia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. 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 No.OEI–2002–0005. 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 EPA Docket Center, Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Public Reading Room telephone number is (202) 566–1744.

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 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.A 1. Once in the system, select ''search,'' then key in the appropriate docket identification number.

II. Background Information

On April 12, 2000, the EPA published a proposed rule to revise 40 CFR part 2, subpart A, and add new provisions implementing the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231. *See* 65 FR 19703, April 12, 2000. Interested persons were afforded an opportunity to participate in the rulemaking through submission of written comments on the proposed rule. The Agency received eight comments on its proposed rule. The Agency has adopted several of the suggested changes made by the commenters and has also made other revisions to its proposed rule for clarity.

New provisions implementing the suggested changes made by the commenters are found at § 2.100(a), § 2.101(a), § 2.101(c) (electronic availability of records), § 2.102(a)—§ 2.102(d) (process for requesting records), § 2.103 (responsibility for responding for requests), § 2.104(a) (deadline for response), § 2.104(b) (timing of responses, acknowledgment), § 2.104(c) (multitrack processing), § 2.104(d) (unusual circumstances), § 2.104(e) (expedited processing), § 2.104(f) (annotation of applicable exemption), § 2.104(h) (denial of records), § 2.104 (i) (denial of fee waivers), § 2.104(j)(2) (appeal of Inspector General determinations), § 2.104(j)(4) (closing of appeal if litigation initiated), § 2.104(k) (exhaustion of administrative appeal rights), § 2.105 (exemption categories), § 2.107(b)(3) (format of disclosure), and § 2.107(b)(8) (searches for electronic records). Revisions to the Agency's fee schedule are found at §§ 2.107(c) and (d).

Comments

The Agency received a total of eight comments from the following: a nonprofit group that regularly uses the FOIA; an association that represents electric utilities, international affiliates, and industry associates; a manufacturing and services company; a law firm on behalf of a manufacturing company; a law firm on behalf of an ad hoc group of electric utilities and trade associations; a citizen; an association that represents cattle feeders and family ranchers; and the EPA Office of Inspector General.

In some instances, commenters suggested particular changes to the proposed rule. Several of the suggested changes have been accepted and incorporated into the Agency's final rule. For example, several commenters suggested the rule should list the FOIA statutory exemptions and refer to subpart B of these regulations to further address the handling of confidential business information. The Agency agrees and has modified § 2.100(a) to include a reference to subpart B of these regulations and has listed the statutory exemptions at § 2.105.

The Agency also agrees with one commenter's suggestion to include the e-mail addresses of the Agency's Freedom of Information (FOI) Offices, a reference to the Agency's online forms for filing FOIA requests, and clarification that a FOIA request must be in writing and may be submitted by mail, facsimile (fax), or electronically. Accordingly, the Agency has revised § 2.101(a) to include the e-mail addresses and the last sentence of § 2.102(a) recommending that envelopes, fax cover sheets, or e-mail subject lines be marked, ''Freedom of Information Act Request.'' Since telephone and fax numbers are subject to change, the Agency has not included the numbers in the final rule. Current telephone and fax numbers may be obtained from the Agency's web site.

One commenter suggested the deletion of the phrase ''created by EPA'' in § 2.101(c) and rescission of an allegedly erroneous interpretation of the statutory phrase ''created on or after November 1, 1996.'' The Agency disagrees with the commenter and believes that these phrases are in accordance with the plain language of the statute.

The Agency agrees with one commenter's suggestion to revise § 2.102(c) to match the language of FOIA at 5 U.S.C. 552(a)(3)(A) on what constitutes a reasonable request. Accordingly, the Agency has modified § 2.102(c) concerning the description of records sought.

One commenter suggested the Agency amend § 2.103(a) to provide that EPA will review all responsive records ''in its possession as of the date the FOI Office begins processing the request.'' The Agency disagrees with the suggestion but has modified § 2.103(a) to clarify that only those records in EPA's possession as of the date the FOIA request was received in the appropriate FOI Office will be considered within the scope of the request.

Further, the Agency agrees with the suggestion of two commenters that § 2.103(c) be revised to set forth the standard EPA will use to decide whether to refer a request to another Federal agency. Accordingly, § 2.103(c) has been revised to state that where records responsive to the request originated with another Federal agency, EPA will either refer the request to the other agency or, after consultation, respond to the request itself. In addition, whenever all or any part of a request has been transferred to another agency for response, EPA will notify the requestor.

Three commenters suggested that the language in §§ 2.104(b) and (k) regarding proposed time limits does not comply with the time limits prescribed by FOIA at 5 U.S.C. 552(a)(6)(A)(i) and (ii), which provide that an agency must always respond to an initial FOIA request within 20 working days and to an appeal within 20 working days. The commenters recommended that § 2.104(b) be rewritten to delete the language ''[c]omponents *ordinarily* will respond to requests no later than twenty (20) working days from the date the request is received.'' Similarly, the commenters recommended that § 2.104(k) be rewritten to delete the language ''[t]he decision on an appeal will be made normally in writing, within 20 working days of its receipt.'' The Agency has modified § 2.104(b) to clarify that unusual circumstances may provide for a response outside the 20 working day statutory time limit. Also, § 2.104(k) has been modified by removing any reference to time limits. Moreover, § 2.104(l) has been modified to clarify that judicial action may be taken should EPA not respond to an appeal within the statutory 20 working day time limit.

The Agency agrees with the suggestion of two commenters to change § 2.104(c) to comport with the requirements of FOIA at 5 U.S.C. 552(a)(6)(C)(i) concerning when requesters may be deemed to have exhausted their administrative remedies. Accordingly, the Agency has modified § 2.104(b) to provide notice that requesters have a right to seek immediate judicial review when the Agency fails to respond to a request within the statutory 20 working day period or any authorized extension of time.

Three commenters suggested that proposed § 2.104(d) provides no standards to guide the Agency when distinguishing between simple and complex requests based on the amount of work or time (or both) expended for processing a request. The Agency believes that the current language, stating that the amount of work or time (or both) to process a request, as well as informing requesters that they have the opportunity to limit the scope of their requests in order to qualify for faster processing, directly comports with the statutory language and therefore it declines to revise § 2.104(d).

One commenter suggests that the ''as soon as practicable'' language in proposed § 2.104(e) should be changed to provide that the Agency shall notify a requester in writing, ''within 20 days of the date the request is received'' of the unusual circumstances that warrant delay and of the extended date for response. The commenter also suggests that the Agency should incorporate the statutory definition of ''unusual circumstances'' to avoid any confusion. In response to the commenter's suggestions, the Agency has inserted the phrase ''as defined in the FOIA'' into this provision to alert requesters to the statutory basis of the definition of the term ''unusual circumstances,'' although we have retained the proposed language in § 2.104(e) regarding notification.

Two commenters suggested changes to § 2.104(f) concerning expedited processing. Specifically, one commenter recommended that the Agency use the multitrack authority to expedite requests that are likely to be the subject of multiple requests. Another commenter suggested that the expedited processing provision is too narrow and should be rewritten so that it guarantees expedited processing to any requester who ''demonstrates a compelling need'' for the requested records. The Agency declines to adopt the first comment because it believes that it is implicit in the current language of § 2.104(f) that those requests being given expedited processing will receive immediate priority. Moreover, the current language of § 2.104(l) clearly states that when a requester meets the criteria set out in the regulation for establishing a compelling need, expedited processing will be granted. Accordingly, a ''guarantee of expedited processing'' is unnecessary and the Agency declines to adopt the second comment.

Three commenters suggested that the proposal retain the language for listing withheld records as it appears in existing 40 CFR 2.113. The Agency agrees and has revised § 2.104(i)(2) to include the language for identifying records being withheld.

The EPA Office of Inspector General requested that the rule be revised to delegate authority to the Counsel to the Inspector General to respond to appeals of denials of requests for Office of Inspector General records. The Office of Inspector General commented that appeals of denials of access to Office of Inspector General records are currently handled by EPA's General Counsel and, in its view, Inspector General independence requires that the Office of Inspector General maintain full responsibility for, and custody and control over, all Office of Inspector General records. The Agency agrees and has added § 2.104(j)(2) to authorize the Counsel to the Inspector General to act on appeals of denials of requests for Office of Inspector General records, unless the Counsel to the Inspector General has signed the adverse initial determination, in which case the General Counsel, or their designee, would respond to the appeal.

One commenter suggested that the Agency should eliminate proposed § 2.104(j)(3), which stated that the Agency would take no further action on an appeal if the request becomes a matter of FOIA litigation, because it penalizes requesters who exercise their statutory right to sue the Agency if the Agency fails to respond to the requester's appeal within 20 working days, as provided by § 2.104(j)(4). This language is not intended to penalize requesters or to suggest that EPA will take no further action on the matter but to indicate that once a lawsuit has been filed, any further actions on behalf of the Agency will be taken in the context of the litigation and not the administrative appeal process. Therefore, EPA has added language in § 2.104(j)(4) to reflect that once an appellant has initiated litigation because the Agency has not resolved an appeal in a timely manner, any further action on the records in dispute will take place through the lawsuit.

The Agency agrees with one commenter's suggestion to revise § 2.104(l) because an administrative appeal is not necessary when the Agency has not made a timely initial determination. Accordingly, the Agency has inserted language in §§ 2.104(b) and (l) stating that if EPA fails to respond to a request within the statutory 20 working day period or any authorized extension of time, the requester may seek judicial review to obtain the records without first making an administrative appeal.

The Agency has removed the word ''component'' from the proposed regulations, and replaced it with ''Agency'' or ''office'' as appropriate to reflect more accurately the Agency's organizational structure.

III. Statutory Authority

EPA is issuing this rule under the authority of 5 U.S.C. 301, 552 (as amended), and 553.

IV. Administrative Requirements

A. Regulatory Flexibility Act, as amended

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies

that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as that term is defined in the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

EPA has determined that this final rule will have only a small economic impact on the small entities that submit FOI requests to EPA for records. Under the FOIA, agencies may recover only the direct costs of processing FOI requests. EPA's proposed fees are nominal and have been calculated to recover only the direct costs of processing a FOI request. The revision to the fee schedule is minimal and reflects a more specific breakdown of direct costs by the kind of EPA employee involved in processing a FOI request. Therefore, under 5 U.S.C. 605(b), I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

B. Congressional Review Act

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 is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective November 5, 2002.

C. Paperwork Reduction Act

This final rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* It pertains solely to the dissemination of information under the FOIA.

D. Environmental Impact

This final rule is expected to have no environmental impact. It pertains solely to the dissemination of information under the FOIA.

E. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether this final rule is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and therefore is not subject to OMB review.

F. Executive Order 13132 on Federalism

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

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule simply revises EPA's regulations implementing the FOIA. Thus, the requirements of section 6 of the Executive Order do not apply to this final rule.

G. Executive Order 13175 on Consultation with Indian Tribal Governments

Executive Order 13175, entitled, ''A Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure '' meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175.

H. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, for any rule subject to section 202, EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that this final rule does not include a federal mandate as defined in UMRA. This final rule does not include a federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of $100 million or more, and does not

establish regulatory requirements that may significantly or uniquely affect small governments.

I. Executive Order 13045

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

This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined under Executive Order 12866.

J. National Technology Transfer and Advancement Act of 1995

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

This final rule does not involve any technical standards, and EPA is not considering the use of any voluntary consensus standards. Accordingly, this final rule is not subject to the requirements of the NTTAA.

K. Executive Order 13211 (Energy Effects)

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. EPA has concluded that this rule is not likely to have any adverse energy effects.

List of Subjects in 40 CFR Part 2

Environmental protection, Administrative practice and procedure, Confidential business information, Freedom of information, Government employees.

Dated: October 30, 2002.

Christie Whitman,

Administrator, Environmental Protection Agency.

For the reasons set out in the preamble, 40 CFR part 2 is amended as follows:

PART 2—PUBLIC INFORMATION

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552 (as amended) and 553; secs. 114, 205, 208, 301, and 307, Clean Air Act, as amended (42 U.S.C. 7414, 7525, 7542, 7601, 7607); secs. 308, 501 and 509(a), Clean Water Act, as amended (33 U.S.C. 1318, 1361, 1369(a)); sec. 13, Noise Control Act of 1972 (42 U.S.C. 4912); secs. 1445 and 1450, Safe Drinking Water Act (42 U.S.C. 300j–4, 300j–9); secs. 2002, 3007, and 9005, Solid Waste Disposal Act, as amended (42 U.S.C. 6912, 6927, 6995); secs. 8(c), 11, and 14, Toxic Substances Control Act (15 U.S.C. 2607(c), 2610, 2613); secs. 10, 12, and 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136h, 136j, 136w); sec. 408(f), Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. 346(f)); secs. 104(f) and 108, Marine Protection Research and Sanctuaries Act of 1972 (33 U.S.C. 1414(f), 1418); secs. 104 and 115, Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9604 and 9615); sec. 505, Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2005).

2. Part 2, subpart A, is revised to read as follows:

PART 2—PUBLIC INFORMATION

Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act

Sec.
2.100 General provisions.
2.101 Where requests for records are to be filed.
2.102 Procedures for making requests.
2.103 Responsibility for responding to requests.
2.104 Responses to requests and appeals.
2.105 Exemption categories.
2.106 Preservation of records.
2.107 Fees.
2.108 Other rights and services.

Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act

§ 2.100 General provisions.

(a) This subpart contains the rules that the Environmental Protection Agency (EPA or Agency) follows in processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. The Agency also has rules that it follows in processing Freedom of Information (FOI) requests for records submitted to it as Confidential Business Information (CBI). Such records are covered in subpart B of this part. Requests made by individuals for records about themselves under the Privacy Act of 1974 which are processed under 40 CFR part 16, will also be treated as FOIA requests under this subpart. This ensures that the requestor has access to all responsive records. Information routinely provided to the public as part of a regular EPA activity may be provided to the public without following this subpart.

(b) When documents responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs, such as, but not limited to, the Government Printing Office or the National Technical Information Service, EPA will inform the requester of the steps necessary to obtain records from these sources.

§ 2.101 Where requests for records are to be filed.

(a) You may request records by writing to the Records, FOIA, and Privacy Branch, Office of Environmental Information, Environmental Protection Agency, 1200 Pennsylvania Avenue (2822T), NW, Washington, DC 20460; e-mail: *hq.foia@epa.gov.* You may also access EPA Headquarters and Regional Freedom of Information Offices' Web sites at *http://www.epa.gov/foia* and submit a request via an online form. If you believe the records sought may be located in an EPA regional office, you should send your request to the appropriate regional FOI Officer as indicated in the following list:

(1) Region I (CT, ME, MA, NH, RI, VT): EPA, FOI Officer, One Congress Street, Suite 1100, Boston, MA 02114–2023; e-mail: *r1foia@epa.gov.*

(2) Region II (NJ, NY, PR, VI): EPA, FOI Officer, 290 Broadway, 26th Floor, New York, NY 10007–1866; e-mail: *r2foia@epa.gov.*

(3) Region III (DE, DC, MD, PA, VA, WV): EPA, FOI Officer, 1650 Arch Street, Philadelphia, PA 19103–2029; e-mail: *r3foia@epa.gov.*

(4) Region IV (AL, FL, GA, KY, MS, NC, SC, TN): EPA, Freedom of

Information Officer, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303–8960; e-mail: *r4foia@epa.gov.*

(5) Region V (IL, IN, MI, MN, OH, WI): EPA. Freedom of Information Officer, 77 West Jackson Boulevard, Chicago, IL 60604–3507; e-mail: *r5foia@epa.gov.*

(6) Region VI (AR, LA, NM, OK, TX): EPA, Freedom of Information Officer, 1445 Ross Avenue, Dallas, TX 75202–2733; e-mail: *r6foia@epa.gov.*

(7) Region VII (IA, KS, MO, NE): EPA, Freedom of Information Officer, 901 North Fifth Street, Kansas City, KS 66101; e-mail: *r7foia@epa.gov.*

(8) Region VIII (CO, MT, ND, SD, UT, WY): EPA, Freedom of Information Officer, 999 18th Street, Suite 500, Denver, CO 80202–2466, e-mail: *r8foia@epa.gov.*

(9) Region IX (AZ, CA, HI, NV, AS, GU): EPA, Freedom of Information Officer, 75 Hawthorne Street, San Francisco, CA 94105; e-mail: *r9foia@epa.gov.*

(10) Region X (AK, ID, OR, WA): EPA, Freedom of Information Officer, 1200 Sixth Avenue, Seattle, WA 98101; e-mail: *r10foia@epa.gov.*

(b) EPA provides access to all records that the FOIA requires an agency to make regularly available for public inspection and copying. Each office is responsible for determining which of the records it generates are required to be made publicly available and for providing access by the public to them. The Agency will also maintain and make available for public inspection and copying a current subject-matter index of such records and provide a copy or a link to the respective Web site for Headquarters or the Regions. Each index will be updated regularly, at least quarterly, with respect to newly-included records.

(c) All records created by EPA on or after November 1, 1996, which the FOIA requires an agency to make regularly available for public inspection and copying, will be made available electronically through EPA's worldwide Web site, located at *http://www.epa.gov,* or, upon request, through other electronic means. EPA will also include on its worldwide Web site the current subject-matter index of all such records.

§ 2.102 Procedures for making requests.

(a) *How made and addressed.* You may make a request for EPA records that are not publicly available under § 2.201(a)–(b) by writing directly to the appropriate FOI Officer, as listed in § 2.101(a). Only written requests for records will be accepted for processing under this subpart. For records located at EPA Headquarters, or in those instances when you cannot determine where to send your request, you may send it to the Records, FOIA, and Privacy Branch, Office of Environmental Information, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; e-mail: *hq.foia@epa.gov.* That office will forward your request to the regional FOI Office it believes most likely to have the records that you want. Your request will be considered received as of the date it is received by the correct FOI Office. Misdirected requests will not be considered received by EPA until the appropriate FOI Office receives the request. For proper handling, you should mark both your request letter and its envelope or e-mail subject line ''Freedom of Information Act Request.'' You should also include your name, mailing address, and daytime telephone number in the event we need to contact you.

(b) EPA employees may attempt in good faith to comply with oral requests for inspection or disclosure of EPA records publicly available under § 2.201(a)–(b) , but such requests are not subject to the FOIA or the regulations in this part.

(c) *Description of records sought.* Your request should reasonably describe the records you are seeking in a way that will permit EPA employees to identify and locate them. Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, you should include any file designations or descriptions for the records that you want. The more specific you are about the records or type of records that you want, the more likely EPA will be able to identify and locate records responsive to your request. If EPA determines that your request does not reasonably describe the records, it will tell you either what additional information you need to provide or why your request is otherwise insufficient. EPA will also give you an opportunity to discuss and modify your request to meet the requirements of this section. Should it be necessary for you to provide a revised description of the records you are seeking, the time necessary to do so will be excluded from the statutory 20 working day period (or any authorized extension of time) that EPA has to respond to your request as discussed in § 2.104.

(d) *Agreement to pay fees.* If you make a FOIA request, EPA will consider your request to be an agreement that you will pay all applicable fees charged under § 2.107, up to $25.00, unless you seek a waiver of fees. The EPA office responsible for responding to your request ordinarily will confirm this agreement in writing. When making a request, you may specify a willingness to pay a greater or lesser amount. Should it be necessary for you to provide a written agreement to pay additional fees, the time necessary to do so will be excluded from the statutory 20 working day period (or any authorized extension of time).

§ 2.103 Responsibility for responding to requests.

(a) *In general.* Except as stated in paragraphs (c), (d), (e), and (f) of this section, the EPA office that has possession of that record is the office responsible for responding to you. In determining which records are within the scope of a request, an office will ordinarily include only those records in its possession as of the date the request was received in the Headquarters or Regional FOI Office. If any other date is used, the office will inform you of that date.

(b) *Authority to grant or deny requests.* The head of an office, or that individual's designee, is authorized to grant or deny any request for a record of that office or other Agency records when appropriate.

(c) *Authority to grant or deny fee waivers or requests for expedited treatment.* The head of the Headquarters FOIA Office and Regional FOI Officers, or their designees, are authorized to grant or deny fee waivers or requests for expedited treatment.

(d) *Consultations and referrals.* When a request to EPA seeks records in its possession that originated with another Federal agency, the EPA office receiving the request shall either:

(1) Consult with the Federal agency where the record or portion thereof originated and then respond to your request, or

(2) Direct the FOI Office to refer your request to the Federal agency where the record or portion thereof originated. Whenever all or any part of the responsibility for responding to a request has been referred to another agency, the FOI Office will notify you accordingly.

(e) *Law enforcement information.* Whenever a request is made for a record containing information that relates to an investigation of a possible violation of law and was originated by another agency, the receiving office will either direct the FOI Office to refer the request to that other agency or consult with that other agency prior to making any release determination.

§ 2.104 Responses to requests and appeals.

(a) Unless the Agency and the requester have agreed otherwise, or when unusual circumstances exist as provided in paragraph (e) of this section, EPA offices will respond to requests no later than 20 working days from the date the request is received and logged in by the appropriate FOI Office. EPA will ordinarily respond to requests in the order in which they were received. If EPA fails to respond to your request within the 20 working day period, or any authorized extension of time, you may seek judicial review to obtain the records without first making an administrative appeal.

(b) On receipt of a request, the FOI Office ordinarily will send a written acknowledgment advising you of the date it was received and of the processing number assigned to the request for future reference.

(c) *Multitrack processing.* The Agency uses three or more processing tracks by distinguishing between simple and complex requests based on the amount of work and/or time needed to process the request, including limits based on the number of pages involved. The Agency will advise you of the processing track in which your request has been placed and of the limits of the different processing tracks. The Agency may place your request in its slower track(s) while providing you the opportunity to limit the scope of your request in order to qualify for faster processing within the specified limits of the faster track(s). If your request is placed in a slower track, the Agency will contact you either by telephone or by letter, whichever is most efficient in each case.

(d) *Unusual circumstances.* When the statutory time limits for processing a request cannot be met because of ''unusual circumstances,'' as defined in the FOIA, and the time limits are extended on that basis, you will be notified in writing, as soon as practicable, of the unusual circumstances and of the date by which processing of the request should be completed. When the extension is for more than 10 working days, the Agency will provide you with an opportunity either to modify the request so that it may be processed within the 10 working day time limit extension or to arrange an alternative time period for processing the original or modified request.

(e) *Expedited processing.* (1) Requests or appeals will be taken out of order and given expedited treatment whenever EPA determines that such requests or appeals involve a compelling need, as follows:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.

(2) A request for expedited processing must be made at the time of the initial request for records or at the time of appeal.

(3) If you are seeking expedited processing, you must submit a statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for the request. For example, if you fit within the category described in paragraph (e)(1)(ii) of this section and are not a full-time member of the news media, you must establish that you are a person whose primary professional activity or occupation is information dissemination, although it need not be your sole occupation. If you fit within the category described in paragraph (e)(1)(ii) of this section, you must also establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally.

(4) Within 10 calendar days from the date of your request for expedited processing, the head of the Headquarters FOI Staff or Regional FOI Officer will decide whether to grant your request and will notify you of the decision. If your request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If your request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

(f) *Grants of requests.* Once an office makes a determination to grant a request in whole or in part, it will release the records or parts of records to you and notify you of any applicable fee charged under § 2.107. Records released in part will be annotated, whenever technically feasible, with the applicable FOIA exemption(s) at that part of the record from which the exempt information was deleted.

(g) *Adverse determinations of requests.* Once the Agency makes an adverse determination of a request, the requestor will be notified of that determination in writing. An adverse determination consists of a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the FOIA; a determination on any disputed fee matter, including a denial of a request for a fee waiver; or a denial of a request for expedited treatment.

(h) *Initial denials of requests.* The Deputy Administrator, Assistant Administrators, Regional Administrators, the General Counsel, the Inspector General, Associate Administrators, and heads of headquarters staff offices are delegated the authority to issue initial determinations. However, the authority to issue initial denials of requests for existing, located records (other than initial denials based solely on § 2.204(d)(1)) may be redelegated only to persons occupying positions not lower than division director or equivalent. Each letter will include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including an identification of records being withheld (individual, or if a large number of similar records are being denied, by described category), and any FOIA exemption applied by the office in denying the request;

(3) An estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through annotated deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption; and

(4) A statement that the denial may be appealed under, and a description of the requirements of, paragraph (j) of this section.

(i) Denial of fee waiver. The letter denying a request for a fee waiver or expedited treatment will be signed by the head of the Headquarters FOI Staff or Regional FOI Officers.

(j) Appeals of adverse determinations. If you are dissatisfied with any adverse determination of your request by an office, you may appeal that determination to the Headquarters Freedom of Information Staff, Records, Privacy and FOIA Branch, Office of Information Collection, Office of Environmental Information, Environmental Protection Agency, 1200 Pennsylvania Avenue (2822T), NW., Washington, DC 20460; e-mail: *hq.foia@epa.gov*. The appeal must be made in writing, and it must be submitted to the Headquarters FOI Staff no later than 30 calendar days from the

date of the letter denying the request. The Agency will not consider appeals received after the 30-day limit. The appeal letter may include as much or as little related information as you wish, as long as it clearly identifies the determination being appealed (including the assigned FOIA request number, if known). For quickest possible handling, the appeal letter and its envelope should be marked ''Freedom of Information Act Appeal.'' Unless the Administrator directs otherwise, the General Counsel or his/her designee will act on behalf of the Administrator on all appeals under this section, except that:

(1) In the case of an adverse initial determination by the General Counsel or his/her designee, the Administrator or his/her designee will act on the appeal;

(2) The Counsel to the Inspector General will act on any appeal where the Inspector General or his/her designee has made the initial adverse determination; however, if the Counsel to the Inspector General has signed the initial adverse determination, the General Counsel or his/her designee will act on the appeal;

(3) An adverse determination by the Administrator on an initial request will serve as the final action of the Agency; and

(4) If a requester seeks judicial review because the Agency has not responded in a timely manner, any further action on an appeal will take place through the lawsuit.

(k) The decision on your appeal will be made in writing, normally within 20 working days of its receipt by the Headquarters Freedom of Information Staff. A decision affirming an adverse determination in whole or in part will contain a statement of the reason(s) for the decision, including any FOIA exemption(s) applied, and inform you of the FOIA provisions for judicial review of the decision. If the adverse determination is reversed or modified on appeal, you will be notified in a written decision. This written decision will either have the requested information that has been determined on appeal to be releasable attached to it, or your request will be returned to the appropriate office so that it may be reprocessed in accordance with the appeal decision.

(l) If you wish to seek judicial review of any adverse determination, you must first appeal that adverse determination under this section, except when EPA has not responded to your request within the statutory 20 working day time limit. In such cases, you may seek judicial review without making an administrative appeal.

§ 2.105 Exemption categories.

(a) The FOIA, 5 U.S.C. 552(b), establishes the following nine categories of information which are exempt from the mandatory disclosure requirements of 5 U.S.C. 552(a):

(1)(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy; and

(ii) Are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding information or refers to particular types of information to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the affected agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety or any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

§ 2.106 Preservation of records.

Each FOI Officer shall preserve all correspondence pertaining to the FOIA requests that it receives until disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Copies of all responsive records should be maintained by the appropriate program office. Records shall not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

§ 2.107 Fees.

(a) *In general.* The Agency will charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (l) of this section. Requesters will pay fees by check or money order made payable to the U.S. Environmental Protection Agency.

(b) *Definitions.* For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his/her commercial, trade, or profit interests, which can include furthering those interests through litigation. FOI Officers will determine, whenever reasonably possible, the use to which a requester will put the requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because an office has reasonable cause to doubt a requester's stated use, the FOI Officer will provide the requester a reasonable opportunity to submit further clarification.

(2) *Direct costs* means those expenses that the Agency actually incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records to respond to a FOIA request. Direct costs include, for example, the salary of the employee

performing the work and the cost of operating duplication equipment. Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(3) *Duplication* means the making of a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, microform, audiovisual materials, or electronic records (for example, magnetic tape, disk, or compact disk), among others. The Agency will honor a requester's specified preference of form or format of disclosure if the record is readily reproducible with reasonable efforts in the requested form or format.

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by, and is made under the auspices of, a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

(5) *Noncommercial scientific institution* means an institution that is not operated on a ''commercial'' basis, as that term is defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research which is not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by, and is made under the auspices of, a qualifying institution and that the records are not sought for a commercial use but are sought to further scientific research.

(6) *Representative of the news media* or *news media requester* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances where they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. For ''freelance'' journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but FOI Officers will also look to the past publication record of a requester in making this determination. To be in this category, a requester must not be seeking the requested records for a commercial use. A request for records supporting the news-dissemination function of the requester will not be considered to be for a commercial use.

(7) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes processing any record for disclosure (for example, doing all that is necessary to redact it and prepare it for disclosure). Review costs are recoverable even if a record ultimately is not disclosed. Review time includes time spent considering any formal objection to disclosure made by a business submitter requesting confidential treatment, but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search* means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Offices will ensure that searches are done in the most efficient and least expensive manner reasonably possible. For example, offices will not search line-by-line where duplicating an entire document would be quicker and less expensive.

(c) *Fees to be charged.* (1) There are four categories of requests. Fees for each of these categories will be charged as follows:

(i) *Commercial use requests.* A requester seeking access to records for a commercial use will be charged for the time spent searching for the records, reviewing the records for possible disclosure, and for the cost of each page of duplication. The charges for searching for and/or reviewing the records may be charged even if no responsive records are found or if the records are located but are determined to be exempt from disclosure.

(ii) *Educational or non-commercial scientific requests.* Requesters from educational or scientific institutions, whose purpose is scholarly, noncommercial research, will be charged only for the cost of record duplication, except that the first 100 pages of duplication will be furnished at no charge.

(iii) *News media requests.* Requesters who are representatives of the news media, and whose purpose in seeking records is noncommercial, will be charged only for the cost of duplication, except that the first 100 pages of duplication will be furnished at no charge.

(iv) *All other requests.* Requesters not covered by one of the three categories above will be charged for the full cost of search and duplication, except that the first two hours of search time and the first 100 pages of duplication will be furnished without charge. The charges for searching for the records will be assessed even if no responsive records are found or if the records are located but are determined to be exempt from disclosure.

(2) In responding to FOIA requests, the Agency will charge the following fees unless a waiver or reduction of fees has been granted under paragraph (l) of this section:

(i) *Search.* (A) Search fees will be charged for all requests except for those made by educational institutions, noncommercial scientific institutions, or representatives of the news media subject to the limitations of paragraph (d) of this section. Offices will charge for time spent searching even if no responsive records are found or if the records are located but are determined to be exempt from disclosure.

(B) For searches and retrievals of requested records, either manually or electronically, conducted by clerical personnel, the fee will be $4.00 for each quarter hour of time. For searches and retrievals of requested records, either manually or electronically, requiring the use of professional personnel, the fee will be $7.00 for each quarter hour of time. For searches and retrievals of requested records, either manually or electronically, requiring the use of managerial personnel, the fee will be $10.25 for each quarter hour of time.

(C) When searches and retrievals are conducted by contractors, requesters will be charged for the actual charges up to but not exceeding the rate which would have been charged had EPA employees conducted the search. The costs of actual computer resource usage in connection with such searches will also be charged, to the extent they can be determined.

(ii) *Duplication.* Duplication fees will be charged to all requesters, subject to the limitations of paragraph (d) of this section. For either a photocopy or a computer-generated printout of a record (no more than one copy of which need be supplied), the fee will be fifteen (15) cents per page. For electronic forms of duplication, other than a computer-generated printout, offices will charge the direct costs of that duplication. Such

direct costs will include the costs of the requested electronic medium on which the copy is to be made and the actual operator time and computer resource usage required to produce the copy, to the extent they can be determined.

(iii) *Review.* Review fees will be charged only to requesters who make a commercial use request. Review fees will be charged only for the initial record review (that is, the review done when an office is deciding whether an exemption applies to a particular record or portion of a record at the initial request level). No charge will be made for review at the administrative appeal level for an exemption already applied. However, records or portions of records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies; the costs of that review will be charged when it is made necessary by a change of circumstances. Review fees will be charged at the same rates as those charged for a search under paragraph (c)(1)(i) of this section.

(d) *Limitations on charging fees.* (1) No search or review fees will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.

(2) No search fee or review fee will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(3) Except for requesters seeking records for a commercial use, offices will provide without charge:

(i) The first 100 pages of duplication, and

(ii) The first two hours of search.

(4) Whenever a total fee calculated under paragraph (c) of this section is $14.00 or less for any request, no fee will be charged.

(5) The provisions of paragraphs (d)(3) and (4) of this section work together. This means that for requesters other than those seeking records for a commercial use, no fee will be charged unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages totals more than $14.00.

(e) *Notice of anticipated fees in excess of $25.00.* When the Agency determines or estimates that the fees to be charged under this section will amount to more than $25.00, the Agency will notify the requester of the actual or estimated amount of the fees, unless the requester has indicated a willingness to pay fees as high as those anticipated. The amount of $25.00 is cumulative for multi-office requests. If only a portion of the fee can be estimated readily, the Agency will advise the requester that the estimated fee may be only a portion of the total fee. When a requester has been notified that actual or estimated fees will amount to more than $25.00, EPA will do no further work on the request until the requester agrees to pay the anticipated total fee. This time will be excluded from the twenty (20) working day time limit. EPA will memorialize any such agreement in writing. A notice under this paragraph will offer the requester an opportunity to discuss the matter with Agency personnel in order to reformulate the request to meet the requester's needs at a lower cost.

(f) *Charges for other services.* Apart from the other provisions of this section, when an office chooses as a matter of administrative discretion to provide a special service-such as certifying that records are true copies or sending records by other than ordinary mail-the direct costs of providing the service ordinarily will be charged.

(g) *Charging interest.* EPA may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the date of the billing until payment is received by the Agency. EPA will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset. No penalty will be assessed against FOIA requesters for exercising their statutory right to ask that a fee be waived or reduced or to dispute a billing. If a fee is in dispute, penalties will be suspended upon notification.

(h) *Delinquent requesters.* If requesters fail to pay all fees within 60 calendar days of the fees assessment, they will be placed on a delinquency list. Subsequent FOIA requests will not be processed until payment of the overdue fees has first been made.

(i) *Aggregating requests.* When the Agency reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the Agency may aggregate those requests and charge accordingly. The Agency may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. When requests are separated by a longer period, the Agency will aggregate them only if there exists a solid basis for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(j) *Advance payments.* (1) For requests other than those described in paragraphs (j)(2) and (3) of this section, an office will not require the requester to make an advance payment (that is, a payment made before EPA begins or continues work on a request). Payment owed for work already completed (that is, a prepayment before copies are sent to a requester) is not an advance payment.

(2) When the Agency determines or estimates that a total fee to be charged under this section will be more than $250.00, it may require the requester to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester that has a history of prompt payment.

(3) When a requester has previously failed to pay a properly charged FOIA fee to the Agency within 30 calendar days of the date of billing, the Agency may require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the Agency begins to process a new request or continues to process a pending request from that requester.

(4) When the Agency requires advance payment or payment due under paragraph (j)(3) of this section, the request will not be considered, and EPA will do no further work on the request until the required payment is made.

(k) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any other statute that specifically requires an agency to set and collect fees for particular types of records. When records responsive to requests are maintained for distribution by agencies operating such statutorily based fee schedule programs, EPA will inform requesters of the steps for obtaining records from those sources so that they may do so most economically.

(l) *Waiver or reduction of fees.* (1) Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (c) of this section when a FOI Office determines, based on all available information, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(2) To determine whether the first fee waiver requirement is met, FOI Offices will consider the following factors:

(i) The subject of the request: Whether the subject of the requested records concerns ''the operations or activities of the government.'' The subject of the requested records must concern identifiable operations or activities of the Federal government, with a connection that is direct and clear, not remote.

(ii) The informative value of the information to be disclosed: Whether the disclosure is ''likely to contribute'' to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be ''likely to contribute'' to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding when nothing new would be added to the public's understanding.

(iii) The contribution to an understanding of the subject by the public is likely to result from disclosure: Whether disclosure of the requested information will contribute to ''public understanding.'' The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public will be considered. It will be presumed that a representative of the news media will satisfy this consideration.

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute ''significantly'' to public understanding of government operations or activities. The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a significant extent. FOI Offices will not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is ''important'' enough to be made public.

(3) To determine whether the second fee waiver requirement is met, FOI Offices will consider the following factors:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure. FOI Offices will consider any commercial interest of the requester (with reference to the definition of ''commercial use request'' in paragraph (b)(1) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(ii) The primary interest in disclosure: Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is ''primarily in the commercial interest of the requester.'' A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. FOI Offices ordinarily will presume that when a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(4) When only some of the requested records satisfy the requirements for a waiver of fees, a waiver will be granted for only those records.

(5) Requests for the waiver or reduction of fees must address the factors listed in paragraphs (k) (l)–(3) of this section, insofar as they apply to each request. FOI Offices will exercise their discretion to consider the cost-effectiveness of their investment of administrative resources in deciding whether to grant waivers or reductions of fees and will consult the appropriate EPA offices as needed. Requests for the waiver or reduction of fees must be submitted along with the request.

(6) When a fee waiver request is denied, EPA will do no further work on the request until it receives an assurance of payment or an appeal of the fee waiver adverse determination is made and a final appeal determination is made pursuant to § 2.104(j).

§ 2.108 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as a right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

[FR Doc. 02–28081 Filed 11–4–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA242–0373a; FRL–7395–8]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Imperial County Air Pollution Control District's (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from Soil Decontamination Operations, Organic Solvent Degreasing Operations, and Organic Solvents. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on January 6, 2003 without further notice, unless EPA receives adverse comments by December 5, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, California 92243–2850

A copy of the rules may also be available via the Internet at *http://*

www.arb.ca.gov/drdb/drdbltxt.htm. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Terry McCall, EPA Region IX, (415) 947–3976.

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

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	412	Soil Decontamination Operations	01/16/01	10/30/01
ICAPCD	413	Organic Solvent Cleaning	01/16/01	10/30/01
ICAPCD	417	Organic Solvents	9/14/99	05/26/00

On January 18, 2002, for Rules 412 and 413, and on October 6, 2000 for Rule 417, these rule submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

There are no previous versions of Rules 412 and 413 SIP. The ICAPCD adopted earlier versions of Rule 417 and CARB submitted them to us on November 4, 1977 and October 15, 1979. We approved these versions of Rule 417 into the SIP on August 8, 1978 and January 1, 1981. The ICAPCD adopted revisions to the 1981 SIP-approved version of Rule 417 on September 14, 1999 and CARB submitted them to us on May 26, 2000. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. What Is the Purpose of the Submitted Rules and Rule Revisions?

Rule 412—Soil Decontamination Operations, establishes standards to reduce the emissions of VOC from soil that has been contaminated with organic materials, typically gasoline, jet fuel, or diesel fuel. The rule requires VOC emissions from contaminated soil (greater than 50 ppm VOC) to be controlled when the soil is being excavated.

Rule 413—Organic Solvent Degreasing Operations, applies to the operation of equipment using organic solvent in degreasing operations. The rule reduces emissions of reactive organic compounds (ROC) by establishing equipment standards and work practice procedures for cold cleaners and open top and conveyorized vapor degreasers.

Rule 417—Organic Solvents, applies to emissions or organic material from heated and unheated operations. Rule 417 reduces emissions of ozone precursor compounds from operations that are not currently regulated by other District rules. The TSDs have more information about Rules 412, 413 and 417.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). EPA has classified Imperial County a ''transitional area'' for attainment of the NAAQS for ozone (CAA section 185). Transitional areas are exempt from additional nonattainment requirements in CAA part D, subpart 2. The exemption will continue until EPA redesignates Imperial County as either attainment or nonattainment under CAA section 107(d)(4) (see 57 FR 113498, 13523–13527). The District is not exempt from the general nonattainment requirements in CAA part D, subpart 1.

Guidance and policy documents that we used to help evaluate specific enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. Control of Volatile Organic Emissions from Solvent Metal Cleaning. EPA–450/2–77–022, November 1977.
5. Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Organic Solvent Cleaning and Degreasing Operations. California Air Resources Board Guidance Document. July 18, 1991,

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSD has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules

The TSD describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by December 5, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action

based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on January 6, 2003. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Background Information

Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP–Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

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 January 6, 2003. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 30, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(279)(i)(A)(*8*) and (288)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(279) * * *

(i) * * *

(A) * * *

(*8*) Rule 417 adopted on September 14, 1999.

* * * * *

(288) * * *

(i) * * *

(D) Imperial County Air Pollution Control District.

(*1*) Rules 412 and 413 adopted on January 16, 2001.

* * * * *

[FR Doc. 02–28077 Filed 11–4–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MS–200301(a); FRL–7404–2]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants; State of Mississippi

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the small Municipal Waste Combustion (MWC) units section 111(d) negative declaration submitted by the State of Mississippi. This negative declaration certifies that small MWC units subject to the requirements of section 111(d) and 129 of the Clean Air Act (CAA) do not exist in Mississippi.

DATE: This direct final rule will be effective January 6, 2003 unless EPA receives adverse comments by December 5, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Joydeb Majumder, EPA Region 4, Air Toxics and Monitoring Branch, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of documents relative to this action are available for public inspectioin during normal business hours at the above-listed Region 4 location. The interested person wanting to examine this document should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder at (404) 562–9121 or Michele Notarianni at (404) 562–9031.

SUPPLEMENTARY INFORMATION: Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(d) for new sources of the same type, and EPA has established emissions guidelines for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

The emissions guidelines for small MWC units were originally promulgated in December 1995 but were vacated by the U.S. Court of Appeals for the District of Columbia Circuit in March 1997. In response to the 1997 vacature, on August 30, 1999, EPA proposed to reestablish emission guidelines for small MWC units. On December 6, 2000 (65 FR 76378), EPA finalized the section 111(d) emission guidelines for existing small MWC units. The emission guidelines contained in this final rule are equivalent to the 1995 emission guidelines for small MWC units. The emission guidelines are codified at 40 CFR part 60, subpart BBBB.

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants. Part 62 of the CFR provides the procedural framework for the submission of these plans. When designated facilities are located in a state, a state must develop and submit a plan for the control of designated pollutant. However, 40 CFR 62.06 provides that if there are no existing sources of the designated pollutants in the state, the state may submit a letter of certification to that effect, or negative declaration, in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B for that designated pollutant. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Final Action

The State of Mississippi has determined there is no existing source in the state of Mississippi subject to the small MWC units emission guidelines. Consequently, the state of Mississippi has submitted a letter of negative declaration certifying this fact. We are taking final action to approve this negative declaration.

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 January 6, 2003 without further notice unless the Agency receives adverse comments by December 5, 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 January 6, 2003 and no further action will be taken on the proposed rule.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule

will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States 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. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 6, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects 40 CFR Part 62

Environmental protection, Air pollution control, Municipal waste combustion units, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: October 24, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart Z—Mississippi

2. Subpart Z is amended by adding an undesignated center heading and § 62.6126 to read as follows:

AIR EMISSIONS FROM SMALL EXISTING MUNICIPAL WASTE COMBUSTION UNITS

§ 62.6126 Identification of plan—negative declaration.

Letter from the Mississippi Department of Environmental Quality submitted March 27, 2002, certifying that there are no small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB.

[FR Doc. 02–28079 Filed 11–4–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–7404–5]

Clean Diesel Fuel Implementation Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Environmental Protection Agency will be holding a Clean Diesel Fuel Implementation Workshop November 20 and 21 in Houston, Texas. The clean diesel fuel program (66 FR 5002, January 18, 2001) establishes a maximum sulfur content of 15 ppm for highway diesel fuel beginning in June 2006 to enable the advanced emission control devices that will be used on 2007 and later model year heavy-duty diesel vehicles. The purpose of this workshop is to assist regulated entities, including refiners, fuel distributors, and fuel marketers, with program implementation and compliance. The workshop is being sponsored by the National Petrochemical and Refiners Association (NPRA) in conjunction with the Society of Independent Gasoline Marketers of America (SIGMA), the Association of Oil Pipelines (AOPL), the National Association of Convenience Stores (NACS), the Independent Fuel Terminal Operators Association (IFTOA), and the Petroleum Marketers Association of America (PMAA). EPA will present a summary of the clean diesel program, including recordkeeping and reporting requirements, and enforcement provisions. The workshop will also include a series of industry panel sessions on developing solutions to program implementation challenges. An agenda for the workshop will be available in early November on the clean diesel Web Page: *http://www.epa.gov/otaq/diesel.htm.* If you plan to attend the workshop, please register at *https://www.b-there.com/breg/diw02/index.cfm?x=1.*

DATES: Wednesday, November 20, 2002, from 10 a.m. to 6 p.m., Thursday, November 21, 2002, from 8 a.m. to 12:30 p.m.

ADDRESSES: The Westin Galleria Hotel, 5060 W. Alabama Street, Houston, Texas 77056, (713) 960–8100, (713)

960–6553 (fax), *http://www.starwood.com/westin/index.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Mary Manners, Chemical Engineer, U.S. EPA, National Vehicle and Fuels Emission Laboratory, Assessment and Standards Division, 2000 Traverwood, Ann Arbor, MI 48105; telephone: (734) 214–4873, fax: (734) 214–4051, e-mail: *manners.mary@epa.gov.*

Dated: October 30, 2002.

Donald E. Zinger,

Acting Director, Office of Transportation and Air Quality.

[FR Doc. 02–28083 Filed 11–4–02; 8:45 am]

BILLING CODE 6561–7–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 410 and 414

[CMS–1204–N]

RIN 0938–AL21

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2003, Notice of Delay of Final Rule

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of delay of final rule.

SUMMARY: This document gives notice of a delay in publication of the physician fee schedule for calendar year 2003 due to concerns about data used to establish the physician fees and the need to further assess the accuracy of the data.

FOR FURTHER INFORMATION CONTACT: Terry Kay (410) 786–4497.

SUPPLEMENTARY INFORMATION: The Medicare physician fee schedule specifies payments to physicians for more than 7,000 health care services and procedures ranging from routine office visits to complex surgical procedures. In calendar year (CY) 2003, Medicare is expected to pay approximately $44.7 billion to over 750,000 physicians and other practitioners for services paid under the physician fee schedule.

On June 28, 2002, we published a proposed rule to refine the resource-based ST practice expense relative value units (RVUs) and make other changes to Medicare Part B payment policy, which affect the Medicare physician fee schedule for CY 2003. The policy changes proposed concerned: the Medicare Economic Index, pricing of the technical component for positron emission tomography (PET) scans, Medicare qualifications for clinical nurse specialists, a process to add or delete services to the definition of telehealth, definition for ZZZ global periods, global period for surface radiation, and an endoscopic base for urology codes. We also discuss the refinement of anesthesia work values, clinical social worker services, and how drugs are accounted for in the sustainable growth rate.

Under the formula set for in section 1848(b)(1) of the Social Security Act, the payment amount for each service paid under the physician fee schedule is the product of three factors: (1) A nationally uniform RVU for the service; (2) a geographic adjustment factor for each physician; and (3) a nationally uniform conversion factor (CF) for the service. The CF converts the RVUs into payment amounts. For each physician fee schedule service there are three RVUs: (1) An RVU for physician work; (2) an RVU for practice expense; and (3) an RVU for malpractice expense.

We are concerned about information and data used in establishing RVUs for certain physicians' services that would apply under the Medicare physician fee schedule for CY 2003. In reviewing the information and data used to establish RVUs (including data and information obtained from outside sources) we discovered that the data and information were incomplete, and we could not, therefore, make an accurate evaluation and establishment of RVUs, which form in part the basis of payment under the physician fee schedule. The effects of the incomplete data and information that we have identified are of such a magnitude to affect significantly the rates paid under the physician fee schedule for all physicians, non-physician practitioners, suppliers and providers paid physician fee schedule rates. Because changes in RVUs are done in a budget-neutral manner, RVU changes have redistributive implications for all physicians, non-physician practitioners, suppliers, and providers paid physician fee schedule rates. Using the data and information as currently constituted without refinement would result in inappropriate and uneven payments to physicians, non-physician practitioners, suppliers, and providers. Because it would be impossible to avoid such uneven payments at this point based on the current state of information, it would be inappropriate to proceed to publication of a final rule with a physician fee schedule for CY 2003 until the subject data and information can be re-evaluated and then utilized to assign the proper number of units under our relative value system.

In order to thoroughly assess the accuracy of the data and information and to assure that they do not contain further inaccuracies that might also have significant implications, an intensive review of the data and information will be necessary. Because of the time needed for this review, we cannot complete this review and recalculate the physician fee schedule rates for CY 2003 before November 1, 2002. Once our review has been completed and data and information assessed and rates revised, we will publish a final rule. We will announce the effective date of the physician fee schedule for CY 2003 in that rule.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 31, 2002.

Thomas A. Scully,

Administrator, , Centers for Medicare & Medicaid Services.

Approved: October 31, 2002.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–28147 Filed 11–1–02; 11:57 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen Docket No. 86–285; FCC 02–202]

Schedule of Application Fees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission has amended its Schedule of Application Fees to adjust the fees for processing applications and other filings. Section 8(b) of the Communications Act requires the Commission to adjust its application fees every two years after October 1, 1991 to reflect the net change in the Consumer Price Index for all Urban Consumers (CPI-U). The increased fees reflect the net change in the CPI-U of 40 percent, calculated from December 1989 to October 2001.

DATES: Effective December 5, 2002.

FOR FURTHER INFORMATION CONTACT: Claudette Pride, Office of the Managing Director at (202) 418–1995.

SUPPLEMENTARY INFORMATION: In the Matter of the Schedule of Application Fees Set Forth in §§ 1.1102 through 1.1107 of the Commission's rules.

Adopted: July 1, 2002;

Released: July 12, 2002.

By this action, the Commission amends its Schedule of Application Fees, 47 CFR 1.1102 *et seq.*, to adjust the fees for processing applications and other filings. Section 8(b) of the Communications Act, as amended, requires that the Commission review and adjust its application fees every two years after October 1, 1999. 47 U.S.C. 158(b). The adjusted or increased fees reflect the net change in the Consumer Price Index for all Urban Consumers (CPI-U) of 40 percent, calculated from December 1989 to October 2001. The adjustments made to the fee schedule comport with the statutory formula set forth in section 8(b).

List of Subjects in 47 CFR Part 1

Administrative practice and procedures.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 154, 303, 503(b)(5); 5 U.S.C. 552 and 21 U.S.C. 853a, unless otherwise noted.

2. Section 1.1102 is revised to read as follows:

§ 1.1102 Schedule of charges for applications and other filings in the wireless telecommunications services.

Those services designated with an asterisk in the payment type code column have associated regulatory fees that must be paid at the same time the application fee is paid. Please refer to § 1.1152 for the appropriate regulatory fee that must be paid for this service.

Action	FCC Form No.	Fee amount	Payment type code	Address
1. Marine Coast				
a. New; Renewal/Modification	601 & 159	$100.00	PBMR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. Modification, Public Coast CMRS; Non-Profit.	601 & 159	100.00	PBMM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
c. Assignment of Authorization	601 & 159	100.00	PBMM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
d. Transfer of Control	601 & 159	50.00	PATM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
e. Duplicate License	601 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
f. Special Temporary Authority	601 & 159	145.00	PCMM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
g. Renewal Only	601 & 159	100.00	PBMR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
h. Renewal (Electronic Filing)	601 & 159	100.00	PBMR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
i. Renewal Only (Non-Profit; CMRS)	601 & 159	100.00	PBMM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
j. Renewal (Electronic Filing) Non-profit, CMRS.	601 & 159	100.00	PBMM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358994, Pittsburgh, PA 15251–5994.
k. Rule Waiver	601 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications. P.O. Box 358130, Pittsburgh, PA 15251–5130.
2. Aviation Ground				
a. New; Renewal/Modification	601 & 159	100.00	PBVR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. Modification; Non-Profit	601 & 159	100.00	PBVM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
c. Assignment of Authorization	601 & 159	100.00	PBVM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
d. Transfer of Control	603 & 159	50.00	PATM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.

Action	FCC Form No.	Fee amount	Payment type code	Address
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f. Special Temporary Authority	601 & 159	145.00	PCVM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
g. Renewal Only	601 & 159	100.00	PBVR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
h. Renewal (Electronic Filing)	601 & 159	100.00	PBVR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
i. Renewal Only (Non-Profit)	601 & 159	100.00	PBVM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
j. Renewal (Electronic Filing) (Non-Profit).	601 & 159	100.00	PBVM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
k. Rule Waiver	601 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
3. Ship				
a. New, Renewal/Modification	605 & 159	50.00	PASR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. Modification; Non-profit	605 & 159	50.00	PASM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
c. Duplicate License	605 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
d. Exemption from Ship Station Requirements.	820 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
e. Rule Waiver	605 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
4. Aircraft				
New; Renewal/Modification	605 & 159	50.00	PAAR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. New; Renewal; Modification (Electronic Filing).	605 & 159	50.00	PAAR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. Modification Non-Profit	605 & 159	50.00	PAAM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
d. Modification; Non-Profit (Electronic Filing).	605 & 159	50.00	PAAM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. Renewal Only	605 & 159	50.00	PAAR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
f. Renewal (Electronic Filing)	605 & 159	50.00	PAAR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
g. Renewal Only (Non-Profit)	605 & 159	50.00	PAAM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
h. Renewal (Non-Profit) (Electronic Filing).	605 & 159	50.00	PAAM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
i. Duplicate License	605 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
j. Duplicate License (Electronic Filing)	605 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
k. Rule Waiver	605 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.

Action	FCC Form No.	Fee amount	Payment type code	Address
l. Rule Waiver (Electronic Filing)	605 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
5. Private Operational Fixed Microwave				
a. New; Renewal/Modification	601 & 159	220.00	PEOR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. New; Renewal/Modification (Electronic Filing).	601 & 159	220.00	PEOR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. Modification; Consolidate Call Signs; Non-Profit.	601 & 159	220.00	PEOM	Federal Communications Commission, Wireless Bureau Applications P.O. Box 358130, Pittsburgh, PA 15251–5130.
d. Modification; Consolidate Call Signs; Non-Profit (Electronic Filing).	601 & 159	220.00	PEOM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. Renewal Only	601 & 159	220.00	PEOR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
f. Renewal (Electronic Filing)	601 & 159	220.00	PEOR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
g. Renewal Only (Non-Profit)	601 & 159	220.00	PEOM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
h. Renewal (Non-Profit) (Electronic Filing).	601 & 159	220.00	PEOM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
i. Assignment	603 & 159	220.00	PEOM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
j. Assignment (Electronic Filing)	603 & 159	220.00	PEOM	Federal Communications Commission, Wireless Bureau Applications, (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
k. Transfer of Control	603 & 159	50.00	PATM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
l. Transfer of Control (Electronic Filing)	603 & 159	50.00	PATM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
m. Duplicate License	601 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
n. Duplicate License (Electronic Filing)	601 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
o. Special Temporary Authority	601 & 159	50.00	PAOM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
p. Special Temporary Authority (Electronic Filing).	601 & 159	50.00	PAOM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
q. Rule Waiver	601 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
r. Rule Waiver (Electronic Filing)	601 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
6. Land Mobile PMRS				
a. New or Renewal/Modification (Frequencies below 470 MHz (except 220 MHz).	601 & 159	50.00	PALR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. New or Renewal/Modification (Frequencies below 470 MHz) (except 220 MHz) (Electronic Filing).	601 & 159	50.00	PALR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. New or Renewal/Modification (Frequencies 470 MHz) and above and 220 MHz Local).	601 & 159	50.00	PALS*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.

Action	FCC Form No.	Fee amount	Payment type code	Address
d. New or Renewal/Modification (Frequencies 470 MHz) and above and 220 MHz Local) (Electronic Filing).	601 & 159	50.00	PALS*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. New or Renewal/Modification (220 MHz Nationwide).	601 & 159	50.00	PALT*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
f. New or Renewal/Modification (220 MHz Nationwide) (Electronic Filing).	601 & 159	50.00	PALT*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
g. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS.	601 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
h. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS (Electronic Filing).	601 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
i. Renewal Only	601 & 159	50.00 50.00 50.00	PALR* PALS* PALT*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
j. Renewal (Electronic Filing)	601 & 159	50.00 50.00 50.00	PALR* PALS* PALT*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
k. Renewal Only (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety).	601 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburg, PA 15251–5245.
l. Renewal (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety) (Electronic Filing).	601 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
m. Assignment of Authorization (PMRS & CMRS).	603 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburg, PA 15251–5130.
n. Assignment of Authorization (PMRS & CMRS) (Electronic Filing).	603 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
o. Transfer of Control (PMRS & CMRS)	603 & 159	50.00	PATM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
p. Transfer of Control (PMRS & CMRS) (Electronic Filing).	603 & 159	50.00	PATM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
q. Duplicate License	601 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
r. Duplicate License (Electronic Filing)	601 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
s. Special Temporary Authority	601 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
t. Special Temporary Authority (Electronic Filing).	601 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
u. Rule Waiver	601 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
v. Rule Waiver (Electronic Filing)	601 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
w. Consolidate Call Signs	601 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
x. Consolidate Call Signs (Electronic Filing).	601 & 159	50.00	PALM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
7. 218–219 MHz (previously IVDS)				
a. New; Renewal/Modification	601 & 159	50.00	PAIR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. New; Renewal/Modification (Electronic Filing).	601 & 159	50.00	PAIR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.

Action	FCC Form No.	Fee amount	Payment type code	Address
c. Modification	601 & 159	50.00	PAIM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130 Pittsburgh, PA 15251–5130.
d. Modification (Electronic Filing)	601 & 159	50.00	PAIM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. Renewal Only	601 & 159	50.00	PAIR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburg, PA 15251–5245.
f. Renewal (Electronic Filing)	601 & 159	50.00	PAIR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
g. Assignment of Authorization	603 & 159	50.00	PAIM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
h. Assignment of Authorization (Electronic Filing).	603 & 159	50.00	PAIM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
i. Transfer of Control	603 & 159	50.00	PATM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
j. Transfer of Control (Electronic Filing)	603 & 159	50.00	PATM	Federal Communication Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
k. Duplicate License	601 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
l. Duplicate License (Electronic Filing)	601 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
m. Special Temporary Authority	601 & 159	50.00	PAIM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
n. Special Temporary Authority (Electronic Filing).	601 & 159	50.00	PAIM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
8. General Mobile Radio (GMRS)				
a. New; Renewal/Modification	605 & 159	50.00	PAZR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. New; Renewal/Modification (Electronic Filing).	605 & 159	50.00	PAZR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. Modification	605 & 159	50.00	PAZM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
d. Modification (Electronic Filing)	605 & 159	50.00	PAZM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. Renewal Only	605 & 159	50.00	PAZR*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
f. Renewal (Electronic Filing)	605 & 159	$50.00	PAZR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
g. Duplicate License	605 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130 , Pittsburgh, PA 15251–5130.
h. Duplicate License (Electronic Filing)	605 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
i. Special Temporary Authority	605 & 159	50.00	PAZM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
j. Special Temporary Authority (Electronic Filing).	605 & 159	50.00	PAZM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
k. Rule Waiver	605 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.

Action	FCC Form No.	Fee amount	Payment type code	Address
l. Rule Waiver (Electronic Filing)	605 & 159	150.00	PDWM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
9. Restricted Radiotelephone				
a. New (Lifetime Permit) New (Limited Use)	605 & 159 605 & 159	50.00	PARR	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
b. Duplicate/Replacement Permit Duplicate/Replacement Permit (Limited Use).	605 & 159 605 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
10. Commercial Radio Operator				
a. Renewal Only	605 & 159	50.00	PACS	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
b. Duplicate	605 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
11. Hearing	Corres & 159	9,530.00	PFHM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
12. Common Carrier Microwave (Pt. To Pt. & Local TV Trans)				
a. New; Renewal/Modification (Electronic Filing Required).	601 & 159	220.00	CJPR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
b. Modification; Consolidate Call Signs (Electronic Filing Required).	601 & 159	220.00	CJPM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. Renewal (Electronic Filing Required)	601 & 159	220.00	CJPR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
d. Assignment of Authorization; Transfer of Control Additional Stations (Electronic Filing Required).	603 & 159	80.00 50.00	CCPM CAPM	Federal Communications Commission Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. Duplicate License (Electronic Filing Required).	601 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
f. Extension of Construction Authority (Electronic Filing Required).	601 & 159	80.00	CCPM	Federal Construction Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
g. Special Temporary Authority	601 & 159	100.00	CEPM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
h. Special Temporary Authority (Electronic Filing.	601 & 159	100.00	CEPM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
13. Common Carrier Microwave (DEMS)				
a. New; Renewal/Modification (Electronic Filing Required).	601 & 159	220.00	CJLR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
b. Modification; Consolidate Call Signs (Electronic Filing Required).	601 & 159	220.00	CJLM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. Renewal (Electronic Filing Required)	601 & 159	220.00	CJLR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
d. Assignment of Authorization; Transfer of Control. Additional Stations (Electronic Filing Required).	603 & 159 603 & 159	80.00 50.00	CCLM CALM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. Duplicate License (Electronic Filing Required).	601 & 159	50.00	PADM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
f. Extension of Construction Authority (Electronic Filing Required).	601 & 159	80.00	CCLM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
g. Special Temporary Authority	601 & 159	100.00	CELM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358130, Pittsburgh, PA 15251–5130.

Action	FCC Form No.	Fee amount	Payment type code	Address
h. Special Temporary Authority (Electronic Filing).	601 & 159	100.00	CELM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
14. Broadcast Auxiliary (Aural and TV Microwave)				
a. New; Modification; Renewal/Modification.	601 & 159	120.00	MEA	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. New; Modification; Renewal/Modification (Electronic Filing).	601 & 159	120.00	MEA	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. Special Temporary Authority	601 & 159	145.00	MGA	Federal Communications Commission, Wireless Bureau Applications ELT, P.O. Box 358130, Pittsburgh, PA 15251–5130.
d. Special Temporary Authority (Electronic Filing).	601 & 159	145.00	MGA	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. Renewal Only	601 & 159	50.00	MAA	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
f. Renewal (Electronic Filing)	601 & 159	50.00	MAA	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
15. Broadcast Auxiliary (Remote and Low Power)				
a. New; Modification Renewal/Modification.	601 & 159	120.00	MEA	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. New; Modification Renewal/Modification (Electronic Filing).	601 & 159	120.00	MEA	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. Renewal Only	601 & 159	50.00	MAA	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358245, Pittsburgh, PA 15251–5245.
d. Renewal (Electronic Filing)	601 & 159	50.00	MAA	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. Special Temporary Authority	601 & 159	145.00	MGA	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
f. Special Temporary Authority (Electronic Filing).	601 & 159	145.00	MGA	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
16. Pt 22 Paging & Radiotelephone				
a. New; Major Mod; Additional Facility; Major Amendment; Major Renewal/Mod; Fill in Transmitter (Per Transmitter) (Electronic Filing Required).	601 & 159	325.00	CMD	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
b. Minor Mod; Renewal; Minor Renewal/Mod; (Per Call Sign) 900 MHz Nationwide Renewal Net Organ; New Operator (Per Operator/Per City) Notice of Completion of Construction or Extension of Time to Construct (Per Application) (Electronic Filing Required).	601 & 159	50.00	CAD	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. Auxiliary Test (Per Transmitter); Consolidate Call Signs (Per Call Sign) (Electronic Filing Required).	601 & 159	285.00	CLD	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
d. Special Temporary Authority (Per Location/Per Frequency).	601 & 159	285.00	CLD	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
e. Special Temporary Authority (Per Location/Per Frequency) (Electronic Filing).	601 & 159	285.00	CLD	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
f. Assignment of License or Transfer of Control (Full or Partial) (Per Call Sign).	603 & 159	325.00	CMD	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
Additional Call Signs (Per Call Signs) (Electronic Filing Required).	603 & 159	50.00	CAD	

Action	FCC Form No.	Fee amount	Payment type code	Address
g. Subsidiary Comm Service (Per Request) (Electronic Filing Required).	601 & 159	145.00	CFD	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
h. Air Ground Individual (Initial License; Mod; Renewal (Per Station).	409 & 159	50.00	CAD	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
17. Cellular				
a. New; Major Mod; Additional Facility; Major Renewal/Mod (Electronic Filing Required).	601 & 159	325.00	CMC	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
b. Minor Modification; Minor Renewal/Mod (Electronic Filing Required).	601 & 159	85.00	CDC	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
c. Assignment of License or Transfer of Control (Full or Partial) (Electronic Filing Required).	603 & 159	325.00	CMC	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
d. Notice of Extension of Time to Complete Construction; Renewal (Electronic Filing Required).	601 & 159	50.00	CAC	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
e. Special Temporary Authority	601 & 159	285.00	CLC	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130
f. Special Temporary Authority (Electronic Filing).	601 & 159	285.00	CLC	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
g. Combining Cellular Geographic Areas (Electronic Filing Required).	601 & 159	75.00	CBC	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
18. Rural Radio				
a. New; Major Renew/Mod; Additional Facility (Per Transmitter) (Electronic Filing Required).	601 & 159	150.00	CGRR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
b. Major Mod; Major Amendment (Per Transmitter) (Electronic Filing Required).	601 & 159	150.00	CGRM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
c. Minor Modification; (Per Transmitter) (Electronic Filing Required).	601 & 159	50.00	CARM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
d. Assignment of License or Transfer of Control (Full or Partial) (Per Call Sign); Additional Calls (Per Call Sign) (Electronic Filing Required).	603 & 159 ..... 603 & 159	150.00 50.00	CGRM CARM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
e. Renewal (Per Call Sign); Minor Renewal/Mod (Per Transmitter) (Electronic Filing Required).	601 & 159	50.00	CARR*	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
f. Notice of Completion of Construction or Extension of Time to Construct (Per Application) (Electronic Filing Required).	601 & 159	50.00	CARM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
g. Special Temporary Authority (Per Transmitter).	601 & 159	285.00	CLRM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
h. Special Temporary Authority (Per Transmitter) (Electronic Filing Required).	601 & 159	285.00	CLRM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
i. Combining Call Signs (Per Call Sign) (Electronic Filing Required).	601 & 159	285.00	CLRM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
j. Auxiliary Test Station (Per Transmitter) (Electronic Filing Required).	601 & 159	285.00	CLRM	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994
19. Offshore Radio				
a. New; Major Mod; Additional Facility; Major Amendment; Major Renew/Mod; Fill in Transmitters (Per Transmitter) (Electronic Filing Required).	601 & 159	150.00	GGF	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
b. Consolidate Call Signs (Per Call Sign); Auxiliary Test (Per Transmitter) (Electronic Filing Required).	601 & 159	285.00	CLF	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.

Action	FCC Form No.	Fee amount	Payment type code	Address
c. Minor Modification; (Per Transmitter); Notice of Completion of Construction or Extension of Time to Construct (Per Application); Renewal (Per Call Sign) (Electronic Filing Required).	601 & 159	50.00	CAF	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
d. Assignment of License or Transfer of Control (Full or Partial) Additional Calls (Electronic Filing Required).	603 & 159	150.00	CGF	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
e. Special Temporary Authority (Per Transmitter).	601 & 159	285.00	CLF	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358130, Pittsburgh, PA 15251–5130.
f. Special Temporary Authority (Per Transmitter) (Electronic Filing Required).	601 & 159	285.00	CLF	Federal Communications Commission, Wireless Bureau Applications (ELT), P.O. Box 358994, Pittsburgh, PA 15251–5994.
20. Multipoint Distribution Service (including Multi-channel MDS)				
a. Conditional License	304 & 159 or 331 & 159.	220.00	CJM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358155, Pittsburgh, PA 15251–5155.
b. Major Modification of Conditional Licenses or License Authorization.	304 & 159 or 331 &159.	220.00	CJM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358994, Pittsburgh, PA 15251–5155.
c. Certification of Completion of Construction.	304–A & 159	645.00	CPM*	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358155, Pittsburgh, PA 15251–5155.
d. License Renewal	405 & 159	220.00	CJM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358155, Pittsburgh, PA 15251–5155.
e. Assignment or Transfer:				
(i) First Station on Application	702 & 159 or 704 & 159.	80.00	CCM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358155, Pittsburgh, PA 15251–5155.
(ii) Each Additional Station	702 & 159 or 704 & 159.	50.00	CAM	
f. Extension of Construction Authorization.	701 & 159	185.00	CHM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358155, Pittsburgh, PA 15251–5155.
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization.	Corres & 159	100.00	CEM	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358155, Pittsburgh, PA 15251–5155.
h. Signal Booster				
(i) Application	304 & 159, 331 & 159.	75.00	CSB	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358155, Pittsburgh, PA 15251–5155.
(ii) Certification of Completion of Construction (Electronic Filing Only).	304A & 159	80.00	CCB	Federal Communications Commission, Wireless Bureau Applications, P.O. Box 358155, Pittsburgh, PA 15251–5155.

3. Section 1.1103 is revised to read as follows:

§ 1.1103 Schedule of charges for equipment approval, experimental radio services, and international telecommunications settlement services.

Action	FCC Form No.	Fee amount	Payment type code	Address
1. Certification				
a. Receivers (except TV and FM) (Electronic Filing Only).	731 & 159	405.00	EEC	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
b. Devices Under Parts 11, 15 & 18 (except receivers) (Electronic Filing Only).	731 & 159	525.00	EFT	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
c. All Other Devices (Electronic Filing Only)	731 & 159	525.00	EFT	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
d. Modifications and Class II Permissive Changes (Electronic Filing Only).	731 & 159	50.00	EAC	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.

Action	FCC Form No.	Fee amount	Payment type code	Address
e. Modification and Class III Permissive Change (Electronic Filing Only).	731 & 159	495.00	ECC	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
f. Request for Confidentiality (Electronic Filing Only).	731 & 159	150.00	EBC	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
2. Advance approval of Subscription TV Systems.	Corres & 159	3,180.00	EIS	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
a. Request for Confidentiality (Electronic Filing Only).	Corres & 159	150.00	EBS	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
3. Assignment of Grantee Code				
a. New Applicants for all Application Types, except Subscription TV (Electronic Filing Only Optional).	Corres & 159	50.00	EAG	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
4. Experimental Radio Service				
a. New Station Authorization	442 & 159	50.00	EAE	Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburg, PA 15251–5320.
b. Modification of Authorization	442 & 159	50.00	EAE	Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburg, PA 15251–5320.
c. Renewal of Station Authorization	442 & 159	50.00	EAE	Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburg, PA 15251–5320.
d. Assignment of Transfer of Control	702 & 159 or 703 & 159.	50.00	EAE	Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburg, PA 15251–5320.
e. Special Temporary Authority	Corres & 159	50.00	EAE	Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburg, PA 15251–5320.
f. Additional fee required for any of the above applications that request withholding from public inspection.	Corres & 159	50.00	EAE	Federal Communications Commission, Equipment Radio Services, P.O. Box 358320, Pittsburg, PA 15251–5320.
5. International Telecommunications	99 & 159	2.00	IAT	Federal Communications Commission, International Telecommunications Settlements, P.O. Box 358001, Pittsburg, PA 15251–5001.

4. Section 1.1104 is revised to read as follows:

§ 1.1104 Schedule of charges for applications and other filings for media services.

Those services designated with an asterisk in the Payment Type Code column accept multiples if filing in the same post office box.

Action	FCC Form No.	Fee Amount	Payment type code	Address
1. Commercial TV Services				
a. New and Major Change Construction Permits (per application) (Electronic Filing).	301 & 159; 301–CA & 159.	$3,575.00	MVT	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
b. Minor Change (per application) (Electronic Filing).	301 & 159; 301–CA & 159.	800.00	MPT	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
c. Main Studio Request	Corres & 159	800.00	MPT	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
d. New License (per application)	302–TV & 159; 301–CA & 159; 302–DTV & 159.	240.00	MJT	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
e. License Renewal (per application)	303–S & 159	145.00	MGT	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
f. License Assignment:				
(i) Long Form (Electronic Filing)	314 & 159	800.00	MPT*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.

Action	FCC Form No.	Fee Amount	Payment type code	Address
(ii) Short Form (Electronic Filing)	316 & 159	115.00	MDT*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
g. Transfer of Control:				
(i) Long Form (Electronic Filing)	315 & 159	800.00	MPT*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	115.00	MDT*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
h. Hearing (New and Major/Minor Change, Comparative Construction Permit).	Corres & 159	9,530.00	MWT	Federal Communications Commission, Media Services, P.O. Box 358170, Pittsburgh, PA 15251–5370.
i. Call Sign (Electronic Filing)	380 & 159	80.00	MBT	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
j. Special Temporary Authority	Corres & 159	145.00	MGT	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
k. Petition for Rulemaking for New Community of License.	301 & 159; 302–TV & 159.	2,210.00	MRT	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
l. Ownership Report	323 & 159 Corres & 159.	50.00	MAT	Federal Communications Commission, Media Services, P.O. Box 358180, Pittsburgh, PA 15251–5180.
2. Commercial AM Radio Stations				
a. New or Major Change Construction Permit (Electronic Filing).	301 & 159	3,180.00	MUR	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.
b. Minor Change (per application) (Electronic Filing).	301 & 159	800.00	MPR	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.
c. Main Studio Request (per request)	Corres & 159	800.00	MPR	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.
d. New License (per application)	302–AM & 159	525.00	MMR	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.
e. AM Directional Antenna (per application)	302–AM & 159	600	MOR	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.
f. AM Remote Control (per applicaiton) (Electronic filing).	301 & 159	50.00	MAR	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.
g. License Renewal (per application)	303–S & 159	145.00	MGR	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.
h. License Assignment:				
(i) Long Form (Electronic Filing)	314 & 159	800.00	MPR*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	115.00	MDR*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
i. Transfer of Control:				
(i) Long Form (Electronic Filing)	315 & 159	800.00	MPR*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	$115.00	MDR*	Federal Communications Commission, Media Services, P.O. Box *358350, Pittsburgh, PA 15251–5350.
j. Hearing (New or Major/Minor Change, Comparative Construction Permit Hearings).	Corres & 159	9,530.00	MWR	Federal Communciations Commission, Media Services, P.O. Box 358170, Pittsburgh, PA 15251–5170.
k. Call Sign (Electronic Filing)	380 & 159	80.00	MBR	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
l. Special Temporary Authority	Corres & 159	145.00	MGR	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.

Action	FCC Form No.	Fee Amount	Payment type code	Address
m. Ownership Report	323 & 159 or Corres & 159.	50.00	MAR	Federal Communications Commission, Media Services, P.O. Box 358180, Pittsburgh, PA 15251–5180.
3. Commercial FM Radio Station				
a. New or Major Change Construction Permit (Electronic Filing).	301 & 159	2,865.00	MTR	Federal Communications Commission, Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.
b. Minor Change (Electronic Filing)	301 & 159	800.00	MPR	Federal Communications Commission, Mass Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.
c. Main Studio Request (per request)	Corres & 159	800.00	MPR	Federal Communications Commission, Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.
d. New License (Electronic Filing)	302-FM & 159	165.00	MHR	Federal Communications Commission, Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.
e. FM Directional Antenna (Electronic Filing)	302-FM & 159	505.00	MLR	Federal Communications Commission, Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.
f. License Renewal	303-S & 159	145.00	MGR	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.
g. License Assignment:				
Long Form (Electronic Filing)	314 & 159	800.00	MPR*	Federal Communications Commission, Media Services, P.O. Box 358350, Filing) Pittsburgh, PA 15251–5350.
(i) Short Form (Electronic Filing)	316 & 159	115.00	MDR*	Federal Communications Commission, Media Sservices, P.O. Box 358350, Pittsburgh, PA 15251–5350.
h. Transfer of Control:				
(i) Long Form (Electronic Filing)	315 & 159	800.00	MPR*	Federal Communications Commission, Media Services, P.O. Box 358350, Filing) Pittsburgh, PA 15251–5350.
(ii) Short Form (Electronic Filing)	316 & 159	115.00	MDR*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
i. Hearing (New or Major/Minor Change, Comparative Construction Permit Heraings) (per application).	Corres & 159	9,530.00	MWR	Federal Communications Commission, Medida Service, P.O. Box 358170, Pittsburgh, PA 15251–5170.
j. Call Sign (Electronic Filing)	380 & 159	80.00	MBR	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
k. Special Temporary Authority	Corres & 159	145.00	MGR	Federal Communications Commission, Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.
l. Petition for New Community of LIcense or Higher Class Channel.	301 & 159 or 302–FM & 159.	2,210.00	MRR	Federal Communications Commission, Media Services, P.O. Box 358195, Pittsburgh, PA 15251–5195.
m. Ownership Report	323 & 159 or Corres & 159.	50.00	MAR	Federal Communications Commission, Media Services, P.O. Box 358180, Pittsburgh, PA 15251–5180.
4. FM Translators				
a. New or Major Change Construction Permit (Electronic Filing).	349 & 159	600.00	MOF	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5200.
b. New License (Electronic Filing)	350 & 159	120.00	MEF	Federal Communications Commission, Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.
c. License Renewal	303–S & 159	50.00	MAF	Federal Communications Commission, Media Services, P.O. Box 358190, Pittsburgh, PA 15251–5190.
d. Special Temporary Authority	Corres & 159	145.00	MGF	Federal Communications Commission, Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5190.
e. License Assignment	345 & 159; 314 & 159; 316 & 159.	115.00	MDF*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
f. Transfer of Control	345 & 159; 314 & 159; 316 & 159.	115.00	MDF*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.

Action	FCC Form No.	Fee Amount	Payment type code	Address
5. TV Translators and LPTV Stations				
a. New or Major Change Construction Permit (per application) (Electronic Filing).	346 & 159	600.00	MOL	Federal Communications Commission, Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.
b. New License (per application)	347 & 159	120.00	MEL	Federal Communications Commission, Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.
c. License Renewal	303–S & 159	50.00	MAL*	Federal Communications Commission, Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
d. Special Temporary Authority	Corres & 159	145.00	MGL	Federal Communications Commission, Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.
e. License Assignment	345 & 159; 314 & 159; 316 & 159;.	115.00	MDL*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
f. Transfer of Control	345 & 159; 314 & 159; 316 & 159;.	115.00	MDL*	Federal Communications Commission, Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
6. FM Booster Stations				
a. New or Major Change Construction Permit (Electronic Filing).	349 &159	600.00	MOF	Federal Communications Commission, Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.
b. New License (Electronic Filing)	350 & 159	120.00	MEF	Federal Communications Commission, Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.
c. Special Temporary Authority	Corres & 159	145.00	MGF	Federal Communications Commission, Media Services, P.O. Box 358200, Pittsburgh, PA 15251–5200.
7. TV Booster Stations				
a. New or Major Change (Electronic Filing)	346 & 159	600.00	MOF	Federal Communications Commission, Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.
b. New License (Electronic Filing)	347 & 159	120.00	MEF	Federal Communications Commission, Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.
c. Special Temporary Authority	Corres & 159	145.00	MGF	Federal Communications Commission, Media Services, P.O. Box 358185, Pittsburgh, PA 15251–5185.
8. Cable Television Services				
a. CARS License	327 & 159	220.00	TIC	Federal Communications Commission, Media Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.
b. CARS Modifications	327 & 159	220.00	TIC	Federal Communications Commission, Media Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.
c. CARS License Renewal	327 & 159	220.00	TIC	Federal Communications Commission, Media Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.
d. CARS License Assignment	327 & 159	220.00	TIC	Federal Communications Commission, Media Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.
e. CARS Transfer of Control	327 & 159	220.00	TIC	Federal Communications Commission, Media Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.
f. Special Temporary Authorization	Corres & 159	145.00	TGC	Federal Communications Commission, Media Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.
g. Cable Special Relief Petition	Corres & 159	1,115.00	TQC	Federal Communications Commission, Media Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.
h. 76.1801 Registration Statement	Corres & 159	50.00	TAC	Federal Communications Commission, Media Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.
i. Aeronautical Frequency Usage Notification Sec. 76.1804.	Corres & 159	50.00	TAC	Federal Communications Commission, Media Services, P.O. Box 358205, Pittsburgh, PA 15215–5205.

5. Section 1.1105 is revised to read as follows:

§ 1.1105 Schedule of charges for applications and other filings for the wireline competition service.

Action	FCC Form No.	Fee amount	Payment type code	Address
1. **Communication Assistance for Law Enforcement (CALEA) Petitions**.	Corres & 159	$5,000.00	CLEA	Federal Communications Commission, Wireline Competition Services—IA&TD CALEA, P.O. Box 358140, Pittsburgh, PA 15251–5140.
2. Domestic 214 Applicataions				
a. Domestic Cable Construction	Corres & 159	860.00	CUT	Federal Communications Commission Wireline Competition Services—CPD214 Appls., P.O. Box 358145, Pittsburgh, PA 15251–5145.
b. Other	Corres & 159	860.00	CUT	Federal Communications Commission, Wireline Competition Services CPD214—Appls., P.O. Box 358145, Pittsburgh, PA 15251–5145.
3. Tariff Filings				
a. Filing Fees (per transmittal or cover letter).	Corres & 159	695.00	CQK	Federal Communications Commission, Wireline Competition Services—PPD Tariffs, P.O. Box 358150, Pittsburgh, PA 15251–5150.
b. Special Permission Filing (request for waiver of any rule in Part 61 of the Commission's Rules (per request)).	Corres &159	695.00	CQK	Federal Communications Commission, Wireline Competition Services—PPD Tariffs, P.O. Box 358150, Pittsburgh, PA 15251–5150.
c. Waiver of Part 69 Tariff Rules (per request).	Corres & 159	695.00	CQK	Federal Communications Commission, Wireline Competition Services—PPD Tariffs, P.O. Box 358150, Pittsburgh, PA 15251–5150.
4. Accounting				
a. Review of Depreciation Update Study:				
(i) Single state	Corres & 159	29,150.00	BKA	Federal Communications Commission, Wireline Competition Services—PPD—Accounting Rule, P.O. Box 358140, Pittsburgh, PA 15251–5140.
(ii) Each Additional State	Corres & 159	960.00	CVA	Federal Communications Commission, Wireline Competition Services—PPD—Accounting Rule, P.O. Box 358125, Pittsburgh, PA 15251–5125.
b. Petition for Waiver (per petition) ..... Waiver of Part 69 Accounting Rules & Part 32 Accounting Rules. Part 36 Separation Rules, Part 43 Reporting Requirements. Part 64 Allocation of Costs Rules ..... Part 65 Rate of Return & Rate Base Rules.	Corres & 159	6,570.00	BEA	Federal Communications Commission, Wireline Competition Services—PPD Tariffs, P.O. Box 358140, Pittsburgh, PA 15251–5140.

6. Section 1.1106 is revised to read as follows:

§ 1.1106 Schedule of charges for applications and other filings for the enforcement services.

Action	FCC Form No.	Fee amount	Payment type code	Address
1. **Formal Complaints**	Corres & 159	$170.00	CIZ	Federal Communications Commission, Enforcement, P.O. Box 358120, Pittsburgh, PA 15251–5120.
2. Accounting and Audits				
a. Field Audit	Corres & 159	87,780.00	BMA	Carriers will be billed.
b. Review of Arrest Audit	Corres & 159	47,915.00	BLA	Carriers will be billed.
3. Development and Review of Agreed upon —Procedures Engagement.	Corres & 159	47,915.00	BLA	Federal Communications Commission, Enforcement, P.O. Box 358125, Pittsburgh, PA 15251–5140.
4. Pole Attachment Complaint	Corres & 159	215.00	TPC	Federal Communications Commission, Enforcement, P.O. Box 358110, Pittsburgh, PA 15215–5110.

7. Section 1.1107 is revised to read as follows:

§ 1.1107 Schedule of charges for applications and other filings for the international service.

Action	FCC Form No.	Fee amount	Payment type code	Address
1. International Fixed Public Radio (Public & Control Stations)				
a. Initial Construction Permit (per station)	407 & 159	$685.00	CSN	Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251–5160.
b. Assignment or Transfer (per Application)	702 & 159 or 704 & 159.	720.00	CSN	Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160 Pittsburgh, PA 15251–5160.
c. Renewal (per license)	405 & 159	525.00	CON	Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251–5160.
d. Modification (per station)	403 & 159	525.00	CON	Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251–5160.
e. Extension of Construction Authorization (per station).	701 & 159	265.00	CKN	Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251–5160.
f. Special Temporary Authority or request for Waiver (per request).	Corres & 159	265.00	CKN	Federal Communications Commission, International Bureau—Fixed Public Radio, P.O. Box 358160, Pittsburgh, PA 15251–5160.
2. Section 214 Applications				
a. Overseas Cable Construction	Corres & 159	12,860.00	BIT	Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251–5115.
b. Cable Landing License:				
(i) Common Carrier	Corres & 159	1,445.00	CXT	Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251–5115.
(ii) Non—Common Carrier	Corres & 159	14,305.00	BJT	Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251–5115.
c. All other International 214 Applications	Corres & 159	860.00	CUT	Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251–5115.
d. Special Temporary Authority (all services)	Corres & 159	860.00	CUT	Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251–5115.
e. Assignments or transfers (all services)	Corres & 159	860.00	CUT	Federal Communications Commission, International Bureau—Telecommunications, P.O. Box 358115, Pittsburgh, PA 15251–5115.
3. Fixed Satellite Transmit/Receive Earth Stations				
a. Initial Application (per station)	312 & Schedule B & 159.	2,150.00	BAX	Federal Communications Commission, International Bureau—Earth Stations P.O. Box 358160, Pittsburgh, PA 15251–5160.
b. Modification of License (per station)	312 & Schedule B & 159.	150.00	CGX	Federal Communications Commission, International Bureau—Earth Stations P.O. Box 358160, Pittsburgh, PA 15251–5160.
c. Assignment or Transfer:				
(i) First station	312 & Schedule A & 159.	425.00	CNX	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
(ii) Each Additional Station	Schedule A & 159	145.00	CFX	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
d. Renewal of License (per station)	405 & 159	150.00	CGX	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).	Corres & 159	150.00	CGX	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.

Action	FCC Form No.	Fee amount	Payment type code	Address
f. Amendment of Pending Application (per station).	312 & Schedule B & 159.	150.00	CGX	Federal Communications Commission, Application International Bureau— Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
g. Extension of Construction Permit (per station).	701 & 159	150.00	CGX	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
4. Fixed Satellite transmit/receive Earth Stations (2 meters or less operating in the 4/6GHz frequency band)				
a. Lead Application	312 & Schedule B & 159.	4,765.00	BDS	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
b. Routine Application (per station)	312 & Schedule B & 159.	50.00	CAS	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
c. Modification of License (per station)	312 & 159	150.00	CGS	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
d. Assignment or Transfer:				
(i) First Station	312 & Schedule A & 159.	425.00	CNS	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
(ii) Each Additional Station	Attachment To 312 & Schedule A.	50.00	CAS	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
e. Renewal of License (per station)	405 & 159	150.00	CGS	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
f. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).	Corres & 159	150.00	CGS	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
g. Amendment of Pending Application (per station).	312 & Schedule B & 159.	150.00	CGS	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
h. Extension of Construction Permit (per station).	701 & 159	150.00	CGS	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
5. Receive Only Earth Stations				
a. Initial Applications for Registration or License.	312 & Schedule B & 159.	325.00	CMO	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
b. Modification of License or Registration (per station).	312 & Schedule B & 159.	150.00	CGO	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
c. Assignment or Transfer:				
(i) First Station	312 & Schedule A & 159.	425.00	CNO	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
(ii) Each Additional Station	312 & Schedule A & 159.	145.00	CFO	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
d. Renewal of License (per station)	405 & 159	150.00	CGO	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
e. Amendment of Pending Application (per station).	312 & Schedule B & 159.	150.00	CGO	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
f. Extension of Construction Permit (per station).	701 & 159	150.00	CGO	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
g. Waivers (per request)	Corres & 159	150.00	CGO	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
6. Fixed Satellite Very Small Aperture Terminal (VSAT) Systems				
a. Initial Application (per station)	312 & Schedule B & 159.	7,935.00	BGV	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
b. Modification of License (per system)	312 & 159	150.00	CGV	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.

Action	FCC Form No.	Fee amount	Payment type code	Address
c. Assignment or Transfer of System	312 & Schedule A & 159.	2,125.00	CZV	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
d. Renewal of License (per system)	405 & 159	150.00	CGV	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).	Corres & 159	150.00	CGV	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
f. Amendment of Pending Application (Per system).	312 & Schedule B & 159.	150.00	CGV	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
g. Extension of Construction Permit (per system).	701 & 159	150.00	CGV	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
7. Mobile Satellite Earth Stations				
a. Initial Applications of Blanket Authorization	312 & Schedule B & 159.	7,935.00	BGB	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
b. Initial Application for Individual Earth Station	312 & Schedule B & 159.	1,905.00	CYB	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
c. Modification of License (per system)	312 & Schedule B & 159.	150.00	CGB	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
d. Assignment or Transfer (per system)	312 & Schedule A & 159.	2,125.00	CZB	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
e. Renewal of License (per system)	405 & 159	150.00	CGB	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
f. Special Temporary Authority of Waiver of Prior Construction Authorization (per request).	Corres & 159	150.00	CGB	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
g. Amendment of Pending Application (per system).	312 & Schedule B & 159.	150.00	CGB	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
h. Extension of Construction Permit (per system).	701 & 159	150.00	CGB	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
8. Radio Determination Satellite Earth Station				
a. Initial Application of Blanket Authorization	312 & Schedule B & 159.	7,935.00	BGH	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
b. Initial Application for Individual Earth Station	312 & Schedule B & 159.	1,905.00	CYH	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
c. Modification of License (per system)	312 & Schedule B & 159.	150.00	CGH	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
d. Assignments or Transfer (per system)	312 & Schedule B & 159.	2,010.00	CHZ	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
e. Renewal of License (per system)	405 & 159	150.00	CGH	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
f. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).	Corres & 159	150.00	CGH	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
g. Amendment of Pending Application (per system).	312 & Schedule B & 159.	150.00	CGH	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
h. Extension of Construction Permit (per system).	701 & 159	150.00	CGH	Federal Communications Commission, International Bureau—Earth Stations, P.O. Box 358160, Pittsburgh, PA 15251–5160.
9. Space Stations (Geostationary)				
a. Application for Authority to Launch & Operate:				
(i) Initial Application	312 & 159	98,645.00	BNY	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.

Action	FCC Form No.	Fee amount	Payment type code	Address
(ii) Replacement Satellite		98,645.00	BNY	
b. Assignment or Transfer (per satellite)	312 & Schedule A & 159.	7,050.00	BFY	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
c. Modification	312 & 159	7,050.00	BFY	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
d. Special Temporary Authority (per request)	Corres & 159	705.00	CRY	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
e. Amendment of Pending Application (per request).	312 & Schedule B & 159.	1,410.00	CWY	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
10. Space Stations (Low-earth Orbit Satellite Systems)				
a. Application for Authority to Launch and Operate (per system of technically identical satellites).	312 & 159	339,730.00	CLW	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
b. Assignment or Transfer (per request)	312 & 159	9,710.00	CZW	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
c. Modification (per request)	312 & 159	24,270.00	CGW	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
d. Special Temporary Authority (per request)	Corres & 159	2,435.00	CXW	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
e. Amendment of Pending Application (per request).	312 & 159	4,855.00	CAW	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
11. Direct Broadcast Satellites				
a. Authorization to Construct or Major Modification (per request).	Corres & 159	2,865.00	MTD	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
b. Construction Permit and Launch Authority (per request).	Corres & 159	27,780.00	MXD	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
c. License to Operate (per request)	Corres & 159	27,780.00	MXD	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
d. Special Temporary Authority (per request)	Corres & 159	9,530.00	MWD	Federal Communications Commission, International Bureau—Satellites, P.O. Box 358210, Pittsburgh, PA 15251–5210.
e. Hearing New and Major/Minor change, comparative Construction permit hearings; comparative license renewal.	Corres & 159	9,530.00	MWD	Federal Communications Commission, International Bureau, P.O. Box 358270, Pittsburgh, PA 15251–5170.
12. International Broadcast Stations				
a. New Station & Facility Change Construction Permit (per applications).	309 & 159	2,405.00	MSN	Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175.
b. New License (per application)	310 & 159	545.00	MNN	Federal Communications Commission, International Bureau, P.O. Box 358175 Pittsburgh, PA 15251—5175
c. License Renewal (per application)	311 & 159	135.00	MFN	Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251—5175
d. License Assignment or Transfer Control (per Station license).	314 & 159 or 315 & 159, or 316 & 159.	85.00	MCN	Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251—5175
e. Frequency Assignment & Coordination (per frequency hour).	Corres & 159	50.00	MAN	Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251—5175
f. Special Temporary Authorization (per application).	Corres & 159	145.00	MGN	Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251—5175
13. Permit to Deliver Programs to Foreign Broadcast Stations (per application)				
a. Commercial Television Stations	308 & 159	80.00	MBT	Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251–5175

Action	FCC Form No.	Fee amount	Payment type code	Address
b. Commercial AM or FM Radio Stations	308 & 159	80.00	MBR	Federal Communications Commission, International Bureau, P.O. Box 358175, Pittsburgh, PA 15251—5175
14. Recognized Private Operating Status (per application)	Corres & 159	860.00	CUG	Federal Communications Commission, International Bureau, P.O. Box 358115, Pittsburgh, PA 15251—5115

8. Section 1.1109 is amended by revising the note immediately following paragraph (c) revising paragraph (d) introductory text and paragraph (e) and note to read as follows:

§ 1.1109 Payment of charges.

* * * * *

(c) * * *

Note: This requirement for the simultaneous submission of fees forms with applications or other filings does not apply to the payment of fees for which the Commission has established a billing process. *See* § 1.1119 of this subpart.

(d) Applications returned to applicants for additional information or corrections will not require an additional fee when resubmitted, unless the additional information results in an increase of the original fee amount. Those applications not requiring an additional fee should be resubmitted directly to the Bureau/Office requesting the additional information. The original fee will be forfeited if the additional information or corrections are not resubmitted to the appropriate Bureau/Office by the prescribed deadline. A forfeited application fee will not be refunded. If an additional fee is required, the original fee will be returned and the application must be resubmitted with a new remittance in the amount of the required fee to the Commission's lockbox bank. Applicants should attach a copy of the Commission's request for additional or corrected information to their resubmission.

* * * * *

(e) Should the staff change the status of an application, resulting in an increase in the fee due, the applicant will be billed for the remainder under the conditions established by § 1.1116(b) of the rules.

Note: Due to the statutory requirements applicable to tariff filings, the procedures for handling tariff filings may vary from the procedures set out in the rules.

9. Section 1.1110 is amended by revising paragraphs (a)(1), (a)(2) and (a)(3) to read as follows:

§ 1.1110 Form of payment.

(a) * * *

(1) Specific procedures for electronic payments are announced in Bureau/Office fee filing guides.

(2) It is the responsibility of the payer to insure that any electronic payment is made in the manner required by the Commission. Failure to comply with the Commission's procedures will result in the return of the application or other filing and the fee payment.

(3) Payments by wire transfer will be accepted; however, to insure proper credit, applicants must follow the instructions set out in the appropriate Bureau/Office fee filing guide.

* * * * *

10. Section 1.1111 is amended by revising paragraph (c) to read as follows:

§ 1.1111 Filing locations.

* * * * *

(c) Fees for applications and other filings pertaining to the Wireless Radio Services that are submitted electronically via ULS may be paid electronically or sent to the Commission's lock box bank manually. When paying manually, applicants must include the application file number (assigned by the ULS electronic filing system on FCC Form 159) and submit such number with the payment in order for the Commission to verify that the payment was made. Manual payments must be received no later than ten (10) days after receipt of the application on ULS or the application will be dismissed. Payment received more than ten (10) days after electronic filing of an application on a Bureau/Office electronic filing system (*e.g.*, ULS) will be forfeited (*see* §§ 1.034 and 1.1109.)

11. Section 1.1113 is amended by revising paragraph (a)(1) to read as follows:

§ 1.1113 Return or refund of charges.

(a) * * *

(1) When no fee is required for the application or other filing. (*see* § 1.1109).

* * * * *

12. Section 1.1114 is amended by revising the introductory text to read as follows:

§ 1.1114 General exemptions to charges.

No fee established in §§ 1.1102 through 1.1107 of this subpart, unless otherwise qualified herein, shall be required for:

* * * * *

13. Section 1.1116 is amended by revising paragraph (a) introductory text to read as follows:

§ 1.1116 Penalty for late or insufficient payments.

(a) Filings subject to fees and accompanied by defective fee submissions will be dismissed under § 1.1109(b) of this subpart where the defect is discovered by the Commission's staff within 30 calendar days from the receipt of the application or filing by the Commission.

* * * * *

14. Section 1.1117 is amended by revising paragraphs (c)(1) and (e) to read as follows:

§ 1.1117 Petitions and applications for review.

* * * * *

(c) * * *

(1) Petitions and applications for review submitted with a fee must be submitted to the Commission's lock box bank at the address for the appropriate service set forth in §§ 1.1102 through 1.1107.

* * * * *

(e) Applicants seeking waivers must submit the request for waiver with the application or filing, required fee and FCC Form 159, or a request for deferral. A petition for waiver and/or deferral of payment must be submitted to the Office of the Managing Director as specified in paragraph (c) of this section. Waiver requests that do not include these materials will be dismissed in accordance with § 1.1109 of this subpart. Submitted fees will be returned if a waiver is granted. The Commission will not be responsible for delays in acting upon these requests.

15. Section 1.1119 is amended by revising paragraph (a) to read as follows:

§ 1.1119 Billing procedures.

(a) The fees required for the International Telecommunications

Settlements (§ 1.1103 of this subpart) and Common Carrier Field Audits (§ 1.1105 of this subpart) should not be paid with the filing or submission of the request. The fees required for requests for Special Temporary Authority (see generally §§ 1.1102, 1.1104, 1.1106, & 1.1107 of this subpart).

* * * * *

[FR Doc. 02–27696 Filed 11–4–02; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 67, No. 214
Tuesday, November 5, 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 ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM01–12–000]

Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design; Notice of Technical Conference

October 28, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of technical conference.

SUMMARY: On July 31, 2002, the Commission issued a Notice of Proposed Rulemaking (NPRM) in the above-captioned docket, proposing to amend its regulations to remedy undue discrimination through open access transmission service and standard electricity market design. *See* 67 FR 55452 (Aug. 29, 2002). The Commission has scheduled a public conference to address specific issues related to the inclusion of liability provisions in the Commission's Standard Market Design Tariff, as discussed in the NPRM.

DATES: *The conference will be held on:* December 11, 2002. *Requests to speak are due:* November 8, 2002.

ADDRESSES: *Send requests to speak to:* Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Jignasa Gadani, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8608.

SUPPLEMENTARY INFORMATION:

1. Take notice that a technical conference will be held on December 11, 2002, beginning at 9:30 a.m., in the Commission Meeting Room on the second floor of the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. All interested persons may attend, and registration is not required.

2. The conference will address specific issues related to liability provisions in the Commission's proposed Standard Market Design Tariff, as described in the Notice of Proposed Rulemaking (NOPR) issued in this docket on July 31, 2002:

a. Is there a need to include liability provisions in the Commission's *pro forma* Standard Market Design tariff?

b. Under what circumstances should liability protection be provided in a Commission open access transmission tariff? For example, should the Commission provide such protection only when it is not available through state tariffs, or should such protection be included for all transmission uses?

c. If the Commission adopts liability provisions, should they be generic or do they need to be adopted on a regional basis?

d. Should the standards adopted in a Commission *pro forma* tariff reflect what was previously provided under state law? If so, how should this issue be resolved in the multistate context of an Independent System Operator or Regional Transmission Operator?

3. The Commission asks interested speakers to include in their requests to speak specific proposed tariff language for the liability provisions the speaker supports (if any) and a summary of the basis for those provisions. Draft liability provisions may address other liability-related issues beyond those enumerated above, and other liability-related issues may be addressed at the conference as necessary. Those interested in submitting comments regarding liability issues should be aware that the due date for such comments remains November 15, 2002. However, if participants wish to submit additional written comments regarding liability issues after the technical conference, they may do so on or before January 10, 2003.

4. Persons interested in speaking should file a request to speak on or before November 8, 2002, in Docket No. RM01–12–000. The request should clearly specify the name of the speaker; his or her title; the person or entity the speaker represents; and the speaker's mailing address, telephone number, facsimile number and e-mail address. As the number of potential speakers may exceed the time allotted for the conference, interested speakers are encouraged to coordinate their efforts with others who may have similar interests. Based on the requests to participate, panels of speakers will be specified in a subsequent notice.

5. Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646), for a fee. They will be available for the public on the Commission's FERRIS system two weeks after the conference. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and click on ''FERC.''

6. For more information about the conference, please contact Jignasa Gadani at (202) 502–8608 or *jignasa.gadani@ferc.gov.*

Magalie R. Salas,
Secretary.

[FR Doc. 02–28047 Filed 11–4–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM01–12–000]

Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design; Notice of Extension of Time To File Requests To Speak at Technical Conferences

October 24, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of extension of time.

SUMMARY: On October 22, 2002, the Commission issued a Notice of Technical Conferences in this docket. *See* 67 FR 65913 (Oct. 29, 2002). The Commission's notice scheduled a series of technical conferences for November 6, 2002, November 19, 2002 and

December 3, 2002. The dates for filing requests to participate in the conferences are being extended at the request of various entities.

DATES: The dates for filing requests to speak are as follows:

November 6th conference: October 29, 2002.

November 19th conference: November 7, 2002.

December 3rd conference: November 7, 2002.

ADDRESSES: *Send requests to speak to:* Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8004.

SUPPLEMENTARY INFORMATION:

1. The Commission issued a Notice of Technical Conferences in this docket on October 22, 2002, announcing further details of conferences that will be held on November 6, 2002, November 19, 2002, and December 3, 2002. The notice requested all parties interested in speaking at the conferences to file a request to speak with the Commission no later than October 25, 2002.

2. Various entities have asserted that three days is not sufficient time to consider the Notice of Technical Conference, coordinate a response, and identify potential speakers. The Commission will grant an extension of time to permit interested parties to file requests to speak at the November 6, 2002 conference no later than Tuesday, October 29, 2002. Parties interested in speaking at the November 19, 2002 conference or the December 3, 2002 conference should file their requests to speak no later than November 7, 2002. If possible, interested speakers should also send a copy of their requests to speak by e-mail to *customer@ferc.gov*; however, this procedure cannot be used in lieu of filing a request to speak as described below.

3. Requests to speak may be filed in paper format or electronically. Those making paper filings should submit the original and 14 copies of their request to speak to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Requests to speak 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. Assistance for electronic filing is available at (866) 208–3676, or by e-mail to *ferconlinesupport@ferc.gov.* Do not submit requests to speak to *ferconlinesupport@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. 02–28149 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 40 and 275

[Notice No. 962]

RIN 1512–AC33

Elimination of Statistical Classes for Large Cigars (2000R–410P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule removes the eight statistical classes for large cigars prescribed in ATF regulations. Since tobacco manufacturers and importers no longer use these statistical classes to report removals of large cigars subject to tax, this proposed rule eliminates obsolete regulations.

DATES: Written comments must be received on or before December 5, 2002.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Room 5000, Washington, DC 20226; (Attention Notice No. 962). *See* the ''Public Participation'' section of this notice for alternative means of commenting.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (telephone 202–927–8210 or e-mail to *alctob@atfhq.atf.treas.gov*).

SUPPLEMENTARY INFORMATION:

Background

For the reasons discussed below, we are proposing to eliminate the ATF regulations in 27 CFR parts 40 and 275 that prescribe eight ATF statistical classes for large cigars subject to tax. The first seven classes (Classes A through G) cover large cigars selling for $235.294 or less per thousand, while the eighth class (Class H) covers those selling for more than $235.294 per thousand.

Manufacturers in the United States

Manufacturers of tobacco products no longer use the eight ATF statistical classes to report removals of large cigars subject to tax. For periods prior to January 1, 2001, manufacturers used the eight statistical classes to report large cigar removals subject to tax. For periods beginning on or after January 1, 2001, manufacturers report such removals of large cigars in two classes. The two current ATF classes for large cigars are those with a sale price of (1) $235.294 or less per thousand, or (2) more than $235.294 per thousand. The sale price of more than $235.294 per thousand is based on the maximum sale price for calculating the excise tax on large cigars prescribed by 26 U.S.C. 5701(a)(2).

Manufacturers of tobacco products report information about large cigars on ATF Form 5210.5, Monthly Report—Manufacturer of Tobacco Products. We have revised ATF Form 5210.5 to reflect the reduction in the number of classes for large cigars removed subject to tax. This reduction benefits manufacturers of tobacco products by reducing their reporting burden. Also, it does not jeopardize ATF's ability to protect the revenue.

When manufacturers submit ATF Forms 5210.5, ATF compiles their reports to prepare tobacco statistics for government and public use. The elimination of statistical classes will not adversely affect the governments or the general public that use the ATF tobacco statistics.

Importers

Prior to the year 2002, sections 2402.10.30.60 and 2402.10.30.90 of the Harmonized Tariff Schedule of the United States (HTSUS) referred to the eight ATF statistical classes for large cigars. These sections required persons who used the HTSUS to classify cigars, cheroots, and cigarillos, containing tobacco, according to their value. If such products had a value of less than 15 cents per item and weighed more than 1.36 kg per thousand, the products were classified according to the eight ATF statistical classes. Persons classified these products by ATF statistical classes A through G, or by ATF statistical class H.

Beginning January 1, 2002, sections 2402.10.30.60 and 2402.10.30.90 of the HTSUS no longer refer to the ATF statistical classes for such products. As stated in the record of change for the 14th edition of HTSUS (2002), this change reflects the modifications made to the HTSUS made by Presidential

Proclamation 7515 of December 18, 2001 (66 FR 66549).

Public Participation

Who May Comment on This Notice?

We request comments on the proposed regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practicable to do so. However, assurance of consideration can only be given to comments received on or before the closing date.

Will ATF Keep My Comments Confidential?

ATF cannot recognize any material in comments as confidential. Comments may be disclosed to the public. If you consider your material to be confidential or inappropriate for disclosure to the public, you should not include it in the comment. We may also disclose the name of any person who submits a comment.

May I Review the Comments?

You may view and copy written comments on this proposed rule during normal business hours in the ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226, telephone (202) 927–8480.

For the convenience of the public, ATF will post comments received in response to this notice on the ATF web site. All comments posted on our web site will show the name of the commenter, but will have street addresses, telephone numbers and e-mail addresses removed. We may also omit voluminous attachments or material that we do not consider suitable for posting. In all cases, the full comment will be available in the library or through FOIA requests, as noted above. To access online copies of the comments on this rulemaking, visit *http://www.atf.treas.gov/*, and select ''Regulations,'' then ''Proposed regulations (tobacco),'' then click on this notice, and then on the ''view comments'' link.

Where Do I Send Written Comments?

You may submit written comments to ATF at the address listed in the **ADDRESSES** section.

How Do I Send Facsimile Comments?

You may submit comments by facsimile transmission to (202) 927–8525. Facsimile comments must:

- Be legible;
- Be 8½″ × 11″ in size;
- Have a written signature;
- Have a legible name of the individual making the comment; and
- Be five pages or less in length.

We will not acknowledge receipt of facsimile transmissions. We treat facsimile transmissions as originals.

How Do I Send Comments by E-mail?

You may submit e-mail comments by following these instructions. E-mailed comments must:

- Contain your name, mailing address, and e-mail address;
- Contain the word ''notice'' and the notice number in the subject or reference line of the e-mail;
- Contain your company or association affiliation, if pertinent to your comment, and your reason for commenting (manufacturer, importer, consumer, etc.);
- Be legible when printed on 8½'' x 11'' paper (no special characters or symbols); and
- Be addressed to the following address: *nprm@atfhq.atf.treas.gov*.

We will not acknowledge receipt of comments submitted by e-mail. We treat e-mailed comments as originals.

May I Request a Public Hearing?

If you wish the opportunity to comment orally at a public hearing on this proposed regulation, you must submit a request in writing to the Director within the 30-day comment period. The Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Regulatory Analyses and Notices

Does This Proposed Rule Comply with the Administrative Procedure Act?

This proposed rule complies with the Administrative Procedure Act by publishing this notice in the **Federal Register** and giving at least a 30-day period for comment on the proposed rules.

How Does the Regulatory Flexibility Act Apply to This Proposed Rule?

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The proposed rule does not impose any additional requirements on any small businesses. We have sent a copy of this notice to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business pursuant to section 7805(f).

Is This a Significant Regulatory Action as Defined by Executive Order 12866?

This proposed rule does not fit any of the criteria for significant regulatory actions as defined by Executive Order 12866. Consequently, a regulatory assessment is not required.

Does the Paperwork Reduction Act Apply to This Proposed Rule?

The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice of proposed rulemaking because it does not require a collection of information.

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 40

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Electronic fund transfer, Customs duties and inspection, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, Tobacco products, U.S. possessions, Warehouses.

Authority and Issuance

Title 27, Code of Federal Regulations is proposed to be amended as follows:

PART 40—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Paragraph 1. The authority citation for part 40 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 40.203 [Removed and reserved]

Par. 2. Section 40.203 is removed and Reserved.

PART 275—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Par 3. The authority citation for part 275 continues to read as follows:

Authority: 18 U.S.C. 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721, 5722, 5723, 5741, 5754, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 275.37 [Removed and reserved]

Par. 4. Section 275.37 is removed and reserved.

Dated: September 16, 2002.

Bradley A. Buckles,

Director.

Approved: October 25, 2002.

Timothy E. Skud,

Deputy Assistant Secretary (Regulatory, Tariff, and Trade Enforcement).

[FR Doc. 02–27973 Filed 11–4–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Miami–02–115]

RIN 2115–AA97

Security Zones; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL; and Port of Key West, Key West, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is proposing to establish permanent security zones throughout the Captain of the Port of Miami's area of responsibility. The security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones would be prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida, or his designated representative.

DATES: Comments and related material must reach the Coast Guard on or before December 5, 2002.

ADDRESSES: You may mail comments and related material to Commanding Officer, U.S. Coast Guard, Marine Safety Office, 100 MacArthur Causeway, Miami Beach, FL 33139–6940. Captain of the Port (Miami) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33139 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Jennifer Sadowski, Waterways Management Division Officer, Coast Guard Marine Safety Office Miami, at (305) 535–8750.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP Miami-02–115], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ × 11 inches, suitable for copying. If you would like to know they reached us, please enclose a self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commanding Officer, Marine Safety Office Miami at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The terrorist attacks of September 2001 killed thousands of people and heightened the need for development of various security measures throughout the seaports of the United States, particularly around those vessels and facilities which are frequented by foreign nationals and maintain an interest to national security. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks (67 FR 58317 (Sep. 13, 2002) (continuing national emergency with respect to terrorist attacks), 67 FR 59447 (Sep. 20, 2002) (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the attacks (E.O. 13,273, 67 FR 56215 (Sep. 3, 2002) (security endangered by disturbances in international relations of U.S and such disturbances continue to endanger such relations)). Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorist attacks are likely. The Captain of the Port (COTP) of Miami has determined that there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Ports of Palm Beach, Miami, Port Everglades, and Key West, Florida. These security zones are necessary to protect the public, ports, and waterways of the United States from potential subversive acts.

The Coast Guard Captain of the Port of Miami established temporary security zones in these areas following the September 11, 2001 attacks. Those temporary rules are as follows:

On September 11, 2001, the COTP issued a temporary final rule (TFR) (67 FR 9194, 9195, February 28, 2002, Docket # COTP Miami 01–093) establishing 100-yard security zones around certain vessels in the Port of Palm Beach, Miami, Port Everglades, and Key West, FL, that expired September 25, 2001. On September 25, 2001, the COTP issued another TFR (67 FR 1101, January 9, 2002, COTP Miami 01–115) that maintained these 100-yard security zones around certain vessels in the Ports of Palm Beach, Miami, Port Everglades, and Key West, FL, and added a reference to specific points (buoys) where moving zones were activated and deactivated. This second TFR expired on June 15, 2002.

On October 7, 2001, the COTP issued a TFR (67 FR 6652, February 13, 2002, COTP Miami 01–116) establishing fixed-security zones in Port Everglades and Miami, FL, that expired June 15, 2002.

On October 11, 2001, the COTP issued a TFR (67 FR 4177, January 29, 2002, COTP Miami 01–122) establishing a fixed-security zone for Port Everglades, FL, that expired June 15, 2002.

All of the above security zones were extended by a TFR issued on June 13, 2002 (67 FR 46389, COTP Miami-02–054) until December 15, 2002. That temporary final rule requested comments. As of June 26, 2002, the Coast Guard has not received any comments on that TFR.

Discussion of Proposed Rule

The COTP Miami proposes to combine the security zones discussed above into a permanent rule. These zones are described below in the same order as they would appear in the proposed regulation, 33 CFR 165.761.

Fixed and Moving Security Zones Around Vessels in the Ports of Palm Beach, Port Everglades, Miami, and Key West—Paragraph (a)(1) of this proposed rule would create 100-yard fixed and moving security zones in the Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL; and Port of Key West, Key West, FL. These security zones would be activated when a passenger vessel, a vessel carrying cargoes of particular hazard or when a liquefied hazardous gas (LHG) vessel as defined in 33 CFR parts 120, 126 and 127 respectively, enter or moor within one of these Ports. The security zones would be activated when a subject vessel passes the sea buoy for inbound transits, and is deactivated when the vessel departs the port and passes the sea buoy.

Fixed Security Zone in the Port of Miami—Paragraph (a)(2) of this proposed rule would create a fixed security zone encompassing all waters between the Port of Miami and MacArthur Causeway. The fixed security zone would be activated when two or more passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126, and 127 respectively, enter or moor within this zone.

Fixed Security Zones in Port Everglades—Paragraph (a)(3) of this proposed rule would create a fixed security zone encompassing the waters of the Intracoastal Waterway between the northern tip of Port Everglades berth 22 and a point directly east across the Intracoastal Waterway; and a line drawn from the corner of Port Everglades berth 29 at point easterly across the Intracoastal Waterway to John U. Lloyd Beach, State Recreational Area. The fixed security zone would be activated when a passenger vessel, a vessel carrying cargoes of particular hazard or a liquefied hazardous gas (LHG) vessel as defined in 33 CFR parts 120, 126 and 127 respectively, enter or moor within this zone.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because we anticipate these security zones may only impact vessel traffic for short periods of times. Alternate vessel traffic routes have also been accounted for to assist in minimizing delays. Also, the Captain of the Port of Miami may allow persons or vessels to enter a security zone on a case-by-case basis.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities because we anticipate these security zones may only impact vessel traffic for short periods of times. Alternate vessel traffic routes have also been identified to assist in minimizing delays. Also, the Captain of the Port of Miami may allow persons or vessels to enter a security zone on a case-by-case basis. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG Jennifer Sadowski at (305) 535–8750.

Collection of Information

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

Federalism

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

Civil Justice Reform

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

Protection of Children

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

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant

Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because no environmental changes will be affected with the security zone implementation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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 new § 165.761 to read as follows:

§ 165.761 Security Zones; Port of Palm Beach, Port Everglades, Port of Miami, and Port of Key West, Florida.

(a) *Location.* The following areas are security zones:

(1) *Fixed and moving security zones around vessels in the Ports of Palm Beach, Port Everglades, Miami, and Key West*—Moving security zones are established 100 yards around all passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, during transits entering or departing the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida. These moving security zones are activated when the subject vessel passes: ''LW'' buoy, at approximate position 26°46.3′ N, 080°00.6′ W, when entering the Port of Palm Beach, passes ''PE'' buoy, at approximate position 26°05.5′ N, 080°04.8′ W, when entering Port Everglades; the ''M'' buoy, at approximate position 25°46.1′ N, 080°05.0′ W, when entering the Port of Miami; and ''KW'' buoy, at approximate position 24°27.7′ N, 081°48.1′ W, when entering the Port of Key West. Fixed security zones are established 100 yards around all passenger vessels, vessels carrying cargoes of particular hazard or liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, while they are docked in the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida.

(2) *Fixed security zone in the Port of Miami*—A fixed security zone encompasses all waters between Watson Park and Star Island on the MacArthur Causeway south to the Port of Miami. The western boundary is formed by an imaginary line from points 25°46.79′ N, 080°10.90′ W, to 25°46.77′ N, 080°10.92′ W to 25°46.88′ N, 080°10.84′ W, and ending on Watson Park at 25°47.00′ N, 080°10.67′ W. The eastern boundary is formed by an imaginary line from the traffic light located at Bridge road, in approximate position 25°46.33′ N, 080°09.12′ W, which leads to Star Island, and MacArthur Causeway directly extending across the Main Channel to the Port of Miami, at 25°46.26′ N, 080°09.18′ W. The fixed security zone is activated when two or more passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, enter or moor within this zone.

(i) Vessels may be allowed to transit the Main Channel when only one passenger vessel or vessel carrying cargoes of particular hazard are berthed, by staying on the north side of the law enforcement boats and cruise ship tenders which will mark a transit lane in channel.

(ii) When passenger vessels are not berthed on the Main Channel, navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(3) *Fixed security zones in the Port Everglades*—A fixed security zone encompasses all waters west of an imaginary line starting at the northern most point 26°05.98′ N, 080°07.15′ W, near the west side of the 17th Street Causeway Bridge, to the southern most point 26°05.41′ N, 080°06.96′ W, on the northern tip of pier 22. An additional fixed security zone encompasses the Intracoastal Waterway between a line connecting point 26°05.41′ N, 080°06.97′ W, on the northern tip of berth 22 and a point directly east across the Intracoastal Waterway to 26°05.41′ N, 080°06.74′ W; and a line drawn from the corner of Port Everglades berth 29 at point 26°04.72′ N, 080°06.92′ W, easterly across the Intracoastal Waterway to John U. Lloyd Beach, State Recreational Area at point 26°04.72′ N, 080°06.81′ W.

(i) Vessels may be allowed to transit the Intracoastal Waterway when passenger vessels or vessels carrying cargoes of particular hazard are berthed, by staying east of the law enforcement boats and cruise ship tenders, which will mark a transit lane in the Intracoastal Waterway.

(ii) Periodically, vessels may be required to temporarily hold their positions while large commercial traffic operates in this area. Vessels in this security zone must follow the orders of the COTP or his designated representative, who may be embarked in law enforcement or other vessels on scene. When passenger vessels are not berthed on the Intracoastal Waterway, navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(b) *Regulations.* (1) Prior to commencing the movement, the person directing the movement of a passenger vessel, a vessel carrying cargoes of particular hazard or when a vessel carrying liquefied hazardous gas (LHG) as defined in Title 33, Code of Federal Regulations parts 120, 126 and 127 respectively, are encouraged to make a security broadcast on VHF Marine Band Radio, Channel 13 (156.65 MHz) to advise mariners of the moving security zone activation and intended transit.

(2) In accordance with the general regulations § 165.33 of this part, entry

into these zones is prohibited except as authorized by the Captain of the Port Miami or his designated representative. Other vessels such as pilot boats, cruise ship tenders, tug boats and contracted security vessels may assist the Coast Guard Captain of the Port under the direction of his designated representative by monitoring these zones strictly to advise mariners of the restrictions. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 (156.65 MHz) when the security zones are being enforced.

(3) Persons desiring to enter or transit the area of the security zone may contact the Captain of the Port on VHF Marine Band Radio, Channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(4) The Captain of the Port Miami may waive any of the requirements of this subpart for any vessel upon finding that the vessel or class of vessel, operational conditions, or other circumstances are such that application of this subpart is unnecessary or impractical for the purpose of port security, safety or environmental safety.

(c) *Definition.* As used in this section, *cruise ship* means a passenger vessel greater than 100 feet in length and over 100 gross tons that is authorized to carry more than 12 passengers for hire making voyages lasting more than 24 hours, except for a ferry.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: October 16, 2002.

J.A. Watson, IV,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 02–28089 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA242–0373b; FRL–7395–9]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Imperial County Air Pollution Control District's (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from Soil Decontamination Operations, Organic Solvent Degreasing Operations and Organic Solvents. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by December 5, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Imperial County APCD, 150 South 9th Street, El Centro, CA 92243–2850

A copy of the rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Terry McCall, EPA Region IX, (415) 972–3976.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: ICAPCD Rules 412, 413 and 417. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this 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.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 30, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–28078 Filed 11–4–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ54–246, FRL–7404–1]

Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Enhanced Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by New Jersey, including revisions to the State's enhanced motor vehicle inspection and maintenance (I/M) program. This revision updates New Jersey's enhanced I/M performance standard modeling to reflect the State's plan to extend the current new vehicle inspection exemption from one inspection cycle (2 years) to two inspection cycles (4 years). This evaluation is necessary for New Jersey to demonstrate that the proposed changes to the enhanced I/M program will not impact the State's ability to continue to meet its enhanced I/M emission reduction goals for current and future years. EPA is proposing approval of New Jersey's plan to extend the new car emission inspection exemption, and the State's supporting revised performance standard modeling, which demonstrates that the enhanced I/M program continues to meet EPA's low enhanced performance standard.

DATES: Comments must be received on or before December 5, 2002. Public comments on this action are requested and will be considered before taking final action.

ADDRESSES: All comments should be addressed to Raymond Werner, Branch Chief, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency,

Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866, and New Jersey Department of Environmental Protection, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Champagne, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

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1. Background

The Clean Air Act Amendments of 1990 (the Clean Air Act) require certain states to implement an enhanced I/M program to detect gasoline-fueled motor vehicles which exhibit excessive emissions of certain air pollutants. The enhanced I/M program is intended to help states meet federal health-based national ambient air quality standards (NAAQS) for ozone and carbon monoxide by requiring vehicles with excess emissions to have their emissions control systems repaired. New Jersey is required to have an enhanced I/M program pursuant to the Clean Air Act, and consequently has adopted, and is implementing an enhanced I/M program state-wide as of December 13, 1999. On January 22, 2002, EPA fully approved New Jersey's enhanced I/M program, including the State's performance standard modeling, as meeting the applicable requirements of the Clean Air Act. Additional information on EPA's final approval of New Jersey's enhanced I/M program can be found in the January 22, 2002 **Federal Register** (67 FR 2811).

2. What Is the Purpose and Content of New Jersey's Submittal?

New Jersey's August 20, 2002 proposed SIP revision submittal (hereinafter referred to as the August 20, 2002 submittal) modifies the State's enhanced I/M program to extend the current new vehicle emission inspection exemption from one inspection cycle (2 years) to two inspection cycles (4 years). This new vehicle emission inspection exemption was enacted by New Jersey on July 1, 2002 as Pub. L. 2002, Chapter 34, and supercedes the current emission inspection test frequency set forth in New Jersey's I/M rules. The new legislation requires any new vehicle of model year 2000 and newer to be exempt from the emission inspection for 4 years, and thereafter inspected every 2 years, however implementation of this new legislation is contingent upon approval by EPA. New Jersey's goal is to begin implementation of the new vehicle emission inspection exemption on January 1, 2003.

Also included as a part of the August 20, 2002 submittal, New Jersey revised its performance standard modeling to demonstrate that the new vehicle emission inspection exemption would not impact the State's ability to continue to meet its enhanced I/M emission reduction goals. To ensure that the performance standard modeling reflects the latest design assumptions for the State's I/M program, this revised performance standard modeling also includes major proposed program changes contained in New Jersey's April 24, 2002 proposed SIP revision (hereinafter referred to as the April 24, 2002 submittal). The major changes included are: (1) Removal of the requirements for implementation of the evaporative pressure and purge tests, (2) removal of the requirements for implementation of the existing final standards for the ASM5015 exhaust test to allow for continued use of the initial standards, (3) implementation of an OBD testing component for 1996 and newer vehicles, and (4) an exemption of gasoline-fueled vehicles registered as school buses from the enhanced I/M program (however, these vehicles will be inspected by the State's school bus inspection unit biannually using a 2500 RPM test). The State appropriately included the proposed I/M program design changes from the April 24, 2002 submittal in the revised modeling since they will, if adopted, impact the overall emission reduction potential of the I/M program. However, EPA is not taking action on the proposed changes included in the April 24, 2002 submittal in this proposed rulemaking. EPA will take formal rulemaking action on the April 24, 2002 submittal in a separate action at a later date.

New Jersey's revised performance standard modeling demonstrates that the State's enhanced I/M program, including the proposed program changes, successfully meets and exceeds EPA's low enhanced I/M program performance standard developed for all three criteria pollutants: (volatile organic compounds (VOC) and oxides of nitrogen (NO_X) as modeled for years 2002, 2005, and 2007, and carbon monoxide (CO) as modeled for the year 2002.

3. Can EPA Approve Exemptions for New Vehicles?

The Clean Air Act outlines the minimum elements required in the design of I/M programs, however model year coverage is not defined. EPA fulfilled its statutory requirement in this regard by designing performance standards that addressed these minimum elements. If a state designs a program which gets the same or better emission reductions as the performance standard it is considered to have met the I/M requirements in the Clean Air Act. EPA's I/M regulations at 40 CFR 51.356(a)(5) state that ''special exemption may be permitted for certain subject vehicles provided a demonstration is made that the performance standard will be met.'' Accordingly, exemption of model years from emission testing is permissible as long as the state can demonstrate that the program meets the performance standard for I/M programs as contained in 40 CFR 51.351 and 51.352. Generally, the exemption of newer model year vehicles from emission testing results in a relatively small loss in emission benefit since newer vehicles are less likely to have excess emissions due to malfunctions which would be discoverable through an I/M program.

4. What Is Performance Standard Modeling?

EPA included provisions for a model program, known as the performance standard, in the requirements established for enhanced I/M programs. The features of the enhanced I/M performance standard model program are used to generate the minimum performance target that a state must meet. When programmed into EPA's mobile source emission factor model (the MOBILE model), these features produce target emission factors, in grams per mile of vehicle travel, which a state's enhanced I/M program must not exceed to be deemed minimally acceptable for purposes of SIP approval. The performance standard provides a gauge by which EPA can evaluate the adequacy and effectiveness of each state's enhanced I/M program. As such, states are required to demonstrate that their enhanced I/M programs achieve applicable area-wide emission levels for the pollutants of interest that are equal to, or lower than, those which would be realized by the implementation of the performance standard model program. However, the combination of program

features which make up the performance standard does not necessarily constitute a recommended program design. The use of the performance standard approach allows EPA to develop a performance standard based on certain statutory features and that also provides states with maximum flexibility to design I/M programs to meet local needs.

5. How Has New Jersey Modeled and Met the Performance Standard?

To comply with the requirements of the Clean Air Act, New Jersey submitted modeling to EPA on August 20, 2001 which demonstrated that the State's enhanced I/M program met EPA's low enhanced performance standard. On January 22, 2002, EPA fully approved New Jersey's enhanced I/M program, including the State's performance standard modeling, as meeting the applicable requirements of the Clean Air Act. Additional information on EPA's final approval of New Jersey's performance standard modeling can be found in the January 22, 2002 **Federal Register** (67 FR 2811).

Although New Jersey recently submitted performance standard modeling for its enhanced I/M program, and EPA subsequently approved it, the State is required to revise its performance standard modeling to demonstrate that the proposed changes to the approved program, such as the new vehicle emission inspection exemption, will not impact the effectiveness of the overall program. As previously stated, New Jersey also included in the modeling the proposed changes in the April 24, 2002 submittal to ensure that the modeling reflects the latest design assumptions for the State's I/M program. In the August 20, 2002 submittal, New Jersey's intent was to show through modeling that its enhanced I/M program, including the latest design changes, meets or exceeds the low enhanced performance standard, expressed as emission levels in program area-wide average grams per vehicle mile (gpm). New Jersey is required to demonstrate that its enhanced I/M program is able to maintain the same or better level of emission reductions as EPA's low enhanced performance standard through its attainment deadlines for the applicable NAAQS standards. For the ozone precursors, VOC and NO_X, the State needs to meet the performance standard through its attainment deadlines of 2005 and 2007. Although New Jersey is in attainment for all of its previously designated CO nonattainment areas (60 FR 62741 and 67 FR 54574), the State is still required to include CO in its performance standard modeling because the maintenance plan for the Northeastern New Jersey CO nonattainment area relies upon the benefits from the enhanced I/M program. Thus, the State needs to meet the performance standard for CO in its 2002 attainment year.

EPA's enhanced I/M final rule requires that equivalency to the performance standard be demonstrated using the most current version of EPA's mobile source emission model. New Jersey has completed its performance standard modeling using the most current model MOBILE6, which was released on January 29, 2002 (67 FR 4254). During technical review of the August 20, 2002 submittal, EPA identified several minor issues with the State's modeling. EPA worked closely with New Jersey on these issues, and concluded that the minor changes to the modeling will not negatively impact the State's modeling demonstration. New Jersey subsequently sent a letter to EPA September 20, 2002 addressing the issues in question. However, EPA identified an additional issue with the modeling after this letter had been sent. EPA re-ran the State's modeling with the modified MOBILE6 data inputs, and the results show that this minor change will not affect New Jersey's performance modeling demonstration. While these changes will not impact the outcome of the modeling exercise, that is the State still passes the performance standard test, EPA has requested that all minor issues be addressed in the State's final SIP revision submittal.

The following table shows the results of New Jersey's revised performance standard modeling, including the re-modeled results contained in New Jersey's September 20, 2002 letter and EPA's re-run of the State's modeling with the modified MOBILE6 data inputs. Further details on New Jersey's revised performance standard modeling can be found in the Technical Support Document prepared for this rulemaking action.

TABLE 1.—MODELING RESULTS

Program type	VOC (gpm)	NO_X (gpm)	CO (gpm)
EPA Low Enhanced Performance Standard 2002 Evaluation Year	1.178	1.810	22.572
New Jersey Program 2002 Evaluation Year	1.152	1.745	22.398
New Jersey Program 2005 Evaluation Year	0.964	1.416	N/A*
New Jersey Program 2007 Evaluation Year	0.817	1.114	N/A*

The 2005 and 2007 modeling runs were not required to include CO since the attainment date (2002) has passed.

Based on New Jersey's modeling analysis, EPA agrees that the State's enhanced I/M program, including the proposed program changes, successfully meets and exceeds EPA's low enhanced I/M program performance standard for all three criteria pollutants, VOC and NO_X as modeled for years 2002, 2005, and 2007, and CO as modeled for the year 2002.

6. Summary of Conclusions and Proposed Action

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this document, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New Jersey and submitted formally to EPA for incorporation into the SIP.

EPA is proposing to approve New Jersey's I/M SIP revision submitted on August 20, 2002. This revision updates New Jersey's enhanced I/M performance standard modeling to reflect the State's plan to extend the current new vehicle inspection exemption from one inspection cycle (2 years) to two inspection cycles (4 years). New Jersey has demonstrated that its enhanced I/M program with the new vehicle emission inspection exemption, including other proposed program design changes, continues to meet EPA's low enhanced performance standard.

7. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve 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 proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: October 28, 2002.

William J. Muszynski,

Deputy Regional Administrator, Region 2.

[FR Doc. 02–28076 Filed 11–4–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MS–200301(b); FRL–7404–3]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants; State of Mississippi

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the small Municipal Waste Combustion (MWC) units section 111(d) negative declaration submitted by the State of Mississippi. This negative declaration certifies that small MWC units subject to the requirements of section 111(d) and 129 of the Clean Air Act (CAA) do not exist in Mississippi.

In the Final Rules Section of this **Federal Register**, the EPA is approving the State's submittal 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 adverse comments are received in response to this action, 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 proposed 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 December 5, 2002.

ADDRESSES: Written comments should be addressed to Joydeb Majumder, at the EPA Regional Office listed below. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations: EPA Region 4, Air Toxics and Monitoring Branch, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder at (404) 562–9121 or Michele Notarianni at (404) 562–9031.

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

Dated: October 24, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–28080 Filed 11–4–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 02–285; FCC 02–255; RM–10077]

Frequency Coordination of Public Safety Frequencies in the Private Land Mobile Radio Below 470 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Federal Communications Commission (Commission) seeks comment on whether to modify the frequency coordination procedures for Public Safety Pool frequencies in the Private Land Mobile Radio (PLMR) Services

below 470 MHz by expanding competitive coordination. The Commissions also solicits comments on potential rule changes, whether modification of the existing frequency coordination process is warranted to ensure the quality of recommendations, minimize unwarranted application processing costs and delays, and encourage sharing and new technologies where appropriate while preserving the integrity of public safety communications systems in the Public Safety Pool below 470 MHz. Also, the Commission grants a Petition for Rulemaking (Petition) filed by the Association of Public-Safety Communications Officials-International, Inc. (APCO). The Petition requests the commencement of a proceeding to amend Commission's Rules for expansion of competitive frequency coordination for Public Safety Pool frequencies in the PLMR Services frequencies below 470 MHz. Finally, the Commission also seeks comment on retaining the existing frequency coordination rules and policies and alternatives to competitive frequency coordination.

DATES: Comments are due on or before December 5, 2002 and reply comments are due on or before December 20, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., TW–A325, Washington, DC 20554. *See* Supplementary Information for filing instructions.

FOR FURTHER INFORMATION CONTACT: John Evanoff, Esquire, at (202) 418–0848, *jevanoff@fcc.gov,* Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking (NPRM)*, FCC 02–255, adopted on September 16, 2002, and released on September 19, 2002. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov.*

1. In this NPRM, we solicit comment on whether to modify the existing frequency coordination procedures for the Public Safety Pool below 470 MHz by expanding competitive frequency coordination. We also grant the February 21, 2001 Petition for Rulemaking (Petition) filed by the Association of Public-Safety Communications Officials-International, Inc. (APCO) requesting the commencement of a proceeding to amend § 90.20(c) of the Commission's Rules.

I. Procedural Matters

A. Ex Parte Rules—Permit-But-Disclose Proceeding

2. This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, if they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1200(a), 1.1203, and 1.1206.

B. Initial Regulatory Flexibility Analysis

3. As required by section 603 of the regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in Appendix A of the NPRM. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in this NPRM, but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA) in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

C. Initial Paperwork Reduction Analysis

4. This NPRM contains a proposed information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due on or before January 6, 2003. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

D. Alternative Formats

5. Alternative formats (computer diskette, large print, audio cassette and Braille) are available from Brian Millin at (202) 418–7426, TTY (202) 418–7365, or at *bmillin@fcc.gov.* This NPRM can also be downloaded at *http://www.fcc.gov.*

E. Pleading Dates

6. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before December 5, 2002, and reply comments on or before December 20, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

7. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.htm.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience

delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

8. Written comments by the public on the proposed information collections are due on or before December 5, 2002. Written comments must be submitted by the OMB on the proposed information collections on or before January 6, 2003. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov* and to Kim Johnson, OMB Desk Officer, 10236 NEOP, 725 17th Street, NW., Washington, DC 20503, or via the Internet *Kim_A._Johnson@omb.eop.gov.*

II. Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this NPRM provided above in paragraph 6, supra. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

10. The Commission has stated that it would revisit competitive coordination in the PLMR public safety frequencies below 470 MHz. On February 21, 2001, the Association of Public Safety Communications Officials, International, Inc. (APCO) filed a petition for rulemaking recommending that the Commission introduce competitive coordination. Because the APCO Petition required changes to the Commission's Rules, APCO asked the Commission to adopt these rule changes. Presently, certain below 470 MHz frequencies are coordinated by designated frequency coordinators. APCO believes these proposed rule changes are needed in order to reduce cost and delays in processing applications for public safety frequencies below 470 MHz. Because of the continuing need for public safety spectrum, APCO believes that implementation of the rule changes proposed in its Petition is in the public interest. Therefore, the Commission seeks comment on whether to amend part 90 of its rules in order to effectuate the changes suggested in the Petition.

11. Commenters disagree with the Petition and urge the Commission to maintain the current coordination processes, or consider alternatives to the existing coordination processes. Commenters contend that the APCO proposal would undermine public safety communications if implemented. Because of the need to improve efficiency in the licensing of public safety spectrum and the need to protect public safety communications, commenters suggest that the Commission should seek comment on maintaining the existing system or examine alternatives to the rule changes proposed in the Petition. With regard to alternatives, commenters suggest the Commission consider whether a contour overlap analysis would be appropriate in the Public Safety Pool below 470 MHz. Therefore, the Commission seeks comment on whether to maintain or amend Part 90 of its rules in order to retain the current processes as suggested in the comments or effectuate the changes suggested in the comments.

B. Legal Basis

12. Authority for the proposed rules included in this issuance of this NPRM is contained in sections 1, 4(i), 302, 303(f), and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(i), 302, 303(f) and (r), and 332.

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

13. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under section 3 of the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (ninety-one percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted.

14. Public Safety Pool and Governmental entities. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. The SBA rules contain a definition for small radiotelephone (wireless) companies, which encompasses business entities engaged in radiotelephone communications employing no more that 1,500 persons. There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. The RFA also includes small governmental entities as a part of the regulatory flexibility analysis. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate

for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 81,600 (91 percent) are small entities.

15. Estimates for PLMR Licensees. Private land mobile radio systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed a definition of small entities specifically applicable to PLMR users, nor has the SBA developed any such definition. The SBA rules do, however, contain a definition for small radiotelephone (wireless) companies. Included in this definition are business entities engaged in radiotelephone communications employing no more that 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms, out of a total of 1,178 such firms that operated during 1992, had 1,000 or more employees. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission's fiscal year 1994 annual report indicates that, at the end of fiscal year 1994, there were 1,101,711 licensees operating 12,882,623 transmitters in the PLMR bands below 512 MHz.

16. Estimates for Frequency Coordinators. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to spectrum frequency coordinators. Therefore the Commission concluded that the closest applicable definition under SBA rules is Business Associations (SIC 8611). The SBA defines a small business association as an entity with $5 million or less in annual receipts. There are 18 entities certified to perform frequency coordination functions under Part 90 of our Rules. However, the Commission is unable to ascertain how many of these frequency coordinators are classified as small entities under the SBA definition. The Census Bureau indicates that 97% of business associations have annual receipts of $4.999 million or less and would be classified as small entities. The Census Bureau category is very broad and does not include specific figures for firms that are engaged in frequency coordination. Therefore, for the purposes of this IRFA, the Commission estimates that almost all of the 18 spectrum frequency coordinators are small as defined by the SBA.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

17. As part of our consideration of whether to introduce competitive coordination in the below-470 MHz public safety band, thereby reducing application processing costs and delays, we continue to believe that each public safety frequency coordinator that chooses to recommend below-470 MHz Public Safety frequencies must be knowledgeable about public safety plans. In this connection, we seek comment on whether to require certified public safety coordinators to adopt a system for information exchange to ensure that applications, once submitted, are not in conflict with relevant public safety plans or other applications being submitted simultaneously or concurrently. In this connection, we will leave the issue of whether to use a real-time common database to the coordinators' discretion.

18. We seek comment on whether to require that coordinators provide notification of all frequency recommendations for Public Safety below-470 MHz frequencies to every certified in-pool coordinator that is also certified to coordinate that frequency within one business day of making such recommendations. This notification requirement, we believe, could improve the speed and quality of recommendations. In the interests of efficiency and fairness, notification must be made to all in-pool coordinators at approximately the same time. To encourage and facilitate the cooperation between in-pool coordinators, we propose to require that each coordinator communicate at least once each business day with each other in-pool coordinator. Even on days when there are no coordinations, communication between coordinators would be required.

19. We seek comment on whether to maintain the existing concurrence mechanism for frequency recommendations for Public Safety below-470 MHz frequencies. Presently, coordinators are required to obtain the concurrence of certain coordinators when coordinating certain below-470 MHz public safety frequencies. This requirement, we believe, could continue to ensure that frequency coordination recommendations are consistent with existing public safety plans.

20. We seek comment on whether to amend the existing concurrence procedure by requiring coordinators to conduct a contour overlap analysis. Presently, coordinators in the Industrial/Business Pool are required to determine whether concurrence from a designated frequency coordinator or an affected licensee is required before coordinating certain frequencies. This requirement could continue to ensure that frequency coordination recommendations are consistent with existing public safety plans while improving efficiency in the licensing of public safety spectrum below-470 MHz.

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

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

22. Presently, the majority of below-470 MHz frequencies are coordinated by designated frequency coordinators. Any of the four certified public safety coordinators, however, may coordinate frequencies designated for frequency coordination by a specific frequency coordinator. Under such circumstances, a frequency coordinator must obtain the consent of the designated frequency coordinator prior to coordinating an application. While this consent requirement may delay application processing and increase application costs it may also ensure that frequency recommendation are consistent with relevant public safety plans. We seek comment on whether maintaining the existing concurrence requirement would affect small entities.

23. As part of our consideration of whether to introduce competitive coordination in the below-470 MHz public safety band, each public safety frequency coordinator that chooses to recommend below-470 MHz Public Safety frequencies may be required to provide notification of all frequency recommendations for Public Safety below-470 MHz frequencies. We believe that the proposed notification system could minimize the economic impact on small entities by reducing application processing delays and costs, however, commenters believe that the notification system could impair public safety systems. We also believe that the suggested contour overlap analysis

could reduce application processing costs and delays while ensuring applications are filed consistent with relevant public safety plans. We seek comment on how the changes proposed and alternatives suggested in the NPRM would affect small entities.

24. The proposal contained herein has been analyzed with respect to the Paper Reduction Act of 1980 and found to contain a proposed information collection that will not increase or decrease burden hours imposed on the public. We seek comment on how the proposed information collection contained herein will affect the public.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

25. None.

III. Ordering Clauses

26. Pursuant to sections 1, 4(j), 302, 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(j), 302, 303(f) and (r), 332, the Petition for Rulemaking filed by the Association of Public Safety Communications Officials, International, Inc., on February 21, 2001, *is granted* to the extent indicated herein.

27. Pursuant to Sections 1, 4(j), 302, 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(j), 302, 303(f) and(r), 332, Notice *is hereby given* of the proposed regulatory changes described in this Notice of Proposed Rulemaking, and that *comment is sought* on these proposals.

28. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, RM–10077, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Potential Rule Changes

Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows.

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

2. Section 90.20 would be amended by adding paragraph (c)(2)(iii)and by revising paragraph (c)(3) to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(c) * * *

(2) * * *

(iii) Applications for new or modified facilities on frequencies allocated prior to radio service consolidation in the former Emergency Medical Radio Service, the Fire Radio Service, the Forestry Conservation Radio Service, the Highway Maintenance Radio Service, and the Police Radio Service, may be coordinated by any certified Public Safety coordinator. However, in the event that the interference contour of a proposed station would overlap the service contour of an existing station licensed on one of these previously shared frequencies, the written concurrence of the coordinator associated with the public safety radio service for which the existing station license was issued, or the written concurrence of the licensee of the existing station, shall be obtained. For the purposes of this § 90.20, the service contour for UHF stations is the 39 dBu contour; and the interference contour for UHF stations is the 21 dBu contour; the service contour for VHF stations is the 37 dBu contour; and the interference contour for VHF stations is the 19 dBu contour.

(3) *Frequencies.*

PUBLIC SAFETY POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
Kilohertz			
530		1	PX
1610	Base (T.I.S.)	1	PX
1630	Base or mobile		PF
1722	do	2, 3	PP
1730	do	2, 3	PP
2212	do	4	PO
2226	do	4	PO
2236	do	4	PO
2244	do	4	PO
2366	do	2, 4	PP
2382	do	2	PP
2390	do	2, 4	PP
2406	do	2	PP
2430	do	2	PP
2442	do	2	PP
2450	do	2	PP
2458	do	2	PP
2482	do	2	PP
2490	do	2, 3	PP
2726	do	5	PX, PS
3201	do		PS
2000 to 3000	Fixed	75	PS
2000 to 10,000	Fixed, base, or mobile	6	PX
Megahertz			
30.86	Base or mobile	7	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
30.90	do	7	PX
30.94	do	7	PX
30.98	do	7	PX
31.02	do	7	PX
31.06	do	7, 8, 9	PX
31.10	do	7, 8, 9	PX
31.14	do	7, 8, 9	PX
31.18	do	8, 9	PX
31.22	do	8, 9	PX
31.26	do	8, 9	PX
31.30	do	8, 9	PX
31.34	do	8, 9	PX
31.38	do	8, 9	PX
31.42	do	8, 9	PX
31.46	do	8, 9	PX
31.50	do	8, 9	PX
31.54	do	8, 9	PX
31.58	do	8, 9	PX
31.62	do	8, 9	PX
31.66	do	8, 9	PX
31.70	do	8, 9	PX
31.74	do	8, 9	PX
31.78	do	8, 9	PX
31.82	do	8, 9	PX
31.86	do	8, 9	PX
31.90	do	8, 9	PX
31.94	do	8, 9	PX
31.98	do	8, 9	PX
33.02	do	10	PX, PS
33.04	do		PS
33.06	do	10	PX, PS
33.08	do		PS
33.10	do	10	PX, PS
33.42	Mobile or fixed	11	PX
33.44	Base or mobile		PX
33.46	Mobile		PX
33.48	Base or mobile		PX
33.50	Mobile		PX
33.52	Base or mobile		PX
33.54	Mobile		PX
33.56	Base or mobile		PX
33.58	Mobile		PX
33.60	Base or mobile		PX
33.62	Mobile		PX
33.64	Base or mobile		PX
33.66	Mobile		PX
33.68	Base or mobile		PX
33.70	do		PX
33.72	do		PX
33.74	do		PX
33.76	do		PX
33.78	do		PX
33.80	do		PX
33.82	do		PX
33.84	do		PX
33.86	do		PX
33.88	do		PX
33.90	do		PX
33.92	do		PX
33.94	do		PX
33.96	do		PX
33.98	do		PX
35.02	Mobile	12, 77	PS
35.64	Base	13	PS
35.68	do	13	PS
37.02	Mobile		PX
37.04	Base or mobile		PX
37.06	do		PX
37.08	do		PX
37.10	do		PX
37.12	do		PX
37.14	do		PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
37.16	do		PX
37.18	do		PX
37.20	do		PX
37.22	do		PX
37.24	do		PX
37.26	do		PX
37.28	do		PX
37.30	do		PX
37.32	do		PX
37.34	Mobile		PX
37.36	Base or mobile		PX
37.38	Mobile		PX
37.40	Base or mobile		PX
37.42	Mobile		PX
37.90	Base or mobile	10	PX, PS
37.92	do		PX
37.94	do	10	PX, PS
37.96	do		PX
37.98	do	10	PX, PS
39.02	do		PX
39.04	do		PX
39.06	do	14	PX
39.08	do		PX
39.10	do		PX
39.12	do		PX
39.14	do		PX
39.16	do		PX
39.18	do		PX
39.20	do		PX
39.22	do		PX
39.24	do		PX
39.26	Mobile		PX
39.28	Base or mobile		PX
39.30	Mobile		PX
39.32	Base or mobile		PX
39.34	Mobile		PX
39.36	Base or mobile		PX
39.38	Mobile		PX
39.40	Base or mobile		PX
39.42	do		PX
39.44	do		PX
39.46	do	15	PX
39.48	do		PX
39.50	do		PX
39.52	do		PX
39.54	do		PX
39.56	do		PX
39.58	do		PX
39.60	do		PX
39.62	do		PX
39.64	do		PX
39.66	Mobile		PX
39.68	Base or mobile		PX
39.70	Mobile		PX
39.72	Base or mobile		PX
39.74	Mobile		PX
39.76	Base or mobile		PX
39.78	Mobile		PX
39.80	Base or mobile		PX
39.82	do		PX
39.84	do		PX
39.86	do		PX
39.88	do		PX
39.90	do		PX
39.92	do		PX
39.94	do		PX
39.96	do		PX
39.98	do		PX
42.02	do	2, 3, 16	PX
42.04	do	2, 3, 16	PX
42.06	do	2, 3, 16	PX
42.08	do	2, 3, 16	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
42.10	do	2, 3, 16	PX
42.12	do	2, 3, 16	PX
42.14	do	2, 3, 16	PX
42.16	do	2, 3, 16	PX
42.18	Mobile	2, 16	PX
42.20	do	2, 16	PX
42.22	do	2, 16	PX
42.24	do	2, 16	PX
42.26	do	2, 16	PX
42.28	do	2, 16	PX
42.30	do	2, 16	PX
42.32	Base or mobile	2, 3, 16	PX
42.34	do	2, 3, 16	PX
42.36	do	2, 3, 16	PX
42.38	do	2, 3, 16	PX
42.40	do	2, 3, 16, 27	PX
42.42	do	2, 3, 16	PX
42.44	do	2, 3, 16	PX
42.46	do	2, 3, 16	PX
42.48	do	2, 3, 16	PX
42.50	do	2, 3, 16	PX
42.52	do	2, 3, 16	PX
42.54	do	2, 3, 16	PX
42.56	do	2, 3, 16	PX
42.58	do	2, 3, 16	PX
42.60	do	2, 3, 16	PX
42.62	do	2, 3, 16	PX
42.64	do	2, 3, 16	PX
42.66	Mobile	2, 16	PX
42.68	do	2, 16	PX
42.70	do	2, 16	PX
42.72	do	2, 16	PX
42.74	do	2, 16	PX
42.76	do	2, 16	PX
42.78	do	2, 16	PX
42.80	Base or mobile	13	PX
42.82	do	2, 3, 16	PX
42.84	do	2, 3, 16	PX
42.86	do	2, 3, 16	PX
42.88	do	2, 3, 16	PX
42.90	do	2, 3, 16	PX
42.92	do	2, 3, 16	PX
42.94	do	2, 3, 16	PX
43.64	Base	13, 18	PS
43.68	do	13	PS
44.62	Base or mobile	2, 3, 16	PX
44.64	do		PX
44.66	do	2, 3, 16	PX
44.68	do		PX
44.70	do	2, 3, 16	PX
44.72	do		PX
44.74	do	2, 3, 16	PX
44.76	do		PX
44.78	Mobile	2, 16	PX
44.80	Base or mobile		PX
44.82	Mobile	2, 16	PX
44.84	Base or mobile		PX
44.86	Mobile	2, 16	PX
44.88	Base or mobile		PX
44.90	Mobile	2, 16	PX
44.92	Base or mobile		PX
44.94	do	2, 3, 16	PX
44.96	do		PX
44.98	do	2, 3, 16	PX
45.00	do		PX
45.02	do	2, 3, 16	PX
45.04	do		PX
45.06	do	2, 3, 16	PX
45.08	do		PX
45.10	do		PX
45.12	do		PX
45.14	do		PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
45.16	do		PX
45.18	do		PX
45.20	do		PX
45.22	do		PX
45.24	do		PX
45.26	Mobile		PX
45.28	Base or mobile		PX
45.30	Mobile		PX
45.32	Base or mobile		PX
45.34	Mobile		PX
45.36	Base or mobile		PX
45.38	Mobile		PX
45.40	Base or mobile		PX
45.42	do		PX
45.44	do		PX
45.46	do		PX
45.48	do		PX
45.50	do		PX
45.52	do		PX
45.54	do		PX
45.56	do		PX
45.58	do		PX
45.60	do		PX
45.62	do		PX
45.64	do		PX
45.66	do		PX
45.68	do		PX
45.70	do		PX
45.72	do		PX
45.74	Mobile		PX
45.76	Base or mobile		PX
45.78	Mobile		PX
45.80	Base or mobile		PX
45.82	Mobile		PX
45.84	Base or mobile		PX
45.86	do	15	PX
45.88	do	19	PX
45.90	do	20	PX
45.92	do	10	PS
45.94	do		PX
45.96	do	10	PS
45.98	do		PX
46.00	do	10	PS
46.02	do		PX
46.04	do	10	PS
46.06	do		PX
46.08	do		PX
46.10	do		PX
46.12	do		PX
46.14	do		PX
46.16	do		PX
46.18	do		PX
46.20	do		PX
46.22	Mobile		PX
46.24	do		PX
46.26	do		PX
46.28	do		PX
46.30	Mobile or fixed	11	PX
46.32	Mobile		PX
46.34	do		PX
46.36	Base or mobile		PX
46.38	do		PX
46.40	do		PX
46.42	do		PX
46.44	do		PX
46.46	do		PX
46.48	do		PX
46.50	do		PX
46.52	do		PX
46.54	do		PX
46.56	do		PX
46.58	do		PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
47.02	do	21, 22	PX
47.04	do	21, 22	PX
47.06	do	21, 22	PX
47.08	do	21, 22	PX
47.10	do	21, 22	PX
47.12	do	21, 22	PX
47.14	do	21, 22	PX
47.16	do	21, 22	PX
47.18	do	21, 22	PX
47.20	do	21, 22	PX
47.22	do	21, 22	PX
47.24	do	21, 22	PX
47.26	do	21, 22	PX
47.28	do	21, 22	PX
47.30	do	21, 22	PX
47.32	do	21, 22	PX
47.34	do	21, 22	PX
47.36	do	21, 22	PX
47.38	do	21, 22	PX
47.40	do	21, 22	PX
47.42	do	10, 23	PS
47.46	do	10	PS
47.50	do	10	PS
47.54	do	10	PS
47.58	do	10	PS
47.62	do	10	PS
47.66	do	10	PS
72.00 to 76.00	Operational fixed	24.	
72.44	Mobile	25	PX
72.48	do	25	PX
72.52	do	25	PX
72.56	do	25	PX
72.6	do	25	PX
75.44	do	25	PX
75.48	do	25	PX
75.52	do	25	PX
75.56	do	25	PX
75.6	do	25	PX
150 to 170	Base or mobile	26.	
150.775	Mobile		PX
150.7825	do	27	PX
150.790	do		PX
150.7975	do		PX
150.805	do		PX
150.995	Base or mobile	28	PX
151.0025	do	27, 28	PX
151.010	do	28	PX
151.0175	do	27, 28	PX
151.025	do	28	PX
151.0325	do	27, 28	PX
151.040	do	28	PX
151.0475	do	27, 28	PX
151.055	do	28	PX
151.0625	do	27, 28	PX
151.070	do	28	PX
151.0775	do	27, 28	PX
151.085	do	28	PX
151.0925	do	27, 28	PX
151.100	do	28	PX
151.1075	do	27, 28	PX
151.115	do	28	PX
151.1225	do	27, 28	PX
151.130	do	28, 81	PX
151.1375	do	27, 28, 80	PX
151.145	do	28, 81	PX
151.1525	do	27, 28	PX
151.160	do	28	PX
151.1675	do	27, 28	PX
151.175	do	28	PX
151.1825	do	27, 28	PX
151.190	do	28	PX
151.1975	do	27, 28	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
151.205	do	28	PX
151.2125	do	27, 28	PX
151.220	do	28	PX
151.2275	do	27, 28	PX
151.235	do	28	PX
151.2425	do	27, 28	PX
151.250	do	28	PX
151.2575	do	27, 28	PX
151.265	do	28	PX
151.2725	do	27, 28	PX
151.280	do	28	PX
151.2875	do	27, 28	PX
151.295	do	28	PX
151.3025	do	27, 28	PX
151.310	do	28	PX
151.3175	do	27, 28	PX
151.325	do	28	PX
151.3325	do	27, 28	PX
151.340	do	28	PX
151.3475	do	27, 28	PX
151.355	do	28	PX
151.3625	do	27, 28	PX
151.370	do	28	PX
151.3775	do	27, 28	PX
151.385	do	28	PX
151.3925	do	27, 28	PX
151.400	do	28	PX
151.4075	do	27, 28	PX
151.415	do	28	PX
151.4225	do	27, 28	PX
151.430	do	28	PX
151.4375	do	27, 28	PX
151.445	do	28	PX
151.4525	do	27, 28	PX
151.460	do	28	PX
151.4675	do	27, 28	PX
151.475	do	28	PX
151.4825	do	27, 28	PX
151.490	do	7, 28	PX
151.4975	do	7, 27, 28	PX
152.0075	Base	13, 19, 30	PS
153.740	Mobile		PX
153.7475	do	27	PX
153.755	do		PX
153.7625	do	27	PX
153.770	do		PX
153.7775	do	27	PX
153.785	do		PX
153.7925	do	27	PX
153.800	do		PX
153.8075	do	27	PX
153.815	do		PX
153.8225	do	27	PX
153.830	do	31	PX
153.8375	do	27, 31	PX
153.845	do		PX
153.8525	do	27	PX
153.860	do		PX
153.8675	do	27	PX
153.875	do		PX
153.8825	do	27	PX
153.890	do		PX
153.8975	do	27	PX
153.905	do		PX
153.9125	do	27	PX
153.920	do		PX
153.9275	do	27	PX
153.935	do		PX
153.9425	do	27	PX
153.950	do		PX
153.9575	do	27	PX
153.965	do		PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
153.9725	do	27	PX
153.980	do		PX
153.9875	do	27	PX
153.995	do		PX
154.0025	do	27	PX
154.010	do		PX
154.0175	do	27	PX
154.025	Base or mobile		PX
154.0325	do	27	PX
154.040	do	28	PX
154.0475	do	27, 28	PX
154.055	do	28	PX
154.0625	do	27, 28	PX
154.070	Mobile	28	PX
154.0775	do	27, 28	PX
154.085	Base or mobile	28	PX
154.0925	do	27, 28	PX
154.100	do	28	PX
154.1075	do	27, 28	PX
154.115	do	28	PX
154.1225	do	27, 28	PX
154.130	do	28	PX
154.1375	do	27, 28	PX
154.145	do	28	PX
154.1525	do	27, 28	PX
154.160	do	28	PX
154.1675	do	27, 28	PX
154.175	do	28	PX
154.1825	do	27, 28	PX
154.190	do	28	PX
154.1975	do	27, 28	PX
154.205	do	28	PX
154.2125	do	27, 28	PX
154.220	do	28	PX
154.2275	do	27, 28	PX
154.235	do	28	PX
154.2425	do	27, 28	PX
154.250	do	28	PX
154.2575	do	27, 28	PX
154.265	do	19, 28	PX
154.2725	do	19, 27, 28	PX
154.280	do	19, 28	PX
154.2875	do	19, 27, 28	PX
154.295	do	19, 28	PX
154.3025	do	19, 27, 28	PX
154.310	do	28	PX
154.3175	do	27, 28	PX
154.325	do	28	PX
154.3325	do	27, 28	PX
154.340	do	28	PX
154.3475	do	27, 28	PX
154.355	do	28	PX
154.3625	do	27, 28	PX
154.370	do	28	PX
154.3775	do	27, 28	PX
154.385	do	28	PX
154.3925	do	27, 28	PX
154.400	do	28	PX
154.4075	do	27, 28	PX
154.415	do	28	PX
154.4225	do	27, 28	PX
154.430	do	28	PX
154.4375	do	27, 28	PX
154.445	do	28, 81	PX
154.4525	do	27, 28, 80	PX
154.45625	Fixed or mobile	32, 33, 34, 35	PX
154.46375	do	33, 34, 35, 36, 37	PX
154.47125	do	33, 34, 35, 36	PX
154.47875	do	33, 34, 35, 37	PX
154.650	Mobile		PX
154.6575	do	27	PX
154.665	Base or mobile	16	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
154.6725	do	16, 27	PX
154.680	do	16	PX
154.6875	do	16, 27	PX
154.695	do	16	PX
154.7025	do	16, 27	PX
154.710	Mobile		PX
154.7175	do	27	PX
154.725	Base or mobile		PX
154.7325	do	27	PX
154.740	do		PX
154.7475	do	27	PX
154.755	do		PX
154.7625	do	27	PX
154.770	Mobile		PX
154.7775	do	27	PX
154.785	Base or mobile		PX
154.7925	do	27	PX
154.800	do		PX
154.8075	do	27	PX
154.815	do		PX
154.8225	do	27	PX
154.830	Mobile		PX
154.8375	do	27	PX
154.845	Base or mobile		PX
154.8525	do	27	PX
154.860	do		PX
154.8675	do	27	PX
154.875	do		PX
154.8825	do	27	PX
154.890	Mobile		PX
154.8975	do	27	PX
154.905	Base or mobile	16	PX
154.9125	do	16, 27	PX
154.920	do	16	PX
154.9275	do	16, 27	PX
154.935	do	16	PX
154.9425	do	16, 27	PX
154.950	Mobile		PX
154.9575	do	27	PX
154.965	Base or mobile		PX
154.9725	do	27	PX
154.980	do		PX
154.9875	do	27	PX
154.995	do		PX
155.0025	do	27	PX
155.010	do		PX
155.0175	do	27	PX
155.025	do		PX
155.0325	do	27	PX
155.040	do		PX
155.0475	do	27	PX
155.055	do		PX
155.0625	do	27	PX
155.070	do		PX
155.0775	do	27	PX
155.085	do		PX
155.0925	do	27	PX
155.100	do		PX
155.1075	do	27	PX
155.115	do		PX
155.1225	do	27	PX
155.130	do		PX
155.1375	do	27	PX
155.145	do		PX
155.1525	do	27	PX
155.160	do	10	PS
155.1675	do	10, 27	PS
155.175	do	10	PS
155.1825	do	10, 27	PS
155.190	do		PX
155.1975	do	27	PX
155.205	do	10	PS

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
155.2125	do	10, 27	PS
155.220	do	10	PS
155.2275	do	10, 27	PS
155.235	do	10	PS
155.2425	do	10, 27	PS
155.250	do		PX
155.2575	do	27	PX
155.265	do	10	PS
155.2725	do	10, 27	PS
155.280	do	10	PS
155.2875	do	10, 27	PS
155.295	do	10	PS
155.3025	do	10, 27	PS
155.310	do		PX
155.3175	do	27	PX
155.325	do	38, 39	PX
155.3325	do	27, 38, 39	PX
155.340	do	39, 40	PX
155.3475	do	27, 39, 40	PX
155.355	do	38, 39	PX
155.3625	do	27, 38, 39	PX
155.370	do		PX
155.3775	do	27	PX
155.385	do	38, 39	PX
155.3925	do	27, 38, 39	PX
155.400	do	38, 39	PX
155.4075	do	27, 38, 39	PX
155.415	do		PX
155.4225	do	27	PX
155.430	do		PX
155.4375	do	27	PX
155.445	do	16	PX
155.4525	do	16, 27	PX
155.460	do	16	PX
155.4675	do	16, 27	PX
155.475	do	41	PX
155.4825	do	27, 41	PX
155.490	do		PX
155.4975	do	27	PX
155.505	do	16	PX
155.5125	do	16, 27	PX
155.520	do		PX
155.5275	do	27	PX
155.535	do		PX
155.5425	do	27	PX
155.550	do		PX
155.5575	do	27	PX
155.565	do		PX
155.5725	do	27	PX
155.580	do		PX
155.5875	do	27	PX
155.595	do		PX
155.6025	do	27	PX
155.610	do		PX
155.6175	do	27	PX
155.625	do		PX
155.6325	do	27	PX
155.640	do		PX
155.6475	do	27	PX
155.655	do		PX
155.6625	do	27	PX
155.670	do		PX
155.6775	do	27	PX
155.685	do		PX
155.6925	do	27	PX
155.700	do		PX
155.7075	do	27	PX
155.715	do		PX
155.7225	do	27	PX
155.730	do		PX
155.7375	do	27	PX
155.745	do	81	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
155.7525	do	27, 80, 83	PX
155.760	do	81	PX
155.7675	do	27	PX
155.775	do		PX
155.7825	do	27	PX
155.790	do		PX
155.7975	do	27	PX
155.805	do		PX
155.8125	do	27	PX
155.820	do		PX
155.8275	do	27	PX
155.835	do		PX
155.8425	do	27	PX
155.850	Mobile		PX
155.8575	do	27	PX
155.865	Base or mobile		PX
155.8725	do	27	PX
155.880	do		PX
155.8875	do	27	PX
155.895	do		PX
155.9025	do	27	PX
155.910	Mobile		PX
155.9175	do	27	PX
155.925	Base or mobile		PX
155.9325	do	27	PX
155.940	do		PX
155.9475	do	27	PX
155.955	do		PX
155.9625	do	27	PX
155.970	Mobile		PX
155.9775	do	27	PX
155.985	do		PX
155.9925	do	27	PX
156.000	do		PX
156.0075	do	27	PX
156.015	do		PX
156.0225	do	27	PX
156.030	do		PX
156.0375	do	27	PX
156.045	do	42	PX
156.0525	do	27, 42	PX
156.060	do	42	PX
156.0675	do	27, 42	PX
156.075	do		PX
156.0825	do	27	PX
156.090	do		PX
156.0975	do	27	PX
156.105	Base or mobile		PX
156.1125	do	27	PX
156.120	do		PX
156.1275	do	27	PX
156.135	do		PX
156.1425	do	27	PX
156.150	Mobile		PX
156.1575	do	27	PX
156.165	Base or mobile	42, 43	PX
156.1725	do	27, 42, 43	PX
156.180	do	42, 43	PX
156.1875	do	27, 42, 43	PX
156.195	do	43	PX
156.2025	do	27, 43	PX
156.210	do		PX
156.2175	do	27	PX
156.225	do	43	PX
156.2325	do	27, 43	PX
156.240	do	43, 79	PX
157.450	do	13, 45, 30	PS
158.7225	do	44	PX
158.730	do	81	PX
158.7375	do	27, 80	PX
158.745	Base or mobile	81	PX
158.7525	do	27	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
158.760	do		PX
158.7675	do	27	PX
158 775	do		PX
158.7825	do	27	PX
158.790	Base or mobile		PX
158.7975	do	27	PX
158.805	Base and mobile		PX
158.8125	do	27	PX
158.820	do		PX
158.8275	do	27	PX
158.835	do		PX
158.8425	do	27	PX
158.850	Base or mobile		PX
158.8575	do	27	PX
158.865	Mobile		PX
158.8725	do	27	PX
158.880	do		PX
158.8875	do	27	PX
158.895	do		PX
158.9025	do	27	PX
158.910	do		PX
158.9175	do	27	PX
158.925	do		PX
158.9325	do	27	PX
158.940	do		PX
158.9475	do	27	PX
158.955	do		PX
158.9625	do	27	PX
158.970	do		PX
158.9775	do	27	PX
158.985	do	43	PX
158.9925	do	27, 43	PX
159.000	do	43	PX
159.0075	do	27, 43	PX
159.015	do	43	PX
159.0225	do	27, 43	PX
159.030	do		PX
159.0375	do	27	PX
159.045	do	43	PX
159.0525	do	27, 43	PX
159.060	do	43	PX
159.0675	do	27, 43	PX
159.075	do	43	PX
159.0825	do	27, 43	PX
159.090	Base or mobile		PX
159.0975	do	27	PX
159.105	do	43	PX
159.1125	do	27, 43	PX
159.120	do	43	PX
159.1275	do	27, 43	PX
159.135	do	43	PX
159.1425	do	27, 43	PX
159.150	do		PX
159.1575	do	27	PX
159.165	do	43	PX
159.1725	do	27, 43	PX
159.180	do		PX
159.1875	do	27	PX
159.195	do		PX
159.2025	do	27	PX
159.210	do		PX
159.2175	do	27	PX
159.225	do		PX
159.2325	do	27	PX
159.240	do	46	PX
159.2475	do	27, 46	PX
159.255	do	46	PX
159.2625	do	27, 46	PX
159.270	do	46	PX
159.2775	do	27, 46	PX
159.285	do	46	PX
159.2925	do	27, 46	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
159.300	.....do	46	PX
159.3075	.....do	27, 46	PX
159.315	.....do	46	PX
159.3225	.....do	27, 46	PX
159.330	.....do	46	PX
159.3375	.....do	27, 46	PX
159.345	.....do	46	PX
159.3525	.....do	27, 46	PX
159.360	.....do	46	PX
159.3675	.....do	27, 46	PX
159.375	.....do	46	PX
159.3825	.....do	27, 46	PX
159.390	.....do	46	PX
159.3975	.....do	27, 46	PX
159.405	.....do	46	PX
159.4125	.....do	27, 46	PX
159.420	.....do	46	PX
159.4275	.....do	27, 46	PX
159.435	.....do	46	PX
159.4425	.....do	27, 46	PX
159.450	.....do		PX
159.4575	.....do	27	PX
159.465	.....do	81	PX
159.4725	.....do	27, 80	PX
163.250	.....do	13, 30	PS
166.250	.....do	47	PX
169 to 172	Mobile	48.	
170.150	Base or mobile	47	PX
170.425	.....do	9, 49, 50	PX
170.475	.....do	9, 49, 51	PX
170.575	.....do	9, 49, 50	PX
171.425	.....do	9, 49, 51	PX
171.475	.....do	9, 50, 52	PX
171.575	.....do	9, 49, 51	PX
172.225	.....do	9, 49, 50	PX
172.275	.....do	9, 51, 52	PX
172.375	.....do	9, 49, 50	PX
173.075	.....do	53	PX
173.20375	Fixed or mobile	33, 34, 35, 36	PX
173.210	.....do	33, 34, 35, 36	PX
173.2375	.....do	32, 33, 34, 35	PX
173.2625	.....do	32, 33, 34, 35	PX
173.2875	.....do	32, 33, 34, 35	PX
173.3125	.....do	32, 33, 34, 35	PX
173.3375	.....do	32, 33, 34, 35	PX
173.3625	.....do	32, 33, 34, 35	PX
173.390	.....do	32, 33, 34, 35	PX
173.39625	.....do	33, 34, 35, 36	PX
220 to 222	Base and mobile	55.	
220.8025	Base	55	PX, PS
220.8075	.....do	55	PX, PS
220.8125	.....do	55	PX, PS
220.8175	.....do	55	PX, PS
220.8225	.....do	55	PX, PS
220.8275	.....do	55	PX, PS
220.8325	.....do	55	PX, PS
220.8375	.....do	55	PX, PS
220.8425	.....do	55	PX, PS
220.8475	.....do	55	PX, PS
220.9025	.....do	55	PX
220.9075	.....do	55	PX
220.9125	.....do	55	PX
220.9175	.....do	55	PX
220.9225	.....do	55	PX
221.8025	Mobile	55	PX, PS
221.8075	.....do	55	PX, PS
221.8125	.....do	55	PX, PS
221.8175	.....do	55	PX, PS
221.8225	.....do	55	PX, PS
221.8275	.....do	55	PX, PS
221.8325	.....do	55	PX, PS
221.8375	.....do	55	PX, PS

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
221.8425	..... do	55	PX, PS
221.8475	.....do	55	PX, PS
221.9025	.....do	55	PX
221.9075	.....do	55	PX
221.9125	.....do	55	PX
221.9175	.....do	55	PX
221.9225	.....do	55	PX
450 to 470	Fixed, base, or mobile	26, 56.	
453.0125	Mobile	57, 78	PX
453.03125	Base or mobile	44, 59, 60, 61, 62	PX
453.0375	.....do	27, 59, 60, 61, 62	PX
453.04375	.....do	44, 59, 60, 61, 62	PX
453.050	.....do		PX
453.05625	.....do	44	PX
453.0625	.....do	27	PX
453.06875	.....do	44	PX
453.075	Central control, fixed base, or mobile	58, 59, 60, 61, 62	PX
453.08125	Base or mobile	44, 59, 60, 61, 62	PX
453.0875	.....do	27, 59, 60, 61, 62	PX
453.09375	.....do	44, 59, 60, 61, 62	PX
453.100	.....do		PX
453.10625	.....do	44	PX
453.1125	.....do	27	PX
453.11875	.....do	44	PX
453.125	Central control, fixed base, or mobile	58, 59, 60, 61, 62	PX
453.13125	Base or mobile	44, 59, 60, 61, 62	PX
453.1375	.....do	27, 59, 60, 61, 62	PX
453.14375	.....do	44, 59, 60, 61, 62	PX
453.150	.....do		PX
453.15625	.....do	44	PX
453.1625	.....do	27	PX
453.16875	.....do	44	PX
453.175	Central control, fixed base, or mobile	58, 59, 60, 61, 62	PX
453.18125	Base or mobile	44, 59, 60, 61, 62	PX
453.1875	.....do	27, 59, 60, 61, 62	PX
453.19375	.....do	44, 59, 60, 61, 62	PX
453.200	.....do	81	PX
453.20625	.....do	44, 82	PX .
453.2125	.....do	27, 80, 83	PX
453.21875	.....do	44, 82	PX .
453.225	.....do	81	PX
453.23125	.....do	44	PX
453.2375	.....do	27	PX
453.24375	.....do	44	PX
453.250	.....do		PX
453.25625	.....do	44	PX
453.2625	.....do	27	PX
453.26875	.....do	44	PX
453.275	.....do		PX
453.28125	.....do	44	PX
453.2875	.....do	27	PX
453.29375	.....do	44	PX
453.300	.....do		PX
453.30625	.....do	44	PX
453.3125	.....do	27	PX
453.31875	.....do	44	PX
453.325	.....do		PX
453.33125	.....do	44	PX
453.3375	.....do	27	PX
453.34375	.....do	44	PX
453.350	.....do		PX
453.35625	.....do	44	PX
453.3625	.....do	27	PX
453.36875	.....do	44	PX
453.375	.....do		PX
453.38125	.....do	44	PX
453.3875	.....do	27	PX
453.39375	.....do	44	PX
453.400	.....do		PX
453.40625	.....do	44	PX
453.4125	.....do	27	PX
453.41875	.....do	44	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
453.425	do		PX
453.43125	do	44	PX
453.4375	do	27	PX
453.44375	do	44	PX
453.450	do	81	PX
453.45625	do	44, 82	PX
453.4625	do	27, 80	PX
453.46875	do	44, 82	PX
453.475	do	81	PX
453.48125	do	44	PX
453.4875	do	27	PX
453.49375	do	44	PX
453.500	do		PX
453.50625	do	44	PX
453.5125	do	27	PX
453.51875	do	44	PX
453.525	do		PX
453.53125	do	44	PX
453.5375	do	27	PX
453.54375	do	44	PX
453.550	do		PX
453.55625	do	44	PX
453.5625	do	27	PX
453.56875	do	44	PX
453.575	do		PX
453.58125	do	44	PX
453.5875	do	27	PX
453.59375	do	44	PX
453.600	do		PX
453.60625	do	44	PX
453.6125	do	27	PX
453.61875	do	44	PX
453.625	do		PX
453.63125	do	44	PX
453.6375	do	27	PX
453.64375	do	44	PX
453.650	do		PX
453.65625	do	44	PX
453.6625	do	27	PX
453.66875	do	44	PX
453.675	do		PX
453.68125	do	44	PX
453.6875	do	27	PX
453.69375	do	44	PX
453.700	do	81	PX
453.70625	do	44, 82	PX
453.7125	do	27, 80	PX
453.71875	do	44, 82	PX
453.725	do	81	PX
453.73125	do	44	PX
453.7375	do	27	PX
453.74375	do	44	PX
453.750	do		PX
453.75625	do	44	PX
453.7625	do	27	PX
453.76875	do	44	PX
453.775	do		PX
453.78125	do	44	PX
453.7875	do	27	PX
453.79375	do	44	PX
453.800	do		PX
453.80625	do	44	PX
453.8125	do	27	PX
453.81875	do	44	PX
453.825	do		PX
453.83125	do	44	PX
453.8375	do	27	PX
453.84375	do	44	PX
453.850	do	81	PX
453.85625	do	44, 82	PX
453.8625	do	27, 80	PX
453.86875	do	44, 82	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
453.875	do	81	PX
453.88125	do	44	PX
453.8875	do	27	PX
453.89375	do	44	PX
453.900	do		PX
453.90625	do	44	PX
453.9125	do	27	PX
453.91875	do	44	PX
453.925	do		PX
453.93125	do	44	PX
453.9375	do	27	PX
453.94375	do	44	PX
453.950	do		PX
453.95625	do	44	PX
453.9625	do	27	PX
453.96875	do	44	PX
453.975	do		PX
453.98125	do	44	PX
453.9875	do	27	PX
453.99375	do	44	PX
458.0125	Mobile	57	PS
458.025	Central control, fixed base, or mobile	58, 59, 61, 62, 63	PX
458.03125	Mobile	44, 59, 61, 62	PX
458.0375	do	27, 59, 61, 62	PX
458.04375	do	44, 59, 61, 62	PX
458.050	do		PX
458.05625	do	44	PX
458.0625	do	27	PX
458.06875	do	44	PX
458.075	Central control, fixed base, or mobile	58, 59, 61, 62, 63	PX
458.08125	Mobile	44, 59, 61, 62	PX
458.0875	do	27, 59, 61, 62	PX
458.09375	do	44, 59, 61, 62	PX
458.100	do		PX
458.10625	do	44	PX
458.1125	do	27	PX
458.11875	do	44	PX
458.125	Central control, fixed base, or mobile	58, 59, 61, 62, 63	PX
458.13125	Mobile	44, 59, 61, 62	PX
458.1375	do	27, 59, 61, 62	PX
458.14375	do	44, 59, 61, 62	PX
458.150	do		PX
458.15625	do	44	PX
458.1625	do	27	PX
458.16875	do	44	PX
458.175	Central control, fixed base, or mobile	58, 59, 61, 62, 63	PX
458.18125	Mobile	44, 59, 61, 62	PX
458.1875	do	27, 59, 61, 62	PX
458.19375	do	44, 59, 61, 62	PX
458.200	do	81	PX
458.20625	do	44, 82	PX
458.2125	do	27, 80, 83	PX
458.21875	do	44, 82	PX
458.225	do	81	PX
458.23125	do	44	PX
458.2375	do	27	PX
458.24375	do	44	PX
458.250	do		PX
458.25625	do	44	PX
458.2625	do	27	PX
458.26875	do	44	PX
458.275	do		PX
458.28125	do	44	PX
458.2875	do	27	PX
458.29375	do	44	PX
458.300	do		PX
458.30625	do	44	PX
458.3125	do	27	PX
458.31875	do	44	PX
458.325	do		PX
458.33125	do	44	PX
458.3375	do	27	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
458.34375	do	44	PX
458.350	do		PX
458.35625	do	44	PX
458.3625	do	27	PX
458.36875	do	44	PX
458.375	do		PX
458.38125	do	44	PX
458.3875	do	27	PX
458.39375	do	44	PX
458.400	do		PX
458.40625	do	44	PX
458.4125	do	27	PX
458.41875	do	44	PX
458.425	do		PX
458.43125	do	44	PX
458.4375	do	27	PX
458.44375	do	44	PX
458.450	do	81	PX
458.45625	do	44, 82	PX
458.4625	do	27, 80	PX
458.46875	do	44, 82	PX
458.475	do	81	PX
458.48125	do	44	PX
458.4875	do	27	PX
458.49375	do	44	PX
458.500	do		PX
458.50625	do	44	PX
458.5125	do	27	PX
458.51875	do	44	PX
458.525	do		PX
458.53125	do	44	PX
458.5375	do	27	PX
458.54375	do	44	PX
458.550	do		PX
458.55625	do	44	PX
458.5625	do	27	PX
458.56875	do	44	PX
458.575	do		PX
458.58125	do	44	PX
458.5875	do	27	PX
458.59375	do	44	PX
458.600	do		PX
458.60625	do	44	PX
458.6125	do	27	PX
458.61875	do	44	PX
458.625	do		PX
458.63125	do	44	PX
458.6375	do	27	PX
458.64375	do	44	PX
458.650	do		PX
458.65625	do	44	PX
458.6625	do	27	PX
458.66875	do	44	PX
458.675	do		PX
458.68125	do	44	PX
458.6875	do	27	PX
458.69375	do	44	PX
458.700	do	81	PX
458.70625	do	44, 82	PX
458.7125	do	27, 80	PX
458.71875	do	44, 82	PX
458.725	do	81	PX
458.73125	do	44	PX
458.7375	do	27	PX
458.74375	do	44	PX
458.750	do		PX
458.75625	do	44	PX
458.7625	do	27	PX
458.76875	do	44	PX
458.775	do		PX
458.78125	do	44	PX
458.7875	do	27	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
458.79375	do	44	PX
458.800	do		PX
458.80625	do	44	PX
458.8125	do	27	PX
458.81875	do	44	PX
458.825	do		PX
458.83125	do	44	PX
458.8375	do	27	PX
458.84375	do	44	PX
458.850	do	81	PX
458.85625	do	44, 82	PX
458.8625	do	27, 80	PX
458.86875	do	44, 82	PX
458.875	do	81	PX
458.88125	do	44	PX
458.8875	do	27	PX
458.89375	do	44	PX
458.900	do		PX
458.90625	do	44	PX
458.9125	do	27	PX
458.91875	do	44	PX
458.925	do		PX
458.93125	do	44	PX
458.9375	do	27	PX
458.94375	do	44	PX
458.950	do		PX
458.95625	do	44	PX
458.9625	do	27	PX
458.96875	do	44	PX
458.975	do		PX
458.98125	do	44	PX
458.9875	do	27	PX
458.99375	do	44	PX
460.0125	do	27, 64	PX
460.01875	Base or mobile	44	PX
460.025	do		PX
460.03125	do	44	PX
460.0375	do	27	PX
460.04375	do	44	PX
460.050	do		PX
460.05626	do	44	PX
460.0625	do	27	PX
460.06875	do	44	PX
460.075	do		PX
460.08125	do	44	PX
460.0875	do	27	PX
460.09375	do	44	PX
460.100	do		PX
460.10625	do	44	PX
460.1125	do	27	PX
460.11875	do	44	PX
460.125	do		PX
460.13125	do	44	PX
460.1375	do	27	PX
460.14375	do	44	PX
460.150	do		PX
460.15625	do	44	PX
460.1625	do	27	PX
460.16875	do	44	PX
460.175	do		PX
460.18125	do	44	PX
460.1875	do	27	PX
460.19375	do	44	PX
460.200	do		PX
460.20625	do	44	PX
460.2125	do	27	PX
460.21875	do	44	PX
460.225	do		PX
460.23125	do	44	PX
460.2375	do	27	PX
460.24375	do	44	PX
460.250	do		PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
460.25625	do	44	PX
460.2625	do	27	PX
460.26875	do	44	PX
460.275	do		PX
460.28125	do	44	PX
460.2875	do	27	PX
460.29375	do	44	PX
460.300	do		PX
460.30625	do	44	PX
460.3125	do	27	PX
460.31875	do	44	PX
460.325	do		PX
460.33125	do	44	PX
460.3375	do	27	PX
460.34375	do	44	PX
460.350	do		PX
460.35625	do	44	PX
460.3625	do	27	PX
460.36875	do	44	PX
460.375	do		PX
460.38125	do	44	PX
460.3875	do	27	PX
460.39375	do	44	PX
460.400	do		PX
460.40625	do	44	PX
460.4125	do	27	PX
460.41875	do	44	PX
460.425	do		PX
460.43125	do	44	PX
460.4375	do	27	PX
460.44375	do	44	PX
460.450	do		PX
460.45625	do	44	PX
460.4625	do	27	PX
460.46875	do	44	PX
460.475	do		PX
460.48125	do	44	PX
460.4875	do	27	PX
460.49375	do	44	PX
460.500	do		PX
460.50625	do	44	PX
460.5125	do	27	PX
460.51875	do	44	PX
460.525	do		PX
460.53125	do	44	PX
460.5375	do	27	PX
460.54375	do	44	PX
460.550	do		PX
460.55625	do	44	PX
460.5625	do	27	PX
460.56875	do	44	PX
460.575	do		PX
460.58125	do	44	PX
460.5875	do	27	PX
460.59375	do	44	PX
460.600	do		PX
460.60625	do	44	PX
460.6125	do	27	PX
460.61875	do	44	PX
460.625	do		PX
460.63125	do	44	PX
460.6375	do	27	PX
460.64375	do	44	PX
462.9375	Mobile	57	PS
462.950	Base or mobile	38, 65	PX
462.95625	do	38, 44, 65	PX
462.9625	do	27, 38, 65	PX
462.96875	do	38, 44, 65	PX
462.975	do	38, 65	PX
462.98125	do	38, 44, 65	PX
462.9875	do	27, 38, 65	PX
462.99375	do	38, 44, 65	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
463.000	do	59, 66, 76	PX
463.00625	do	44, 59, 66, 76	PX
463.0125	do	27, 59, 66, 67	PX
463.01875	do	44, 59, 66, 76	PX
463.025	do	59, 66, 76	PX
463.03125	do	44, 59, 66, 76	PX
463.0375	do	27, 59, 66, 67	PX
463.04375	do	44, 59, 66, 76	PX
463.050	do	59, 66, 76	PX
463.05625	do	44, 59, 66, 76	PX
463.0625	do	27, 59, 66, 67	PX
463.06875	do	44, 59, 66, 76	PX
463.075	do	59, 66, 76	PX
463.08125	do	44, 59, 66, 76	PX
463.0875	do	27, 59, 66, 67	PX
463.09375	do	44, 59, 66, 76	PX
463.100	do	59, 66, 76	PX
463.10625	do	44, 59, 66, 76	PX
463.1125	do	27, 59, 66, 67	PX
463.11875	do	44, 59, 66, 76	PX
463.125	do	59, 66, 76	PX
463.13125	do	44, 59, 66, 76	PX
463.1375	do	27, 59, 66, 67	PX
463.14375	do	44, 59, 66, 76	PX
463.150	do	59, 66, 76	PX
463.15625	do	44, 59, 66, 76	PX
463.1625	do	27, 59, 66, 67	PX
463.16875	do	44, 59, 66, 76	PX
463.175	do	59, 66, 76	PX
463.18125	do	44, 59, 66, 76	PX
463.1875	do	27, 59, 66, 67	PX
463.19375	do	44, 59, 66, 76	PX
465.0125	Mobile	57	PX
465.025	do		PX
465.03125	do	44	PX
465.0375	do	27	PX
465.04375	do	44	PX
465.050	do		PX
465.05625	do	44	PX
465.0625	do	27	PX
465.06875	do	44	PX
465.075	do		PX
465.08125	do	44	PX
465.0875	do	27	PX
465.09375	do	44	PX
465.100	do		PX
465.10625	do	44	PX
465.1125	do	27	PX
465.11875	do	44	PX
465.125	do		PX
465.13125	do	44	PX
465.1375	do	27	PX
465.14375	do	44	PX
465.150	do		PX
465.15625	do	44	PX
465.1625	do	27	PX
465.16875	do	44	PX
465.175	do		PX
465.18125	do	44	PX
465.1875	do	27	PX
465.19375	do	44	PX
465.200	do		PX
465.20625	do	44	PX
465.2125	do	27	PX
465.21875	do	44	PX
465.225	do		PX
465.23125	do	44	PX
465.2375	do	27	PX
465.24375	do	44	PX
465.250	do		PX
465.25625	do	44	PX
465.2625	do	27	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
465.26875	do	44	PX
465.275	do		PX
465.28125	do	44	PX
465.2875	do	27	PX
465.29375	do	44	PX
465.300	do		PX
465.30625	do	44	PX
465.3125	do	27	PX
465.31875	do	44	PX
465.325	do		PX
465.33125	do	44	PX
465.3375	do	27	PX
465.34375	do	44	PX
465.350	do		PX
465.35625	do	44	PX
465.3625	do	27	PX
465.36875	do	44	PX
465.375	do		PX
465.38125	do	44	PX
465.3875	do	27	PX
465.39375	do	44	PX
465.400	do		PX
465.40625	do	44	PX
465.4125	do	27	PX
465.41875	do	44	PX
465.425	do		PX
465.43125	do	44	PX
465.4375	do	27	PX
465.44375	do	44	PX
465.450	do		PX
465.45625	do	44	PX
465.4625	do	27	PX
465.46875	do	44	PX
465.475	do		PX
465.48125	do	44	PX
465.4875	do	27	PX
465.49375	do	44	PX
465.500	do		PX
465.50625	do	44	PX
465.5125	do	27	PX
465.51875	do	44	PX
465.525	do		PX
465.53125	do	44	PX
465.5375	do	27	PX
465.54375	do	44	PX
465.550	Base or mobile		PX
465.55625	do	44	PX
465.5625	do	27	PX
465.56875	do	44	PX
465.575	Mobile		PX
465.58125	do	44	PX
465.5875	do	27	PX
465.59375	do	44	PX
465.600	do		PX
465.60625	do	44	PX
465.6125	do	27	PX
465.61875	do	44	PX
465.625	do		PX
465.63125	do	44	PX
465.6375	do	27	PX
465.64375	do	44	PX
467.9375	do	57	PX
467.950	do	38, 65	PX
467.95625	do	38, 44, 65	PX
467.9625	do	27, 38, 65	PX
467.96875	do	38, 44, 65	PX
467.975	do	38, 65	PX
467.98125	do	38, 44, 65	PX
467.9875	do	27, 38, 65	PX
467.99375	do	38, 44, 65	PX
468.000	do	59, 66, 76	PX
468.00625	do	44, 59, 66, 76	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
468.0125	do	27, 59, 66, 76	PX
468.01875	do	44, 59, 66, 76	PX
468.025	do	59, 66, 76	PX
468.03125	do	44, 59, 66, 76	PX
468.0375	do	27, 59, 66, 76	PX
468.04375	do	44, 59, 66, 76	PX
468.050	do	59, 66, 76	PX
468.05625	do	44, 59, 66, 76	PX
468.0625	do	27, 59, 66, 76	PX
468.06875	do	44, 59, 66, 76	PX
468.075	do	59, 66, 76	PX
468.08125	do	44, 59, 66, 76	PX
468.0875	do	27, 59, 66, 76	PX
468.09375	do	44, 59, 66, 76	PX
468.100	do	59, 66, 76	PX
468.10625	do	44, 59, 66, 76	PX
468.1125	do	27, 59, 66, 76	PX
468.11875	do	44, 59, 66, 76	PX
468.125	do	59, 66, 76	PX
468.13125	do	44, 59, 66, 76	PX
468.1375	do	27, 59, 66, 76	PX
468.14375	do	44, 59, 66, 76	PX
468.150	do	59, 66, 76	PX
468.15625	do	44, 59, 66, 76	PX
468.1625	do	27, 59, 66, 76	PX
468.16875	do	44, 59, 66, 76	PX
468.175	do	59, 66, 76	PX
468.18125	do	44, 59, 66, 76	PX
468.1875	do	27, 59, 66, 76	PX
468.19375	do	44, 59, 66, 76	PX
470 to 512	Base or mobile	68	
764 to 776	Base, mobile	77	PX
794 to 806	Mobile	77	PX
806 to 824	Mobile	69	
851 to 859	Base or mobile	69	
928 and above	Operational fixed	70	
929 to 930	Base only	71	
1,427 to 1,435	Operational fixed, base, or mobile	72	
2,450 to 2,500	Base or mobile	73	
10,550 to 10,680	do	74	

* * * * *

3. Section 90.175 is amended by revising paragraph (b)(1) to read as follows:

§ 90.175 Frequency coordinator requirements.

* * * * *

(b) * * *

(1) A statement is required from the applicable frequency coordinator as specified in §§ 90.20(c)(2) and 90.35(b) recommending the most appropriate frequency. In addition, if the interference contour of a proposed station would overlap the service contour of a station on a frequency formerly allocated to the former Emergency Medical Radio Service, Fire Radio Service, Forestry Conservation Radio Service, Highway Maintenance Radio Service, and Police Radio Service, or shared prior to radio service consolidation by licensees in the Manufacturers Radio Service, the Forest Products Radio Service, the Power Radio Service, the Petroleum Radio Service, the Motor Carrier Radio Service, the Railroad Radio Service, the Telephone Maintenance Radio Service, or the Automobile Emergency Radio Service, the written concurrence of the coordinator for the public safety or industry-specific service, or the written concurrence of the licensee itself, must be obtained. Requests for concurrence must be responded to within 20 days of receipt of the request. The written request for concurrence shall advise the receiving party of the maximum 20 day response period. The coordinator's recommendation may include comments on technical factors such as power, antenna height and gain, terrain and other factors which may serve to minimize potential interference. In addition:

* * * * *

[FR Doc. 02–27976 Filed 11–4–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[DOT Docket No. NHTSA–2002–13704]

RIN 2127–AH23

Federal Motor Vehicle Safety Standards; Definition of Multifunction School Activity Bus

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Under existing Federal requirements, all school buses must be equipped with crash avoidance devices designed to control traffic (*i.e.*, flashing lights and stop arms) because the use of most school buses includes stopping in the roadway to pick children up from and drop them off at home. There is a

need in those circumstances to stop nearby traffic during the loading and unloading of children.

This notice proposes to establish a subcategory of relatively small school buses that would not be used to pick school children up from or drop them off at home. These school buses would, accordingly, not be required to have traffic control features. They would, however, be required to meet all other school bus crash avoidance requirements and all crashworthiness and post-crash requirements. These buses would be known as ''multifunction school activity buses.''

It is anticipated that these buses would be used by child care facilities to drop children off at school at the beginning of the school day or pick them up from school at the end of the school day, by schools to transport children from school to extracurricular activities and back, and by ''coordinated transportation'' systems to provide a wide range of transportation services that can include transporting children to or from Head Start Programs and transporting senior citizens to social service facilities. These buses could be used for the Head Start Program transportation because they would qualify as ''allowable alternate vehicles'' under the regulations for that program.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than January 6, 2003.

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 the Docket at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. Charles Hott, Office of Crashworthiness Standards at (202) 366–0247. His FAX number is (202) 493–2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel at (202) 366–2992. Her FAX number is (202) 366–3820.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

When selling a new bus that is likely to be used significantly to transport preprimary, primary, secondary students to or from school or related events, a motor vehicle dealer is required by Federal law to sell a bus that meets the Federal motor vehicle safety standards for school buses. In this document, we (NHTSA) propose to create a subcategory of school buses, the ''multifunction school activity bus'' (MFSAB). The MFSAB would be defined as a school bus with a gross vehicle weight rating (GVWR) of 6,804 kg (15,000 pounds) or less sold for purposes that do not include transportation between home and school for students from kindergarten through Grade 12. Since the MFSAB would not be used by schools for picking up children from, or dropping them off at, home, they would not make stops under circumstances in which there is a need to control traffic.

As a consequence of their more limited usage compared to other school buses, the MFSAB would not be required to be equipped with traffic control features, *i.e.*, the 4-way/8-way alternating flashing lights and stop arms. They would, however, be required to meet all requirements in the school bus crashworthiness, all other requirements in the crash avoidance safety standards, and all post crash standards.

II. What Is the Purpose of This Rulemaking?

This notice proposes to create a subcategory of school buses consisting of school buses with a gross vehicle weight rating of 6804 kg (15,000 pounds) and under that meet all Federal Motor Vehicle Safety Standards (FMVSSs) applicable to school buses, except for S5.1.4 of Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment,* and Standard No. 131, *School Bus Pedestrian Safety Devices.* This rulemaking seeks to resolve the conflict between current NHTSA requirements that all new school buses be equipped with those devices, regardless of whether a particular school bus will ever be used in circumstances for which those devices are intended, and State laws that do not permit the use of those devices on trips that do not involve transporting children between home and school. MFSABs within the new subcategory of school buses would not be required to be equipped with flashing lights and stop arms. They would be intended to be used to transport children to places other than between home and school, and would afford children the crashworthiness protection of other school buses.

As will be explained in more detail, creating the MFSAB school bus classification without the Standards Nos. 108 and 131 traffic control devices will facilitate Head Start programs' purchases of school buses (which will be the ''allowable alternate vehicles'' defined in Head Start regulations). It is anticipated that this new school bus classification will also be used for coordinated transportation purposes by State and local social services agencies, that may, for example, use the school buses to transport Head Start participants in the morning, and to transport senior citizens later in the day. At present, there are Federal restrictions on financial assistance to purchase school buses that exclusively transport

students and school personnel in competition with a private school bus operator. If made final, we anticipate that this rulemaking will facilitate funding from the U.S. Federal Transit Administration to Head Start programs and coordinated transportation providers to purchase the school buses.

III. Relevant Laws and Policies of Affected Federal Agencies

A. National Highway Traffic Safety Administration

NHTSA's statute requires any person selling or leasing a new vehicle to sell or lease a vehicle that meets all applicable standards issued by the agency. Under our regulations, a ''bus'' is any vehicle (including a van) that has a seating capacity of 11 persons or more. Our statute defines a ''school bus'' as any vehicle that is designed for carrying 11 or more persons and that is likely to be ''used significantly'' to transport ''preprimary, primary, secondary'' students *to or from school* or related events. (Emphasis added.) 49 U.S.C. section 30125. For example, many before and after school child care facilities use 15-passenger vans to transport children between school and the care facility several times a week. A 15-passenger van that will be used in that way is regarded as likely to be ''used significantly'' to transport students and is, therefore, a ''school bus'' and must meet the school bus safety standards.

More broadly, we deem a bus likely to be used significantly to transport preprimary, primary, or secondary students to or from school or school-related events if, for example, it will be used for any of the following purposes on a regular basis: Pick those students up from home to take them to school; pick them up from a place other than home (*e.g.*, a before-school care facility) and drop them off at school; or pick them up from school and drop them off at home or a place other than home (*e.g.*, an after-school care facility). Under current NHTSA interpretations, the term ''preprimary, primary, and secondary school'' includes kindergarten, elementary school, middle or junior high school, and senior high school. However, the term ''school'' does not include pre-school (nursery) centers, day care centers or Head Start programs.

Thus, for example, in answering questions about the sale or leasing of a new bus in situations involving transportation of children to or from multiple institutions, one of which was a school, we have informed motor vehicle dealers that new buses sold to day-care providers and other entities that routinely drop students off at school or pick them up from school are required to be buses that meet the school bus safety standards. (*See, e.g.*, July 23, 1998 letter to Mr. Don Cote, Northside Ford, explaining that when the dealership sells or leases new buses to a child care facility to drop-off students at school and pick them up from school on ''regular school days,'' the dealership must sell or lease only buses that meet Federal motor vehicle safety standards (FMVSSs) for school buses. A copy of this letter has been placed in the docket for this rulemaking.)

In our interpretations of section 30125, we have stated that in order to be sold as a school bus, a vehicle must meet all applicable school bus FMVSSs and requirements, including the 4-way/8-way alternating flashing lights required by Standard No. 108 and the stop-arm required by Standard No. 131. Thus, dealers cannot sell school buses that will be used only to transport children on trips that do not include ''regular route'' school transportation (*i.e.*, normal to and from school transportation involving multiple stops for the purposes of pick-up from home and/or drop-off at home) unless those buses are equipped with flashing lights and stop arms. This is true even if these devices are not likely to be used, or State law does not allow them to be used, on such trips.

After selling or leasing school buses, dealers cannot remove the flashing lights and stop-arms from them. Under 49 U.S.C. section 30122, ''Making safety devices and elements inoperative,'' manufacturers, distributors, dealers, or motor vehicle repair businesses may not ''knowingly make inoperative'' any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard.

B. U.S. Department of Health and Human Services—Head Start Bureau

The U.S. Department of Health and Human Services'' (DHHS) Head Start Bureau administers the Head Start Program. There is no statutory requirement for the Head Start Program to provide transportation for children participating in the Program. However, if a Head Start agency provides transportation, it must follow the regulations established in 45 CFR part 1310 *Head Start Transportation.* Beginning on January 18, 2006, if it provides transportation for the children, a Head Start agency must comply with the following provision in 45 CFR section 1310.12 ''Required use of School Buses or Allowable Alternate Vehicles:'

(a) Effective January 18, 2006, each agency providing transportation services must ensure that children enrolled in its program are transported in school buses or allowable alternate vehicles that are equipped for use of height- and weight-appropriate child restraint systems, and have reverse beepers.

''Allowable alternate vehicle'' is defined at 45 CFR section 1310.3 as: ''a vehicle designed for carrying eleven or more people, including the driver, that meets all the Federal Motor Vehicle Safety Standards applicable to school buses, except 49 CFR 571.108 and 571.131.''

C. Federal Transit Administration

Under the Federal Transit Administration's (FTA) statutory authority at 49 U.S.C. section 5323(f) ''School Transportation,'' the FTA may provide financial assistance ''for a capital project, or to operate mass transportation equipment or a mass transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator.'' Thus, FTA funds may not be used to purchase schoolbuses that will be used exclusively to transport students and school personnel. In order to make FTA funds available to Head Start agencies to purchase buses to transport Head Start children, on June 24, 1994, the FTA issued an interpretation that Head Start is a broad-based social services program rather than an educational program.

The FTA provides funding to Regional Transit Authorities, which provide transportation services to different population groups, *e.g.*, children, persons with disabilities, senior citizens, and others in need of public transportation services. Many of these authorities also have contracts with Head Start to transport its participants to and from Head Start programs. Thus, these authorities need buses that can serve multiple needs.

D. National Transportation Safety Board

In a report dated June 8, 1999, the National Transportation Safety Board (NTSB) recommended that the 50 States and the District of Columbia:

Require that all vehicles carrying more than 10 passengers (buses) and transporting children to and from school and school related activities, including, but not limited to, Head Start programs and day care centers, meet the school bus structural standards or the equivalent set forth in *49 Code of Federal Regulations Part 571.* Enact regulatory measures to enforce compliance with the revised statutes.

The NTSB also recommended that child transportation providers: ''Inform your members about the circumstances of the accidents discussed in this special investigation report and urge that they use buses built to Federal school bus structural standards or the equivalent to transport children. (H–99–25)'' The NTSB made these recommendations after investigating four crashes involving buses that did not meet NHTSA's school bus standards that resulted in the deaths of eight children, one adult, and injuries to 36 people.

IV. How Did This Rulemaking Begin?—Rabun-Gap Nacoochee School Petition

Rabun-Gap Nacoochee School of Rabun-Gap, Georgia (Rabun) petitioned us to create a new motor vehicle type classification known as the ''school activity bus.'' Rabun is a private school that offers education from Grades 6 through 12.

Specifically, Rabun petitioned us for the following:

- Create an official ''category'' of school buses to be called ''school activity buses'' that consists of buses that are used for transporting school children to or from school-related activities, but are not used to transport children between home and school. Require that the classification ''school activity bus'' be displayed on the vehicle certification label. (49 CFR 576.4(g)(7) and 49 CFR 568.4(a)(6).)
- Exclude school buses that meet the criteria for this new category from the requirement for School Bus Warning Lights at 49 CFR part 571.108, S5.1.4. (Federal Motor Vehicle Safety Standard No. 108, *Lamps, reflective devices, and associated equipment.*)
- Exclude school buses that meet the criteria for this new category from the requirement for Stop Signal Arms at 49 CFR part 571.131 (Federal Motor Vehicle Safety Standard No. 131, *School Bus Pedestrian Safety Devices.*)
- Provide an alternative to passenger seating and crash protection so that buses meeting the criteria for this new category may either meet the compartmentalization requirements of 49 CFR 571.222, *School Bus Passenger Seating and Crash Protection* (Standard No. 222), or be equipped with either an ''acceptable'' passive restraint system (other than compartmentalization) or seat belts for each designated seating position.
- Require buses meeting the criteria for this new category to provide approximately 18 inches of seat [seating] width for each designated seating position. In a letter dated March 26, 2001, NHTSA granted Rabun's petition for rulemaking.

V. Notice of Proposed Rulemaking—What Is the Multifunction School Activity Bus?

The following describes the proposed FMVSS features of a ''multifunction school activity bus'' that would distinguish it from other school buses and a ''bus'' such as a 15-passenger van. We also discuss the extent to which we propose to adopt requests in Rabun's petition for rulemaking. For those requests that we are not proposing to adopt, we explain why we are not doing so.

A. Vehicle Classification

Petitioner Rabun asked that the proposed new vehicle be called a ''school activity bus.'' We believe that a more generic name is needed because we believe that the proposed type of school bus would be used for more than school activity trips. As earlier discussed, we are proposing the new vehicle classification with the expectation that this new school bus type would be used by coordinated transportation systems and other types of transportation service, such as Head Start and day care. ''Coordinated transportation'' is a term used by the transit community to signify that the transportation is coordinated among all user transportation organizations. These services usually involve social services transportation including senior citizens and/or Head Start. We propose to call the new vehicle a ''multifunction school activity bus'' (MFSAB), a term that does not necessarily imply a use limited to school activity trips.

Petitioner Rabun asked that the classification ''school activity bus'' be required to be displayed on the vehicle certification label so that its intended use is clearly stated. Rabun recommended that 49 CFR 567.4(g)(7) be amended to require this vehicle type to be listed on the certification label. Rabun also recommended that the incomplete vehicle document required by section 568.4(a)(6) be amended to require the vehicle classification. The agency notes that a vehicle's classification, as determined in accordance with the definitions in 49 CFR part 571.3 *Definitions,* is already required to be on the vehicle's certification label and on any incomplete vehicle document. Although Rabun asked us to do so, the agency believes that it is not necessary to propose to amend parts 567 and 568 to provide another example of a type classification.

B. Must Meet Most School Bus Standards

As a type of bus, the proposed ''multifunction school activity bus'' would be required to meet all the FMVSSs applicable to a ''bus.'' As a type of school bus, it would also have to meet provisions in the following FMVSSs applicable to school buses:

Standard No. 105, *Hydraulic and electric brake system,* requires school buses with hydraulic brakes to stop in shorter distances than other vehicle types;

Standard No. 111, *Rearview mirrors,* requires the school bus driver to be able to see, either directly or through a system of mirrors, certain areas in front of and along both sides of the school bus;

Standard No. 217, *Bus emergency exits and window retention and release,* specifies means of readily accessible emergency egress, makes the emergency exits easier for children to use and requires increased outside conspicuity, to aid in nighttime evacuation;

Standard No. 220, *School bus rollover protection,* specifies minimum strength requirements for school bus roofs, to reduce the likelihood of roof collapse in the event of a rollover, and requires that emergency exits (except roof exits) be operable after the roof is subjected to forces that can be encountered in rollovers;

Standard No. 221, *School bus body joint strength,* specifies minimum strength requirements for body panel joints, to improve the structural integrity of the passenger compartment, and to reduce the likelihood of lacerative injuries to occupants caused by the sharp edges of body panels that tear loose in crashes;

Standard No. 222, *School bus passenger seating and crash protection,* specifies seating restraining barrier and impact zone requirements for school buses, relying on compartmentalization between well-padded and well-constructed energy-absorbing seats to provide occupant protection, and specifies requirements for wheelchair restraint systems;

Standard No. 225, *Child restraint anchorage systems,* establishes requirements for child restraint anchorage systems (except school buses do not have to meet the requirement for vehicles to be equipped with tether anchorages);

Standard No. 301, *Fuel system integrity,* specifies requirements for the integrity and security of the entire fuel system, including the fuel tanks, fuel pump, fuel delivery system, emission controls, lines, and connections in severe barrier impact crash tests; and

Standard No. 303, *Fuel system integrity of compressed natural gas vehicles,* specifies, for school buses using compressed natural gas, requirements for the integrity and security of the entire fuel system and connections in severe barrier impact crash tests.

In Section D., below, we explain why, despite Petitioner Rabun's request, we have decided not to propose to exclude the ''multifunction school activity bus'' from Standard No. 222, *School bus passenger seating and crash protection.*

C. Would Not Be Required To Meet S5.1.4 of Standard No. 108 and Standard No. 131

Petitioner Rabun seeks relief from the traffic control devices that the FMVSSs specify for school buses. These traffic control devices are the 4-way/8-way alternating flashing warning lamps specified in Standard No. 108 and the stop arm specified in Standard No. 131.

Petitioner Rabun said that regular route school buses that are used for transportation between home and school are required by State regulations to utilize the warning lights and stop arms when stopping on a highway to receive and discharge student passengers along the route. The agency notes that in every State, motorists are required to stop and refrain from passing a school bus while those traffic control warning devices are activated. A survey conducted by the National Association of State Directors of Pupil Transportation Services indicated that most States require the use of these devices when a bus is receiving or discharging student passengers along a street or highway.

Petitioner Rabun said that when school buses are engaged in activity trips, student passengers are typically transported from the school to the activity site and returned to the school. Rabun said that it would be very unusual for the bus to stop along a highway to receive or discharge passengers during one of these trips. Rabun stated that when a school bus is engaged in an activity trip, it would normally be prohibited by State law from using the school bus warning lights and stop signal arm, which are unique to school buses.

The agency notes that in many cases, the same is true for Head Start buses and day-care buses that provide to and from school transportation as well as buses used by coordinated transportation systems for to and from school and Head Start transportation. Child day-care buses normally would load students at their facility and drop them off at the school, with no stops along the way to drop off or pick up passengers.

DHHS's regulation, *Head Start Transportation* (at 45 CFR part 1310) generally requires that ''each agency providing transportation services must ensure that in planning fixed routes the safety of the children being transported is the primary consideration.'' (45 CFR section 1310.20(a)). Among its specific requirements are: ''When possible, stops must be located to eliminate the need for children to cross the street or highway to board or leave the vehicle'' (45 CFR section 1310.20(b)(5)) and ''If children must cross the street before boarding or after leaving the vehicle because curbside drop off or pick up is impossible, they must be escorted across the street by the bus monitor or another adult.'' (45 CFR section 1310.20(b)(6)).

The agency agrees with Rabun that the alternating flashing warning lights and stop-arm are traffic control devices and that their use on a bus is generally prohibited by State law except when the bus is receiving or discharging student passengers along a roadway. The agency is not aware of any State that permits using these school bus traffic control devices on trips other than ones between school and home.[1]

The agency tentatively concludes that 4-way/8-way alternating flashing lights and stop-arms are not needed if a school bus is not going to be used to transport students between home and school. The agency does not believe that there are any safety benefits from requiring stop-arms and alternating flashing lights on school buses that are solely used for trips during which State law prohibits their use.

Some States do not allow any vehicle other than a school bus that is painted yellow to have 4-way/8-way alternating flashing lights and stop arms. Other States, for example, Georgia, Maryland, and Indiana, require that the alternating flashing lights and stop-arms be completely removed from the buses if they are used for purposes other than transporting school children to and from home.

D. Would Be Required To Meet School Bus Seating Requirements

Petitioner Rabun argued that the agency should provide an alternative to school bus passenger seating and crash protection so that school buses certified as MFSABs may meet either Standard No. 222, *School bus passenger seating and crash protection* or be excluded from compartmentalization requirements, provided that they are equipped with an ''acceptable'' passive restraint system, or that they are equipped with occupant seat belt restraints for each designated seating position. Rabun further argued that the new school bus type should provide approximately 18 inches of seat width (seating room) for each designated seating position. Rabun's rationale was that most new vehicles have the option of providing either a passive occupant protection system or an active occupant protection system. Only a school bus, however, must meet the passive occupant restraint system specified in Standard No. 222.

Rabun stated that the logic behind requiring passive systems on school bus routes is not difficult to understand. However, the petitioner believes that the wisdom of this logic is coming under increasing scrutiny. Rabun stated that, in their search for an activity bus, school officials seek a crash protection alternative to compartmentalization, the construction techniques that give the school bus its passive occupant restraint capability. Rabun stated that purchasers of this new bus type would be looking for a passenger seating system that would provide comfort for trips of several hours' duration and would be comfortable for tall and/or large passengers who have difficulty fitting into the typical school bus seat bench and the narrow space provided for knees.

The agency does not agree with Rabun's reasons for not requiring the MFSAB to meet Standard No. 222. Rabun's belief that manufacturers of most new vehicles have the option of providing either a passive occupant protection system or an active occupant protection system is incorrect. Except for motorcycles, all motor vehicles with a gross vehicle weight rating (GVWR) of 4,536 kg (10,000 pounds) or less are required to have a type I (lap belt) or a type II (lap and shoulder belt) at each designated seating position (active system). In addition to the seat belt requirement, passenger cars, trucks, and multipurpose passenger vehicles with a GVWR of 3,863 kg (8,500 pounds) or less and an unloaded vehicle weight of less than 2,500 kg (5,500 pounds) are required to have airbags (passive system) at the front outboard seating positions. Multipurpose passenger vehicles with a GVWR greater than 4,536 kg (10,000 pounds) are required to have seat belts at all seating positions. Only buses and school buses with a

[1] It is the agency's understanding that some States may prohibit school buses from deploying their stop arms and 4-way/8-way alternating flashing lights when stopped at railroad crossings. Later in this notice, the agency asks whether any State allows or requires use of these traffic control devices when the school bus is stopped at a railroad crossing.

GVWR over 4,536 kg are not required to have seat belts for all seating positions.

For the following reasons, we also do not agree with Rabun's argument that the seating requirements specified in Standard No. 222 do not allow for comfort. Nothing in Standard No. 222 prohibits school bus seats from reclining. Standard No. 222's test procedure at S6.4 states: ''*Seat back position.* If adjustable, a seat back is adjusted to its most upright position.'' Standard No. 222 is a performance standard, not a design standard. Therefore, as long as the MFSAB manufacturer certifies (and ensures) that its MFSAB will meet Standard No. 222 when NHTSA tests the MFSAB, nothing in Standard No. 222 would have the effect of prohibiting extra padding or leather on school bus seats.

Rabun is apparently under the impression that the Standard No. 222 specifies that school bus seats be close together, which is not the case. At present, nothing prohibits school buses from being ordered with maximum seat spacing that provides for more leg room. The seat spacing requirements for school buses over 4,536 kg (10,000 pounds) gross vehicle weight rating (GVWR) allows for comfortable seating. Standard No. 222 at S5.2 specifies that the seats be spaced no further than 610 mm (24 inches) from the seating reference point to the seat back or restraining barrier in front of it. In practice, however, in order to maximize seating capacity in the school bus, schools and school districts order most school buses used on regular routes with seat spacing of approximately 482.6 to 508 mm (19 to 20 inches) from the seating reference point.

S5.2 in effect allows for approximately 711.2 to 787.4 mm (28 to 31 inches) for seat spacing pitch distance (the distance between the backs of two school bus seats, where one seat is placed directly in front of the other seat). The 787.4 mm (31 inches) seat spacing is similar to that found on coach-type intercity buses. School bus manufacturers Thomas Built Buses, and Blue Bird Body Company both offer activity seats in school buses that are comfortable on long trips. In addition to the school bus manufacturers, Freedman Seating Company, a seat manufacturer, also offers activity-seating systems that are designed for comfort. The Freeman activity seating systems have seat pitch spacing of approximately 787.4 mm (31 inches), which should provide adequate knee room.

We note that there are no parallel spacing requirements between rows (to provide knee room) for school buses with a GVWR of 4,536 kg (10,000 pounds) or under.

Rabun argued that S4.1 of Standard No. 222 should be modified so that seating positions on buses are wider. Rabun suggested that the number of seating positions in a bench seat should be calculated by dividing the bench seat width by 457.2 mm (18 inches) (for each seating position). Rabun believes that its recommended change would also eliminate the situation of having a bench seat on a school activity bus equipped with three sets of seat belts when only two typical teenage passengers will fit on the seat.

The agency notes that Rabun's argument for considering the minimum seat width of each designated seating position to be 457.2 mm (18 inches) appears to be based on the misconception that the number of seating positions is an exact figure that must be the same as the number of seats derived from the formula NHTSA uses to determine loading forces when testing school bus seats. Rabun also appears to believe that school bus users are bound by the number of seating positions determined under Standard No. 222, and that that Standard unduly restricts the amount of seat width allowed for persons sitting in the school bus seat. As explained below, we do not agree with Rabun's understanding of minimum seat width requirements.

Standard No. 222 requires that seats in school buses be able to withstand specified minimum/maximum forces, which are intended to ensure that the seats (and restraining barriers) are capable of providing acceptable levels of crash protection to seated occupants who may impact structures within the bus during a crash or sudden driving maneuver. In order to determine the amount of force to apply to a seat during testing, Standard No. 222 (at S4.1) specifies that the width of the seat is divided by 381 and rounded to the nearest whole number. That divisor is used because 381 mm (15 inches) is the seat width that is necessary to accommodate children and younger teenagers. For example, a 990.6 mm (39 inches) wide seat (the most popular width for school bus seats) divided by 381 equals 2.6, which is rounded up to 3. The loading to which the seat is subjected for the performance tests is the specified loading multiplied by 3.

The logic behind this procedure is to subject school bus seats to force levels sufficiently high enough to ensure that the seat is unlikely to fail as a result of a severe crash. The force derived in the above example by rounding 2.6 up to 3 for a 990.6 mm (39 inches) seat is necessarily a greater force than would be exerted if only two occupants were in the seat. Subjecting seats to this increased loading provides an increased margin of safety for school bus seats.

The agency has addressed the seating width issue in the past. In an October 9, 1990 **Federal Register** document (55 FR 41117)(No DOT Docket No.), we denied a petition for rulemaking asking that Standard No. 222 be amended by specifying the seating capacity of school bus seats. The petitioner sought to have the agency revise the formula discussed above by providing for dividing the seating width by 15 (seat width in inches) and ignoring the remainder. Thus, a 39-inch wide seat would be considered as having two seating positions. The petitioner asserted that the change was needed to avoid overcrowding on school buses.

In denying the petition, we explained that the passenger capacity for school buses is not based on the formula in Standard No. 222 for determining the test loading for seats. The formula in Standard No. 222 is not to be used to infer the number of seating positions on a school bus seat bench. It is not clear, given the wide range of ages and sizes of students carried on school buses (from pre-primary through high school football teams), how one could specify a meaningful requirement for passenger seating capacity that would be appropriate for all sizes of students. For example, a school bus seat that would easily accommodate three small children may only be able to accommodate two high school seniors.

We emphasize that Standard No. 222 is not intended to require or suggest that a school bus seat bench be occupied by the maximum number of persons determined under S4.1 for the purposes of calculating test forces. Instead, by imposing loads during testing that are representative of severe crash conditions, the Standard is intended to ensure that school bus seats and restraining barriers will perform safely and effectively. This is the safety margin discussed above. Standard No. 222 addresses the issue of potential overcrowding by including this safety margin.

The agency recognizes some state laws require that children participating in Head Start Programs must, because of their age, size or weight, use child restraint systems while being transported. The agency strongly recommends that Head Start Programs utilize MFSABs equipped either with seat belt systems or with lower anchors and tether for children (LATCH) systems to attach the children restraint systems used to transport these children. We are currently reviewing

research test results to develop a proposal regarding the installation of seat belt systems and/or LATCH systems in school buses.

E. Relationship of This Rulemaking to Laws and Policies of Other Federal Agencies

1. U.S. Department of Health and Human Services—Head Start Bureau

If this proposal were made final, it would create a subcategory of school buses that would qualify as ''allowable alternate vehicles'' under DHHS'' Head Start regulations, 45 CFR 1310.12, and thus could be used to transport Head Start Program participants.

2. Federal Transit Administration

If made final, this proposal would specify a vehicle type, the MFSAB, that would aid the efforts of Regional Transit Authorities (which must serve the general public) and Head Start both to meet State law and to satisfy the limitations on the availability of funding from the FTA. Since the MFSABs would not have the school bus flashing lights and stop arms, it is NHTSA's hope that transit authorities and other transportation providers could readily obtain FTA funding to buy MFSABs, provided that such vehicles are not used as school buses to provide home-to-school service. Further, as noted above, in many States, the flashing lights and stop arms are permitted only on ''school buses'' (as defined by State law).

3. National Transportation Safety Board

By making available a category of school bus that is potentially slightly cheaper than the conventional school bus, NHTSA believes that the final adoption of this proposal would aid child transportation providers in implementing the NTSB's recommendation that children be transported in buses that ''meet the school bus structural standards or the equivalent set forth in *49 Code of Federal Regulations Part 571*.''

F. Additional Issues

We also seek responses to the following questions.

1. In order to get a better estimate about the number of vehicles that would be affected by this rulemaking, NHTSA seeks the following information. What is the total number of MFSABs that would be sold each year if this proposed rule were made final? Would the adoption of this proposal lead to any change in the total sales of the existing smaller (6,804 kg (15,000 pound) and under) van-based school bus (with the flashing lights and stop arm)?

2. The agency proposes to limit this new subcategory of school bus to the smaller school buses that are generally used by day-care, Head Start and schools (private and public) for activity trips. NHTSA proposes the size limitation on the new school bus subcategory to reduce the possibility of misuse, *i.e.*, the possibility that schools would purchase school buses without traffic control devices as a means of saving money on buses used to pick children up from and drop them off at home. Current van-based school buses have a gross vehicle weight rating (GVWR) between less than 4536 kg (10,000 pounds) to 6804 kg (15,000 pounds). Alternatively, the agency seeks comment on whether the proposed GVWR restriction should be adjusted to include larger school buses.

3. Should MFSAB manufacturers be required to place a prominent warning label near the front of the occupant compartment of their vehicles to warn the driver and passengers that the bus is not intended to be used to pick children up from and drop them off at places such as home and bus stops? If you believe a label should be used, what standardized wording should be specified to provide that warning? Should any size or other appearance requirements be specified? For example, should such a label be required to have the appearance of the air bag warning labels required by FMVSS 208, Occupant Crash Protection, 49 CFR 571.208?[2] Where should the label be placed so that it is visible to both drivers and passengers?

4. It is the agency's belief that most States prohibit school buses from deploying their stop arms and operating their 4-way/8-way alternating flashing lights when stopped at railroad crossings. NHTSA seeks information on whether any States allow or require the use of the 4-way/8-way alternating flashing lights on school buses stopped at railroad grade crossings.

VI. Leadtime

We propose that, if made final, the rule take effect thirty days from the date the final rule appears in the **Federal Register**. Since the fact that Rabun has petitioned us for rulemaking has become publicly known, school bus manufacturers and their customers, child transportation providers, are anticipating this rulemaking. To meet the expected demand for multifunction school activity buses, we believe manufacturers should be permitted to manufacture, and certify them as soon as possible. Nothing in this proposed rule would require any motor vehicle manufacturer to manufacture the new subcategory of school buses proposed in this NPRM. We do not believe that manufacturing multifunction school activity buses would involve any new technology, or performance specifications that manufacturers cannot meet with existing design, tooling, or manufacturing capabilities. We believe that in order to manufacture a multifunction school activity bus, manufacturers need do nothing more to existing school buses than to simply not install the signal arms and 4-way/8-way alternating flashing lights. If enough interest from manufacturers is expressed, we may provide for optional early compliance with the final rule.

VII. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action is also not considered to be significant under the Department's Regulatory Policies

[2] These labels have a heading area and a message area. The heading area is yellow with the word ''warning'' and the alert symbol (consisting of an exclamation mark inside a triangle) in black. The message area is white with black text.

and Procedures (44 FR 11034; February 26, 1979).

For the following reasons, we believe that this proposal, if made final, would not increase vehicle manufacturers' costs to provide school buses for uses other than transportation of students between home and school. In order to manufacture a ''multifunction school activity bus,'' vehicle manufacturers need only manufacture a school bus and omit including the 4-way/8-way alternating flashing lights and stop arm.

For the following reasons, depending on how the new ''multifunction school activity bus'' is priced, NHTSA believes that organizations that at present purchase school buses for transportation purposes other than to and from home to school might realize a cost benefit as a result of this rulemaking.

As earlier discussed, this notice proposes a subcategory of school buses that would not be subject to the requirements for flashing 4–way/8–way alternating flashing lights or a stop arm. Estimates supplied by Blue Bird Body Company (a school bus manufacturer) indicate that the average cost of the 4-way/8-way alternating flashing lights is approximately $417 per school bus and the average cost of the stop-arm is approximately $560. Estimates supplied by Thomas Built Buses (another school bus manufacturer) indicate that the cost for the 4-way/8-way alternating flashing lights ranges from $175 for the least expensive 4-way system to $2,300 for the most expensive 8-way system and the cost for stop-arms ranges from $250 to $720. Based on those figures, the cost of adding stop-arms and alternating flashing lights ranges from $425 to $3020 per school bus.

The Annual Fact Book published by *School Transportation News* reports a strong increase in sales of ''Type A'' school buses (approximately 4,536 kg (10,000 pounds) GVWR); increasing from 6,389 in the 1995–1996 school year to 10,475 in the 1998–1999 school year. The agency notes that from 1990 through 1997, approximately 6,000 ''Type A'' school buses were sold each year. The agency believes that the increase in the sales of small school buses for years following 1997 is mostly due to purchases by organizations such as day care centers and Head Start, which provide child transportation. The agency does not have any data to indicate what percentages of the ''Type A'' school buses are sold to organizations that provide transportation other than between home and school. We note that since approximately 6,000 small ''Type A'' school buses were sold per year prior to 1997, a reasonable assumption would be that about 4,000 of these buses are sold to day care centers and others for transportation purposes other than to and from home to school.

Based on the cost figures discussed above and the conservative estimate of 4,000 Type A school buses sold each year, we estimate that the adoption of this proposal would save child transportation providers approximately $2.6 million dollars per year in the small ''Type A'' school bus market. However, this estimate is based on the assumption that school bus manufacturers would reduce the prices of the ''multifunction school activity bus'' by the amount of money saved as a result of not having to install 4-way/8-way alternating flashing lights or stop arms on those vehicles.

Because the economic impacts of this proposal are so minimal (*i.e.*, the annual effect on the economy is less than $100 million), no further regulatory evaluation is necessary.

B. Executive Order 13132 (Federalism)

Executive Order 13132 requires us 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, we 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, or unless we consult with State and local governments, or unless we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation with Federalism implications and that preempts State law unless we consult with State and local officials early in the process of developing the proposed regulation.

This proposed rule would 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. The reason is that this proposed rule, if made final, would apply to motor vehicle manufacturers, not to the States or local governments. This proposed rule, if made final, would assist child transportation providers by making available a school bus that would meet the traffic control laws of States and local governments. Thus, the requirements of Section 6 of the Executive Order do not apply to this proposed rule.

C. Executive Order 13045 (Economically Significant Rules Disproportionately Affecting Children)

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

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, health or safety risks that disproportionately affect children. However, this proposed rule, if made final, would make a school bus vehicle type available for transportation purposes other than to and from home to school. Although we do not have any estimates of the extent or nature of the practice throughout the country, the agency is informed by the National Child Care Association that at present, in many cases, children provided transportation to and from child care facilities are transported in 15-passenger vans or other buses that do not meet the special requirements for school buses. If this proposed rule were made final, the chances that children would be transported in MFSABs, rather than in buses that are not school buses, would increase and the children's safety would thereby be enhanced.

D. Executive Order 12778 (Civil Justice Reform)

Pursuant to Executive Order 12778, ''Civil Justice Reform,'' we have considered whether this proposed rule would have any retroactive effect. We conclude that it would not have such an effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to

the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use.

49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

E. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The agency Administrator has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and certifies that this proposal would not have a significant economic impact on a substantial number of small entities. We believe that if this proposed rule were made final, small businesses, small nonprofits and small local governments might benefit slightly because they would be able to purchase a school bus without traffic control devices on them, potentially saving $977 per school bus (using figures provided by Blue Bird Body Company), and saving small entity providers of transportation other than to and from home to school transportation approximately $3.9 million dollars per year. This cost savings assumes that school bus manufacturers (some of which are small businesses) would pass on to customers the cost savings resulting from not installing the traffic control devices on the school buses.

Accordingly, the agency believes that this proposal would, if made final, have a small beneficial cost effect on small motor vehicle manufacturers considered to be small business entities, on small businesses (that presently transport children in school buses with the 4-way/8-way alternating flashing lights and stop arms) providing transportation other than to and from home to school, or child care, small nonprofits, and small local governmental entities.

F. National Environmental Policy Act

We have analyzed this proposal for the purposes of the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

G. Paperwork Reduction Act

NHTSA has determined that, if made final, this proposed rule would not impose any ''collection of information'' burdens on the public, within the meaning of the Paperwork Reduction Act of 1995 (PRA). This rulemaking action would not impose any filing or recordkeeping requirements on any manufacturer or any other party.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in our 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.

After conducting a search of available sources, we have determined that there are not any applicable voluntary consensus standards.

I. 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 NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us 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 us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

This proposal would 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 proposal is not subject to the requirements of sections 202 and 205 of the UMRA.

J. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in your comments on this NPRM.

K. Regulation Identifier Number (RIN)

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

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.**

You may also submit your comments to the docket electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* 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–1998–1234,'' 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. Although the comments are imaged documents, instead of word processing documents, the ''pdf'' versions of the documents are 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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, it is proposed that the Federal Motor Vehicle Safety Standards (49 CFR part 571), be amended as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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.

2. Section 571.3 is amended by adding a definition of ''Multifunction school activity bus'' to paragraph (b), in the appropriate alphabetical order, to read as follows:

§ 571.3 Definitions.

* * * * *

(b) * * *

Multifunction school activity bus (MFSAB) means a school bus with a gross vehicle weight rating of 6,804 kilograms (15,000 pounds) or less whose purposes do not include transporting students to and from home.

* * * * *

3. Section 571.108 is amended by revising the introductory sentence in S5.1.4 to read as follows:

§ 571.108 Standard No. 108, Lamps, reflective devices, and associated equipment.

* * * * *

5.1.4 Except for multifunction school activity buses, each school bus shall be equipped with a system of either:

* * * * *

4. Section 571.131 is amended by revising S3 to read as follows:

§ 571.131 Standard No. 131, School bus pedestrian safety devices.

* * * * *

S3. *Application.* This standard applies to school buses other than multifunction school activity buses.

* * * * *

Issued on: October 29, 2002.

Noble N. Bowie,

Acting Associate Administrator for Rulemaking.

[FR Doc. 02–27996 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

49 CFR 1520, 1540, 1542, 1544, 1546, and 1548

RIN 2110–AA15 and 2110–AA16

Security of Checked Baggage on Flights Within the United States; Certification of Screening Companies; Notice of Rulemaking Status

AGENCY: Transportation Security Administration (TSA), DOT.

ACTION: Notice of rulemaking status.

SUMMARY: This notice provides information on the status of two notices of proposed rulemaking (NPRMs), entitled ''Security of Checked Baggage on Flights Within the United States'' and ''Certification of Screening

Companies,'' which were published by the Federal Aviation Administration (FAA) but now are within TSA's authority as a result of the passage of the Aviation and Transportation Security Act. On February 22, 2002, TSA published a final rule transferring FAA's rules governing civil aviation security to TSA. The purpose of this document is to inform the public that TSA will take no further action on these two NPRMs issued by FAA.

FOR FURTHER INFORMATION CONTACT: Angela Anderson, TSA–2 Chief Counsel, Transportation Security Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 385–1641.

SUPPLEMENTARY INFORMATION

Background

On November 19, 2001, Congress enacted Public Law 107–71, 115 Stat. 597, the Aviation and Transportation Security Act (ATSA), which transferred authority over civil aviation security from FAA to TSA. In section 101(f), ATSA transferred FAA's authority in Chapter 449, Title 49 United States Code (U.S.C.), to issue aviation security regulations to TSA. On February 22, 2002, the TSA and FAA published a final rule titled ''Civil Aviation Security Rules'' (67 FR 8340), transferring the regulations at 14 CFR parts 107, 108, 109 and 191 to 49 CFR parts 1540, 1542, 1544, 1548 and 1520 and §§ 129.25 and 129.26 to part 1546.

The purpose of this notice is to inform the public that TSA will take no further action on the two outstanding FAA NPRMs described below.

Security of Checked Baggage on Flights Within the United States

On April 19, 1999, the FAA published an NPRM titled, ''Security of Checked Baggage on Flights Within the United States'' (64 FR 19220). The proposed rule would have required each aircraft operator with an FAA-approved security program to use the Computer-Assisted Passenger Screening (CAPS) [1] system to select passengers (selectees) whose checked baggage would be subjected to additional security measures. The proposed rule also would have required aircraft operators to use FAA-certified explosives detection system (EDS) equipment, where available, to screen selectee baggage, or conduct 100 percent passenger-to-baggage matching (PBM). The proposed rule would have applied to each scheduled flight segment within the United States when using aircraft having a seating configuration of 61 or more passenger seats.

The FAA received 605 comments on the NPRM. These comments can be viewed by going to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*) and typing in the last four digits of the docket number: FAA–1999–5536.

Certification of Screening Companies

On January 5, 2000, the FAA published an NPRM titled, ''Certification of Screening Companies'' (65 FR 560). The proposed rule would have required companies that perform aviation security screening for air carriers to be certificated by the FAA and meet enhanced requirements. It would have increased qualifications for managers, instructors, and screeners, and would have required the use of threat image projection (TIP) for all X-ray and EDS equipment. The proposed rule also would have made screening companies directly accountable to the FAA, with air carriers continuing to oversee the operations of their screening companies.

The FAA received 31 comments on the NPRM. These comments can be viewed by going to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*) and typing in the last four digits of the docket number: FAA–1999–6673.

TSA Determination To Take No Further Action

The ATSA mandated sweeping changes to security requirements for the civil aviation system, including the transfer of responsibility for passenger and baggage screening from the private sector to the federal government. *See* 49 U.S.C. 114. As a result of this change, the two NPRMs discussed above have become obsolete.

Because the two FAA NPRMs addressed civil aviation security under parts 108, and 129, responsibility for those proposed changes also transferred to TSA. The Screening Company NPRM also proposed to add a new part 111 that would have implemented requirements for screening company security. ATSA changed the screening requirements in section 110(b), codified at 49 U.S.C. 44901(a), which now require Federal employees to carry out the screening; and in section 108 which requires establishment of a pilot program for some screening to be done by private companies under contract to TSA. With all of these changes being made TSA has no need to regulate screening companies using the proposed rule. For TSA employees who screen, TSA will use internal policies for screening. We will use contract provisions to govern the screening conducted by contractors under the pilot program.

The ATSA also requires that all checked baggage, not just baggage checked by CAPPS selectees, be inspected using explosive detection systems. *See* 49 U.S.C. 44901(d), as amended by ATSA section 110(b). Further, Federal employees must do the inspection. TSA is working to install equipment and to hire the screeners to meet these requirements. In addition, TSA must use CAPPS to evaluate all passengers before boarding, not only those who are checking bags. *See* 49 U.S.C. 44903(i)(2). This requirement is now being met. Accordingly, the proposals in the NPRM are obsolete, and the rule is not needed for TSA to use CAPPS fully and effectively.

For these reasons, TSA will take no further actions on these two NPRMs.

Issued in Washington, DC, on October 23, 2002.

Francine J. Kerner,

Chief Counsel.

[FR Doc. 02–27842 Filed 11–4–02; 8:45 am]

BILLING CODE 4110–62–P

[1] The NPRM used the term ''Computer-Assisted Passenger Screening'' system but the term used to describe this system has since been changed to Computer-Assisted Passenger Prescreening System (CAPPS).

Notices

Federal Register

Vol. 67, No. 214

Tuesday, November 5, 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. 00–090–1]

Availability of Pest Risk Assessment for the Importation of Unshu Oranges From the Republic of Korea Into Citrus Producing States of the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a pest risk assessment relative to a proposed rule currently under consideration that would allow the importation of Unshu oranges from the Republic of Korea into citrus producing States of the continental United States. We are making the pest risk assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before January 6, 2003.

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. 00–090–1, 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. 00–090–1. 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. 00–090–1'' on the subject line.

You may read any comments that we receive on the 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. Gary Cave, Center for Plant Health Science and Technology, PPQ, APHIS, 1017 Main Campus Drive, Suite 2500, Raleigh, NC 27606–5202; (919) 513–2127.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart—Citrus Fruit'' (7 CFR 319.28, referred to below as the regulations), Unshu oranges from the Republic of Korea may be imported, under certain conditions, into any area in the United States except American Samoa, Arizona, California, Florida, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the U.S. Virgin Islands, which are citrus-producing States.

At the request of the Government of the Republic of Korea, the Animal and Plant Health Inspection Service (APHIS) is considering amending the regulations to allow the importation of Unshu oranges from the Republic of Korea into citrus-producing States in the continental United States. To evaluate the risks associated with the importation of Unshu oranges from the Republic of Korea as specified in the Korean Government's request, APHIS has drafted a pest risk assessment entitled ''Expansion of the Importation of Fresh Unshu Orange Fruit (*Citrus reticulata* Blanco var. *unshu* Swingle) from the Republic of Korea into Citrus Producing States of the Continental United States' (October 4, 2002). This notice solicits public comments on the pest risk assessment.

You may view the pest risk assessment 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 from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 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 30th day of October 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–28074 Filed 11–4–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tahoe National Forest; Sierra County, CA; Cottonwood Fire Vegetation Management Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service, Tahoe National Forest, gives notice of the Agency's intent to prepare an Environmental Impact Statement (EIS) to disclose the environmental effects of applying registered herbicides to approximately 13,500 acres of National Forest System land. The application will reduce competition from overgrown vegetation that is adversely affecting the survival and growth of conifer seedlings on the Sierraville Ranger District. The project proposes to apply glyhosate (trade name Accord or equivalent) and triclopyr (trade name Garlon 4 or equivalent), using backpack sprayers, in the spring and summer months when herbicide treatments are most effective. The acres identified for application would be treated over a five- to seven-year time period.

The purpose of the project is to help ensure survival, and stimulate vigor and growth of sufficient numbers of conifer seedlings in order to accelerate the development of a biologically and structurally diverse forest. Following a wildfire in 1994 that destroyed much of the forest stand structure, shrub and

grass have re-occupied the area, competing with conifer seedlings for limited resources. This competition is prolonging the time it will take for the native conifer forest to re-establish. Restoring the area to a conifer forest sooner will develop a more fire resistant and healthy forest in less time. Alternative, non-herbicide methods to control competing vegetation have been attempted over the past eight years, but success has been limited due to cost and inability to treat enough area. Because of this, the Forest Service believes the least impacting and most cost effective method to reduce competing vegetation is through prudent and careful application of registered herbicides.

DATES: Comments concerning the proposed action should be received by November 19, 2002. The Draft Environmental Impact Statement (DEIS) is expected to be completed in January 2003, and the Final Environmental Impact Statement (FEIS) is expected to be completed in April 2003.

ADDRESSES: Send written comments to Deborah Walker, Sierraville Ranger District, PO Box 95, Sierraville, CA 96126, or by sending electronic mail (e-mail) to *deborahwalker@fs.fed.us*. For further information, mail correspondence to Jeff Leach, NEPA Coordinator, Sierraville Ranger District, PO Box 95, Sierraville, CA 96126.

FOR FURTHER INFORMATION CONTACT: Questions and comments about the proposed action should be directed to Deborah Walker or Jeff Leach at the above address, or by phone at 530–994–3401.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

In 1994, the Cottonwood Fire burned more than 46,000 acres of forest land on the Tahoe and Humboldt-Toiyabe National Forests. In 1995, the Tahoe National Forest prepared an environmental document authorizing the use of manual and mechanical release methods to accelerate conifer growth and development by controlling shrubs, grasses, and forbs. Since that time conifer seedlings have either been planted or naturally regenerated in the area. Even though this area historically supported large conifer trees, the site is now predominately occupied by shrubs, such as snowbrush and manzanita. The project area is considered a Sierra Nevada east-side pine type, where moisture is the most limiting factor in determining plant survival. Shrubs and trees currently occupy the same depth of rooting zone in the soil profile. These particular shrub species have the ability to extract soil moisture more effectively than do the trees, especially under dry conditions. This ability to extract soil water under extremely dry conditions gives shrubs a competitive advantage over young seedlings, so there is a need to control shrubs before tree mortality becomes too severe.

Proposed Action

The proposed action is to:

1. Apply the herbicides glyphosate and triclopyr to selected units in the Cottonwood burn area on a total of 13,500 acres. Treated areas would encompass less than 30% of the total burn area.
2. Include a surfactant to improve the herbicide effectiveness and a colorant to aid in identifying treated areas.
3. Use backpack sprayers to apply the registered herbicides during the spring and summer months.
4. Treat between 1,500 acres and 3,600 acres a year over a five- to seven-year period. Re-treatment may be necessary on up to one-third of the project area, depending on herbicide effectiveness.
5. Treat individual target plants uniformly over the entire area, except near stream channels, where a spot application would be used.
6. Establish a no-treatment zone along all stream channels of 25 feet on either side and around wet areas (seeps, springs, and fens) of 50 feet.
7. Avoid treating areas not productive for growing trees, areas that were unburned or lightly burned, sites that have a predominance of cheatgrass, known sensitive plant occurrences, or areas that have been selected as cover habitat for wildlife species.

Possible Alternatives

Alternatives being considered at this time include: (1) Proposed action; (2) no action alternative that would not implement the proposed action or allow for manual and mechanical release; and (3) continue with manual and mechanical release treatments exclusively. Additional alternatives to this proposal would be based on significant issues identified during the scoping process.

Responsible Official

The District Ranger, Sierraville Ranger District, Tahoe National Forest, is the responsible official making the decision and can be reached at PO Box 95, Sierraville CA 96126. As the responsible official, the District Ranger will document the decision and reasons for the decision in the Record of Decision, which will be published along with the final EIS. That decision will be subject to Forest Service appeal regulations (36 CFR part 215).

Nature of Decision To Be Made

The decision to be made is whether to implement the Cottonwood Fire Vegetation Management Project as described above, modify the proposal in response to an unresolved issue based on comments received during public scoping, or not take any action at this time.

Scoping Process

Public participation is viewed as an integral part of the environmental analysis. The Forest Service will be seeking points of dispute, debate, or disagreement from Federal, State, and local governmental agencies as well as from individuals or organizations that may be potentially interested or affected by the proposed action. A scoping letter will be mailed to persons who have expressed interest in the proposed action based on notification in the Tahoe National Forest Quarterly Schedule of Proposed Actions and by notification through a published legal notice in the *Mountain Messenger*, Downieville, California, and the *Sierra Booster*, Loyalton, California. In addition, persons who provided comment on the Cottonwood Fire Vegetation Management Environmental Assessment (2000) will be mailed a scoping letter.

Comment Requested

This notice of intent initiates the scoping process, which guides the development of the EIS. Comments submitted during the scoping process should be in writing or email, and should be specific to the proposed action. The comments should describe as clearly and completely as possible any points of dispute, debate, or disagreement the commenter has with the proposal. Once scoping letters are received, the District shall identify all potential issues, eliminate non-significant issues or those covered by another environmental analysis, identify issues to analyze in depth, develop additional alternatives to address those significant issues, and identify potential environmental effects of the proposed action as well as fully analyzed alternatives.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in January 2003. EPA will publish a notice of availability of the

draft EIS in the **Federal Register** at that time. The comment period on the draft EIS will extend for 45 days from the date the EPA notice appears in the **Federal Register**. At that time, copies of the draft EIS will be mailed to potentially interested and affected agencies, organizations, and individuals for their review and comment and to those who provided comment during the scoping period. It is very important that those interested in the Cottonwood Fire Vegetation Management Project participate by providing comment at that tie.

The final EIS would be completed in April 2003. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS, as well as applicable laws, regulations, and policies considered in making the decision regarding this proposal.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court ruling related to public participation in the environmental review process. First, reviewers of Draft Environmental Impact Statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the Draft Environmental Impact Statement stage, but that are not raised until after completion of the FEIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the two-week comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act of 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Dated: October 30, 2002.

Steven T. Eubanks,

Forest Supervisor, Tahoe National Forest.

[FR Doc. 02–28051 Filed 11–4–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Resource Advisory Committee meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Public law 92–463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Sierra National Forest's Resource Advisor Committee for Madera County will meet on Monday, November 18, 2002. The Madera Resource Advisory Committee will meet at the Yosemite Sierra Visitor Bureau, 40637 Highway 41, Oakhurst, CA. The purpose of the meeting is an update about the RAC presentation at the Madera County Board of Supervisor's meeting September 17, 2002, update RAC committee outreach, discuss a subject for a news article and develop a planning schedule for projects and project reviews.

DATES: The Madera Resource Advisory Committee meeting will be held Monday, November 18, 2002. The meeting will be held from 7 p.m. to 9 p.m.

ADDRESSES: The Madera County RAC meeting will be held at the Yosemite Sierra Visitor Bureau, 40637 Highway 41, Oakhurst, CA.

FOR FURTHER INFORMATION CONTACT: Dave Martin, U.S.D.A., Sierra National Forest, 57003 Road 225, North Fork, CA, 93643 (559) 877–2217 ext. 3100; e-mail: *dmartin05@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review Clover Meadow road project, (2) update on RAC committee outreach, and, (3) follow up on newspaper article, (4) have evaluation of past projects. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: October 31, 2002.

David W. Martin,

District Ranger.

[FR Doc. 02–28053 Filed 11–4–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Crook County Resource Advisory Committee, Sundance, Wyoming, USDA, Forest Service

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Black Hills National Forests' Crook County Resource Advisory Committee will meet Monday, November 18, 2002 in Sundance, Wyoming for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on November 18, begins at 6:30 PM, at U.S. Forest Service, Bearlodge Ranger District office, 121 South 21st Street, Sundance, Wyoming. Agenda topics will include reviewing the response of the community to a call for project proposals, discussion of selection criteria and procedures and scheduling future meetings. A public forum will begin at 8:30 p.m. (MT).

FOR FURTHER INFORMATION CONTACT: Steve Kozel, Bearlodge District Ranger and Designated Federal Officer, at (307) 283–1361.

Dated: October 29, 2002.

Steve Kozel,

Bearlodge District Ranger.

[FR Doc. 02–28136 Filed 11–4–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

East Prong Little Pigeon River Watershed, Sevier County, TN

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the East Prong Little Pigeon River watershed, Sevier County, Tennessee.

FOR FURTHER INFORMATION CONTACT: James W. Ford, State Conservationist, Natural Resources Conservation Service, 675 U.S. Courthouse, 801 Broadway, Nashville, Tennessee 37203, telephone (615) 277–2531.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, James W. Ford, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

East Prong Little Pigeon River Watershed, Sevier County, TN; Notice of a Finding of No Significant Impact

The project purpose is watershed protection. The planned works of improvement include best management practices to reduce streambank erosion and nutrient loading from livestock access to streams, and measures to reduce erosion and sedimentation from eroding pastureland. Federal financial assistance will be provided to accelerate financial and technical assistance for land treatment.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting James W. Ford.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: October 21, 2002.

James W. Ford,

State Conservationist.

[FR Doc. 02–28067 Filed 11–4–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of intent to prepare an Environmental Impact Statement for the Cane Creek Remedial Plan, Lauderdale County, Tennessee.

SUMMARY: Notice is hereby given that in accordance with the National Environmental Policy Act of 1969, the U.S. Department of Agriculture—Natural Resources Conservation Service will prepare an Environmental Impact Statement to assess potential environmental impacts associated with proposed structural measures to control the widening and degradation of the channel of Cane Creek. The project sponsor is the Cane Creek Watershed District. The actions proposed in the Cane Creek Remedial Plan address the continuing degradation and widening of the channel of Cane Creek and its tributaries resulting from modification of the main channel in 1970. The sponsor's objective is to stabilize the main channel bottom and limit head-cutting of two major tributaries. Six alternatives to address the concerns were addressed in the Plan. The sponsor's preferred alternative includes installation of five low head riprap chutes in the main channel and one structure each in two large tributaries to Cane Creek. Benefits of the sponsor's preferred plan are the protection of five main channel bridges and two county bridges; four previously installed repair structures will also be protected. Approximately 84,000 cubic yards of sediment will be prevented from annually entering the Hatchie River. Ten acres of riparian forest and 9.2 acres of recreational fishing area will be created. No federally listed threatened or endangered species are known from the watershed.

FOR FURTHER INFORMATION CONTACT: James W. Ford, State Conservationist, Natural Resources Conservation Service, 675 U.S. Courthouse, 801 Broadway, Nashville, Tennessee 37203, telephone (615) 277–2531.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: October 21, 2002.

James W. Ford,

State Conservationist.

[FR Doc. 02–28068 Filed 11–4–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Owen Electric Cooperative; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact with respect to a request from Owen Electric Cooperative for financing assistance from RUS to finance the construction of a new headquarters facility in Owen County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone (202) 720–0468, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: Owen Electric Cooperative proposes to construct a new headquarters facility in Owen County, Kentucky. The site of the new facility is located south of the unincorporated community of Bromley less than ½ mile south intersection of U.S. Highway 127 and State Route 35 on the western side to U.S. Highway 127. The new headquarters facility will be located on a 46-acre parcel of property. Approximately 13 acres of the property will be used for the facility. The facility will consist of a 31,900 square-foot, one story office building, a 27, 900 square-foot service building, 95 employee and 35 visitor parking spaces, a pole storage yard, a metal utility building, a lattice radio tower, and a 175-kilowatt standby electric generator with a 500-gallon diesel fuel storage tank. Access to the facility will be via a paved driveway from U.S. Highway 127.

Copies of the Finding of No Significant Impact are available from RUS at the address provided herein or from Mr. William T. Prather of Owen Electric Cooperative, PO Box 400,

Owenton, Kentucky 40359, telephone (502) 484–3471.

Dated: October 29, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–28048 Filed 11–4–02; 8:45 am]

BILLING CODE 3410–15–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

In connection with its investigation into the cause of the hydrogen sulfide gas leak at the Georgia-Pacific Naheola Mill in Pennington, Alabama on January 16, 2002, the United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 10:00 a.m. local time on November 20, 2002, at 2175 K Street, NW, Suite 400 Conference Room.

At the meeting CSB staff will present to the Board the results of their investigation into this incident, including an analysis of the incident together with a discussion of the key findings, root and contributing causes and draft recommendations. In addition, the Chair will present a preliminary outlook for FY 2003.

Recommendations are issued by a vote of the Board and address an identified safety deficiency uncovered during the investigation, and specify how to correct the situation. Safety recommendations are the primary tool used by the Board to motivate implementation of safety improvements and prevent future incidents. The CSB uses its unique independent accident investigation perspective to identify trends or issues that might otherwise be overlooked. CSB recommendations may be directed to corporations, trade associations, government entities, safety organizations, labor unions and others.

At the conclusion of the staff presentation the Board will consider whether to vote to approve the final report and recommendations. When a report and its recommendations are approved, this will begin CSB's process for disseminating the findings and recommendations of the report not only to the recipients of recommendations but also to other public and industry sectors. The CSB believes that this process will ultimately lead to the adoption of recommendations and the growing body of safety knowledge in the industry, which, in turn, should save future lives and property.

All staff presentations are preliminary and are intended solely to allow the Board to consider in a public forum the issues and factors involved in this case. No factual analyses, conclusions or findings should be considered final. Only after the Board has considered the staff presentation and approved the staff report will there be an approved final record of this incident.

The Georgia-Pacific incident left two persons dead and injured eight. In addition, Choctaw County paramedics who transported the victims to the hospitals reported symptoms of hydrogen sulfide exposure.

The meeting will be open to the public. Please notify CSB if a translator or interpreter is needed, at least 5 business days prior to the public meeting. For more information, please contact the Chemical Safety and Hazard Investigation Board at (202)–261–7600, or visit our Web site at: *http://www.csb.gov*.

Christopher W. Warner,

General Counsel.

[FR Doc. 02–28193 Filed 11–1–02; 11:52 am]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No.: 021025254–2254–01]

Privacy Act of 1974; System of Records

AGENCY: Office of Administration, Office of the Secretary, Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (11), the Department of Commerce is issuing notice of our intent to delete the system of records entitled COMMERCE/ITA–5, ''National Defense Executive Reserve Personnel Folders.'' This system of records is no longer collected or maintained by the Bureau of Industry and Security, formerly the Bureau of Export Administration. The Bureau of Export Administration separated from ITA in 1987 and maintained this system of records. On May 15, 1997, the National Defense Executive Reserve (NDER) program was dissolved by then Under Secretary William Reinsch in a letter sent to 313 NDER members. As a result, there was no longer a need to maintain NDER personnel files, and they were all disposed.

DATES: *Effective Date*: The deletion will become effective as proposed without further notice on December 5, 2002.

Comment Date: To be considered, written comments must be submitted on or before December 5, 2002.

ADDRESSES: Comments may be mailed to Dawnielle Battle, FOIA Officer, U.S. Department of Commerce, Bureau of Industry and Security, HCHB 6883, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: This Privacy Act System of Records is being deleted because the records are no longer collected or maintained by the Bureau of Industry and Security.

Dated: October 31, 2002.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. 02–28075 Filed 11–4–02; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–839]

Final Results and Partial Recission of Countervailing Duty Expedited Reviews: Certain Softwood Lumber Products From Canada

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

ACTION: Notice of final results of countervailing duty expedited reviews.

SUMMARY: On August 14, 2002, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of 18 expedited reviews of the countervailing duty order on certain softwood lumber products from Canada for the period April 1, 2000 through March 31, 2001. *See Preliminary Results of Countervailing Duty Expedited Reviews: Certain Softwood Lumber Products from Canada*, 67 FR 52945 (August 14, 2002) (*Preliminary Results*). Based on our analysis of additional information, we have made changes to the estimated net subsidy rates. Therefore, these final results differ from the preliminary results. For information on estimated net subsidies, please see the ''Final Results of Reviews'' section of this notice. In accordance with these final results of reviews, we will instruct the U.S. Customs Service (Customs) to amend the cash deposit for each reviewed company as detailed in the ''Final Results of Reviews'' section of this notice. In addition, the Department has rescinded expedited reviews with regard to Western Commercial Millwork Inc.

EFFECTIVE DATE: November 5, 2002.

FOR FURTHER INFORMATION CONTACT: Maria MacKay or Gayle Longest, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1775 or (202) 482–3338.

SUPPLEMENTARY INFORMATION:

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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 C.F.R. Part 351 (2002).

Background

On May 22, 2002, the Department published in the **Federal Register** its amended final affirmative countervailing duty determination and countervailing duty order on certain softwood lumber products (subject merchandise) from Canada (67 FR 36068), as corrected (67 FR 37775, May 30, 2002). On July 17, 2002, the Department published a Notice of Initiation of Expedited Reviews which covered 73 companies that filed complete and timely applications. (*See Notice of Initiation of Expedited Reviews of the Countervailing duty Order: Certain Softwood Lumber Products from Canada*, (67 FR 46955) (July 17, 2002) (*Notice of Initiation*).)

As explained in the Notice of Initiation, we segregated the 73 applicants into two groups. Group 1 consists of 45 companies that obtain the majority of their wood (over 50 percent of their inputs) from the United States, the Maritime Provinces, Canadian private lands, and Canadian companies excluded from the order, as well as companies that source less than a majority of their wood from these sources and do not have tenure. Group 2 includes 28 companies that source less than a majority of their wood from these sources and have acquired Crown timber through their own tenure contracts.

In our review of the applications in Group 1, we noted that, in order to conduct our analysis, we required only minimal supplemental data for 24 of the 45 companies. The other Group 1 companies required additional information and more extensive analysis. Rather than delaying the process to provide all Group 1 companies the opportunity to submit the necessary information, we issued a short questionnaire to the 24 companies requiring only minimal information and set a short deadline for the response. Of the 24 companies, 18 were able to supply the information by the deadline. We completed our preliminary analysis of those 18 companies, using the Group 1 methodology (see ''Methodology'' section below). *See Preliminary Results.* Two of these companies subsequently requested a pass-through analysis: Les Bois d'Oeuvre Beaudoin & Gauthier Inc. and Meunier Lumber Company Ltd. Three other companies were verified subsequent to the preliminary results of expedited reviews: Interbois Inc., Les Moulures Jacomau 2000, Inc., and Richard Lutes Cedar, Inc. We are providing those three companies and petitioners with an opportunity to comment on the verification reports, as explained in the ''Verification'' section of this notice. Therefore, this notice includes the final results for 13 of the 18 companies that were included in the *Preliminary Results.* We are continuing to process the other applications in Groups 1 and 2, and will be issuing additional questionnaires shortly. We received comments and rebuttal comments on the *Preliminary Results*, on September 6, 2002 and September 18, 2002, respectively, from petitioners and several respondents.

Partial Recission

On July 25, 2002, Olav Haavaldsrud Timber Company Limited (Olav Haavaldsrud) and Western Commercial Millwork withdrew their requests for review. On August 26, 2002, Olav Haavaldsrud requested that the Department reinstate its June 21, 2002, request for expedited review. On August 28, 2002, petitioners filed comments objecting to the reinstatement. The Department considered the arguments presented by Olav Haavaldsrud and petitioners, and decided that reinstatement of Olav Haavaldsrud in this expedited review proceeding is inappropriate. *See Letter to Elliot J. Feldman from Melissa G. Skinner, Director, Office of CVD/AD Enforcement VI, Re: Expedited Review of Countervailing Duty Order on Certain Softwood Lumber Products from Canada—Olav Haavaldsrud Timber Company* dated September 18, 2002.

On October 11, 2002, the GOC filed a submission urging the Department to reconsider the request for reinstatement filed by Olav Haavaldsrud. In the GOC's view, acceptance of Olav Haavaldsrud's request is required as a matter of procedural fairness. The GOC states that, as Olav Haavaldsrud detrimentally relied on the Department's statements, the Department should apply equitable tolling principles and accept Olav Haavaldsrud's request for reinstatement.

In response to the GOC, we note that the Department never, at any point in the expedited reviews, foreclosed consideration of arm's length issues, including in the cover letter to the questionnaire dated July 22, 2002 (cited by the GOC). Nevertheless, we understand that Olav Haavaldsrud may have misinterpreted that cover letter. Consequently, we are granting this company's request for reinstatement. However, we are granting the recission request of Western Commercial Millwork.

This notice includes the final results of review for the following 13 companies:

Bois Daaquam Inc.
Bois Omega Ltée
City Lumber Sales & Services Limited
Herridge Sawmills Ltd.
J. A. Fontaine et fils Inc.
Jointfor (3207021 Canada Inc.)
Les Produits Forestiers Dube Inc
Lonestar Lumber Inc.
Maibec Industries, Inc.
Materiaux Blanchet Inc.
MF Bernard Inc.
Scierie Nord-Sud Inc.
Scierie West-Brome Inc.

Scope of the Reviews

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to this order is dispositive.

As specifically stated in the Issues and Decision Memorandum accompanying the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539 (April 2, 2002) (*see* comment 53, item D, page 116, and comment 57, item B–7, page 126), available at *http://www.ia.ita.doc.gov*, drilled and notched lumber and angle cut lumber are covered by the scope of this order.

The following softwood lumber products are excluded from the scope of this order provided they meet the specified requirements detailed below:

(1) *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.

(2) *Box-spring frame kits:* if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1″ in actual thickness or 83″ in length.

(3) *Radius-cut box-spring-frame components*, not exceeding 1″ in actual thickness or 83″ in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

(4) *Fence pickets* requiring no further processing and properly classified under HTSUS heading 4421.90.70, 1″ or less in actual thickness, up to 8″ wide, 6′ or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring ¾ inch or more.

(5) *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: (1) The processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (2) if the importer establishes to Customs' satisfaction that the lumber is of U.S. origin.

(6) *Softwood lumber products contained in single family home packages or kits*,[1] regardless of tariff classification, are excluded from the scope of this order if the importer certifies to items 6 A, B, C, D, and requirement 6 E is met:

A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint.

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, and if included in the purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint.

C. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer.

D. Softwood lumber products entered as part of a single family home package or kit, whether in a single entry or multiple entries on multiple days, will be used solely for the construction of the single family home specified by the home design matching the entry.

E. For each entry, the following documentation must be retained by the importer and made available to the U.S. Customs Service upon request:

i. A copy of the appropriate home design, plan, or blueprint matching the entry;

ii. A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

iii. A listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;

iv. In the case of multiple shipments on the same contract, all items listed in E(iii) which are included in the present shipment shall be identified as well.

Lumber products that the Customs Service may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.45.90 , 4421.90.70.40, and 4421.90.97.40.

Finally, as clarified throughout the course of the investigation, the following products, previously identified as Group A, remain outside the scope of this order. They are:

1. Trusses and truss kits, properly classified under HTSUS 4418.90;
2. I-joist beams;
3. Assembled box spring frames;
4. Pallets and pallet kits, properly classified under HTSUS 4415.20;
5. Garage doors;
6. Edge-glued wood, properly classified under HTSUS item 4421.90.98.40;
7. Properly classified complete door frames;
8. Properly classified complete window frames;
9. Properly classified furniture.

Verification

The Department verified three companies from September 30, 2002, through October 3, 2002. The companies verified during this time period were Interbois, Inc., Les Moulures Jacomau 2000, Inc., and Richard Lutes Cedar. Because we want to provide those companies and petitioners with an opportunity to comment on the verification reports, and we want to maintain the schedule for conducting these expedited review proceedings, we are not at this time issuing the final results for these three companies. Instead, their final results will be included in the next notice of final results of expedited reviews. In addition, we note that, in the underlying investigation, the Department verified Bois Daaquam Inc., Bois Omega Ltée, J. A. Fontaine et fils Inc., Les Produits Forestiers Dube Inc., Maibec Industries, Inc., Materiaux Blanchet Inc., Scierie Nord-Sud Inc., and Scierie West-Brome Inc.

Methodology

These final results include: (a) Companies that obtain the majority of their wood (over 50 percent of their inputs) from the United States, the Maritime Provinces, Canadian private

[1] To ensure administrability, we clarified the language of exclusion number 6 to require an importer certification and to permit single or multiple entries on multiple days as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.

lands, and/or Canadian companies excluded from the order, and (b) companies that source less than a majority of their wood from these sources and do not have tenure. We calculated company-specific rates based on the methodology described in the notice of preliminary results. To obtain the company-specific stumpage benefit, we multiplied the quantity of Crown logs and the quantity of lumber inputs (except for those specified below) by the province-specific stumpage benefit calculated in the underlying investigation, *i.e.*, the average per-unit differential between the calculated adjusted stumpage fee for the relevant province and the appropriate benchmark for that province. For those provinces, such as British Columbia and Ontario, for which we calculated more than one per-unit benefit in the investigation, we calculated one province-wide per-unit benefit by weight-averaging the previously calculated values by the corresponding volumes of harvested softwood. As indicated in the Notice of Initiation, we have not attributed a benefit to (1) logs or lumber acquired from the Maritime Provinces, if accompanied by the appropriate certification, (2) logs or lumber of U.S. origin, (3) lumber produced by mills excluded in the investigation, or (4) logs from Canadian private land. We divided the stumpage benefit by the appropriate value of the company's sales to determine the company's estimated subsidy rate from stumpage and then added any benefit from other programs to obtain the cash deposit rate for the company.

Analysis of Comments Received

The issues raised in the case briefs by parties to these expedited reviews are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum), dated concurrently with this notice, which is hereby adopted by this notice. As noted in the Decision Memorandum, we are addressing in these final results those issues that are of a general nature or that specifically affect these 13 reviews. Other issues, related for instance to pass-through analysis or Group 2 methodology, will be addressed in the context of subsequent reviews. A list of the issues which parties have raised, and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. The Decision Memorandum is on file in the Central Records Unit in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov*, under the heading ''**Federal Register** Notices.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

We amended data for MF Bernard based on submissions of factual information dated September 3, 2002.

Final Results of Review

We have calculated an individual subsidy rate for each producer/exporter subject to these expedited reviews. For the period April 1, 2000 to March 31, 2001, we determine the net subsidy to be as follows:

Net subsidies—producer/exporter	Net subsidy rate (in percent)
Bois Daaquam Inc	2.99
Bois Omega Ltée	3.10
City Lumber Sales & Services Limited	6.60
Herridge Sawmills Ltd	4.91
J. A. Fontaine et fils Inc	3.28
Jointfor (3207021 Canada Inc	1.96
Les Produits Forestiers Dube Inc	1.39
Lonestar Lumber Inc	13.42
Maibec Industries, Inc	1.98
Materiaux Blanchet Inc	10.32
MF Bernard Inc	3.69
Scierie Nord-Sud Inc	2.22
Scierie West-Brome Inc	1.16

We will instruct Customs to collect cash deposits of estimated countervailing duties in the amounts indicated above of the f.o.b. invoice price on all shipments of the subject merchandise produced by the reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these reviews.

This notice covers only those 13 companies that we have specifically identified herein. We will instruct Customs to continue collecting cash deposits for all non-reviewed companies at the cash deposit rates established in the amended final determination on softwood lumber from Canada, 67 FR 36070 (May 22, 2002).

These expedited reviews and notice are issued and published in accordance with section 751(a)(1) and 777(I)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677(f)(I)).

Dated: October 31, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix 1

General Issues

Comment 1 Whether the Department should exclude companies from the CVD order as a result of expedited reviews

Comment 2 Whether the Department should verify all companies subject to expedited reviews

Comment 3 Whether the Department should allow companies purchasing inputs in arm's length transactions to request expedited reviews

Comment 4 Whether companies should be afforded the opportunity to self select the methodology to apply in the expedited review

Procedural Issues

Comment 1 Whether the timeline adopted by the Department for requesting rescission of an expedited review is in accordance with law

Comment 2 Whether the final results of expedited reviews should be issued sequentially or concurrently for all companies in Round 1

Comment 3 Whether non-compliant submissions should be removed from the record and companies that did not supply all documentation requested by the Department should be ejected from the process

Methodological Issues

Comment 1 Expedited reviews may result in a diminishment of subsidy offset notwithstanding the intent of the Department to adjust the country-wide rate

Comment 2 Whether the Department should collect full information on cross-owned and affiliated entities

Comment 3 Whether non-subject softwood lumber products should be included in the company-specific subsidy calculations

Comment 4 Whether the same stumpage benefit should apply to logs and lumber

Comment 5 Whether the Department may lawfully recalculate the country-wide cash deposit rate by deducting the alleged benefit to and sales by the companies receiving individual rates from the country-wide calculation

Comment 6 Whether logs purchased from excluded companies and lumber produced from private forest timber should be excluded from the volume of subsidized inputs

Comment 7 Whether the Department should adopt a standardized conversion factor to convert board feet into cubic meters for lumber input

Comment 8 Whether the Department should calculate mill-specific rates

Company Specific Issues

Comment 1 Bois Daquaam Inc.

Comment 2 City Lumber Sales and Services Limited

Comment 3 Herridge Sawmills Ltd.

Comment 4 Jointfor
Comment 5 Lonestar Lumber
Comment 6 Maibec Industries Inc.

[FR Doc. 02–28217 Filed 11–4–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Terminate Nonexclusive Patent License; Micro Photonix Integration Corporation

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of it's intent to terminate the nonexclusive license granted to Micro Photonix Integration Corporation on June 6, 2000, to practice the Government-owned inventions described in U.S. Patent numbers 4, 763,272; 5,121,453, and 5,652,819. The Licensee is in default of the license agreement.

DATE: Anyone wishing to object to the termination of this license has thirty (30) days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESS: Written objections are to be filed with the Office of Patent Counsel, Space and Naval Warfare Systems Center, Code 20012, 53510 Silvergate Ave., Room 103, San Diego, CA 92152–5765.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Ward, Space and Naval Warfare Systems Center, Code 20012, 53510 Silvergate Ave., Room 103, San Diego, CA 92152–5765, telephone (619) 553–3823.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.10)

Dated: October 23, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, , U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–28045 Filed 11–4–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Brown v. Board of Education 50th Anniversary Commission; Meeting

AGENCY: Brown v. Board of Education 50th Anniversary Commission, U.S. Department of Education (ED).

ACTION: Notice of meeting.

SUMMARY: This notice provides the schedule of a forthcoming meeting of the Brown v. Board of Education 50th Anniversary Commission. This notice also describes the functions of the commission. This document is intended to notify the general public of their opportunity to attend.

Date and Time: November 13, 2002 at 8:45 a.m.

ADDRESSES: Howard University School of Law, Allen Mercer Daniel Law Library, 2900 Van Ness Street, NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Daniel W. Sutherland, Chief of Staff, Office for Civil Rights, U.S. Department of Education, 330 C Street, SW., Washington, DC 20202, (202) 205–5526.

SUPPLEMENTARY INFORMATION: Brown v. Board of Education 50th Anniversary Commission is established under Public Law 107–41 to commemorate the 50th anniversary of the Brown decision. The Commission, in conjunction with the U.S. Department of Education, is responsible for planning and coordinating public education activities and initiatives. Also, the Commission, in cooperation with the Brown Foundation for Educational Equity, Excellence, and Research in Topeka, Kansas, and such other public or private entities as the Commission deems appropriate, is responsible for encouraging, planning, developing, and coordinating observances of the anniversary of the Brown decision. The meeting of the Commission is open to the public. Individuals who will need accommodations for a disability in order to attend the meeting (i.e. interpreting services, assistive listening devices, materials in alternative format) should notify Mary McPhail at (202) 205–9529 by no later than November 6, 2002. We will attempt to meet requests after that date, but cannot guarantee availability.

Dated: October 30, 2002.

Gerald A. Reynolds,

Assistant Secretary for Civil Rights.

[FR Doc. 02–28049 Filed 11–4–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Science; Fusion Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting

SUMMARY: This notice announces a meeting of the Fusion Energy Sciences Advisory Committee. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, November 25, 2002, 9 a.m. to 6 p.m.; Tuesday, November 26, 2002, 9 a.m. to 12 noon.

ADDRESSES: The Marriott Gaithersburg Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878, USA.

FOR FURTHER INFORMATION CONTACT: Albert L. Opdenaker, Office of Fusion Energy Sciences; U.S. Department of Energy;1000 Independence Avenue, SW.; Washington, DC 20585–1290; Telephone: 301–903–4927.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The major purpose of this meeting is to finalize the Fusion Energy Sciences Advisory Committee recommendations on a plan for putting fusion-generated electricity on the commercial utility grid in 35 years.

Tentative Agenda

Monday, November 25, 2002

- Office of Science Perspective
- Office of Fusion Energy Sciences Perspective
- Report from the 35-year Development Plan Panel
- Public Comments

Tuesday, November 26, 2002

- Report from the Simulation/Integrated Modeling Panel
- Report from the Non-electric Application Panel

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Albert L. Opdenaker at 301–903–8584 (fax) or *albert.opdenaker@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: We will make the minutes of this meeting available for public review and copying within 30 days at the Freedom of Information Public Reading Room; IE–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 31, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–28064 Filed 11–4–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on November 12, 2002, at the headquarters of the IEA in Paris, France, and on November 12–13, 2002, in connection with a meeting of the IEA's Standing Group on Emergency Questions (SEQ).

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meeting is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on November 12, 2002, from 9:30 a.m. to noon. The Agenda for the IAB meeting is as follows:

1. Welcome and Review of Agenda
2. Introduction of Attendees
3. IEA Priorities and Challenges
   —Questions and Answers
4. Legal Ground Rules for IAB
   —Questions and Answers
5. IEA Overview and Introduction to the Office of Oil Markets and Emergency Preparedness
6. Joint Oil Data Exercise
   —History and Status
   —Role for Companies
   —Questions and Answers
7. IEA Emergency Response Capability
   —IEA's Role in Oil Crises
   —Role of IAB and Industry Supply Advisory Group in an Oil Crisis
   —Questions and Answers
8. SEQ Program of Work Overview
   —Overview of SEQ Work Plan for 2003/2004
   —Role for IAB in Supporting SEQ Work Plan
9. General Discussion
   —How Can the IAB Better Assist the IEA with Oil Issues?
10. IAB Future Issues

A meeting of the IAB will be held on November 12 and 13, 2002, at the headquarters of the IEA, commencing at 2:30 p.m. on November 12. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's SEQ, which is scheduled to be held at the same time and location.

The Agenda for the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following Agenda:

Tuesday, November 12, 2002, 2:30 p.m.

1 Adoption of the Agenda
2. Approval of the Summary Record of the 105th Meeting
3. The SEQ Program of Work for 2003–2004
4. Update on Compliance with International Energy Program (IEP) Stockholding Commitments
   —Report by Non-Complying Member Countries (Austria, Italy, Luxembourg, Portugal)
   —Information on French Stockholding Regulations
   —Report on Monthly Oil Statistics
5. Presentation and Informal Discussion on the Impacts of Supply Disruptions in the Middle East

Wednesday, November 13, 2002, 9:30 a.m.

6. Information about the Outcome of Governing Board Discussion on Initial Contingency Response Plan
7. Policy and Legislative Developments in Member Countries
   —Korea
   —United States
   —European Union
   —Others
8. The Current Oil Market Situation
9. Report on Developments in Non-Member Countries and International Organizations
   —Report on Oil Stockholding Seminar in Southeastern Europe
   —IEA/ASEAN Oil Security Workshop
   —Preparation for a Joint IEA/China Seminar on Oil Stocks and Emergency Response
   —Report on International Energy Forum, Osaka
   —Report on Joint Oil Data Exercise
10. Report on Annual Meeting of IAB and Current Activities of IAB
11. Other Emergency Response Activities
   —Transport Demand Restraint Study: Result of Survey and Next Steps
   —Revised Questionnaire on Minimum Operating Requirements
12. Emergency Response Reviews of IEA and Candidate Countries
   —Belgium
   —Luxembourg
   —Poland
   —Revised Schedule of Emergency Response Reviews for 2003–2004
13. Other Documents for Information
   —Emergency Reserve Situation of IEA Member Countries on July 1, 2002
   —Emergency Reserve Situation of IEA Candidate Countries on July 1, 2002
   —Monthly Oil Statistics: July 2002
   —Base Period Final Consumption: 3Q2001—2Q2002
   —Quarterly Oil Forecast: Fourth Quarter 2002
   —Update of Emergency Contacts List
14. Other Business
   —Information on Ministerial Meeting, 2003
   —Information on Workshop on Stockholding, 2003
   —Dates of Next Meetings:
   March 18–20, 2003
   June 17–18, 2003
   November 18–20, 2003

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), this meeting is open only to representatives of members of the IAB and their counsel; representatives of members of the SEQ; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, DC, October 31, 2002.

Eric J. Fygi,

Deputy General Counsel.

[FR Doc. 02–28167 Filed 11–1–02; 11:25 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The EIA is soliciting comments on the proposed reinstatement of the Form EIA–871A/I, and the proposed new EIA–871J, ''2003 Commercial Buildings Energy Consumption Survey.''

DATES: Comments must be filed by January 6, 2003. If you anticipate

difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Martha Johnson. To ensure receipt of the comments by the due date, submission by FAX ((202) 586–0018) or e-mail (*martha.johnson@eia.doe.gov*) is recommended. The mailing address is Martha Johnson, Survey Manager, EI–63/Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0660. Alternatively, Ms. Johnson may be contacted by telephone at (202) 586–1135.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions should be directed to Martha Johnson at the address listed above.

SUPPLEMENTARY INFORMATION

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer-term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under section 3507(a) of the Paperwork Reduction Act of 1995.

The Commercial Buildings Energy Consumption Survey (CBECS) has been conducted seven times covering the years 1979, 1983 and 1986 under the name of the ''Nonresidential Buildings Energy Consumption Survey'', and years 1989, 1992, 1995 and 1999 under the current name, ''Commercial Buildings Energy Consumption Survey''. CBECS collects baseline data on energy consumption and expenditures in commercial buildings, and on the energy-related characteristics of those buildings. To obtain this information, interviews are conducted for a sample of commercial buildings in the 50 States and the District of Columbia. For buildings in the survey, data are collected on the types, amount and cost of energy consumed in the building, how the energy is used, structural characteristics of the buildings, activities conducted inside the buildings that relate to energy use, building ownership and occupancy, energy conservation measures, and energy-using equipment. The information will be collected using Computer Assisted Personal Interviewing (CAPI) for the 2003 CBECS. For those buildings that cannot provide energy consumption data for the building, the data will be obtained in a mail survey from the suppliers of electricity, natural gas, fuel oil and district heat to the building, after receiving permission from the building owner, manager or tenant. This mail survey to the energy suppliers is mandatory. The data obtained from this survey are available to the public in a variety of EIA electronic tables and reports at *http://www.eia.doe.gov/emeu/cbecs*. Public use files that have been screened to protect the identity of the individual respondents are also available electronically at the above web address. Selected data from the surveys are also published in the Monthly Energy Review and the Annual Energy Review.

II. Current Actions

This will be a proposed reinstatement of a previously approved collection and three-year clearance request to OMB. The request in the expiration data will extend the EIA–871A/J to November 30, 2005.

Anticipated changes for the 2003 CBECS include:

- A complete redesign of the sample, to include new Primary Sampling Units (PSU), Secondary Sampling Units (SSU) and segments.
- Collecting the data in a personal interview (rather than by telephone) using CAPI.
- Collecting energy data from a subsample of establishments within enclosed shopping malls and strip shopping centers.
- Collecting limited energy data from university facilities and hospital complexes as a whole on Form EIA–871J.
- Reinstating select energy-related building characteristics questions (Form EIA–871A) that are of a high priority to CBECS data users. These building characteristics include building footprint and equipment renovation questions.
- Expanding some energy-related building characteristics questions to assist in the analysis of the CBECS data. These questions focus on new energy technology and include expanded office equipment questions, specifically related to digital technology, and expanded heating and cooling equipment questions.
- Reformatting the Building Characteristics Questionnaire (Form EIA–871A) so that fewer respondents are asked all questions.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments. ''Please indicate to which form(s) your comments apply.''

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information to be collected?

B. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

C. Can the information be submitted by the due date?

D. Public reporting burden for this collection is estimated to average approximately 45 minutes per interview for the building respondent and approximately 30 minutes per energy supplier response in those cases where the data must be collected from the energy suppliers (Forms EIA–871C–F). The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate is this estimate?

E. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

F. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

G. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information To Be Collected

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information disseminated?

B. Is the information useful at the levels of detail to be collected?

C. For what purpose(s) would the information be used? Be specific.

D. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

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

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

Issued in Washington, DC, October 30, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–28065 Filed 11–4–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–42–000]

Distrigas of Massachusetts LLC; Notice of Tariff Filing

October 30, 2002.

Take notice that on October 24, 2002, Distrigas of Massachusetts LLC (DOMAC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 2002:

Third Revised Sheet No. 85 Third Revised Sheet No. 86
Third Revised Sheet No. 87 Third Revised Sheet No. 88
Third Revised Sheet No. 89 Third Revised Sheet No. 90
Third Revised Sheet No. 91 Fourth Revised Sheet No. 92
Third Revised Sheet No. 93

DOMAC states that the tariff sheets modify and extend DOMAC's SS–1 Storage Service Agreement with Boston Gas. The replacement agreement will be effective on November 1, 2002 and extend for a term of two years.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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, please contact FERC Online Support at FERCOnlineSupport *@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28179 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–044]

Dominion Transmission, Inc.; Notice of Negotiated Rate

October 30, 2002.

Take notice that on October 25, 2002, Dominion Transmission, Inc. (DTI) filed with the Commission the following tariff sheets for disclosure of a recently negotiated rate transaction:

Second Revised Sheet No. 1406

DTI also reserves for future use the following tariff sheets:

Sheet No. 1401
Sheet No. 1402
Sheet No. 1403
Sheet No. 1405

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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, please contact FERC Online Support at *FERCOnlineSupport @ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28183 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–393–002 and RP01–43–003]

Eastern Shore Natural Gas Company; Notice of Compliance Filing

October 30, 2002.

Take notice that on October 28, 2002 Eastern Shore Natural Gas Company (Eastern Shore) submitted its Order No. 637 Compliance Filing as directed by the Commission in compliance with the Commission's letter order issued on October 11, 2002 in the above-referenced dockets.

Eastern Shore states such order directed it to file actual tariff sheets to replace the Pro Forma tariff sheets originally filed by Eastern Shore on August 19, 2002. The Commission also directed Eastern Shore to make such tariff sheets effective on November 1, 2002.

Eastern Shore states that copies of its filing has been mailed to its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28173 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–43–000]

Enbridge Pipelines (KPC); Notice of Proposed Changes in FERC Gas Tariff

October 30, 2002.

Take notice that on October 25, 2002, Enbridge Pipelines (KPC) (KPC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be made effective December 1, 2002:

Third Revised Sheet No. 15
Third Revised Sheet No. 26
Third Revised Sheet No. 30
Second Revised Sheet No. 31C
Third Revised Sheet No. 21
Third Revised Sheet No. 28
Second Revised Sheet No. 31A

KPC states that the purpose of the filing is to reflect an increase in its Fuel Reimbursement Percentages pursuant to Section 23 of the General Terms and Conditions of its FERC Gas Tariff.

KPC further states that because of the extraordinary work load on KPC's limited staff caused by the Commission's Order in FERC Docket No. RP99–485, KPC did not file to change its Fuel Reimbursement Surcharge by September 30, 2002.

KPC states that copies of its transmittal letter and appendices have been mailed to all affected customers and interested state commissions

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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, please contact FERC Online Support at FERCOnlineSupport *@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28180 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–220–012]

Great Lakes Gas Transmission Limited Partnership; Notice of Negotiated Rate Agreement

October 30, 2002.

Take notice that on October 28, 2002, Great Lakes Gas Transmission Limited Partnership (Great Lakes) filed for disclosure, a transportation service agreement pursuant to Great Lakes' Rate Schedule FT entered into by Great Lakes and ANR Pipeline Company (ANR) (FT Service Agreement). The FT Service Agreement being filed reflects a negotiated rate arrangement between Great Lakes and ANR commencing April 1, 2003.

Great Lakes states that the FT Service Agreement is being filed to implement a negotiated rate contract as required by both Great Lakes' negotiated rate tariff provisions and the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, issued January 31, 1996, at Docket Nos. RM95–6–000 and RM96–7–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the

Commission's 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, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28185 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–151–005]

Gulf South Pipeline Company, LP; Notice of Compliance Filing October 30, 2002.

Take notice that on October 25, 2002, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet, to become effective November 1, 2002.
Second Substitute Original Sheet No. 307

Gulf South states that the above tariff sheet has been filed to comply with the Order issued October 10, 2002, 101 FERC ¶ 61,019. The Commission directed Gulf South to permit an NNS customer subject to retail unbundling/open access to be entitled to give notice as of the date of the final order in such proceeding. The compliance filing incorporates this change.

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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28176 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–476–002]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

October 30, 2002.

Take notice that on October 23, 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 sheet proposed, to become effective November 1, 2002:
2nd Substitute Third Revised Sheet No. 123

It has come to Iroquois attention that there was a typographical error within Substitute Third Revised Sheet No. 123, which was originally filed on October 15, 2002 in the above captioned proceeding. Therefore, Iroquois is resubmitting Second Substitute Third Revised Sheet No. 123.

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, please contact FERCOnline Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28178 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1264–003]

Mirant Neenah, LLC; Notice of Filing

October 30, 2002.

Take notice that on August 20, 2002, Mirant Neenah, LLC (Mirant Neenah), tendered for filing a notification of change in status with respect to its authority to engage in wholesale sales of capacity, energy, and ancillary services at market-based rates.

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, please contact *FERC Online* Support at *ferconlinesupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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: November 12, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–28169 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–070]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate

October 30, 2002.

Take notice that on October 25, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing with the Commission to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Second Revised Sheet No. 26C to be effective October 25, 2002.

Natural states that the purpose of this filing is to implement an amendment to an existing negotiated rate transaction entered into by Natural and The Peoples Gas Light and Coke Company under Natural's Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff. Natural states that the amended negotiated rate agreement does not deviate in any material respect from the applicable form of service agreement in Natural's Tariff.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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, please contact *FERCOnline* Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Comments, protests and interventions may be filed ele ctronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28184 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–412–001]

Northwest Pipeline Corporation; Notice of compliance Filing

October 30, 2002.

Take notice that on October 25, 2002, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed in the filing, to be effective upon further order of the Commission.

Northwest states that the purpose of this filing is to comply with the Commission's Order No. 637 compliance order by filing actual tariff sheets pertaining to segmentation, operational flow orders, discounting, penalties, imbalance services and netting and trading.

Northwest states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28174 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–129–004]

Southern LNG Inc.; Notice of Compliance Filing

October 30, 2002.

Take notice that on October 24, 2002, Southern LNG Inc. (SLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the electronic version of the following revised sheets, with an effective date of March 1, 2002:

Second Revised Sheet No. 5
Original Sheet No. 105A
Second Revised Sheet No. 107
Second Revised Sheet No. 6
Original Sheet No. 105B

SLNG states that the purpose of this filing is to provide an electronic version of the above-referenced tariff sheets in compliance with the Commission's order issued on October 10, 2002 (October 10 Order), in the captioned proceeding. In the October 10 Order, the Commission accepted these tariff sheets with an effective date of March 1, 2002, to settle the rate proceeding in these dockets.

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, please contact FERC Online Support at *FERCOnlineSupport @ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28175 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–447–001]

Southwest Gas Storage Company; Notice of Compliance filing

October 30, 2002.

Take notice that on October 28, 2002, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to become effective October 1, 2002:

Sub 2nd Rev Second Revised Sheet No. 147

Southwest states that this filing is being made to comply with the Commission's Letter Order dated September 26, 2002 in Docket No. RP02–447–000 which requires Southwest to remove Standard 2.3.30 from Section 17.5 of the General Terms and Conditions of its tariff.

Southwest states that copies of this filing are being served on all jurisdictional customers, interested state regulatory agencies and parties to this 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28177 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–260–002]

Texas Gas Transmission Corporation; Notice of Compliance Filing

October 30, 2002.

Take notice that on October 25, 2002, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix B to the filing, to become effective on August 1, 2002.

Texas Gas states that this filing is being submitted in compliance with paragraph 10 of the Commission Letter Order dated October 10, 2002 in Docket Nos. RP00–260–000 and RP00–260–010 (101 FERC ¶ 61,031). The Letter Order accepted an uncontested Settlement. By this filing, Texas Gas implements the provisions of the approved Settlement according to its terms.

Texas Gas states that copies of the revised tariff sheets are being mailed to all parties on the official service list, to Texas Gas's jurisdictional customers and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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, please contact FERC Online Support at *ferconlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28172 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP95–197–047 and RP97–71–039]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

October 30, 2002.

Take notice that on October 15, 2002 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets listed on Appendix A attached to the filing, to be effective December 1, 2002.

Transco states that the purpose of the filing is to comply with the Commission's Order issued September 30, 2002 which directed Transco to file a separate Section 5 compliance filing to unbundle the costs associated with its Emergency Eminence Storage Withdrawal Service.

Transco states that copies of the filing are being mailed to all parties in Docket Nos. RP95–197, RP97–71 and RP01–245 and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 8, 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. 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28181 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–359–011]

Transcontinental Gas Pipe Line Corporation; Notice of Negotiated Rate

October 30, 2002.

Take notice that on October 24, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing with the Commission a copy of an amendment to an executed service agreement between Transco and Williams Energy Marketing & Trading Company that contains a negotiated rate under Rate Schedule FT applicable to the Leidy East Expansion Project. Transco states that the purpose of the instant filing is to comply with requirements specified in the Commission's October 25, 2001, ''Order Issuing Certificate,'' in Docket No. CP01–389 which required Transco, among other things, to file, not less than 30 days prior to the commencement of service of the Leidy East Expansion Project, the negotiated rate agreements or tariff sheets reflecting the essential elements of its negotiated rate agreements. The proposed effective date of the amendment submitted herein is November 1, 2002, the anticipated in-service date of the Leidy East project.

Transco states that copies of the filing are being mailed to its affected customers and interested State Commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28182 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–436–000]

Northern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Project Max and Request for Comments on Environmental Issues

October 30, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Project MAX involving construction and operation of facilities by Northern Natural Gas Company (Northern) in several counties of Minnesota.[1] These facilities would consist of about 4.6 miles of 8-inch-diameter pipeline, a new compressor station, and modifications to 10 different town border stations. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Northern provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

Summary of the Proposed Project

The incremental capacity attained by the proposed facilities (summarized below) would be utilized to serve high priority residential, commercial, and industrial customer market growth in Northern's Market Area. The construction of the proposed facilities would increase the peak day capacity on Northern's Market Area mainline by approximately 16,200 million cubic feet per day. These facilities are required to meet shipper requests for firm capacity that Northern received during its open season. Northern's proposed facilities are as follows:

(1) Construct 4.6 miles of 8-inch-diameter loop on its Alexandria Branchline in Morrison County, Minnesota;

(2) Relocate existing tie-over and blowdown valves from the end of the existing Alexandria Branchline Loop to the end of the proposed branchline loop in Morrison County Minnesota;

(3) Construct a new electric compressor station on its Minnesota Interconnecting Line MNB 77501 near Popple Creek, in Benton County, Minnesota;

(4) Install a new regulator and valve at its Farmington Compressor Station in Dakota County, Minnesota;

(5) Upgrade 10 existing town border stations (TBS) in Douglas, Wright, Stearns, Dakota, Sherburne and Pope counties of Minnesota; and

(6) Install a valve operator on the existing C to B tie-over valve located at the St. Paul TBS #1T in Washington County, Minnesota.

[1] Northern's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

The general location of the project facilities is shown in appendix 1.[2] If you are interested in obtaining detailed maps of a specific portion of the project, send your request to Micheal T. Loeffler, Director, Certificates and Community Relations, Northern Natural Gas Company, 111 South 103rd Street, Omaha, Nebraska 68124–1000.

Land Requirements for Construction

Construction of the proposed facilities would require about 59.7 acres of land. Following construction, about 15.9 acres would be maintained as new operational right-of-way and aboveground facility sites. The remaining 43.8 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

—Geology and soils
—Land use
—Water resources, fisheries, and wetlands
—Cultural resources
—Vegetation and wildlife
—Air quality and noise
—Endangered and threatened species
—Hazardous waste
—Public safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

—Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
—Label one copy of the comments for the attention of Gas 2 Branch.
—Reference Docket No. CP02–436–000.
—Mail your comments so that they will be received in Washington, DC on or before November 29, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (appendix 4). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (*see* appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. By this notice we are also asking governmental agencies, especially those in appendix 3, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site at the ''FERRIS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to FERRIS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*www.ferc.gov*) using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *ferconlinesupport@ferc.gov*. The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28168 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for a New License

October 30, 2002.

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

a. *Type of filing:* Notice of Intent To File an Application for New License.

b. *Project No:* 2085.

c. *Date filed:* October 9, 2002.

d. *Submitted By:* Southern California Edison Company.

e. *Name of Project:* Mammoth Pool Project.

f. *Location:* Mammoth Pool is located on the main sterm of the Upper San Joaquin River, bordering Madera and Fresno Counties, California.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6.

h. Pursuant to Section 16.19 of the Commission's regulations, the licensee is required to make available the information described in Section 16.7 of the regulations. Such information is available from the licensee at the Northern Hydro Regional Office, 54205 Mountain Poplar Road, Big Creek, California 93605.

i. *FERC Contact:* James Fargo, 202–502–6095, *james.fargo@ferc.gov*.

j. *Expiration Date of Current License:* November 30, 2007.

k. *Project Description:* A storage dam, reservoir, dam outlet works including a 938 kilowatts(kw) fishwater generator, tunnel and penstock, and a powerhouse containing two turbines with two 95,000kw generators.

l. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2085 Pursuant to 18 CFR 16.9(b)(1), each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by November 30, 2005.

A copy of the application 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, For assistance, please contact FERC Online Support at *fercolinesuport@ferc.gov*. or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28170 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Joint Application To Amend License and Soliciting Comments, Motions To Intervene, and Protests

October 30, 2002.

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

a. *Type of Application:* Joint Application to Amend License.

b. *Project No.:* 5–072.

c. *Date Filed:* October 15, 2002.

d. *Applicant:* PPL Montana, LLC (PPLM) and the Confederated Salish and Kootenai Tribes of the Flathead Nation (Tribes).

e. *Name of Project:* Kerr Hydroelectric Project.

f. *Location:* On the Flathead River in Lake and Flathead Counties, Montana.

g. *Filed Pursuant to:* 16 U.S.C. 799.

h. *Applicant Contacts:* David R. Poe, LeBoeuf, Lamb, Greene & MacRae, L.L.P., 1875 Connecticut Avenue, NW., Washington, DC 20009, (202) 986–8039 and Joe Hovenkotter, Tribal Legal Department, Flathead Reservation, 51383 Highway 93 North, Pablo, Montana 59855, (406) 675–2700, ext. 1169.

i. *FERC Contact:* Any questions on this notice should be addressed to Robert H. Grieve, *Robert.Grieve@ferc.gov*, (202) 502–8752.

j. *Deadline for filing comments, motions to intervene and protests:* November 29, 2002.

All documents (original and seven copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper, *see* 18 CFR 385.2002(a)(1)(iii) and instructions on the Commission's web site under the ''e-filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–5–072) on any comments or motions filed.

The Commission's rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor 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 Application:* Applicants request to amend the Kerr Project license in order to resolve the respective obligations of PPLM and the Tribes for performance of certain fish and wildlife mitigation measures that currently appear in several numbered articles in the project license. The articles at issue were originally submitted by the Department of the Interior pursuant to its authority under Section 4(e) of the Federal Power Act, 16 U.S.C. 797(e), and thereafter adopted by the Commission in its orders of June 25, 1997, October 30, 1998, and December 14, 2000. Applicants seek a similar resolution of obligations under a license article that was included in the project license in the December 14, 2000 order in response to a biological opinion prepared by the U.S. Fish and Wildlife Service pursuant to the Endangered Species Act.

l. *Locations of the Application:* Copies of this filing are 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. Copies

are also available for inspection and reproduction at the addresses in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Protests or Motions to Intervene-Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210. 385.211, and 385.2114. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified deadline date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATION FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–28171 Filed 11–4–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7404–6]

Clean Air Scientific Advisory Committee, National Ambient Air Monitoring Strategy (NAAMS) Subcommittee; Request for Nominations

ACTION: Notice; request for nominations to the National Ambient Air Monitoring Strategy Subcommittee of the Clean Air Scientific Advisory Committee of the U.S. Environmental Protection Agency.

SUMMARY: The Clean Air Scientific Advisory Committee (CASAC) of the U.S. Environmental Protection Agency (EPA or Agency) is announcing the formation of the National Ambient Air Monitoring Strategy (NAAMS or Strategy) Subcommittee (hereinafter, the ''Subcommittee'') and is hereby soliciting nominations for this Subcommittee. The CASAC is administratively located under the EPA Science Advisory Board (SAB). The SAB was established to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The NAAMS Subcommittee will report to the Administrator of EPA through the Clean Air Scientific Advisory Committee, a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App.). The Subcommittee will comply with the provisions of FACA and all appropriate SAB procedural policies, including the SAB process for panel formation described in the *Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board*, which can found on the SAB's Web site at: *http://www.epa.gov/sab/pdf/ec02010.pdf*. Those selected to serve on the NAAMS Subcommittee will review the draft materials identified in this notice and respond to the charge questions provided below.

Background

States, local agencies and Tribes establish and operate the Nation's regulatory-based ambient air monitoring networks. These networks are funded in part with Federal grants and are managed nationally by the EPA. The network data are used to support:

(a) Designation of attainment and non-attainment areas with respect to the National Ambient Air Quality Standards (NAAQS);

(b) Dissemination of air quality information to the public;

(c) Development (and tracking progress of) emission reduction strategies;

(d) Characterization of long-term air quality trends; and

(e) Studies in health and atmospheric science disciplines.

The associated monitoring network, instrumentation and quality assurance requirements are included in 40 CFR parts 50, 53 and 58.

EPA has recently completed development of the final draft of the National Ambient Air Monitoring Strategy document under the direction of the National Monitoring Strategy Committee (NMSC), an intergovernmental partnership comprising representatives from EPA (*i.e.*, the Office of Air Quality Planning and Standards (OAQPS), the Office of Research and Development (ORD) and Regional Offices), and State and local agencies and Tribes, *i.e.*, the principal Federal grantee organizations that operate the majority of the monitoring networks. The NAAMS document contains technical information underlying planned revisions of the National Ambient Air Monitoring program. The Strategy proposes a restructuring of the national regulatory-based air monitoring networks—commonly referred to as National Air Monitoring Stations (NAMS), State or Local Air Monitoring Stations (SLAMS), and Photochemical Assessment Monitoring Stations (PAMS)—to accommodate emerging priorities of air programs, the public and the scientific community. Specifically, the NAAMS provides a series of proposed changes for network design and improvements, assessments of existing networks, incorporation of new measurement and information transfer technologies, and revisions both to the current quality assurance program and the monitoring regulations. The principal proposed changes include:

(a) A shift toward collocated multiple pollutant monitoring stations under a new national monitoring network design referred to as ''NCore.''

(b) Incorporation of new continuous particle monitoring instruments, additional air toxics measurements and information transfer technologies to enhance the scope of near-real-time data delivered to the public.

(c) Adoption of new network design recommendations and the introduction of advanced monitoring technologies through performance-based standards.

(d) Reductions in existing monitoring stations that provide limited value for public protection or air quality planning

needs, with attendant resource savings redirected to meeting new measurement needs.

EPA intends to propose revisions to the monitoring regulations that have emerged from this strategy during 2003. A public comment period on the proposed regulations will be announced at a later date by EPA's Office of Air and Radiation. The NAAMS document is available through EPA's Ambient Monitoring Technology Information Center (AMTIC) Web site at the following URL address: *http://www.epa.gov/ttn/amtic/stratmem.html*.

Request for and Proposed Charge to the NAAMS Subcommittee

EPA's Office of Air and Radiation (OAR) has requested that the CASAC form a subcommittee to review the NAAMS document. This new CASAC subcommittee will be charged with providing consultation to EPA on the technical bases and design aspects of the National Ambient Air Monitoring Strategy. In particular, the Subcommittee will be asked to provide a formal consultation on the following elements of the strategy:

(a) The NCore proposal, including conceptual approach to tiered monitoring levels, recommended measurements and numbers and locations of Level 2 sites. Consideration to phasing of measurements included in Level 2 sites should be addressed based on currently available and expected emerging monitoring technologies. The Subcommittee is also requested to advise on the scope and breadth of research-grade Level 1 sites.

(b) The use of spatial analysis approaches for network design and other air program planning needs. The monitoring strategy has utilized various spatial design approaches on National and Regional scales to identify areas of redundant monitoring as well as gaps requiring additional monitoring.

(c) The use of performance-based approaches for standardizing monitoring method requirements for particulate matter measurements. Performance-based approaches rely on applying data quality objectives to determine the allowable statistical uncertainties for instrument performance. This third subject area has evolved from discussions with the existing CASAC Subcommittee on Particulate Monitoring, and plays an important role in facilitating accommodation of new technologies into air monitoring networks.

Nominator's Assessment of Expertise

For all nominations submitted to the EPA SAB, please indicate the specific areas of expertise the candidate could contribute in this upcoming review topic. The nominee should be a recognized, national-level expert in one or more of the following disciplines.

(a) *Atmospheric sciences and air quality simulation modeling*. Areas of expertise include the development and application of regional and larger-scale air quality dispersion models to predict atmospheric concentrations of ozone, particulate matter and other pollutants, with emphasis placed on the application of such systems to developing emission control strategies in support of national-level programs or State Implementation Plans (SIPs). Related areas of expertise include individuals with expertise in chemical mechanism development, deterministic source-receptor modeling, observational-based models and related data analysis expertise and conceptual model development.

(b) *Health effects and exposure*. Areas of expertise include epidemiology, exposure assessment, risk assessment, and similar disciplines that relate adverse health impacts and ambient air pollution parameters to develop causative relationships, particularly with an emphasis on long-term time-series studies covering a range of population types and locations. This includes expertise in air pollution exposure studies that consider the relationship of ambient air to direct exposures through a range of environments (both outdoor and indoor).

(c) *Air quality measurement science*. Areas of expertise include particulate matter and gaseous species measurements, with an understanding of routine applications conducted by most State and local agencies, and both an interest in and an understanding of integrating advanced methodology in routine networks and transferring new technological advances to application level efforts in government agencies.

(d) *State or local agency experience*. Areas of expertise include experience working in a State or local agency organization familiar with the practical logistics of conducting air monitoring operations.

Process and Deadline for Submitting Nominations

Any interested person or organization may nominate qualified individuals for membership on the NAAMS Subcommittee. Nominations should be submitted in electronic format and must include the information listed below. To be considered, all nominations must include: (a) A current biography, *curriculum vitae* (C.V.) or resume, which provides the nominee's background, experience and qualifications for this subcommittee; and (b) a brief biographical sketch (''biosketch''). The biosketch should be no longer than one page and contain the following information for the nominee: current professional affiliations and positions held; research interests; leadership positions in national associations or professional publications or other significant distinctions; advanced degrees, including when and from which institutions these were granted; and sources of recent grant and/or other contract support.

Please provide nominations in the following manner:

(a) Send the nomination by email to: *butterfield.fred@epa.gov*.

(b) Use one email per person being nominated.

(c) Please use ''NAAMS'' in the subject field, followed by the last name of the candidate you are nominating. (For example, NAAMS: Smith).

(d) Attach supporting information (*i.e.*, resume, biosketch, *etc.*) in either MS Word or WordPerfect files formats ending in ''.doc'' or ''.wpd,'' respectively.

(e) In a separate file, please provide the following information in the order shown:

For the Person Making the Nomination

First Name:
Last Name:
Person Title (*e.g.*, Dr., Mr., Ms., *etc.*)
Organization Title:
E-mail Address:
Mailing Address:
Work Phone:
Work Fax:

Name of Nominee (if Nomination Is Not a Self-Nomination)

First Name:
Last Name:
Person Title (*e.g.*, Dr., Mr., Ms., *etc.*)
Professional Title:
Department:
School or Unit:
University or Organization:
Mailing Address:
Work Phone:
Fax Work Phone:
E-mail Address:
Web site for C.V. (if one exists):
Expertise (Using the specific expertise categories in section 5 of this **Federal Register** notice, identify the Nominee's specific qualifying expertise):

Nominations should be submitted in electronic format to Mr. Fred Butterfield, Designated Federal Officer, Clean Air Scientific Advisory Committee, EPA SAB, at the following

e-mail address: *butterfield.fred@epa.gov.* Anyone who is unable to submit nominations in electronic format may send hard copies of the nomination paperwork to Mr. Butterfield at the following mailing address: EPA Science Advisory Board, U.S. Environmental Protection Agency (1400A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via fax at: (202) 501–0582. Nominations should be submitted in time to arrive no later than November 26, 2002. Any questions concerning either this process or any other aspects notice should be directed to Mr. Butterfield either at the above e-mail address or via telephone at: (202) 564–4561.

The EPA Science Advisory Board will generally not formally acknowledge or respond to Subcommittee nominations. From the nominees identified by respondents to this **Federal Register** notice (termed the ''Widecast''), SAB Staff will develop a smaller subset (known as the ''Short List'') for more detailed consideration. Criteria used by the SAB Staff in developing this Short List are given at the end of the following paragraph. The Short List will be posted on the SAB Web site at: *http://www.epa.gov/sab,* and will include, for each candidate, the nominee's name and their biosketch. Public comments will be accepted for 21 calendar days on the Short List. During this comment period, the public will be requested to provide information, analysis or other documentation on nominees that the SAB Staff should consider in evaluating candidates for the NAAMS Subcommittee.

For the EPA SAB, a balanced review panel (*i.e.*, committee or subcommittee) is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the Subcommittee, along with information provided by candidates and information gathered by EPA SAB Staff independently on the background of each candidate (*e.g.*, financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluating an individual subcommittee member include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) scientific credibility and impartiality; and (e) skills working in committees, subcommittees and advisory panels.

Short List candidates will also be required to fill-out the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form, which is used by EPA SAB Members and Consultants, allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: *http://www.epa.gov/sab/pdf/epaform3110–48.pdf.* Subcommittee members will likely be asked to attend at least one public face-to-face meeting and several public conference call meetings over the anticipated three-month course of the Subcommittee's activity. Once the NAAMS Subcommittee completes its deliberations, its report will be forwarded to the CASAC, which will review the Subcommittee's report in a public teleconference meeting and reach a judgment concerning its transmittal to the Administrator.

General Information

Any persons having general review comments on the National Ambient Air Monitoring Strategy document should submit them no later than December 1, 2002, to Dr. Brenda Millar, Monitoring and Quality Assurance Group, at mailing address: U.S. EPA (C339–02), 4930 Old Page Road, Research Triangle Park, NC 27711; or e-mail: *bmillar@epa.gov.* Additionally, any questions concerning the NAAMS should be directed to Dr. Richard Scheffe, U.S. EPA OAQPS Monitoring and Quality Assurance Group Leader, at phone: (919) 541–4650; or e-mail: *Scheffe.Rich@epamail.epa.gov.*

The approved policy under which the EPA SAB selects review panels is described in a recent SAB document, *EPA Science Advisory Board (SAB) Panel Formation Process: Immediate Steps to Improve Policies and Procedures—An SAB Commentary* (EPA–SAB–EC–COM–002–003), which can be found on the SAB's Web site at: *http://www.epa.gov/sab/pdf/ecm02003.pdf.*

Additional information concerning the EPA Science Advisory Board, including its structure, function, and composition, may be found on the EPA SAB Web site at: *http://www.epa.gov/sab;* and in *The EPA Science Advisory Board FY2001 Annual Staff Report*, which is available from the EPA SAB Publications Staff at phone: (202) 564–4533; via fax at: (202) 501–0256; or on the SAB Web site at: *http://www.epa.gov/sab/annreport01.pdf.*

Dated: October 30, 2002.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 02–28082 Filed 11–4–02; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 54]

Availability of Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Export-Import Bank of the United States

AGENCY: Export-Import Bank of the United States.

ACTION: Notice of availability of guidelines.

SUMMARY: The Export-Import Bank's (Ex-Im Bank) Information Quality Guidelines will be available for public access on Ex-Im Bank's web site *http://www/exim.gov/omb/dataquality.doc,* on October 1, 2002. The Information Quality Guidelines describe Ex-Im Bank's procedures for reviewing and substantiating the quality of information before it is disseminated to the public, and the procedures by which an affected person may request correction of information disseminated by Ex-Im Bank that does not comply with the information quality guidelines.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Kalesha Malloy, Office of the Chief Information Officer, Information Management & Technology Group, 811 Vermont Ave, NW., Room 763, Washington, DC 20571; phone (202) 565–3857, email to *kalesha.malloy@exim.gov;* fax (202) 565–3424.

SUPPLEMENTARY INFORMATION: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554) directs OMB to issue government-wide guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity

of information disseminated by Federal agencies. The OMB guidelines require each agency to prepare a final report providing the agency's information quality guidelines. Each agency is further required to publish a notice of availability of this final report in the **Federal Register** and to post this report on its web site. As required by OMB's guidelines, Ex-Im Bank is publishing in the **Federal Register** a notice of availability of the guidelines on its Web site *http://www.exim.gov/omg/dataquality.doc.*

Dated: September 27, 2002.

Patrick O'Hare,

Chief Information Officer, Information Management & Technology Group, Export-Import Bank of the United States.

[FR Doc. 02–28038 Filed 11–4–02; 8:45 am]

BILLING CODE 6690–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 7, 2002, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Jeanette C. Brinkley, Acting Secretary to the Farm Credit Administration Board, (703) 883–4024, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance.

The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- October 10, 2002 (Open and Closed)

B. Reports

- Regulation Development Program Survey
- National Credit Union Administration Field Structure

Closed*

A. Reports

- OSMO Report
- Capital Issues
- Securities Issues

B. Unfinished Business and General Orders

- Enforcement Issues

* Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8), (9) and (10).

Dated: November 1, 2002.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 02–28277 Filed 11–1–02; 3:24 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 30, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 6, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1-C804 or Room 1-A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0798.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form No.: FCC Form 601

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and state, local and tribal government.

Number of Respondents: 242,555.

Estimated Time Per Response: 1.25 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement.

Total Annual Burden: 212,235 hours.

Total Annual Cost: $48,510,850.

Needs and Uses: FCC Form 601 is a consolidated, multi-part application or ''long form'' for market-based licensing and site-by-site licensing in the Wireless Telecommunications Bureau's (WTB's) Radio Services' Universal Licensing System (ULS).

A *Report and Order* for Auction of Multichannel Video Distribution and Data Services Licenses will begin February 12, 2003, and changes will occur to accommodate that auction. This auction will include 354 Component Economic Area licenses.

On May 16, 2002, the FCC adopted a *Report and Order,* WT Docket No. 02–8, Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216–220 MHz, 1390–1395 MHz, 1427–1429 MHz, 1429–1432 MHz, 1432–1435 MHz, 1670–1675 MHz, and 2385–2390 MHz Government Transfer Bands. Pursuant to adoption of the Report and Order, the FCC is revising the FCC 601, which will be used to determine the basic eligibility and qualifications of auction winners to become licensees through Auction #46 scheduled to commence on April 30, 2003. This auction will include 66 licenses.

Also, in addition to the changes concerning the aforementioned auctions, the Commission is requesting approval of any future auction changes

in advance and increasing the number of respondents by 800 for potential winners to file, thus removing the need for repetitive emergency clearances submitted to OMB due to auction related changes (additional radio services necessary for future auctions).

The information is used by the Commission to determine whether the applicant is legally, technically and financially qualified to be licensed.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–28061 Filed 11–4–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

October 28, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 5, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0704.

Title: Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96–6.

Form Nos.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 519.

Estimated Time Per Response: .50—120 hours.

Frequency of Response: Annual and on occasion reporting requirement, recordkeeping requirement, and third party disclosure requirement.

Total Annual Burden: 158,971 hours.

Total Annual Cost: $435,000.

Needs and Uses: These collections of information are necessary to provide consumers ready access to information concerning the rates, terms, and conditions governing the provision of interstate, domestic, interexchange services offered by nondominant IXC's in a detariffed and increasingly competitive environment. These collections of information are consistent with OMB's ''strong recommendation'' earlier in this proceeding that the Commission consider mechanisms to make pricing information available to consumers, state regulators, and other interested parties.

OMB Control No.: 3060–0770.

Title: Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94–1 (New Services).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 13 respondents; 26 responses.

Estimated Time Per Response: 10 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 130 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission permits price cap LECs to introduce new services on a streamlined basis, without prior approval. The Commission modified the rules to eliminate the public interest showing required by section 69.4(g) and to eliminate the new services test (except in the case of loop-based new services) required under sections 69.4(f) and (g). The information is needed by the Commission to carry out its mandate. The Commission is submitting this information collection to OMB with no change and to extend the approval for three years.

OMB Control No.: 3060–0760.

Title: Access Charge Reform, CC Docket No. 96–262 (First Report and Order); Second Order on Reconsideration and Memorandum Opinion and Order, and Fifth Report and Order.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 14.

Estimated Time Per Response: 3–2,060 hours.

Frequency of Response: On occasion and specific dates reporting requirement, third party disclosure requirement.

Total Annual Burden: 57,127 hours.

Total Annual Cost: $8,000.

Needs and Uses: The Commission provides detailed rules for implementing the market-based approach, pursuant to which price cap LECs would receive pricing flexibility in the provision of interstate access services as competition for those services develops. Commission rules grants immediate pricing flexibility to price cap LECs in the form of streamlined introduction of new services, geographic deaveraging of rates for services in the trunking basket, and removal of certain interstate interexchange services from price cap regulation, while providing for additional pricing flexibility upon certain showings. The information to be collected would be submitted to the Commission by incumbent LECs for use in determining whether the incumbent LECs should receive the regulatory relief proposed in the above reference rulemakings. The information collected under the Second Order on Reconsideration and Memorandum Opinion and Order would be submitted by the LECs to the interexchange carriers (IXCs) for use in developing the most cost-efficient rates and rate structures.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–28062 Filed 11–4–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 02–2933]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 31, 2002, the Commission released a public notice announcing the November 19–20, 2002 meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–1466 or *dblue@fcc.gov.* The address is: Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 5–A420, Washington, DC 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: October 31, 2002.

The North American Numbering Council (NANC) has scheduled a meeting to be held Tuesday, November 19, 2002, from 9 a.m. until 5 p.m., and on Wednesday, November 20, 2002, from 8:30 a.m., until 12 noon (if required). The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street, SW., Room TW–C305, Washington, DC.

This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue at the address under **FOR FURTHER INFORMATION CONTACT,** stated above.

Proposed Agenda—Tuesday, November 19, 2002, 9 a.m.

1. Announcements and Recent News
2. Approval of Minutes
   —Meeting of September 24–25, 2002
3. Report of the North American Numbering Plan Administrator (NANPA)
4. Report of Oversight Working Group
   —Review of Change Orders
   —Comparison of PAS vs. specification
   —2002 Performance Survey
   —Performance Improvement Plan
5. NANC October 23, 2002 letter to FCC re: Waiver of Pooling Grandfathered Codes Outside NPA
6. Report of National Thousands Block Pooling Administrator
   —Response to OWG review of PAS vs. specification
7. Report of Contamination Threshold IMG
   —Draft of recommendation due to FCC by December 13, 2002
8. Status of Industry Numbering Committee activities
9. Report of NANP Expansion/Optimization IMG
10. Report of Intermediate Numbering/Soft Dial Tone IMG
11. Report of the Local Number Portability Administration (LNPA) Working Group
    —Wireless Number Portability Operations (WNPO) Subcommittee
12. Report of NAPM LLC
13. Report from NBANC
14. Report of Cost Recovery Working Group
15. Report of E-Conferencing Working Group
16. Steering Committee
    —Table of NANC Projects
17. Report of Steering Committee
18. Summary of Action Items
19. Public Comments and Participation (5 minutes per speaker)
20. Other Business

Adjourn no later than 5 p.m.

Wednesday, November 20, 2002—8:30 a.m., If Required

21. Complete any unfinished agenda items.
22. Other Business

Adjourn no later than 12 Noon.

Next Meeting: Wednesday, January 22, 2003.

Federal Communications Commission.

Cheryl L. Callahan,

Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

[FR Doc. 02–28060 Filed 11–4–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 18, 2002.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Terry E. Forcht, Marion C. Forcht, Corbin, Kentucky; Theodore B. Forcht, Williamsburg, Kentucky; Rodney S. Shockley, and Laurie S. Shockley, Marietta, Kentucky; acting in concert to retain control of the voting shares of PRP Bancorp, Inc., Corbin, Kentucky, and thereby indirectly retain voting shares of PRP National Bank, Pleasure Ridge Park, Kentucky.

2. Terry E. Forcht, Marion C. Forcht,Corbin, Kentucky; Theodore B. Forcht, Williamsburg, Kentucky; Rodney S. Shockley, and Laurie S. Shockley, Marietta, Kentucky; acting in concert to retain control of Green County Bancshares, Inc., Corbin, Kentucky, and thereby indirectly retain voting shares of Greensburg Deposit Bank & Trust Company, Greensburg, Kentucky.

3. Terry E. Forcht, Marion C. Forcht, Corbin, Kentucky; Theodore B. Forcht, Williamsburg, Kentucky; Rodney S. Shockley, and Laurie S. Shockley, Marietta, Kentucky; acting in concert to retain control of Campbellsville Bancorp, Inc., Corbin, Kentucky, and thereby indirectly retain voting shares of Campbellsville National Bank, Campbellsville, Kentucky.

B. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. David Cyril Arnold, North Mankato, Minnesota; to acquire voting shares of Voyager Financial Services Corporation, Edina, Minnesota, and thereby

indirectly acquire voting shares of Voyager Bank, Eden Prairie, Minnesota.

Board of Governors of the Federal Reserve System, October 29, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–28024 Filed 11–4–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 19, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Todd Haugan, Long Lake, Minnesota; Tom P. Kell, Duluth, Minnesota; and Richard Lefcowitz, Minong, Wisconsin; to acquire voting shares of Superior Financial Holding, Inc., Two Harbors, Minnesota, and thereby indirectly acquire voting shares of The Lake Bank, National Association, Two Harbors, Minnesota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Harvey E. Zinn, Sugar Land, Texas; to acquire voting shares of SNB Bancshares, Inc., Sugar Land, Texas, and thereby indirectly acquire voting shares of Southern National Bank of Texas, Sugar Land, Texas.

Board of Governors of the Federal Reserve System, October 30, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–28055 Filed 11–4–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 29, 2002.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Heritage Bancshares, Inc., Topeka, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Heritage Bank, Topeka, Kansas.

Board of Governors of the Federal Reserve System, October 29, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–28025 Filed 11–4–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 29, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 3030-B4470:

1. Commerce National Bankshares of Florida, Inc., Winter Park, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Commerce National Bank of Florida, Winter Park, Florida (in organization).

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Reynolds, Teague, Thurman Financial Corp., Moody, Texas, and RTT Delaware Holdings, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of The First National Bank of Moody, Moody, Texas.

Board of Governors of the Federal Reserve System, October 30, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–28054 Filed 11–4–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the 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 Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Boston Private Financial Holdings, Inc., Boston, Massachusetts; to acquire up to 33 percent of the voting shares of Coldstream Holdings, Inc., and indirectly acquire Coldstream Capital Management, Inc., and Coldstream Securities, Inc., all of Bellevue, Washington, and thereby engage in investment advisory services, pursuant to § 225.28(b)(6) of Regulation Y; commodity pool operator activities; See *Dresdner Bank AG, 84 Fed. Res. Bull, 361 (May 1998)*; and in securities brokerage activities in an agency capacity, pursuant to § 225.28(b)(7) of Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.02–28023 Filed 11–4–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Regulatory Reform

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Department of Health and Human Services (HHS) Secretary's Advisory Committee on Regulatory Reform. As governed by the Federal Advisory Committee Act in accordance with Section 10(a)(2), the Secretary's Advisory Committee on Regulatory Reform is seeking guidance for the Department's efforts to streamline regulatory requirements. The Advisory Committee will advise and make recommendations for changes that would be beneficial in four broad areas: health care delivery, health systems operations, biomedical and health research, and the development of pharmaceuticals and other products. The Committee will review changes identified through regional public hearings, written comments from the public, and consultation with HHS staff.

All meetings and hearings of the Committee are open to the general public. The meeting agenda will allow some time for public comment. Additional information on the meeting agenda will be posted on the Committee's Web site prior to the meeting (*http://www.regreform.hhs.gov*).

DATES: The final full meeting of the Secretary's Advisory Committee on Regulatory Reform will be held on Thursday, November 21, 2002, from 8 am to 6 pm.

ADDRESSES: The hearing will be held in Room 800, Hubert H. Humphrey Building, 200 Independence Ave, SW., Washington, DC. To comply with security requirements, individuals who do not possess a valid Federal identification must present a picture identification, *e.g.*, driver's license or passport upon entry to the Humphrey Building.

FOR FURTHER INFORMATION CONTACT: Margaret P. Sparr, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW., Room 344G, Washington, DC 20201, (202) 401–5182.

SUPPLEMENTARY INFORMATION: The Hubert H. Humphrey Building is in compliance with the Americans with Disabilities Act. Sign-language interpretation will be provided for the duration of the meeting. If any individual with a disability needs other reasonable accommodation to participate in the meeting, please contact Dianne Norcutt at Social and Scientific Systems—phone: 301–628–3146; fax: 301–628–3101; e-mail: *dnorcutt@s-3.com,;* TTY: 800–735–2258.

On June 8, 2001, HHS Secretary Thompson announced a Department-wide initiative to reduce regulatory burdens in health care, to improve patient care, and to respond to the concerns of health care providers and industry, State and local Governments, and individual Americans who are affected by HHS rules. Common sense approaches and careful balancing of needs can help improve patient care. As part of this initiative, the Department established the Secretary's Advisory Committee on Regulatory Reform to provide findings and recommendations regarding potential regulatory changes. These changes would enable HHS programs to reduce burdens and costs associated with departmental regulations and paperwork, while at the same time maintaining or enhancing the effectiveness, efficiency, impact, and access of HHS programs.

Dated: October 30, 2002.

Dr. William Raub,

Deputy Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–28050 Filed 11–4–02; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0137]

Regulatory Procedures Manual; Chapter 9, Imports, Subchapter: Guidance Concerning Recommending Customs' Seizure and Destruction of Imported Human and Animal Food That Has Not Been Reconditioned; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft procedural guidance entitled ''Guidance Concerning Recommending Customs' Seizure and Destruction of Imported Human and Animal Food That Has Not Been Reconditioned.'' This draft guidance will provide FDA field offices with procedures for recommending seizure and destruction of foods that pose a significant risk to public health.

DATES: Submit written or electronic comments on the draft guidance by January 6, 2003, to ensure adequate consideration of the comments in the preparation of the final guidance. However, you may submit written or electronic comments at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Import Operations and Policy (HFC–170), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. Submit written comments on the draft guidance to Dockets Management Branch (HFA–305), 5630 Fishers Lane, rm. 1061, Rockville, MD, 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. *See* the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Joseph McCallion, Division of Import Operations and Policy (HFC–170), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6553, FAX 301–594–3787, email: jmccalli@ora.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In July 1999, the Secretaries of Health and Human Services and Treasury began development of new operational procedures to protect consumers from unsafe imported food. A plan, announced in December 1999, was developed by FDA and the U.S. Customs Service (Customs) to prevent distribution of unsafe imported food by destroying food products that pose a significant risk to public health. This initiative optimizes the statutory authorities and resources available to FDA and Customs.

Food products refused entry into the United States may be offered subsequently for re-importation by importers who choose to circumvent the import regulatory system or by importers who are unaware of the previous refusal. FDA and Customs have worked together on numerous cases to seize and destroy unsafe imported products regulated by FDA. This draft guidance serves to delineate FDA's responsibilities for collecting information, analyzing public health risk, recommending seizure, and coordinating destruction of the violative imported food by Customs. The purpose of this guidance is to ensure that imported food that poses a significant risk to public health is not distributed or exported and subsequently re-entered into U.S. commerce.

The draft guidance entitled ''Guidance Concerning Recommending Customs' Seizure and Destruction of Imported Human and Animal Food That Has Not Been Reconditioned'' is level 1 guidance that is being distributed for comment in accordance with FDA's regulation on good guidance practices (21 CFR 10.115) relating to the development, issuance, and use of guidance documents. The draft guidance represents the agency's current thinking on this topic. It does not create or confer any rights for, or on, any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on the draft guidance by January 6, 2003. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.cfsan.fda.gov/~dms/guidance.html*.

Dated: April 5, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–27575 Filed 11–4–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for public comment: 60-day proposed information collection.

AGENCY: Indian Health Service.

ACTION: Request for public comment: 60-day proposed information collection.

SUMMARY: The Indian Health Service (IHS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the IHS is providing a 60-day advance opportunity for public comment on a proposed new collection of information to be submitted to the Office of Management and Budget for review.

Proposed Collection: Title: 0917–NEW, ''IHS Forms to implement the Privacy Rule (45 CFR parts 160 and 164)''. *Type of Information Collection Request:* New collection. *Form Number(s):* IHS–810, IHS–911, IHS–912–1, IHS 912–2, and IHS 913. *Need and Use of Information Collection:* This collection of information is made necessary by the Department of Health and Human Services Rule entitled ''Standards for Privacy of Individually Identifiable Health Information'' (''Privacy Rule'') (45 CFR Parts 160 and 164). The Privacy Rule implements the privacy requirements of the Administrative Simplification subtitle of the Health Information Portability and Accountability Act of 1996 and creates national standards to protect individual's personal health information and gives patients increased access to their medical records. Sections, 45 CFR 164.508, 522, 526 and 528 of the Rule require the collection of information to implement these protection standards and access requirements. The IHS will use the following data collection instruments to implement the information collection requirements contained in the Rule.

45 CFR 164.508: This provision requires covered entities to obtain or

receive a valid authorization for its use or disclosure of protected health information for other than treatment, payment and healthcare operations. Under the provision individuals may initiate a written authorization permitting covered entities to release their protected health information to entities of their choosing. The IHS–810 will be used to document an individual's authorization to use or disclose their protected health information.

45 CFR 164.522: Section 164.522(a)(1) requires a covered entity to permit individuals to request that the covered entity restrict the use and disclosure of their protected health information. The covered entity may or may not agree to the restriction. The form ''IHS–912–1 Request for Restriction(s)'' will be used to document an individual's request for restriction of their protected health information and whether IHS agreed or disagreed with the restriction. Section 164.522(a)(2)(1) permits a covered entity to terminate its agreement to a restriction if the individual agrees to or requests the termination in writing. The form ''IHS–912–2 Request for Revocation of Restriction(s)'' will be used to document the agency or individual request to terminate a formerly agreed to restriction regarding the use and disclosure of protected health information.

45 CFR 164.526: This provision requires covered entities to permit an individual to request that the covered entity amend protected health information. If the covered entity accepts the requested amendment, in whole or in part, the covered entity must inform the individual that the amendment is accepted and obtain the individual's identification of and agreement to have the covered entity notify the relevant persons with which the amendment needs to be shared. If the covered entity denies the requested amendment, in whole or in part, the covered entity must provide the individual with a written denial. The form ''IHS–911 Request for Correction/Amendment of Protected Health Information'' will be used to document an individual's request to amend their protected health information and the agency's decision to accept or deny the request.

45 CFR 164.528: This provision requires covered entities to permit an individual to request that the covered entity provide an accounting of disclosures of protected health information made by the covered entity. The form ''IHS 913 Request for an Accounting of Disclosures'' will be used to document an individual's request for an accounting of disclosures of their protected health information and the agency's handling of the request.

Completed forms used in this collection of information are filed in the medical record. *Affected Public:* Individuals and households. *Type of Respondents:* Individuals. *Burden Hours:* The table below provides the estimated burden hours for this information collection:

ESTIMATED ANNUAL BURDEN HOURS

45 CFR Section/IHS Form	No. of respondents	Responses per respondent	Burden per response* (minutes)	Total annual burden
164.508 IHS–810	500,000	1	20	166,667
164.522(a)(1) IHS–912–1	15000	1	10	2,500
164.522(a)(2) IHS–912–2	5000	1	10	833
164.526 IHS–911	7500	1	15	1,875
164.528 IHS–913	15000	1	10	2,500
Total Annual Burden		5		174,375

*For ease of understanding, burden hours are provided in actual minutes.

The total estimated burden for this collection of information is 174,375 hours.

There are no capital costs, operating costs and/or maintenance costs to respondents.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Comments and Requests for Further Information: Send your written comments and requests for more information on the proposed collection or requests to obtain a copy of the data collection instrument(s) and instructions to: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852.1601, call non-toll free (301) 443–5938, send via facsimile to (301) 443-2316, or send your E-mail requests, comments, and return address to: *ihodahkw@hqe.ihs.gov.*

Comment Due Date: Your comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: October 28, 2002.

Charles W. Grim,

Assistant Surgeon General, Interim Director.

[FR Doc. 02–28056 Filed 11–4–02; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–24–1A]

OMB Approval Number 1004–0–162; Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted a request to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) to extend a currently approved collection of information listed below. On May 14, 2002, the BLM published a notice in the **Federal**

Register (67 FR 34467) requesting comments. The comment period ended July 15, 2002. BLM received no comments. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Office at the telephone number listed below.

The OMB must respond to this request within 60 days but may respond after 30 days. For maximum consideration, your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0162), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd, Springfield, Virginia 22153.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practically utility;
2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions we use;
3. Ways to enhance the quality, utility, and clarity of the information collected; and
4. Ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Oil and Gas Geophysical Exploration Operations (43 CFR 3150).

OMB Approval Number: 1004–0162.

Abstract: Respondents supply information that we use to determine procedures for conducting oil and gas geophysical exploration operations on public lands. The information supplied allow the Bureau of Land Management and the Forest Service to determine that geophysical exploration operation activities are conducted in a manner consistent with the regulations, local use plans, and environmental assessments in compliance with the provisions of the National Environmental Policy Act of 1969, as amended.

Form Numbers: BLM 3150–4/FS 2800–16; BLM 3150–5/FS 2800–16a; certain nonform information (Alaska only).

Frequency: On occasion.

Description of Respondents: Oil and gas exploration and drilling companies.

Estimated Completion Time: BLM 3150–4/FS 2800–16, 1 hour; BLM 3150–5/FS 2800–16a, 20 minutes; and certain nonform information (Alaska only), 1 hour.

Annual Repsonses: 1,253.

Application Fee Per Response; $25 filing/renewal fee (only if off lease in Alaska).

Annual Burden Hours: 836.

Bureau Clearance Officer: Michael H. Schwartz (202) 452–5033.

Dated: October 30, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–28046 Filed 11–4–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–027–1610–PG; G–03–0017]

Notice of Public Meetings, Steens Mountain Advisory Council

AGENCY: Department of the Interior, Bureau of Land Management, Burns District Office.

ACTION: Notice of Public Meetings for the Steens Mountain Advisory Council.

SUMMARY: In accordance with the Steens Mountain Cooperative Management and Protection Act (Steens Act) of 2000, the Federal Land Policy and Management Act, and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Steens Mountain Advisory Council (SMAC) will meet as indicated below:

DATES: The SMAC will meet at the BLM, Burns District Office 28910 Hwy 20 West, Hines, Oregon 97738, on January 23 and 24, 2003; March 3 and 4, 2003; April 9, 10, and 11, 2003; May 8, and 9, 2003; June 5 and 6, 2003; August 11 and 12, 2003; and November 17 and 18, 2003. A meeting in Bend, Oregon, will be held on September 15 and 16, 2003. All meeting sessions will begin the first day at 8:00 a.m., local time,and will end at approximately 4:30 p.m., local time. The second day of each session will begin at 8:00 a.m., local time, and will end at approximately 4:00 p.m., local time.

SUPPLEMENTARY INFORMATION: The SMAC was appointed by the Secretary of the Interior on August 14, 2001, pursuant to the Steens Act. The SMAC's purpose is to provide representative counsel and advice to the BLM regarding (1) new and unique approaches to management of the land within the bounds of the Steens Mountain Cooperative Management and Protection Area (CMPA), (2) cooperative programs and incentives for landscape management that meet human needs, maintain and improve the ecological and economic integrity of the area, and (3) preparation and implementation of a management plan for the CMPA.

Topics to be discussed by the SMAC at these meetings include categories such as transportation; recreation/public use; wildlife, special designated areas; partnerships/programs; cultural resources; watersheds; projects; education; volunteer-based information; adaptive management; planning process (Andrews Management Unit/Steens Mountain Cooperative Management and Protection Area Resource Management Plan and Environmental Impact Statement); science committee/consultants; socioeconomics; and other matters that may reasonably come before the SMAC.

All meetings are open to the public in their entirety. Information to be distributed to the SMAC is requested at least 10 days prior to the start of each SMAC meeting. Public comment is scheduled for 11 a.m. to 11:30 a.m., local time, both days of each meeting session. The amount of time scheduled for public presentations and meeting times may be extended when the authorized representative considers it necessary to accommodate all who seek to be heard regarding matters on the agenda.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the SMAC may be obtained from Rhonda Karges, Management Support Specialist, Burns District Office, 28910 Hwy 20 West, Hines, Oregon 97738, (541) 573–4400 or *Rhonda_Karges@or.blm.gov* or from the following Web site: *http://www.or.blm.gov/Steens.*

Dated: October 29, 2002.

Sandra C. Berain,

Associate District Manager.

[FR Doc. 02–28026 Filed 11–4–02; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Order Rescinding Final Order Denying Application for Registration Submitted by Steven J. Watterson

On May 21, 2001, an Order to Show Cause was issued to Steven J. Watterson proposing to deny his application for

registration as researcher in controlled substances. Subsequently on May 17, 2002, a final order was published in the **Federal Register** at 67 FR 35,136, indicating that Mr. Watterson had not responded to the Order to Show Cause and had therefore waived his opportunity for a hearing. Noting that the applicant had waived his right to a hearing, the Deputy Administrator found that Mr. Watterson's application should be denied.

Subsequent to the final order being published in this matter, it was brought to the Deputy Administrator's attention that Mr. Watterson had been in contact with an official at DEA headquarters and had not requested a hearing because Mr. Watterson was under a misapprehension, caused in part by conflicting guidance being given to Mr. Watterson by the DEA official concerning how and when the matter would be resolved.

Inasmuch as it appears that Mr. Watterson had contacted DEA in this matter and received contradictory direction, a default judgment was not appropriate and the final order should not have been issued. The Deputy Administrator of the Drug Enforcement Administration therefore orders that the final order published May 17, 2002, at 67 FR 35,136 be, and it hereby is, rescinded, and this matter is hereby remanded to the Office of Diversion Control, Drug Enforcement Administration, for further appropriate proceedings. This order is effective upon publication.

Dated: October 15, 2002.

John B. Brown, III,

Deputy Administrator.

[FR Doc. 02–28066 Filed 11–4–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: *30-day notice of information collection under review:* Certificate of Satisfactory Pursuit; Form I–699.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 28, 2002 at 67 FR 55276, allowing for a 60-day public comment period. No public comment was received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 5, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725 17th Street, NW., Room 10235, Washington, DC 20530.

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 agency's 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:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Certificate of Satisfactory Pursuit.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–699. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The Service will use this form to verify that a certified course provider has supplied the required instructions to temporary resident aliens, in compliance with Pub. L. 99–603 and Pub. L. 100–204, section 902.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at 10 minutes (0.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,600 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 4304, 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, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: October 30, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–28040 Filed 11–4–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: *30-day notice of information collection under review:* HRIFA Supplement to Form I–485 Instructions; Form I–485C.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 28, 2002 at 67 FR 55275, allowing for a 60-day public review and comment period. The

INS received no public comments regarding this information collection. The INS is now requesting a 3-year extension on the currently approved information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 5, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725 17th Street, NW., Room 10235, Washington, DC 20530.

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: Extension of currently approved collection.*

(2) *Title of Form/Collection:* HRIFA Supplement to Form I–485 Instructions.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–485 Supplement C. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This application is used to determine whether an alien applying for adjustment of status under the provisions of section 902 of Division A, Title IX of Public Law 105–277 is eligible to become a permanent resident of the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50,000 responses at approximately 30 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25,000 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.

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 20004.

Dated: October 30, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–28041 Filed 11–4–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: 30-day notice of information collection under review; affidavit of financial support and intent to Petition for Legal Custody for Pub. L. 97–359 Amerasian; Form I–361.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 16, 2002 at 67 FR 53621, allowing a 60-day public comment period. No comments were received.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 5, 2002. This process is conducted in accordance with 5 CFR part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725–17th Street, NW., Suite 10102, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–6974. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, *Attention:* Department Clearance Officer, Patrick Henry Buildilng, 601 D Street, NW., Suite 1600, Washington, DC 20530. Comments may also be submitted to DOJ via facsimile to (202) 514–1534.

Written comments and suggestions from the public and affected agencies 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 agency's 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 whose 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:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Affidavit of Financial Support and Intent to Petitiion for Legal Custody for Public Law 97–359 Amerasian.

(3) *Agency form number, if any, and the applciable component of the Department of Justice sponsoring the collection:* Form I–361. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households.The form is used in support

of Form I–360 to assure financial support for Pub. L. 97–359 Amerasian. The affadivit is used only to sponsor individuals eligible for immigration under Pub. L. 97–359.

(5) *An estimate of the total number respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25 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 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.

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, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: October 30, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–28042 Filed 11–4–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day Notice of Information Collection under Review: Petition for Approval of School for Attendance by Nonimmigrant; Form I–17.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 8, 2002 at 67 FR 53622, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 5, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

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 agency's 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:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Petition for Approval of School for Attendance by Nonimmigrant.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–17. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information is used by learning institutions to determine acceptance of nonimmigrant students, as well as INS to establish a list of names and locations of schools or campuses within school systems or districts with multiple locations, which schools are bona fide institutions of learning.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 322 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 322 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instruments, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulation and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 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, Washington, DC 20530.

Dated: October 30, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–28043 Filed 11–4–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: 30-day notice of information collection under review; request for verification of naturalization; form N–25.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 16, 2002, at 67 FR 56323, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 5, 2002. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725–17th Street, NW., Room 10235, Washington, DC 20530. 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 agency's 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:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Request for Verification of Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Forms N–25. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This form is used to obtain information from the records of a clerk of court which may be needed by a person applying for benefits under various provisions of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,000 responses at 15 minutes (.25) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 250 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, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: October 31, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–28059 Filed 11–4–02; 8:45 am]

BILLING CODE 4410–10–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 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–38,641; Applied Molded Products Corp., Watertown, WI

TA–W–41,490; Dispatch Printing, Inc., Erie, PA

TA–W–41,858; G and G Sewing Machine Co., Inc., Dunmore, PA

TA–W–41,971; Maryland Mold, Inc., Pittsfield, MA

TA–W–42,020; Maurer Enterprises, Inc., Grants Pass, OR

TA–W–42,052; Forem USA, a Div. Of Allen Telecom, Inc., Sparks, NV

TA–W–42,066; Leatherworks, LLC, Detroit, MI

TA–W–42,145; Acme Electronic, LLC, Cuba, NY

TA–W–41,966; Crane Resistoflex, Bay City, MI

TA–W–41,924; McDonald Woodworks, Inc., Philadelphia, MS

TA–W–41,325; Normark Corp., d/b/a Blue Fox Tackle, Cambridge, MN

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–42,157; A.O. Smith, Electrical Products Co., Upper Sandusky, OH

TA–W–42,127; Sun Apparel of Texas, Inc., Product Development Div., El Paso, TX

TA–W–42,105; Hershey Foods Corp., Pennsburg, PA

TA–W–42,093; Ames True Temper, Kane, PA

TA–W–41,329; TLD Lantis Corp., A Subsidiary of Teleflex Lionel-DuPont (TLD), Salinas, CA

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–42,131; Surgical Corp of America, Irvington, NY

TA–W–41,794; Sunbeam Products, Product Design Group, Hattiesburg, MS

TA–W–42,195; EDUSA Corp., A Subsidiary of 3M, El Paso, TX Including Temporary Workers of the Following Firms: Manpower, Inc., El Paso, TX, Randstadt, El Paso, TX and Southwest Staffing, El Paso, TX

TA–W–42,067; Huntsman Polymers Corp., Utilities Div., Odessa, TX

TA–W–41,254; Cooper Lighting, a Div. Of Cooper Industries, Elk Grove Village, IL

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–42,095; K.T. Mold and Manufacturing, Inc., Woodstock, IL

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–42,059; Isaac Hazan and Co, The Hazan Group, Secaucus, NJ

Affirmative Determinations for Worker Adjustment Asssistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,886; The Kelly Springfield Tire Co., Fayetteville, NC: June 20, 2001.

TA–W–42,029; Wyman Gordon Forgings, LP., Precision Castparts Corp., Houston, TX: August 14, 2001.

TA–W–41,998; Clore Automotive, LLC, Bloomington, MN: August 5, 2001.

TA–W–42,047 & A; Holloway Sportswear, Inc., Many, LA and Olla, LA: August 15, 2001.

TA–W–42,038; Corning, Inc., Telecommunications Segment, Optical Fiber Div., Concord Plant, Concord, NC: August 12, 2001.

TA–W–42,071; Marconi, Outside Plant and Power Products Div., Toccoa, GA: August 15, 2001.

TA–W–42,069; Aerus, LLC, Formerly Electrolux, LLC, Piney Flats, TN: September 3, 2001.

TA–W–41,556; Fedders Appliances, Effingham, IL: January 8, 2002.

TA–W–42,083; Bauch and Lomb, Contact Lens Div., Rochester, NY: October 24, 2002.

TA–W–42,107; Bath Unlimited, Inc., a Div. Of Masco Corp., Passaic, NJ: August 28, 2001.

TA–W–42,094; Spectrum Control, Inc., Power Technologies Group, Erie, PA: August 15, 2001.

TA–W–42,129; TJ Edwards Co., Auburn, ME: August 29, 2001.

TA–W–42,169; Alcoa, Inc., Badin Works, Badin, NC: September 6, 2001.

TA–W–42,182; American Tramways, Inc., a Div. of Doppelmayr CTEC, Inc., Watertown, NY: September 10, 2001.

TA–W–42,133; Angelica Image Apparel Div., Savannah, TN: August 26, 2001.

TA–W–41,740; Sulzer Pumps (US), Inc., Portland, OR: June 10, 2001.

TA–W–41,739; Wemco Precision Tool, Inc., Meadville, PA: June 14, 2001.

TA–W–41,598; Sonoco Products Co., Santa Maria Plant, Santa Maria, CA: May 15, 2001.

TA–W–41,502; Northrop Grumman Corp., Winchester Electronics Div., Sacramento, CA: April 23, 2001.

TA–W–41,382; Pendleton Woolen Mills, Inc., Corporate Headquarters, Portland, OR, A; Columbia Wool Scouring, Portland, OR, B; Dorr Woolen Co., Guild, NH, C; Washougal Mill, Washougal, WA, D; Pendleton Mill, Pendleton, OR, E; Bellevue Plant, Bellevue, NE, F; Nebraska City Plant, G; Menswear Distribution Center, Milwaukie, OR: April 9, 2001.

TA–W–41,189; Hitachi Electronic Devices USA, Inc., Greenville, SC: February 13, 2001.

TA–W–42,163; VF Imagewear (West), Inc., Sparta, TN: September 4, 2001.

TA–W–42,132; Fashion Star, Inc., Carrollton, GA: August 24, 2001.

TA–W–42,128; Kellwood Intimate Apparel, Crowntuft Div., Heflin, AL: August 27, 2001.

TA–W–42,126; Northern Cap Manufacturing, Minneapolis, MN: August 23, 2001.

TA–W–42,090; Ames True Temper, Plant #1, Parkersburg, WV: August 26, 2001.

TA–W–42,076; Weyerhaeuser Co., Wimer Logging Co., Albany, OR: August 27, 2001.

TA–W–42,074; Gerson and Gerson, Inc., Middlesex, NC: August 22, 2001.

TA–W–42,065; Cray, Inc., Chippewa Falls, WI: August 6, 2001.

TA–W–42,062; Sam Fashion, Inc., North Bergen, NJ: August 15, 2001.

TA–W–41,977; Helsapenn Co., Philadelphia, PA: July 26, 2001.

TA–W–41,941; Samuel-Whittar, Inc., Detroit, MI: August 12, 2001.

TA–W–41,935; Flextronics Enclosure Systems, Including Contract Workers of Accurate Personnel, Elk Grove Village, IL: July 22, 2001.

TA–W–41,767; Intermix Distributors, Inc. (d/b/a Intermix Foods), El Paso, TX: June 10, 2001.

TA–W–41,622; Permagraphics, Inc., Eugene, OR: May 28, 2001.

TA–W–41,531; Barth and Dreyfuss of California, Burbank, CA: April 19, 2001.

TA–W–41,491; Warner Manufacturing, Inc., Sacred Heart, MN: October 26, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Public Law 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 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–06492; Maurer Enterprises, Inc., Grants Pass, OR

NAFTA–TAA–06498; Leatherworks, LLC, Detroit, MI
NAFTA–TAA–06277; St. Vincent de Paul Enterprises, Contract Manufacturing Div., Portland, OR
NAFTA–TAA–06413; The Kelly Springfield Tire Co., Fayetteville, NC
NAFTA–TAA–06433; G and G Sewing Machine Co., Inc., Dunmore, PA
NAFTA–TAA–04480; Applied Molded Products Corp., Watertown, WI
NAFTA–TAA–06119; American Fast Print, Spartanburg, SC
NAFTA–TAA–06139; Dispatch Printing, Inc., Erie, PA
NAFTA–TAA–06457; Clore Automotive, LLC, Bloomington, MN
NAFTA–TAA–06526; Acme Electronics, LLC, Cuba, NY
NAFTA–TAA–06530; Sun Apparel of Texas, Inc., Product Development Div., El Paso, TX

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06501; Spectralink Corp., Return Material Authorization (RMA), Boulder, CO
NAFTA–TAA–06373; Oxford Automotive, Argos, IN
NAFTA–TAA–06519; Surgical Corporation of America, Irvington, NY

Affirmativae Determinations NAFTA–TAA

NAFTA–TAA–06521; Alcoa, Inc., Badin Works, Badin, NC: August 29, 2001.
NAFTA–TAA–06513; Spectrum Control, Inc., Power Technologies Group Erie, PA: August 15, 2001.
NAFTA–TAA–06504; Owens Brigam Medical, Also Known as Westmed, Inc., Injection Mold Div., Corona, CA: July 18, 2001.
NAFTA–TAA–06465; Corning, Inc., Telecommunications Segment, Optical Fiber Div., Concord Plant, Concord, NC: August 9, 2001.
NAFTA–TAA–06441; Helsapenn Co., Philadelphia, PA: July 23, 2001.
NAFTA–TAA–06304; Ericson, Inc., Base Station and Systems Development, Durham, NC: June 11, 2001.
NAFTA–TAA–06171; Northrop Grumman Corp., Winchester Electronics Div., Sacramento, CA: April 6, 2001.
NAFTA–TAA–07567 & A; Holloway Sportswear, Inc., Many, LA and Olla, LA: September 5, 2001.
NAFTA–TAA–06427; Samuel-Whittar, Inc., Detroit, MI: July 25, 2001.
NAFTA–TAA–06448; Crown Cork and Seal Co., Inc., Portland, OR: August 1, 2001.
NAFTA–TAA–06503; Fashion Star, Inc., Carrollton, GA: August 24, 2001.
NAFTA–TAA–6516; Hershey Foods Corporation, Pennsburg, PA: August 21, 2001.
NAFTA–TAA–06522; Weyerhaeuser Co., Wimer Logging Co., Albany, OR: August 27, 2001.
NAFTA–TAA–07554; VF Imagewear (West), Inc., Sparta, TN: September 4, 2001.

I hereby certify that the aforementioned determinations were issued during the months of 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 15, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–28028 Filed 11–4–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of 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 subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–42,135; GB Machining, San Jose, CA
TA–W–42,164; Exide Technologies, GNB Industrial Power, Columbus, GA
TA–W–42,161; Loris Industries, LLC, Loris, SC
TA–W–41,986; Stan's Wood Products, Inc., Redmond, OR
TA–W–42,042; Plastic Products Co., Inc., Moline, IL
TA–W–42,085; Sterling Dula Architectural Products, Erie, PA
TA–W–42,086; Potlatch Corp., Bradley Hardwood Unit, Warren, AR
TA–W–40,108; American and Efird, Mt. Holly, NC, A; American Plant, Mt. Holly, NC B; Adrian Madora Plant, Mt. Holly, NC, C; Brentwood Depot, Brentwood, MO, D; Filament Plant, Mt. Holly, NC, E; Miami Depot, Miami, FL, F; Mt. Holly 15 Dyeing and Finishing Plant, Mt. Holly, NC, G; Rush Plant, Mt. Holly, NC, H; Gastonia Plant 1, Gastonia, NC, I; Gastonia Plant 20, Gastonia, NC, J; Gastonia Plant 56, Gastonia, NC, K; Gastonia 51 Dyeing and Finishing Plant, Gastonia, NC, L; Los Angeles Depot, Commerce, CA, M; Maiden Plant 11, Maiden, NC, N; Nashville Depot, Nashville TN, O; Nelson Plant 2, Lenoir, NC, P; Nelson Plant 12, Lenoir, NC, Q; New York Depot, Long Island, NY, R; Tupelo Depot, Tupelo, MS, S; Winder Depot, Winder, GA

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–42,239; Aerovox, Inc., Huntsville Foil Div., Huntsville, AL
TA–W–40,003; HPM Corp., HPM Remanufacturing, Mount Gilead, OH
TA–W–41,735; MSC Pinole Point Steel, Inc., MSC Pre Finish Metals, Inc., Richmond, CA
TA–W–42,136; The Goodyear Tire and Rubber Co., Stow Mold Facility, Akron/Stow Complex, Akron, OH
TA–W–42,103; Kodak Polychrome Graphics LLC, Holyoke, MA

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–42,080; Johnstown Knitting Mill, Inc., Johnstown, NY

TA–W–40,975; Converter Concepts, Inc., Pardeeville, WI

TA–W–42,243; Consolidated Freight Ways, Conway Transport, El Paso, TX

TA–W–41,732; APL Logistics, Thomson Consumer Electronics, Socorro, TX

TA–W–42,124; Norfolk Southern Railway Co., Hollidaysburg Car Shop, Hollidaysburg, PA

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–41,263A; CII/Tyco Electronics, Guttenberg, IA

The investigation revealed that criteria (1) and (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification. Increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,900; Tecumseh Products Co., Grafton Operations, Grafton, WI

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–42,057; N and E Refractories, Inc. d/b/a International Ceramic Welding, Demotte, IN

TA–W–41,996; Eagle Bridge Machine and Tool, Eagle Bridge, NY

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,817; Arrow/SI, Inc., Asheboro, NC: July 2, 2001

TA–W–41,678; Merrimac Paper Co., Pepperell Paper Co., Pepperell, MA: May 28, 2001

TA–W–41,263; CII/Tyco Electronics, Sabula, IA: March 7, 2001

TA–W–38,935; Naturipe Berry Growers, Inc., Watsonville, CA: March 14, 2000

TA–W–41,991; Donna Karan Co., New York, NY: August 13, 2001

TA–W–41,989; Pinnacle Arts and Frames, Piggott, AR: July 31, 2001

TA–W–41,921; Packard Electric Systems, Div. of Delphi Automotive Systems, Gadsden, AL: July 24, 2001

TA–W–42,144; Toyo Tanso PA Graphite, Inc., Brookville, PA: August 28, 2001

TA–W–42,111; G–III Leather Fashions, New York, NY: August 30, 2001

TA–W–42,099; Agilent Technologies, Inc., Lake Stevens Site, Order Fulfillment Operation, Everett, WA: August 19, 2001

TA–W–42,015; Rhodia North America, Analgesics Plant, St. Louis, MO: August 19, 2001

TA–W–41,995; Reliant Manufacturing, Inc., Chesterfield, MI: August 12, 2001

TA–W–40,728; Milkan Group, Inc., New York, NY: December 5, 2000

TA–W–41,128; Illinois Tool Works, Jemco Engineering Div., Minooka, IL: February 1, 2001

TA–W–41,433; Intercraft Burnes, Statesville, NC: April 4, 2001

TA–W–41,712; Denim Processing, Inc., Oneida, TN: May 31, 2001

TA–W–41,816; Wisconsin Color Press, Milwaukee, WI: June 20, 2001

TA–W–41,820; General Cable Corp., Outside Voice and Data Telecommunications Div., Bonham, TX: June 24, 2001

TA–W–41,907; Klaussner Furniture Industries, Inc., Plant 1, Asheboro, NC, A; Plant 3, Asheboro, NC, B; Plant 5, Asheboro, NC, C; Plant 7, Asheboro, NC, D; Plant 8, Asheboro, NC, E; Plants 9 and 98, Asheboro, NC, F; Plant 15, Asheboro, NC, G; Plant 20, Asheboro, NC, H; Plant 75, Asheboro, NC, I; Plants 91 and 95, Asheboro, NC, J; Plant 99, Asheboro, NC, K; Plant 27, Star, NC, L; Plants 88 and 89, Candor, NC, M; Plants 83 and 17, Robbins, NC: July 12, 2001

TA–W–41,954; Leather Center, Carrollton, TX: July 29, 2001

TA–W–42,005 &A; Sanmina-SCI Corp., Derry, NH and Hudson, NH: August 7, 2001

TA–W–42,063; Acco Chain and Lifting Products, a Div. of FKI Industries, Inc., Owned by FKI PLC, York, PA: August 15, 2001

TA–W–42,117; Superior Essex, Communications Group, Tarboro, NC: August 28, 2001

TA–W–42,147; Universal Manufacturing, Zelienople, PA: August 29, 2001

TA–W–42,246; Radiall/Larsen Antenna Technologies, a Wholly Owned Subsidiary of Radiall, Inc., a Wholly Owned Subsidiary of Radiall, S.A., Vancouver, WA: September 23, 2001

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of 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–05325; HPM Corp., HPM Remanufacturing, Mount Gilead, OH

NAFTA–TAA–05947; Limited Edition Shirt Co., Inc., Ranshaw, PA

NAFTA–TAA–06261; Merricac Paper Co., Pepperell Paper Co., Pepperell, MA

NAFTA–TAA–06523; Northern Engraving Corp., Holmen Div., Holmen, WI

NAFTA–TAA–07560; Toyo Tanso PA Graphite, Inc., Brookville, PA

NAFTA–TAA–06477; Stan's Wood Products, Inc., Redmond, OR

NAFTA–TAA–06230; Premier Machining Industries, LLC, Concord, NC

NAFTA–TAA–06320; MSC Pinole Point Steel, Inc., MSC Pre Finish Metals, Inc., Richmond, CA

NAFTA–TAA–06357; Tecumseh Products Co., Grafton Operations, Grafton, WI

NAFTA–TAA–05897; Illinois Tool Works, Jemco Engineering Div., Minooka, IL ''All workers engaged in employment related to the production of lamps are denied eligibility to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

NAFTA–TAA–06424; Potlatch Corp., Bradley Hardwood Unit, Warren, AR

NAFTA–TAA–06532; Sappi Cloquet, LLC, Formerly Potlatch Corp., Cloquet, MN

NAFTA–TAA–07549; Exide Technologies, GNB Industrial Power, Columbus, GA

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–07605; Consolidated Freight Ways, Conway Transport, El Paso, TX

NAFTA–TAA–06518; Johnstown Knitting Mill, Inc., Johnstown, NY

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) did not become totally or partially separated from employment as required for certification.

NAFTA–TAA–06612; Permit # 56865U, Dillingham, AK

NAFTA–TAA–06609; Permit # 56780U, Dillingham, AK

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

NAFTA–TAA–06497; N and E Refractories, Inc., d/b/a International Ceramic Welding, Demotte, IN

AFFIRMATIVE DETERMINATIONS NAFTA–TAA

NAFTA–TAA–05897; Illinois Tool Works, Jemco Engineering Div., Minooka, IL ''All workers engaged in employment related to the assembly of indicator lights and switches who became totally or partially separated from employment on or after February 4, 2001''

NAFTA–TAA–04720; Naturipe Berry Growers, Inc., Watsonville, CA: March 22, 2000

NAFTA–TAA–06143; 3M Center, Coated Abrasives and Industrial Tape Div., St. Paul, MN: April 22, 2001

NAFTA–TAA–06467; Reliant Manufacturing, Inc., Chesterfield, MI: August 12, 2001

NAFTA–TAA–07550; Volex, Inc., Power Cord Div., Clinton, AR: September 6, 2001

NAFTA–TAA–06716; Permit # 57746H, Dillingham, AK: September 3, 2001

NAFTA–TAA–06317; General Cable Corp., Outside Voice and Date Telecommunications Div., Bonham, TX: June 24, 2001

NAFTA–TAA–06344; Wisconsin Color Press, Milwaukee, WI: July 2, 2001

NAFTA–TAA–06254; Denim Processing, Inc., Oneida, TN: May 31, 2001

NAFTA–TAA–06380; Klaussner Furniture Industries, Inc., Plant 1, Asheboro, NC, A; Plant 3, Asheboro, NC, B; Plant 5, Asheboro, NC, C; Plant 7, Asheboro, NC, D; Plant 8, Asheboro, NC, E; Plants 9 and 98, Asheboro, NC, F; Plant 15, Asheboro, NC, G; Plant 20, Asheboro, NC, H; Plant 75, Asheboro, NC, I; Plants 91 and 95, Asheboro, NC, J; Plant 99, Asheboro, NC, K; Plant 27, Star, NC, L; Plants 88, 89, Candor, NC, M; Plants 83 and 17, Robbins, NC: July 12, 2001

I hereby certify that the aforementioned determinations were issued during the months of 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 25, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–28034 Filed 11–4–02; 8:45 am]

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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 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–41,585; Kennametal, Inc., Greenfield Tap Plant, Greenfield, MA

TA–W–41,667; Mechanical Products Co., LLC, Aerospace Div., Jackson, MI

TA–W–42,032; Millennium Plastics Technologies, LLC, El Paso, TX

TA–W–41,946; Tyco Electronics, Fiber Optic Business Unit, Middletown, PA

TA–W–41,967; Trego Industries, Inc., Red Oak, TX

TA–W–42,101; Carmet Co., PCC Structurals, Inc., Duncan, SC

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–41,842; Bee Paper Co., Wayne, NJ
TA–W–41,657; Chevron Philips Chemical, Orange, TX
TA–W–41,955; Bayer Pharmaceuticals, a Div. of Bayer Healthcare AG, West Haven, CT
TA–W–41,972; American Greetings Corp., Corbin, KY
TA–W–42,089; U.S. Manufacturing Corp., Steering Gear Div., Bad Axe, MI

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–42,202; Empire Blue Cross Blue Shield, Syracuse, NY
TA–W–42,116; XESystems, Inc., a/k/a Xerox Engineering Systems, Stamford, CT
TA–W–41,962; Competitive Engineering, Inc., Tucson, AZ
TA–W–42,148; Supervalu, Belle Vernon, PA
TA–W–42,113; The Wackenhut Corp., San Manuel, AZ

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–40,940; Trinity Industries, Trinity Railcar Group, Clinton, IL: January 31, 2001.
TA–W–41,658; TNS Mills, Inc., Gaffney Weaving Div., Gaffney, SC: May 10, 2001.
TA–W–41,846; Northwest Swiss-Matic, Inc., Minneapolis, MN: June 30, 2001.
TA–W–41,873; The Boeing Co., Melbourne, AR: March 23, 2002.
TA–W–41,939; LaCrosse Rainfair Safety Products, Racine, WI: July 26, 2001.
TA–W–42,075; LaCrosse Footwear, Hillsboro Div., Hillsboro, WI: August 6, 2001.
TA–W–42,118; Lenox China, Oxford, NC: September 4, 2001.
TA–W–42,138; Classic Clay Concepts, Lake Oswego, OR: August 20, 2001.
TA–W–42,151; Electric Stems, Inc., Elysburg, PA: September 10, 2001.
TA–W–42,156; Wisconsin Automated Machinery Corp., Oshkosh, WI: September 5, 2001.
TA–W–41,976; Black and Decker, North American Power Tools, Easton, MD: August 1, 2001.
TA–W–42,186; AMF Reece, Mechanicsville, VA: September 10, 2001.
TA–W–42,137; General Binding Corp. (GBC), Buffalo Grove, IL: August 26, 2001.
TA–W–41,934; Mallinckrodt Respiratory Div. of Tyco Healthcare, Nellcor Puritan Bennett Subdivision, Carlsbad, CA: October 6, 2002.
TA–W–41,884; Dura Automotive Systems, Inc., Body and Glass Group, Pikeville, TN: July 8, 2001.
TA–W–41,829; Aurafin LLC, Providence Milling and Manufacturing, (Formerly Known as Little and Company, Inc.), Providence, RI: June 26, 2001.
TA–W–41,680; The Good Year Tire and Rubber Co., Engineered Products, Air Springs Plant, Green, OH: August 4, 2002.

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 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–06255; Chevron Phillips Chemical, Orange, TX
NAFTA–TAA–06283; Alfa Laval (Tri-Clover), Kenosha, WI
NAFTA–TAA–06379; American Technical Ceramics Corp., Jacksonville, FL
NAFTA–TAA–06285; Northwest Swiss-Matic, Inc., Minneapolis, MN
NAFTA–TAA–06370; Bee Paper Co., Wayne, NJ
NAFTA–TAA–06453; U.S. Manufacturing Corp., Steering Gear Div., Bad Axe, MI
NAFTA–TAA–07584; Classic Clay Concepts, Lake Oswego, OR

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–07604; Nortel Networks, Department 2446, Remote Validation Center (RVC), Research Triangle Park, NC
NAFTA–TAA–06459; Competitive Engineering, Inc., Tucson, AZ

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05872; Trinity Industries, Trinity Railcar Group, Clinton, IL: February 22, 2001.
NAFTA–TAA–06265; Ark-Les Corp., Raleigh, NC: June 12, 2001.
NAFTA–TAA–06478; Black and Decker, North American Power Tools, Easton, MD: August 9, 2001.
NAFTA–TAA–07557; MEI, a Div. of Mars, Inc., West Chester, PA: August 26, 2001.
NAFTA–TAA–06371; Dura Automotive Systems, Inc., Glass and Body Group, Pikeville, TN: July 8, 2001.
NAFTA–TAA–06410; The Good Year Tire and Rubber Co., Engineered Products, Air Springs Plant, Green, OH: August 4, 2002.
NAFTA–TAA–06445; Creo Americas, Inc., a Subsidiary of Creo, Inc., Bedford, MA: August 2, 2001.
NAFTA–TAA–07586; Hershey Chocolate and Confectionery Corp., Jolly Rancher Div., Wheatridge, CO: September 18, 2001.

I hereby certify that the aforementioned determinations were issued during the months of 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 21, 2002,

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance

[FR Doc. 02–28031 Filed 11–4–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,175]

A. Brod, Inc., Long Island City, NY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 25, 2002 in response to petition filed by the company on behalf of workers at A. Brod, Inc., Long Island City, New York.

The Department of Labor was unable to locate the petitioner or any other official of the company to obtain the information necessary to render a decision. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 18th day of October, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–28029 Filed 11–4–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,987]

Alcoa Wenatchee Works, a Division of Alcoa, Inc., Malaga, WA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 19, 2002, on behalf of workers at Alcoa Wenatchee Works, A Division of Alcoa, Inc., Malaga, Washington, producing primary aluminum.

The subject plant ceased the production of aluminum in July 2001, more than one year prior to the August 1, 2002, date of the petition. Section 223(b)(1) of the Trade Act of 1974 provides that a TAA certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed on behalf of affected workers. The Trade Act does not give the Secretary authority to waive this statutory limitation. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 18th day of October, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–28032 Filed 11–4–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,043]

The Eureka Company, El Paso, TX; 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 signed on August 2, 2002 on behalf of workers at The Eureka Company, El Paso, Texas.

An active certification covering the petitioning group of workers remains in effect (TA–W–39,101) through May 8, 2002. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 23rd day of October, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–28033 Filed 11–4–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,230]

Flowserve US, Inc., Williamsport, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 15, 2002, in response to a petition filed jointly by the International Union of Engineers, Local 628, and the company on behalf of workers at Flowserve US, Inc., Williamsport, Pennsylvania.

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 October, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–28037 Filed 11–4–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,197]

Georgia-Pacific Corporation Building Product Division Oriented Strand Board Mill Baileyville, Maine; 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 by the Paper, Allied-Industrial, Chemical, and Energy Workers Union, Local 1–1367, on behalf of workers at Georgia-Pacific Corporation, Building Product Division, Oriented Strand Board Mill, Baileyville, Maine.

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 15th day of October, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–28035 Filed 11–4–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,218]

Kent, Inc., Fort Kent, ME; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 7, 2002 in response to a worker petition which was filed by a company official on behalf of workers at Kent, Inc., Fort Kent, Maine.

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 October, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–28036 Filed 11–4–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,385]

Peck Manufacturing Company of North Carolina, Inc., Warrenton, Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 22, 2002 in response to petition filed by the company on behalf of workers at Peck Manufacturing Company of North Carolina, Inc., Warrenton, North Carolina.

The Department of Labor was unable to locate an official of the company to obtain the information necessary to render a decision. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 18th day of October, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–28030 Filed 11–4–02; 8:45 am]

BILLING CODE 4510–30–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

Date: Weeks of November 4, 11, 18, 25, December 2, 9, 2002.

Place: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

Status: Public and closed.

Matters To Be Considered:

Week of November 4, 2002

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

10 a.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.*

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.

Week of December 2, 2002—Tentative

Wednesday, December 4, 2002

10 a.m.

Briefing on Decommissioning Bankruptcy Issues (Closed—Ex. 4 &9)

Week of December 9, 2002—Tentative

There are no meetings scheduled for the Week of December 9, 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.

*Additional Information:*By a vote of 5–0 on October 29, the Commission determined pursuant to u.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Discussion of Intergovernmental Issues (Closed—Ex. 9),'' be held on October 31, 2002, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: October 31, 2002.

R. Michelle Schroll,

Acting Technical Coordinator; Office of the Secretary.

[FR Doc. 02–28158 Filed 11–1–02; 10:35 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: Computer Matching Programs—OPM/Social Security Administration

AGENCY: Office of Personnel Management.

ACTION: Publication of notice of computer matching to comply with Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988.

SUMMARY: OPM is publishing notice of its computer matching program with the Social Security Administration (SSA) to meet the reporting requirements of Pub. L. 100–503. The purpose of this match is for SSA to disclose benefit information to OPM to offset specific benefits.

DATES: The matching program will begin in December 2002, or 40 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. Any public comment on this matching program must be submitted within the 30 day public notice period, which begins on the publication date of this notice. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months thereafter. The data exchange will begin at a date mutually agreeable between OPM and SSA on or after December 1, 2002, unless comments are received which will result in a contrary determination. Subsequent matches will take place on a recurring basis until one of the parties advises the other, in writing, of its intention to reevaluate, modify and/or terminate the agreement.

ADDRESSES: Send comments to William J. Washington, Assistant Director for Systems, Finance and Administration, 1900 E. Street NW., Room 4312, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Marc Flaster, (202) 606–2115.

SUPPLEMENTARY INFORMATION: OPM and SSA intend to conduct a computer matching program. The purpose of this agreement is to establish the conditions under which SSA agrees to the disclosure of benefit information to OPM. The SSA records will be used in a matching program with OPM's records on surviving spouses who may be eligible to receive a Supplementary Annuity, disability retirees, and child survivor annuitants, under the Federal Employees' Retirement System (FERS). The benefits payable to these recipients

are offset if paid while also in receipt of SSA benefits.

Office of Personnel Management.

Kay Coles James,

Director.

Report of Computer Matching Program Between the Office of Personnel Management and Social Security Administration

A. Participating Agencies

OPM and SSA.

B. Purpose of the Matching Program

Chapter 84 of title 5, United States Code (U.S.C.), requires OPM to offset specific benefits by a percentage of benefits payable under Title II of the Social Security Act. The matching will enable OPM to compute benefits at the correct rate and determine eligibility for benefits.

C. Authority for Conducting the Matching Program

Chapter 84, title 5, United States Code.

D. Categories of Records and Individuals Covered by the Match

The two SSA records systems involved in the match are (1) Master Files of Social Security Number (SSN) Holders and SSN Applications, 60–0058 (SSA/OSR) last published on March 24, 1998 at 63 FR14165 and (2) the Master Beneficiary Record, 60–0090 (SSA/OSR) last published February 21, 2001 at 66 FR 11079. The OPM records consist of annuity data from its system of records entitled OPM/Central 1-Civil Service Retirement and Insurance Records, last published on October 8, 1999 at 64 FR 54930, and as amended at 65 FR 25775, May 3, 2000.

E. Description of Matching Program

As frequently as daily, OPM will provide SSA with an extract from the annuity master file and from pending claims snapshot records via the File Transfer Management System (FTMS). The extracted file will contain identifying information concerning the disability annuitant, child survivor, or surviving spouse who may be eligible for an annuity under FERS. Each record will be matched to SSA's records and requested information transmitted back to OPM.

F. Privacy Safeguards and Security

The personal privacy of the individuals whose names are included in the files transmitted are protected by strict adherence to the provisions of the Privacy Act of 1974 and OMB's ''Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988''. Access to the records used in the data exchange is restricted to only those authorized employees and officials who need it to perform their official duties. Records matched or created will be stored in an area that is physically safe. Records used during this exchange and any records created by this exchange will be processed under the immediate supervision and control of authorized personnel in a manner which will protect the confidentiality of the records. The records matched and records created by the match will be transported under appropriate safeguards. Both SSA and OPM have the right to make onsite inspection or make other provisions to ensure that adequate safeguards are being maintained by the other agency.

G. Inclusive Dates of the Matching Program

This computer matching program is subject to review by the Office of Management and Budget and the Congress. OPM's report to these parties must be received at least 40 days prior to the initiation of any matching activity. If no objections are raised by either, and the mandatory 30-day public notice period for comments has expired for this Federal Register notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective on the date specified above. By agreement between OPM and SSA, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months under the terms set forth in 5 U.S.C. 552a(o)(2)(D).

[FR Doc. 02–28105 Filed 10–31–02; 4:35 pm]

BILLING CODE 6325–50–P

POSTAL SERVICE

Postage Evidencing Product Submission Procedures

AGENCY: Postal Service.

ACTION: Final notice of procedures.

SUMMARY: The Postal Service is implementing product submission procedures for postage meters and other postage evidencing systems.

DATES: The procedures are effective November 5, 2002.

FOR FURTHER INFORMATION CONTACT: Wayne Wilkerson, manager, Postage Technology Management, by fax at 703–292–4050.

SUPPLEMENTARY INFORMATION: With the expansion of postage application methods and technologies, it is essential that the product submission procedures for all postage evidencing products be clearly stated and defined while remaining flexible enough to accommodate evolving technologies. The Postal Service evaluation process can be effective and efficient if all suppliers follow these procedures. In this way, secure and convenient technology will be made available to the mailing public with minimal delay and with the complete assurance that all Postal Service technical, quality, and security requirements are met. These procedures apply to all proposed postage evidencing products and systems, whether the provider is new or is currently authorized by the Postal Service.

Title 39, Code of Federal Regulations (CFR) section 501.9, Security Testing, states: ''The Postal Service reserves the right to require or conduct additional examination and testing at any time, without cause, of any meter submitted to the Postal Service for approval or approved by the Postal Service for manufacture and distribution.'' For products meeting the performance criteria for postage evidencing systems that generate an information-based indicia (IBI), including PC Postage® products, the equivalent section is 39 CFR section 502.10, Security Testing, published as a proposed rule in the **Federal Register** on October 2, 2000. When the Postal Service elects to retest a previously approved product, the provider will be required to resubmit the product for evaluation according to part or all of the proposed procedures. The Postal Service will determine full or partial compliance with the procedures prior to resubmission by the provider.

The procedures were published as proposed procedures in the **Federal Register** on May 1, 2002 [Vol. 67, No. 84, pages 21780–21785] with a request for submission of comments by May 31, 2002. We received three submissions in response to the solicitation of public comments. These comments were carefully considered, as explained in the discussion of comments. No changes were made to the procedures as a result of these comments. However, a few changes were made to clarify the meaning of the procedures, as explained following the discussion of comments. The procedures, as revised, follow these explanations.

Discussion of Comments

1. One commenter asked the Postal Service to add maximum time frames for responding to product submissions

to ensure the Postal Service and the independent test laboratory complete their reviews in a timely manner.

The Postal Service understands the commenter's concern and does in fact strive to complete each stage of the product review, test, and evaluation process in a timely manner. However, it is difficult if not impossible for the Postal Service to commit to a set timetable for response, given resource constraints, the unpredictability of product submissions, and the dependence on outside agents. The product providers can help the Postal Service to respond in a timely manner by ensuring that product submissions are complete and meet all requirements specified in the product submission procedures. No revision of the procedures is made in response to this comment.

2. One commenter assumed that the Postal Service will pay for costs associated with ''resources under direct contract to the Postal Service'' referenced in section 1.3, Additional Security Testing.

At the current time, the Postal Service does assume all costs associated with resources under direct contract to the Postal Service. However, there is no guarantee that the Postal Service will be able to assume all such costs for the future. In particular, the Postal Service might ask for cost recovery from a provider when the provider's submittal is inadequate or incomplete and the direct contract resource must perform additional or repeated reviews. No revision of the procedures is made in response to this comment.

3. One commenter noted that the revised policy on intellectual property is an improvement over prior policy because it removes the Postal Service from involvement in patent disputes among other parties, and places responsibility on the provider for determining and meeting intellectual property requirements for the provider's system. However, the commenter suggested that we delete the requirement for providers ''to acquire intellectual property licenses that may be required . . . to allow the Postal Service to process mail bearing the indicia produced by the product.'' The commenter noted that the providers do not control how the Postal Service elects to process mail. The commenter stated that just as it is the responsibility of providers to determine what intellectual property licenses they may need, it is the responsibility of the Postal Service to determine what intellectual property licenses it needs for its processes.

The provider must demonstrate that the system submitted satisfies all applicable postal processing and interface requirements in a real-world environment, in accordance with procedures in section 7, Limited-Distribution Field Test. If the ability to satisfy all applicable current Postal Service processing and interface requirements requires property licenses to allow the Postal Service to process mail bearing the indicia produced by the product, it is the provider's responsibility to acquire these licenses. No revision of the procedures is made in response to this comment.

Discussion of Clarifications and Changes

1. In 1.1, we clarified the requirements for selection of the independent test laboratory. The provider must select an independent testing laboratory accredited by the National Institutes of Standards and Technology (NIST) under the National Voluntary Laboratory Accreditation Program (NVLAP).

2. In 4.1, we clarified the meaning of the Postal Service response to provider submissions of documentation during the product submission process. When the manager, Postage Technology Management (PTM), acknowledges receipt of the concept of operations or other documentation, the acknowledgement does not imply acceptance or approval of the concept of operation, of the documentation itself, or of the product. Approval of the product is granted only after the product prototype has been developed and testing has been successfully completed in accordance with all requirements of these procedures.

3. In describing the letter of intent (2.0), we clarified the requirements for identifying those involved in the product development and production. We also added a requirement for providers to submit an updated list with the concept of operations documentation (4.2). The list must be resubmitted to ensure that the Postal Service has current information about all entities involved in product development and production.

4. In the table of Required Documentation, we added a requirement for providers to submit the ''Indicium Specification for Human Readable Data'' directly to the Postal Service. We also indicated that the Postal Service may require submission of additional documentation, if deemed necessary for any product approval.

The submission procedures will be referenced in 39 CFR part 501 and will be published as a separate document titled ''Postage Technology Management, Postage Evidencing Product Submission Procedures.''

Product Submission Procedures for Postage Meters (Postage Evidencing Systems)

1. General Information

1.1 Independent Testing Laboratory

To receive authorization from the Postal Service to manufacture, produce, or distribute a postage meter (postage evidencing system) under 39 CFR part 501, Authorization to Manufacture and Distribute Postage Meters, the provider must obtain approval under these product submission procedures. These procedures also apply to providers requesting approval to manufacture, produce, or distribute a product under proposed 39 CFR part 502, Authority to Produce and Distribute Postage-Evidencing Systems that Generate Information-Based Indicia (IBI) (65 FR 58689).

The provider must select an independent testing laboratory accredited by the National Institutes of Standards and Technology (NIST) under the National Voluntary Laboratory Accreditation Program (NVLAP) to conduct the detailed product review and testing required by these procedures. When the product contains a postal security device (PSD) or cryptographic module, the laboratory must be an NVLAP-accredited cryptographic module testing laboratory.

Technical documentation (section 4) and production systems (section 5) must be provided to the selected test laboratory in sufficient detail to support testing. The testing laboratory will submit an executive summary containing the information referenced in the Required Documentation table set forth in paragraph 4.2 and the results of the product evaluation directly to the Postal Service. All supporting documentation, products, PSDs and cryptographic modules, and other materials used or generated during testing will be maintained by the testing laboratory for the life of the test. At the time of product approval, the manager, Postage Technology Management (PTM), will determine the ongoing disposition of all supporting documentation, products, PSDs and cryptographic modules, and other materials used or generated during testing.

During the product's life cycle, the provider may choose to use a different laboratory. In that event, all materials used or generated during testing and product evaluation must be transferred to the new laboratory.

Upon completion of the testing, the Postal Service may require that any or all of the following categories of information be forwarded directly from the accredited laboratory to the manager, PTM:

(a) A copy of all information that the provider gives to the laboratory, including a summary of all information transmitted orally.

(b) A copy of all instructions from the provider to the testing laboratory with respect to what is and what is not to be tested.

(c) Copies of all proprietary and nonproprietary reports and recommendations generated during the test process.

(d) Written full disclosure identifying any contribution by the test laboratory to the design, development, or ongoing maintenance of the system.

1.2 Product Submission Procedures

To submit a postage meter (postage evidencing system) for Postal Service approval, the provider will complete the following steps:

(a) Submit a letter of intent (section 2).

(b) Complete and sign the nondisclosure agreements (section 3).

(c) Submit the required documentation (section 4).

(d) Submit the postage evidencing system for evaluation (section 5).

(e) Enable the Postal Service to review the provider's system infrastructure (section 6).

(f) Place the product into limited distribution for field testing (section 7), after completing any additional security testing that the Postal Service requires.

1.3 Additional Security Testing

The Postal Service may choose to use resources under direct contract to the Postal Service to support the product review for additional security testing. The activities of these resources are independent of the testing laboratory selected by the provider and must be covered by nondisclosure agreements (section 3).

1.4 Product Approval Process

When the field testing (section 7) is completed successfully, the Postal Service performs an administrative review of the test and evaluation results and, when appropriate, grants authorization to distribute the product, as described in section 8.

At each stage of the product submission process, the manager, PTM, reserves the right to terminate testing if a review shows that the system as proposed will adversely impact Postal Service processes. The provider may resubmit the product after the problems have been resolved.

The provider can avoid unnecessary delays in the review and evaluation process by testing the product thoroughly prior to submitting it to the independent testing laboratory and to the Postal Service. If the Postal Service determines that there are significant deficiencies in the product or in the required supporting materials, then the Postal Service will return the submission to the provider without reviewing it further.

2. Letter of Intent

The provider must submit a letter of intent to Manager, Postage Technology Management (PTM), United States Postal Service, 1735 N. Lynn Street, Room 5011, Arlington, VA 22209–6050. The manager, PTM, will assign a point of contact to coordinate the submission and review process. The letter of intent must be dated and must include the following:

(a) Identification (name, mailing address, e-mail address, and telephone number) of all parties involved in the proposed product, including the provider, those responsible for the product's assembly, product management, hardware/firmware/software development and testing, and any other party involved (or expected to be involved) with the design or construction of the product, including all suppliers of product components which could affect the security of Postal Service revenues.

(b) Provider's business qualifications, including proof of financial viability and proof of the provider's ability to be responsive and responsible.

(c) System concept narrative, including the provider's infrastructure that will support the product.

(d) Target Postal Service market segment the proposed system is envisioned to serve.

When there is a significant change to any aspect of the product described in the letter of intent, or of the parties involved in developing or producing the product, prior to submission of the concept of operations (section 4), the provider must revise the letter of intent and resubmit it.

3. Nondisclosure Agreements

When the Postal Service uses resources under direct contract to the Postal Service to support the product review, the provider must establish a nondisclosure agreement with these resources. These nondisclosure agreements may require extension to third-party suppliers or others identified in the letter of intent (section 2). Providers are encouraged to share copies of nondisclosure agreements provided by the Postal Service with all parties identified in the letter of intent, to ensure that these parties will execute the agreement if needed to support Postal Service review of the product. Failure to sign nondisclosure agreements, provided by the Postal Service to support review activities, might adversely affect a product submission. Questions regarding this process should be directed to the manager, PTM.

4. Technical Documentation

4.1 Introduction

The provider must submit the materials listed in the Required Documentation table. If the provider considers that a given requirement is not applicable to the product, the provider should note this in the document submission. The table is not meant to be an exhaustive list of all possible areas that need to be documented to support the evaluation of a postage meter (postage evidencing system). Ongoing advances and changes in technology and new approaches to providing postage evidencing can add other components that must be considered. The provider should submit any additional information that it considers necessary or desirable to describe the product fully. The independent testing laboratory may determine the level of detail that must be submitted to meet its test and evaluation requirements. The laboratory or the Postal Service may request additional information if needed for a complete evaluation.

Documentation must be submitted to the independent laboratory and the Postal Service as indicated in the Required Documentation table. The laboratory will prepare an executive summary and submit it to the Postal Service when required. Documentation must be in English and must be formatted for standard letter size (8.5'' x 11'') paper, except for engineering drawings, which must be folded to letter size. Where appropriate, documentation must be marked as ''Confidential.'' The document recipient will determine the number of paper copies and the format of electronic copies of each document at the time of submission based on current technology and review requirements.

The provider should schedule a meeting with PTM staff shortly after or simultaneously with the submission of technical data and the concept of operations to permit full discussion and understanding of the technical concepts being presented for evaluation. The

manager, PTM, will indicate Postal Service agreement or concerns relevant to the concept, as appropriate. However, no Postal Service communication or acknowledgement of receipt of documentation or other submission is meant to imply acceptance or approval of the concept of operation, of any documentation, or of the product. Approval of the product is granted only after the product prototype has been developed and testing has been successfully completed in accordance with all requirements of these procedures.

4.2 Required Documentation

The following table details the documents that the provider must prepare. Providers are responsible for submitting any additional documentation the Postal Service may require during the product submission process. The table shows which documents must be submitted directly to the Postal Service and which must be submitted to the independent testing laboratory.

REQUIRED DOCUMENTATION

Document/section	Submit to test laboratory?	Postal Service requirement
Concept of Operations (CONOPS)		
System overview, including: • Concept overview and business model • Postal security device (PSD) implementation, features, and components, including the digital signature algorithm • System life cycle overview • Adherence to industry standards, such as FIPS PUB 140–1 or 140–2 (after May 25, 2002), as required by Postal Service	Yes	Provider submits in full. Executive summary prepared by laboratory.
System design details, including: • PSD features and functions • All aspects of key management • Client (host) system features and functions • Other components required for system use including, but not limited to, the proposed indicia design and label stock	Yes	Executive summary prepared by laboratory. Laboratory report on indicium compliance with Postal Service requirements as given in the performance criteria.
Indicium Specification for Human Readable Data	No	Provider submits in full.
System life cycle, including: • Manufacturing • Postal Service certification of the system • Production • Distribution • Meter licensing • Initialization • System authorization and installation • Postage value download or resetting process • System and support system audits • Inspections • Procedures for system withdrawal and replacement, including procedures for system malfunctions • Procedures to destroy scrapped systems	Yes	Provider submits in full. Executive summary prepared by laboratory.
Finance overview, including: • Customer account management (payment methods, statements, and refunds) • Individual product finance account management (resetting or postage value download, refunds) • Daily account reconciliation (provider reconciliation, Postal Service detailed transaction reporting) • Periodic summaries (monthly reconciliation, other reporting as required by the Postal Service)	Yes	Provider submits in full. Executive summary prepared by laboratory.
Interfaces, including: • Communications and message interfaces with the Postal Service infrastructure for resetting or postage value downloads, refunds, inspections, product audits, and lost or stolen product procedures • Communications and message interfaces with Postal Service financial functions for resetting or postage value downloads, daily account reconciliation, and refunds • Communications and message interfaces with customer infrastructure for cryptographic key management, product audits, and inspections • Message error detection and handling	Yes	Provider submits in full. Executive summary prepared by laboratory.
Configuration management and detailed change control procedures for all components, including, but not limited to: • Software • Hardware and firmware • Indicia • Provider infrastructure • Postal rate change procedures • Interfaces	Yes	Executive summary prepared by laboratory.
Physical security	Yes	Executive summary prepared by laboratory.

REQUIRED DOCUMENTATION—Continued

Document/section	Submit to test laboratory?	Postal Service requirement
Personnel/site security	Yes	Executive summary prepared by laboratory.
Executable code	Yes	On request.
Source code.	Yes	On request.
Operations manuals	Yes	Executive summary prepared by laboratory.
Communications interfaces	Yes	Executive summary prepared by laboratory.
Maintenance manuals	Yes	Executive summary prepared by laboratory.
Schematics	Yes	Executive summary prepared by laboratory.
Product initialization procedures	Yes	Executive summary prepared by laboratory.
Finite state machine models/diagrams	Yes	Executive summary prepared by laboratory.
Block diagrams	Yes	Executive summary prepared by laboratory.
Details of security features	Yes	Executive summary prepared by laboratory.
Description of cryptographic operations, as required by FIPS PUB 140–1 or 140–2 (after May 25, 2002), Appendix A	Yes	Executive summary prepared by laboratory.
Test Plan		
Postal Service requirements	Yes	Executive summary prepared by laboratory.
FIPS PUB 140–1 or 140–2 (after May 25, 2002) requirements	Yes	Executive summary prepared by laboratory.
Physical security of provider's Internet server, administrative site, and firewall	Yes	Executive summary prepared by laboratory.
Security for remote administrative access and configuration control	Yes	Executive summary prepared by laboratory.
Secure distribution or transmission of software and cryptographic keys	Yes	Executive summary prepared by laboratory.
Test plan for system infrastructure: • Test parameters • Infrastructure systems • Interfaces • Reporting requirements	Yes	Executive summary prepared by laboratory.
Test plan for limited-distribution field tests: • Test parameters • System quantities • Geographic location • Test participants • Test duration • Test milestones • System recall plan	Yes	Executive summary prepared by laboratory.
Provider Infrastructure Plan		
Public key infrastructure	Yes	Executive summary prepared by laboratory.
Procedures for enforcement of all provider-related, customer-related, and Postal Service-related processes, procedures, and interfaces discussed in CONOPS or required by Postal Service regulations	Yes	Executive summary prepared by laboratory.

5. Product Submission and Testing

5.1 General Submission Requirements

The provider must submit complete production systems to the independent testing laboratory for evaluation. The laboratory will determine how many systems are needed for a complete evaluation. The provider must also provide any equipment and consumables required to use the submitted systems in the manner described in the CONOPS. The provider must also submit complete production systems, supporting equipment, and consumables directly to the Postal Service, if requested. The Postal Service may test these for compliance with Postal Service regulations and processes under section 6, System Infrastructure Testing.

5.2 Submission Requirements for Products Containing a Postal Security Device or Cryptographic Module

The NVLAP-accredited cryptographic modules testing (CMT) laboratory must evaluate all PSDs and cryptographic modules for FIPS PUB 140–1 or 140–2 certification, or equivalent, as authorized by the Postal Service. After May 25, 2002, FIPS PUB 140–2

certification will be required. The Postal Service requires that the PSD or cryptographic module receive FIPS PUB 140–1 or 140–2 certification as it is implemented. That is, the PSD or cryptographic module and the installed application must be considered as a whole in determining whether or not it receives FIPS certification. The FIPS certification of the PSD or cryptographic module is dependent on the application. Since any certification could be in question once any noncertified or untested software is installed, the PSD or cryptographic module must be certified as it will be implemented, and the accredited CMT lab must reevaluate any changes that would risk the certification.

Upon completing FIPS PUB 140–1 or 140–2 certification, or equivalent, the CMT laboratory must forward the following documentation directly to the manager, PTM:

(a) A copy of the letter of recommendation for certification of the PSD or cryptographic module that the laboratory submitted to NIST.

(b) A copy of the certificate, if any, issued by NIST for the PSD or cryptographic module.

6. System Infrastructure Testing and Provider System Security Testing

To achieve Postal Service approval of a postage evidencing system, the provider must demonstrate that the system satisfies all applicable Postal Service regulations and reporting requirements and that it is compatible with Postal Service mail processing functions and all other functions with which the product or its users interface. The tests must involve all entities in the proposed architecture, including the postage evidencing system, the provider infrastructure, the financial institution, and Postal Service infrastructure systems and interfaces. The tests may be conducted in a laboratory environment in accordance with the test plan for system infrastructure testing. Test and approval of system infrastructure functions must be completed before the postage evidencing system can be field tested under section 7. The functions to be tested include, but are not limited to, the following:

(a) Meter licensing, including license application, license update, and license revocation.

(b) System status activity reporting.

(c) System distribution and initialization, including system authorization, system initialization, customer authorization, and system maintenance.

(d) Total system population inventory, including leased and unleased systems; new system stock; and system installation, withdrawal, and replacement.

(e) Irregularity reporting.

(f) Lost and stolen reporting.

(g) Financial transactions, including cash management, individual system financial accounting, account reconciliation, and refund management.

(h) Financial transaction reporting, including daily summary reports, daily transaction reporting, and monthly summary reports.

(i) System initialization.

(j) Cryptographic key changes and public key management.

(k) Postal rate table changes.

(l) Print quality assurance.

(m) Device authorization.

(n) Postage evidencing system examination and inspection, including physical and remote inspections.

In addition to testing the system infrastructure, the Postal Service must be assured that the provider's support systems and infrastructure are secure and not vulnerable to security breaches. This will require site reviews of provider manufacturing, distribution, and other support facilities, and reviews of network security and system access controls.

7. Limited-Distribution Field Test

To achieve Postal Service approval of a postage evidencing system, the provider must demonstrate that the system satisfies all applicable Postal Service processing and interface requirements in a real-world environment. This is achieved by placing a limited number of systems in distribution for field testing. The Postal Service will determine the number of systems to be tested. The test will be conducted in accordance with the Postal Service-approved test plan for limited-distribution field testing. The purpose of the limited-distribution field test is to demonstrate the product's utility, security, audit and control, functionality, and compatibility with other systems, including mail entry, acceptance, and processing when in use. The field test will employ available communications and will interface with current operational systems to exercise all system functions.

The manager, PTM, will review the executive summary of the provider-proposed test plan for limited-distribution field testing. The review will be based on, but not limited to, the assessed revenue risk of the system, system impact on Postal Service operations, and requirements for Postal Service resources. Approval may be based in whole or in part on the anticipated mail volume, mail characteristics, and mail origination and destination patterns of the proposed system. For systems designed for use by an individual meter user, product users engaged in field testing must be approved by the Postal Service before they are allowed to participate in the test. These participants must sign a nondisclosure/confidentiality agreement when reporting system security, audit and control issues, deficiencies, or failures to the provider and the Postal Service. This requirement does not apply to users of systems designed for public use.

8. Postage Evidencing System Approval

Postal Service approval of the postage meter (postage evidencing system) is based on the results of an administrative review of the materials and test results generated during the product submission and approval process. In preparation for the administrative review, the provider must update all documentation submitted in compliance with these procedures to ensure accuracy. When approval is granted, the Postal Service will prepare a product approval letter detailing the conditions under which the specific product may be manufactured, distributed, and used. The provider must submit the following materials for the Postal Service administrative review:

(a) Materials prepared for the Postal Service by the independent testing laboratory.

(b) The final certificate of evaluation from the NVLAP laboratory, where required.

(c) The results of system infrastructure testing.

(d) The results of field testing of a limited number of systems.

(e) The results of any other Postal Service testing of the system.

(f) The results of provider site security reviews.

9. Intellectual Property

Providers submitting postage evidencing systems to the Postal Service for approval are responsible for obtaining all intellectual property licenses that may be required to distribute their product in commerce and to allow the Postal Service to process mail bearing the indicia produced by the product.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–28039 Filed 11–4–02; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

[Extension: Rule 31a–2, SEC File No. 270–174, OMB Control No. 3235–0179; Rule 32a–4, SEC File No. 270–473, OMB Control No. 3235–0530]

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549–0004.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collections of information discussed below.

Section 31(a)(1) of the Investment Company Act of 1940 (the ''Act'') requires registered investment companies (''funds'') and certain principal underwriters, broker-dealers, investment advisers and depositors of funds to maintain and preserve records as prescribed by Commission rules.[1] Rule 31a–1 specifies the books and records each of these entities must maintain.[2] Rule 31a–2, which was adopted on April 17, 1944, specifies the time periods that entities must retain books and records required to be maintained under rule 31a–1.[3]

Rule 31a–2 requires the following:

1. Every fund must preserve permanently, and in an easily accessible place for the first two years, all books and records required under rule 31a–1(b)(1)–(4).[4]

2. Every fund must preserve for at least six years, and in an easily accessible place for the first two years: (a) all books and records required under rule 31a–1(b)(5)–(12);[5] (b) all vouchers, memoranda, correspondence, checkbooks, bank statements, canceled checks, cash reconciliations, canceled stock certificates and all schedules that support each computation of net asset value of fund shares; and (c) any advertisement, pamphlet, circular, form letter or other sales literature addressed or intended for distribution to prospective investors.

3. Every underwriter, broker or dealer that is a majority-owned subsidiary of a fund must preserve records required to be preserved by brokers and dealers under rules adopted under section 17 of the Securities Exchange Act (''section 17'') for the periods established in those rules.

4. Every depositor of any fund, and every principal underwriter of any fund other than a closed-end fund, must preserve for at least six years records required to be preserved by brokers and dealers under rules adopted under section 17 to the extent the records are necessary or appropriate to record the entity's transactions with the fund.

5. Every investment adviser that is a majority-owned subsidiary of a fund must preserve the records required to be maintained by investment advisers under rules adopted under section 204 of the Investment Advisers Act of 1940 (''section 204'') for the periods specified in those rules.

6. Every investment adviser that is not a majority-owned subsidiary of a fund must preserve for at least six years records required to be maintained by registered investment advisers under rules adopted under section 204 to the extent the records are necessary or appropriate to reflect the adviser's transactions with the fund.

The records required to be maintained and preserved under this part may be maintained and preserved for the required time by, or on behalf of, an investment company on (i) micrographic media, including microfilm, microfiche, or any similar medium, or (ii) electronic storage media, including any digital storage medium or system that meets the terms of this section. The investment company, or person that maintains and preserves records on its behalf, must arrange and index the records in a way that permits easy location, access, and retrieval of any particular record.[6]

The Commission periodically inspects the operations of all funds to ensure their compliance with the provisions of the Act and the rules under the Act. The Commission staff spends a significant portion of their time in these inspections reviewing the information contained in the books and records required to be kept by rule 31a–1 and to be preserved by rule 31a-2.

There are approximately 4,500 active investment companies registered with the Commission as of April 30, 2002, all of which are required to comply with rule 31a–2. Based on conversations with representatives of the fund industry, the Commission staff estimates that each fund spends about 210 hours per year complying with rule 31a–2, for a total annual burden for the fund industry of approximately 945,000 hours.[7]

The Commission staff estimates the average cost of preserving books and records required by rule 31a–2, to be approximately $.000035 per $1.00 of net assets per year.[8] With the total net assets of all funds at about $7 trillion,[9] the staff estimates that compliance with rule 31a–2 costs the fund industry approximately $245 million per year.[10]

[1] 15 U.S.C. 80a–30(a)(1).

[2] 17 CFR 270.31a–1.

[3] 17 CFR 270.31a–2.

[4] 17 CFR 270.31a–1(b)(1)–(4). These include, among other records, journals detailing daily purchases and sales of securities or contracts to purchase and sell securities, general and auxiliary ledgers reflecting all asset, liability, reserve, capital, income and expense accounts, separate ledgers reflecting, separately for each portfolio security as of the trade date all ''long'' and ''short'' positions carried by the fund for its own account, and corporate charters, certificates of incorporation and by-laws.

[5] 17 CFR 270.31a–1(b)(5)–(12). These include, among other records, records of each brokerage order given in connection with purchases and sales of securities by the fund, all other portfolio purchases, records of all puts, calls, spreads, straddles or other options in which the fund has an interest, has granted, or has guaranteed, records of proof of money balances in all ledger accounts, files of all advisory material received from the investment adviser, and memoranda identifying persons, committees or groups authorizing the purchase or sale of securities for the fund.

[6] In addition, the fund, or whoever maintains the documents for the fund must provide promptly any of the following that the Commission (by its examiners or other representatives) or the directors of the company may request: (A) a legible, true, and complete copy of the record in the medium and format in which it is stored; (B) a legible, true, and complete printout of the record; and (C) means to access, view, and print the records; and separately store, for the time required for preservation of the original record, a duplicate copy of the record on any medium allowed by this section. In the case of records retained on electronic storage media, the investment company, or person that maintains and preserves records on its behalf, must establish and maintain procedures: (i) To maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction; (ii) to limit access to the records to properly authorized personnel, the directors of the investment company, and the Commission (including its examiners and other representatives); and (iii) to reasonably ensure that any reproduction of a non-electronic original record on electronic storage media is complete, true, and legible when retrieved.

[7] Commission staff surveyed several fund representatives to determine the current burden hour estimate. The staff found that an average fund spends approximately 210 hours per annum complying with rule 31a–2 (210 hours × 4,500 registered investment companies = 945,000). Although the Commission did not change its collection of information requirements in rule 31a–2, the fund representatives' estimates reflect an annual increase of 182 hours per fund over the burden of 27.8 hours estimated in the 1998 PRA submission. The change in annual hours is based upon an increase in the estimated time each fund spends complying with the rule.

[8] The staff estimated the annual cost of preserving the required books and records by identifying the annual costs for several funds and then relating this total cost to the average net assets of these funds during the year. The staff estimates that the annual cost of preserving records is $70,000 per fund; the funds queried in support of this analysis had an average asset base of approximately $2 billion (70,000/2 billion=.000035).

[9] See Investment Company Institute, 2002 Mutual Fund Fact Book, at 61.

[10] This estimate is based on the annual cost per dollar of net assets of the average fund as applied

Continued

The Commission staff estimates, however, based on past conversations with representatives of the fund industry, that funds could spend as much as half of this amount ($122.4 million) to preserve the books and records that are necessary to prepare financial statements, meet various state reporting requirements, and prepare their annual federal and state income tax returns.

Rule 32a–4 [17 CFR 270.32a–4] is entitled ''Independent Audit Committees.'' The rule exempts a fund from the requirements of section 32(a)(2) of the Investment Company Act that shareholders ratify or reject the selection of the independent public accountant of a registered management company or registered face-amount certificate company if the fund has an audit committee composed wholly of independent directors.

Instead of relying on rule 32a–4, a fund could seek ratification or rejection by shareholders of the selection of its independent public accountant at each annual meeting. Under the rule, a fund is exempt from having to seek shareholder approval of its independent public accountant, if (i) the fund's board of directors establishes an audit committee composed solely of independent directors with responsibility for overseeing the fund's accounting and auditing processes,[11] (ii) the fund's board of directors adopts an audit committee charter setting forth the committee's structure, duties, powers and methods of operation, or sets out similar provisions in the fund's charter or bylaws,[12] and (iii) the fund maintains a copy of such an audit committee charter permanently in an easily accessible place.[13]

As conditions of relying on rule 32a–4, a fund's board of directors must adopt an audit committee charter and must preserve that charter, and any modifications to the charter, permanently in an easily accessible place. The information collection requirement in rule 32a–4 enables the Commission to monitor the duties and responsibilities of an independent audit committee formed by a fund relying on the rule. Commission staff estimates that there are approximately 3,700 management investment companies and face-amount certificate companies that could rely on the rule. We believe that approximately 9.7 percent (360) of those funds have taken advantage of the exemption since adoption of the rule, and approximately 2.7 % (100) of the funds that have not already done so choose to rely on the rule each year. For each of those funds choosing for the first time to rely on the rule, we estimate that the adoption of the audit committee charter requires, on average, 1 hour of directors' time, 2.5 hours of professional time and 1 hour of support staff time, for a total one-time burden of 4.5 hours, and an estimated total one-time cost of $555.40, resulting in an annual aggregate time burden of 450 hours and an annual aggregate cost of $55,540.[14]

In addition to the hour burden described above, rule 32a-4 imposes certain costs on those funds that choose to rely on the exemption. These costs are minimal and are justified by the relief provided by the exemption. We estimate that each of the approximately 360 funds currently relying on the rule is required to spend approximately .5 hours annually to comply with the requirement that it preserve permanently its audit committee charters, for an additional annual hour burden of 180 hours, and an additional annual cost for all funds of $12,439.20.[15]

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 29, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–28098 Filed 11–4–02; 8:45 am]

BILLING CODE 8010–01–P

to the net assets of all funds ($7 trillion x .000035 = $244.7 million).

[11] Rule 32a–4(a).

[12] Rule 32a–4(b).

[13] Rule 32a–4(c).

[14] To calculate this cost, the Commission staff used an average hourly wage rate of $300 per hour for directors, an average hourly wage rate of $96.16 per hour for professionals, and an average hourly wage rate of $15 per hour for support staff ((100 x 1 x $300/hour) + (100 x 2.5 x $96.16/hour) + (100 x 1 x $15/hour) = $55,540). See Securities Industry Association, Report on Management & Professional Earnings in the Securities Industry 2001 (Oct. 2001).

[15] In calculating this annual cost, the Commission staff estimated that one-third of the annual hour burden (60 hours) would be incurred by support staff with an average hourly wage rate of $15 per hour, and two-thirds of the annual burden (120 hours) would be incurred by professionals with an average hourly wage rate of $96.16 per hour ((60 x $15/hour) + (120 × $96.16/hour) = $12,439.20).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46739; File No. SR–NASD–2002–146]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Amending NASD Rule 3011 To Require Members To Identify and Provide Contact Information for Their Anti-Money Laundering Compliance Persons

October 29, 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 October 22, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), submitted to 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 NASD. NASD filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD proposes to amend NASD rule 3011 to require each member to provide to NASD contact information for the individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the member's anti-money laundering (''AML'') compliance program (''AML Program''). Below is the text of the proposed rule change. New text is in italics.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

3011. Anti-Money Laundering Compliance Program

On or before April 24, 2002, each member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member organization's anti-money laundering program must be approved, in writing, by a member of senior management. The anti-money laundering programs required by this rule shall, at a minimum;

(a) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(b) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(c) Provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party;

(d) Designate, *and identify to NASD (by name, title, mailing address, e-mail address, telephone number, and facsimile number*) an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program *and provide prompt notification to NASD regarding any change in such designation(s)*; and

(e) Provide ongoing training for appropriate personnel.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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 USA PATRIOT Act of 2001 (''PATRIOT Act''),[5] which was signed into law on October 26, 2001, recognizes that effective identification of money laundering and terrorist activities requires the expedited sharing and reporting of information among governmental and law enforcement authorities and financial institutions. In furtherance of this goal, section 314(a) of the PATRIOT Act requires the United States Department of the Treasury (''Treasury'') to adopt regulations to encourage cooperation and information sharing among financial institutions, their regulatory authorities, and law enforcement authorities. In particular, the regulations should be designed to facilitate law enforcement authorities' ability to share information with financial institutions and to request information from financial institutions about persons suspected of engaging in money laundering or terrorist activities. Section 314(a) of the PATRIOT Act further provides that the regulations adopted by Treasury may require that each financial institution designate one or more contact persons to receive information concerning, and to monitor accounts of, identified individuals or entities.

On September 18, 2002, Treasury issued a final rule implementing section 314 of the PATRIOT Act. Consistent with section 314(a) of the PATRIOT Act, the rule creates a system for the efficient communication of potential money laundering and terrorist information. Upon receiving a request for information by the Financial Crimes Enforcement Network (''FinCEN''), a bureau of Treasury, the rule requires financial institutions to identify a contact person to handle the request and to receive future information requests. When requested by FinCEN, the financial institution is required to provide the name, title, mailing address, e-mail address, telephone number, and facsimile number of the designated contact person. The financial institution must also promptly notify FinCEN of any changes to the contact information.

NASD rule 3011, NASD's AML Compliance Program Rule, requires each member to designate an individual or individuals responsible for implementing and monitoring the daily operations of the firm's AML Program. To facilitate Treasury's efforts in collecting the AML contact information set forth in Treasury's final rule, NASD proposes to amend NASD rule 3011 to require that members provide to NASD contact information concerning the members' designated AML compliance person(s). The information would be used by Treasury in connection with its regulatory obligations set forth in section 314(a) of the PATRIOT Act and the implementing regulations promulgated thereunder. Consistent with Treasury's final rule, members would be required to provide to NASD the name, title, mailing address, e-mail address, telephone number, and facsimile number of the contact person. Members would also be required to promptly notify NASD of any changes to the information.[6]

NASD intends to initially collect the contact information through the Member Firm Contact Questionnaire on the NASD Website. NASD anticipates that form and system changes necessary to collect the contact information will be completed by November 15, 2002. Members will have until December 31, 2002, to provide NASD with the necessary contact information.[7]

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that NASD's rules 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. NASD believes that the proposed rule change is designed to accomplish these ends by expediting the information sharing process necessary to help combat money laundering and terrorism.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

[5] Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107–56, 115 Stat. 272 (2001).

[6] NASD believes that its proposed amendments to NASD rule 3011 are consistent with New York Stock Exchange, Inc. (''NYSE'') rule 445 (AML Compliance Program), which requires that NYSE member organizations provide to the NYSE contact information identifying the member organization's designated AML compliance person and promptly notify the NYSE of any changes to the information.

[7] New member applicants will be required to provide the contact information during the application process.

[8] 15 U.S.C. 78*o*–3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act [9] and subparagraph (f)(6) of rule 19b–4[10] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate and NASD has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to File No. SR–NASD–2002–146 and should be submitted by November 26, 2002.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–28100 Filed 11–4–02; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46735; File No. SR–OCC–2002–19]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Random Assignment Processing

October 28, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 15, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order 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 alters OCC's procedures for random assignment processing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A)Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC proposes to refine its random assignment procedures for processing exercise notices. These procedures are not described in OCC's rules but are treated as a stated policy, practice, or interpretation with respect to Rule 803, which addresses assignments to clearing members.

Current Method

Under OCC's current random assignment process, an assignment ''wheel'' is created for each option series for which there is an exercise and all short positions of that series are placed on the wheel, starting with positions in the customers' account of the clearing member with the lowest identification number, followed by positions in other accounts of that clearing member, then by positions in the customers' account of the clearing member with the next lowest identification number, and so forth. The number of contracts exercised for that series is totaled. If the number of exercised contracts is less than the number of contracts held in open short positions, exercises are assigned in standard assignment increments of 25 contracts.[3] The system calculates a random starting point on the wheel for the first assignment increment. The first 25 contracts are assigned starting at the first position randomly chosen. Based on the number of contracts in the open interest for the series and the number of exercise increments to be assigned, a uniform skip interval is calculated as follows:

S = the total number of contracts being exercised for a particular series

T = the total number of contracts on the wheel

I = the assignment increment

1. $T1 = S + I - 1$;
2. $T2 = T1/I$, where T2 is an integer;
3. $T3 = T/T2$, where T3 is an integer;
4. Skip Interval = T3 '' 1, if I > than T3, skip interval = 0.

After the first assignment, the system skips the calculated skip interval, assigns the next 25 contracts, and skips again to the next assignment increment until all exercises are assigned.

Proposed Change

OCC is proposing minor modifications to its random assignment process. First, positions will be placed on the wheel in sequential order based on a unique data base identification code given to a position account (*i.e.*, an account or subaccount [4] that can hold

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] If the number of contracts being exercised is equal to the number of open short positions, the entire open interest for that series will be assigned automatically.

[4] In a combined market-makers' account, positions of individual market-makers are assigned unique acronyms and are not netted against each other for reporting purposes. Each market-maker acronym is treated as a separate ''position account.''

positions). Thus, a position account of a clearing member that had been added after the initial allocation of data base identification codes will not be clustered on the wheel adjacent to the other position accounts of that clearing member as is the case today.

Second, the skip interval calculation described above is slightly modified as follows:

S = the total number of contracts being exercised for a particular series

T = the total number of contracts on the wheel

I = the assignment increment

1. T1 = S/I (with decimals carried to six places; T1 is rounded up so that it is an integer)
2. Initial Skip Interval = (T/T1) − I (with decimals carried to six places and reserved for further use; decimals are truncated so that the initial skip interval is an integer)
3. If the initial skip interval is < 0, then the initial skip increment is = 0.

Assignments will be processed using the revised skip interval calculation. After the random starting point has been determined and the first 25 contracts have been assigned, the initial skip interval will be calculated. The decimals from the resulting total will be truncated to determine the first skip interval and will be stored to calculate the second skip interval. After first skip interval, the next 25 contracts will be assigned and the second skip interval will be calculated by adding the initial skip interval (including decimals) to the remaining decimal number from the truncated first skip interval. The decimals from the resulting total will be truncated and stored to calculate the third skip interval. This process will continue until all exercises have been assigned.

The proposed change in method by which positions are placed on an assignment wheel will substantially reduce the system processing time needed to create the assignment wheel, and would thereby improve overall system efficiency. The proposed change to the skip interval formula will further refine the calculation. Truncating the calculated skip interval to produce a uniform skip interval that is less than the calculated interval may cause a slightly smaller number of exercises to be assigned to positions at the end of the wheel (*i.e.*, just before the random starting point).[5] The proposed modification to the skip interval formula will lessen the effect of truncating the calculated skip interval and will thereby smooth the distribution of assignments.

OCC believes that the proposed rule change is consistent with Section 17A of the Act because it enhances OCC's procedures for random assignment processing and therefore, helps to perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[6] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism for a national system for the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with this requirement because the changes to the skip interval calculation will improve the efficiency of OCC's assignment process and will result in a more uniform distribution of assignments among OCC's clearing members with short positions.

OCC has requested that the Commission approve this rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because by so approving OCC will be able to implement the necessary system changes in connection with other system changes which are scheduled for implementation in early November 2002.

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 OCC. All submissions should refer to the File No. SR-OCC–2002–19 and should be submitted by November 26, 2002.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2002–19) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–28099 Filed 11–4–02; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

Agreement on Social Security between the United States and Australia; Entry Into Force

AGENCY: Social Security Administration (SSA).

ACTION: Notice.

SUMMARY: The Commissioner of Social Security gives notice that an agreement

[5] Truncating is necessary because fractional contracts cannot be assigned.

[6] 15 U.S.C. 78q-1(b)(3)(I).

[7] 17 CFR 200.30–3(a)(12).

coordinating the United States (U.S.) and Australian social security programs entered into force on October 1, 2002. The agreement with Australia, which was signed on September 27, 2001, is similar to U.S. social security agreements already in force with 19 other countries—Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Korea (South), Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Agreements of this type are authorized by section 233 of the Social Security Act.

The U.S.-Australian agreement eliminates dual coverage and contributions under the U.S. Social Security program and the Australian program of mandatory employer retirement contributions known as ''Superannuation Guarantee.'' U.S. companies that employ U.S. citizens or residents in Australia have frequently been required to pay contributions with respect to the employees' wages under both the U.S. Social Security program and Australia's Superannuation Guarantee program. Australian companies with Australian employees working in the United States have frequently faced the same dual contribution obligation. Under the U.S.-Australian agreement, workers are covered under one program or the other, but not both, and contributions are only due under that one program. A worker who is sent by an employer in one country to work in the other country for 5 years or less remains covered only by the program of the sending country. The agreement includes additional rules that eliminate dual U.S. and Australian coverage in other work situations.

The agreement also helps eliminate situations where workers suffer a loss of benefit rights under the social security system of one or both countries because they have divided their careers between the two countries. Under the agreement, workers may qualify for partial social security benefits from each country based on combined credits from both countries.

Individuals who wish to obtain copies of the agreement or want more information about its provisions may write to the Social Security Administration, Office of International Programs, Post Office Box 17741, Baltimore, MD 21235–7741 or visit the Social Security Web site at *www.ssa.gov/international*.

Dated: October 28, 2002.

Jo Anne B. Barnhart,

Commissioner of Social Security.

[FR Doc. 02–28027 Filed 11–4–02; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling, SSR 02–2p; Titles II and XVI: Evaluation of Interstitial Cystitis

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 02–2p. This Ruling clarifies the policies of the Social Security Administration for developing and evaluating title II and title XVI claims for disability on the basis of Interstitial Cystitis (IC). IC is a complex, chronic bladder disorder characterized by urinary frequency, urinary urgency, and pelvic pain.

EFFECTIVE DATE: November 5, 2002.

FOR FURTHER INFORMATION CONTACT: Carolyn Kiefer, Office of Disability, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–9104. For information on eligibility or filing for benefits, call our national toll-free number 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet web site, Social Security Online, at *http://www.ssa.gov.*

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of General Counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.006 Supplemental Security Income.)

Dated: October 25, 2002.

Jo Anne B. Barnhart,

Commissioner of Social Security.

Policy Interpretation Ruling

Titles II and XVI: Evaluation of Interstitial Cystitis

Purpose: To provide guidance on SSA policy concerning the development and evaluation of interstitial cystitis (IC) in disability claims filed under titles II and XVI of the Social Security Act (the Act).

Citations: Sections 216(i), 223(d), 223(f), 1614(a), and 1614(c) of the Act, as amended; Regulations No. 4, subpart P, sections 404.1502, 404.1505, 404.1508, 404.1509, 404.1511, 404.1512, 404.1513, 404.1520, 404.1520a, 404.1521, 404.1523, 404.1525, 404.1526, 404.1528, 404.1529, 404.1530, 404.1545, 404.1546, 404.1561, 404.1594, and appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.905, 416.906, 416.908, 416.909, 416.911, 416.912, 416.913, 416.920, 416.920a, 416.921, 416.923, 416.924, 416.925, 416.926, 416.926a, 416.928, 416.929, 416.930, 416.945, 416.946, 416.961, 416.994, and 416.994a.

Introduction: The Act and our implementing regulations require that an individual establish disability based on the existence of a medically determinable impairment; that is, one that can be shown by medical evidence, consisting of symptoms, signs, and laboratory findings. Disability may not be established on the basis of an individual's statement of symptoms alone.

This Ruling explains that IC (a complex, chronic bladder disorder), when accompanied by appropriate symptoms, signs, and laboratory findings, is a medically determinable impairment that can be the basis for a finding of ''disability.'' It also provides guidance for the evaluation of claims involving IC.

Policy Interpretation

General

1. What Is IC?

IC is a complex, chronic bladder disorder characterized by urinary frequency, urinary urgency, and pelvic pain. IC occurs most frequently in women (about 10 times more often than in men), and sometimes prior to age 18. IC may be associated with other disorders, such as fibromyalgia, chronic fatigue syndrome, allergies, irritable bowel syndrome, inflammatory bowel

disease, endometriosis, and vulvodynia (vulvar/vaginal pain). IC also may be associated with systemic lupus erythematosus.

The symptoms of IC may vary in incidence, duration, and severity. The causes of IC are currently unknown, and treatments are directed towards relief of symptoms. While no treatment is uniformly effective for everyone, there are many treatments available, and individuals may obtain some measure of relief. However, response to treatment is variable, and some individuals may have symptoms that are intractable to the current treatments available. Treatment may include bladder distention; bladder instillation; oral drugs, such as the prescription drug Elmiron, antidepressants, antihistamines, and narcotic analgesics; and the use of transcutaneous electrical nerve stimulation.

2. How Is IC Diagnosed?

The diagnosis is one of exclusion. A physician must rule out other conditions before making a diagnosis of IC because there is currently no definitive test to identify IC. The symptoms of IC are similar to those of other disorders, such as acute urinary tract or vaginal infections, post-radiation bladder inflammation or infection, bladder cancer, kidney stones, endometriosis, neurological disorders, sexually transmitted diseases, and, in men, chronic bacterial and nonbacterial prostatitis.

Symptoms of IC vary both in kind and in intensity from individual to individual, and even in the same individual. The three most common symptoms are an urgent need to urinate (urgency), a frequent need to urinate (frequency), and pain in the bladder and surrounding pelvic region. These symptoms may occur either singly or in combination. The pain may range from mild discomfort to extreme distress. The intensity of the pain may increase as the bladder fills, and decrease as it empties. In addition, many patients experience vaginal, testicular or penile pain, or low back and thigh pain. A woman's symptoms may worsen around the time of menstruation.

A diagnosis of IC is based on the presence of some or all of the following:

- Presence of urinary urgency or frequency (day and/or night), either singly or in combination;
- Pain in the bladder and surrounding pelvic region;
- Suprapubic tenderness on physical examination;
- Glomerulations (pinpoint bleeding caused by recurrent irritation) on the bladder wall after hydrodistention on cystoscopy;
- Hunner's ulcers on the bladder wall after hydrodistention on cystoscopy; and,
- Absence of other disorders that could cause the symptoms.

Diagnostic tests used to identify or exclude other disorders include urinalysis, urine culture, urine cytology, cystoscopy, biopsy of the bladder wall, and, in men, culture of prostate secretions.

The standard test currently used to aid in the diagnosis of IC is a cystoscopy with hydrodistention of the bladder (performed under anesthesia). It can be used to reveal glomerulations or Hunner's ulcers. A biopsy of the bladder wall can be taken to rule out diseases such as bladder cancer. Cystoscopy with hydrodistention also makes it possible to estimate bladder capacity, which is an important guide to treatment. The hydrodistention of the bladder itself also sometimes provides a therapeutic benefit, with a reduction in pain and urinary frequency for a limited time period. A report on the results of a cystoscopy, if done, should be part of the medical record. An absence of glomerulations or Hunner's ulcers on cystoscopy does not exclude a diagnosis of IC; a minority of individuals with IC (10%) will not have either of these medical signs. Cystoscopy should not be purchased to establish a diagnosis of IC because it is an invasive procedure.

While the medical findings discussed above are the principal symptoms, signs, and laboratory findings currently used to establish a diagnosis of IC, and, consequently, the existence of a medically determinable impairment, they are not all-inclusive. As progress is made in medical research into IC, additional signs and laboratory findings may be identified and new diagnostic techniques may be developed that also would establish a diagnosis of IC. The existence of IC may be documented with medical signs or laboratory findings other than those listed above, provided that such documentation is consistent with medically accepted clinical practice and is consistent with the other evidence in the case record.

3. What Is a Medically Determinable Impairment?

Sections 216(i) and 1614(a)(3) of the Act define ''disability'' [1] as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment (or combination of impairments) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.[2]

Sections 223(d)(3) and 1614(a)(3)(D) of the Act and 20 CFR 404.1508 and 416.908 require that an impairment result from anatomical, physiological, or psychological abnormalities that can be shown by medically acceptable clinical and laboratory diagnostic techniques. The Act and regulations further require that an impairment be established by medical evidence that consists of symptoms, signs, and laboratory findings, and not only by an individual's statement of symptoms.

4. How Is IC Identified as a Medically Determinable Impairment?

We [3] generally will rely on the judgment of a physician who has made the diagnosis after a review of the claimant's medical history, a physical examination of the claimant, and any pertinent testing to establish the existence of IC. In the absence of evidence to the contrary in the case record, we will find a medically determinable impairment is established if the evidence contains the appropriate symptoms, signs, and laboratory findings, as discussed under question 2 above. However, if there is evidence that indicates that the diagnosis is questionable, and the evidence is inadequate to determine whether or not the individual is disabled, we will contact the treating source for clarification, using the guidelines in 20 CFR 404.1512(e) and 416.912(e).

5. How Do We Consider IC in the Sequential Evaluation Process? [4]

Once we determine that the individual has the medically

[1] Except for statutory blindness.

[2] For a child under age 18 claiming benefits under title XVI, disability will be established if the child is suffering from a medically determinable physical or mental impairment (or combination of impairments) that results in ''marked and severe functional limitations.'' *See* section 1614(a)(3)(C) of the Act and 20 CFR 416.906. However, for clarity, the following discussions refer only to claims of individuals claiming disability benefits under title II and individuals age 18 or older claiming disability benefits under title XVI. The concepts in this ruling, however, are also intended to apply in determining disability based on IC for individuals under age 18 under title XVI.

[3] The terms *we* and *us* in this Social Security Ruling have the same meaning as in 20 CFR 404.1502 and 416.902. *We* or *us* refers to either the Social Security Administration or the State agency making the disability or blindness determination; *i.e.*, our adjudicators at all levels of the administrative review process and our quality reviewers.

[4] For ease of reading, we refer in this Ruling only to the steps of the sequential evaluation processes for initial adult claims, 20 CFR 404.1520 and 416.920. We use separate sequential evaluation processes when we do continuing disability

Continued

determinable impairment IC, we will consider it in determining whether:

- The individual's impairment(s) is severe.
- The individual's impairment(s) meets or equals the requirements of a listed impairment in the listings.
- The individual's impairment(s) prevents him or her from doing past relevant work and other work that exists in significant numbers in the national economy.

6. Can We Find an Individual Disabled Based on IC Alone?

If an individual has the medically determinable impairment IC that is ''severe'' as described in question 7 below, we may find that the IC medically equals a listing, if appropriate. (*See* 20 CFR 404.1525 and 416.925.) (In the case of a child seeking benefits under title XVI, we also may find that it functionally equals the listings (20 CFR 416.926a).) We also may find in a title II claim, or an adult claim under title XVI, that the IC results in a finding that the individual is disabled based on his or her residual functional capacity (RFC), age, education, and past work experience.

An individual with IC also may report symptoms suggestive of a mental impairment (for example, the individual may say that he or she is anxious or depressed, having difficulties with memory and concentration, *etc.*). If the evidence supports a possible discrete mental impairment or symptoms such as anxiety or depression resulting from the individual's IC or the side effects of medication, we will develop the possible mental impairment. If the evidence does not establish a medically determinable mental impairment, but does establish the presence of symptoms such as anxiety or depression resulting from the individual's IC or side effects of medication, we will determine whether there are any work-related functional limitations resulting from the symptoms. We will address any work-related functional limitations at steps 4 and 5 of the sequential evaluation process.

Sequential Evaluation: Step 2, Severe Impairment

7. When Is IC a ''Severe'' Impairment?

As with any other medical condition, we will find that IC is a ''severe'' impairment when, alone or in combination with another medically determinable physical or mental impairment(s), it significantly limits an individual's physical or mental ability to do basic work activities. (For children applying for disability under title XVI, we will find that IC is a ''severe'' impairment when it causes more than minimal functional limitations.) We also will consider the effects of any symptoms (such as pain or fatigue) that could limit functioning. (*See* SSR 85–28, ''Titles II and XVI: Medical Impairments That Are Not Severe'' and SSR 96–3p, ''Titles II and XVI: Considering Allegations of Pain and Other Symptoms In Determining Whether a Medically Determinable Impairment Is Severe.'') Therefore, we will find that an impairment(s) is ''not severe'' only if it is a slight abnormality (or a combination of slight abnormalities) that has no more than a minimal effect on the individual's ability to do basic work activities (or, for a child applying under title XVI, if it causes no more than minimal functional limitations).

Sequential Evaluation: Step 3, the Listings

8. How Do We Evaluate IC at Step 3 of Sequential Evaluation, the Listings?

IC may be a factor in both ''meets'' and ''equals'' determinations.

Because there is no listing for IC, we will find that an individual with IC ''meets'' the requirements of a listing if he or she has another impairment that, by itself, meets the requirements of a listing. We also will find that a listing is met if there is an impairment that, in combination with IC, meets the requirements of a listing. For example, IC may increase the severity of coexisting or related impairments, including mental disorders, to the extent that the combination of impairments meets the requirements of a listing. This also may be true in the reverse; coexisting or related impairments may increase the severity of IC.

We also may find that IC, by itself, is medically equivalent to a listed impairment (or, in the case of a child applying under title XVI, also functionally equivalent to the listings).

We also will find equivalence if an individual has multiple impairments, including IC, no one of which meets or equals the requirements of a listing, but the combination of impairments is equivalent in severity to a listed impairment.

However, we will not make assumptions about the severity or functional effects of IC combined with other impairments. IC in combination with another impairment may or may not increase the severity or functional limitations of the other impairment. We will evaluate each case based on the information in the case record.

Further, we will never deny an individual's claim because the individual's IC does not meet or medically equal a listing. If an individual with IC has a severe impairment that does not meet or medically equal a listing, we may still find the individual disabled based on other rules in the ''sequential evaluation process'' that we use to evaluate all disability claims.

Sequential Evaluation: Steps 4 and 5, Assessing Functioning in Adults; Step 3, Assessing Functional Equivalence in Children

9. How Do We Evaluate IC in Assessing Residual Functional Capacity (RFC) in Adults and Functional Equivalence in Children?

IC can cause limitation of function. The functions likely to be limited depend on many factors, including urinary frequency and pain. An individual may have limitations in any of the exertional functions such as sitting, standing, walking, lifting, carrying, pushing, and pulling. It also may affect ability to do postural functions, such as climbing, balancing, stooping, and crouching. The ability to tolerate extreme heat, humidity, or hazards also may be affected.

The effects of IC may not be obvious. For example, many people with IC have chronic pelvic pain, which can affect the ability to focus and sustain attention on the task at hand. Nocturia (nighttime urinary frequency) may disrupt sleeping patterns. This can lead to drowsiness and lack of mental clarity during the day. IC also may affect an individual's social functioning. The presence of urinary frequency alone can necessitate trips to the bathroom as often as every 10 to 15 minutes, day and night. Consequently, some individuals with IC essentially may confine themselves to their homes. In assessing RFC, we must consider all of the individual's symptoms in deciding how such symptoms may affect functional capacities.

An assessment also should be made of the effect IC has upon the individual's ability to perform routine movement and necessary physical activity within the work environment. Individuals with IC may have problems with the ability to sustain a function over time.

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reviews; *i.e.*, reviews to determine whether individuals who are receiving disability benefits are still disabled, or when we determine whether an individual has a ''closed period of disability.'' These rules are set out in 20 CFR 404.1594 and 416.994, and the guidance in this Ruling applies to all of the appropriate steps in those regulations as well.

As explained in SSR 96–8p (''Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims''), our RFC assessments must consider an individual's *maximum* remaining ability to do sustained work activities in an ordinary work setting on a regular and continuing basis. A ''regular and continuing basis'' means 8 hours a day, for 5 days a week, or an equivalent work schedule.[5] In cases involving IC, fatigue may affect the individual's physical and mental ability to sustain work activity. This may be particularly true in cases involving urinary frequency.

For a child applying for benefits under title XVI, we will evaluate the functional consequences of IC (either alone or in combination with other impairments) to decide if the child's impairment(s) functionally equals the listings. For example, the functional limitations imposed by IC, by itself or in combination with another impairment(s), may establish an extreme limitation in one broad area of functioning (*e.g.*, attending and completing tasks) or marked limitations in two broad areas of functioning (*e.g.*, attending and completing tasks, and interacting and relating with others).

As with any other impairment, we will explain how we reached our conclusions on whether IC caused any physical or mental limitations.

EFFECTIVE DATE: This Ruling is effective November 5, 2002.

Cross-References: SSR 85–28, ''Titles II and XVI: Medical Impairments That Are Not Severe''; SSR 96–2p, ''Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions''; SSR 96–3p, ''Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe''; SSR 96–4p, ''Titles II and XVI: Symptoms, Medically Determinable Physical and Mental Impairments, and Exertional and Nonexertional Limitations''; SSR 96–5p, ''Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner''; SSR 96–6p, ''Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence''; SSR 96–7p, ''Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements''; SSR 96–8p, ''Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims''; and SSR 96–9p, ''Titles II and XVI: Determining Capability to Do Other Work—Implications of a Residual Functional Capacity for Less Than a Full Range of Sedentary Work.''

[FR Doc. 02–28057 Filed 11–4–02; 8:45 am]

BILLING CODE 4191–02–P

[5] However, *see* footnote 2 of SSR 96–8p. That footnote explains that the ability to work 8 hours a day for 5 days a week is not always required for a finding at step 4 of the sequential evaluation process for adults when an individual can do past relevant work that was part-time work, if that work was substantial gainful activity, performed within the applicable period, and lasted long enough for the person to learn to do it.

DEPARTMENT OF STATE

[Public Notice 4159]

Renewal of the Overseas Schools Advisory Council

The Department of State is renewing the Overseas Schools Advisory Council to provide a formal channel for regular consultation and advice from U.S. corporations and foundations regarding American-sponsored overseas schools. The Under Secretary for Management has determined that the committee is necessary and in the public interest.

Members of the committee will be appointed by the Assistant Secretary for Administration. The committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with the FACA section 10(d) and 5 U.S.C. 552b(c) (1) and (4) that a meeting or a portion of the meeting should be closed to the public. Notice of each meeting will be provided in the **Federal Register** at least 15 days prior to the meeting date.

For further information, contact Dr. Keith D. Miller, Executive Secretary of the committee at 202–261–8200.

Dated: October 30, 2002.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council, Department of State.

[FR Doc. 02–28088 Filed 11–4–02; 8:45 am]

BILLING CODE 4710–24–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act: Correction

AGENCY: Office of the United States Trade Representative.

ACTION: Correction.

Correction to Previous Notice

In the **Federal Register** of October 23, 2002, Volume 67, Page 65169, the Office of the United States Trade Representative published a notice entitled ''Determinations Under the African Growth and Opportunity Act.'' A correction is being made to the information that appeared under **SUPPLEMENTARY INFORMATION**. The reference to Presidential Proclamation 7360 of October 2, 2000 was incorrect. The correct citation is Presidential Proclamation 7350 of October 2, 2000.

Rosa M. Whitaker,

Assistant United States Trade Representative for Africa, Office of the United States Trade Representative.

[FR Doc. 02–28063 Filed 11–4–02; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending October 25, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–13631.
Date Filed: October 22, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 AFR–TC3 0184 dated 22 October 2002.
Mail Vote 247—TC23/TC123 Africa-South East Asia.
Special Passenger Amending Resolution 010e r1–r2.
PTC23 AFR–TC3 0185 dated 22 October 2002.
Mail Vote 248—TC23/TC123 Africa-Japan/Korea.
Special Passenger Amending Resolution 010f r3–r13.
Intended effective date: 15 November 2002.

Docket Number: OST–2002–13681.
Date Filed: October 23, 2002.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 239.
PTC123 0201 dated 16 September 2002 r1–r18.
PTC123 0210 dated 11 October 2002 (Affirmative).
Minutes—PTC123 0217 dated 22 October 2002.
Tables—PTC123 Fares 0072 dated 11

October 2002.
PTC123 Fares 0076 (Technical Correction).
Intended effective date: 1 March 2003.

Docket Number: OST 2002–13684.
Date Filed: October 24, 2002.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 242
PTC123 dated 16 September 2002 r1–r9
TC123 North Atlantic-USA-Korea (Rep. of), Malaysia
Resolutions
PTC123 0213 dated 11 October 2002 (Affirmative)
Minutes—PTC123 0217 dated 22 October 2002
Tables—PTC123 Fares 0075 dated 11 October 2002
Intended effective date: 1 March 2003.

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 02–28091 Filed 11–4–02; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Lake Superior Railroad Museum

[Docket Number FRA–2002–13490]

The Lake Superior Railroad Museum (LSRM) of Duluth, Minnesota has petitioned for a permanent waiver of compliance for one 1956 built General Motors Locomotive numbered 4211 from the requirements of the Railroad Safety Glazing Standards, 49 CFR part 223, which requires certified glazing in all windows and a minimum of four emergency windows. The railroad indicates that it operates on 26 miles of track on the North Shore Scenic Railroad between Duluth and Two Harbors, Minnesota.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2002–13490) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, DC on October 29, 2002.

Grady C. Cothen, Jr.,
Deputy Associate Administrator for Safety Standards and Program Development.
[FR Doc. 02–28094 Filed 11–4–02; 8:45 am]
BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

The Livonia, Avon & Lakeville Railroad Corporation

[Docket Number FRA–2002–13250]

The Livonia, Avon & Lakeville Railroad Corporation (LAL) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance for one business car numbered 100 from the requirements of the Railroad Safety Glazing Standards, 49 CFR part 223, which requires certified glazing in all windows and a minimum of four emergency windows. The railroad indicates that the car is not air conditioned and is used only four times a year. This car has 25 windows that open a maximum of eight (8) inches.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number 2002–13250) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC, on October 29, 2002.

Grady C. Cothen, Jr.,
Deputy Associate Administrator for Safety Standards and Program Development.
[FR Doc. 02–28093 Filed 11–4–02; 8:45 am]
BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Virginia & Truckee Railroad

[Docket Number FRA–2002–13310]

The Virginia & Truckee Railroad (VTRR) has petitioned the Federal Railroad Administration (FRA) for a permanent waiver of compliance from one 1953 General Electric 80-ton locomotive from the requirements of the Railroad Safety Glazing Standards, 49 CFR Part 223, which requires certified glazing in all windows and a minimum of four emergency windows. The railroad indicates that the locomotive operates as a tourist railroad with three miles of track in Virginia City, Nevada, approximately six months per year. It crosses one fully protected rail highway crossing. The locomotive is currently equipped with safety glazing.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2002–13310) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, DC on October 29, 2002.

Grady C. Cothen, Jr.

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–28095 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2002–13703]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before January 6, 2003.

FOR FURTHER INFORMATION CONTACT: Rodney McFadden, Maritime Administration, 400 Seventh St., SW., Washington, DC 20590. Telephone: 202–366–2647; FAX 202–493–2180, or E-MAIL: *rodney.mcfadden@marad.dot.gov.* Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Information to Determine Seamen's Reemployment Rights—National Emergency.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0526.

Form Numbers: None.

Expiration Date of Approval: Three years from the date of approval.

Summary of Collection of Information: MARAD is requesting approval of this collection in an effort to implement provisions of the Maritime Security Act of 1996. These provisions grant reemployment rights and other benefits to certain merchant seamen serving aboard vessels used by the United States during times of national emergencies. The Maritime Security Act of 1996 establishes the procedures for obtaining the necessary MARAD certification for reemployment rights and other benefits.

Need and Use of the Information: MARAD will use the information to determine if U.S. civilian mariners are eligible for reemployment rights under the Maritime Security Act of 1996.

Description of Respondents: U.S. merchant seamen who have completed designated national service during a time of maritime mobilization need and are seeking reemployment with a prior employer.

Annual Responses: 50.

Annual Burden: 50 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

By Order of the Maritime Administrator.

Dated: October 29, 2002.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–28085 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2002–13702]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before January 6, 2003.

FOR FURTHER INFORMATION CONTACT: Thomas Olsen, Maritime Administration, 400 Seventh Street, SW., Washington, DC. Telephone: 202–366–2313; FAX: 202–366–9580, or E-Mail: *thomas.olsen@marad.dot.gov.* Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Determination of Fair and Reasonable Rates for Carriage of Agricultural Cargoes on U.S. Commercial Vessels.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0514.

Form Numbers: None.

Expiration Date of Approval: Three years from date of OMB approval.

Summary of Collection of Information: This collection of information requires U.S.-flag operators to submit vessel operating costs and capital costs data to MARAD officials on an annual basis.

Need and Use of the Information: This information is needed by MARAD to establish fair and reasonable guideline rates for carriage of specific cargoes on U.S. vessels.

Description of Respondents: U.S. citizens who own and operate U.S.-flag vessels.

Annual Responses: 175.

Annual Burden: 700 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

By Order of the Maritime Administrator.

Dated: October 29, 2002.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–28086 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2002–13701]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before January 6, 2003.

FOR FURTHER INFORMATION CONTACT: Richard Walker, Maritime Administration, MAR–810, 400 7th Street, SW., Washington, DC 20590. Telephone: 202–366–5076, FAX: 202–366–6988 or E-MAIL: *richard.walker@marad.dot.gov.* Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Inventory of American Intermodal Equipment.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0503.

Form Numbers: None.

Expiration Date of Approval: Three years from date of approval by Office of Management and Budget.

Summary of Collection of Information: This collection consists of an intermodal equipment inventory that provides data essential to both the government and the transportation industry in planning for the most efficient use of intermodal equipment. Further, this collection is intended to assure that containers and related intermodal equipment are obtainable in the event of a national emergency.

Need and Use of the Information: The information contained in the inventory provides data about U.S.-based companies that own or lease intermodal equipment and is essential to both government and industry in planning for contingency operations.

Description of Respondents: Owners of U.S. steamship and intermodal equipment leasing companies.

Annual Responses: 22.

Annual Burden: 66 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

By Order of the Maritime Administrator.

Dated: October 29, 2002.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–28087 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Grant Program for Research and Development in the Field of Transportation Statistics

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Announcement of grant program.

SUMMARY: The Bureau of Transportation Statistics (BTS) supports its goal of advancing the field of transportation statistics through the Transportation Statistics Research Grants program. This notice solicits applications for projects that (1) support the development of the field of transportation statistics; and/or (2) involve research or development in transportation statistics. It outlines the purpose, goals, and general procedures for application and award. For this cycle, BTS will make available up to approximately $500,000 in grant funds to eligible organizations.

DATES: For BTS to consider your application, we must receive it by January 31, 2003, at 5:00 P.M. Eastern Standard Time. Applications received after January 31, 2003, will be held for the next cycle, which is anticipated to be every six to twelve months, unless you request in writing that your application be returned.

ADDRESSES: You must send six copies of the application package to the BTS Grants Program, Room 3117, Bureau of Transportation Statistics, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Promod Chandhok, Office of Statistical Programs, Bureau of Transportation Statistics, Room 3117, 400 Seventh Street, SW., Washington, DC 20590; phone (202) 366–2158; fax: (202) 493–

0568; e-mail: *promod.chandhok@bts.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Advancing the Discipline of Transportation Statistics

The purpose of this grant program is to provide financial assistance to eligible organizations to help advance the discipline of transportation statistics. These grants are authorized by section 5109 of the Transportation Equity Act for the 21st Century (TEA–21) (Public Law 105–178 (1998), codified at 49 U.S.C. 111(g)). BTS anticipates awarding up to $500,000 per year in grants for projects that (1) support development of the field of transportation statistics; and/or (2) advance research or development in transportation statistics.

BTS is a separate operating administration within the U.S. Department of Transportation (DOT). Its mission is to lead in developing transportation data and information of high quality, and to advance their effective use in public and private transportation decision-making. In accomplishing this mission, BTS works to improve six key attributes of transportation data and analysis—quality, comparability, completeness, timeliness, relevance, and utility.

Our ultimate goal is to make transportation better—to enhance safety, mobility, economic growth, the human and natural environment, and national security (the five strategic goals of the Department of Transportation). BTS's role in this goal is to put together data and information that others need to make decisions concerning transportation. We collect data and compile, analyze, and publish statistics. Many others, both within and outside DOT, are involved in building this knowledge base and BTS could not do it alone.

While there are many excellent transportation data programs and many excellent statistics programs, few are devoted to the intersection of these two disciplines. Bringing a better understanding of statistics to transportation data will improve data quality, increase utility (*e.g.*, by improving measures of travel), and reduce costs (*e.g.*, by using techniques to make data collection, analysis, and dissemination more efficient). BTS wants to foster the transportation statistics discipline and increase its quality and usefulness to the transportation community. This grants program is one way BTS is working toward this goal.

II. Eligibility Requirements

What Organizations May Apply?

BTS invites applications from public and private non-profit entities. We strongly encourage organizations serving minorities, who have been traditionally under-represented in transportation statistics, to submit applications. If organizations partner on a project, the participants should submit a single application. You may submit more than one application as long as the applications are for separate and distinct projects.

What Projects Are Eligible for Funding?

Proposals should serve the broad transportation interests of the country, and we are particularly interested in high-quality proposals that treat one or more of the following areas:

(1) Quantifying the ''safety culture'' of transportation companies; assessing the predictive power of ''safety culture'' in predicting accident risk; identifying minimum data required in quantifying the ''safety culture'' of a transportation company; and suggesting specific measures or attributes of a company that are strong predictors of accident risk.

(2) Researching the utility of narrative text in accident and near-miss reports in identifying precursors to an accident; evaluating text mining techniques; and developing text mining tools specific for extracting information from Police Accident Reports.

(3) Measuring the vulnerability of the transportation system and its users to crime and terrorism.

This list is not exhaustive, and we are eager to consider any innovative proposal that supports the development of the field of transportation statistics or involves research and development in transportation statistics.

What Are the Cost Sharing Requirements?

For awards of $100,000 or more, the recipient shall fund at least 50 percent of the project's costs. The nonfederal match must come from sources other than the project sponsor, and must be cash contributions rather than in-kind contributions. In reviewing all applications, even those requesting less than $100,000, the degree of cost-sharing will be considered, with more weight given to cash contributions than in-kind services.

III. Application Contents

For more information about submitting an application, please refer to the **ADDRESSES** and **DATES** sections listed above. In order to be considered for funding under this program, your application package must include the following:

(1) *A Project Narrative.* This must not exceed 12 letter-size pages, single-sided and double-spaced. Use at least 12-point type and one inch margins. In general, the information you provide should be in sufficient detail so BTS understands the proposed work and its anticipated benefits. It should also demonstrate that you have the necessary experience and resources to accomplish it. The narrative must identify the organization; how it meets the eligibility criteria; its experience and accomplishments in collecting, analyzing, and/or disseminating transportation data; and the qualifications of the principals proposed to conduct the activities. The narrative must also describe the proposed activity, including how you would accomplish it, a timeline listing major milestones associated with the project, and a list of specific products and/or services with the dates they will be delivered.

(2) *An Application for Federal Assistance.* Submit OMB SF–424 (Application for Federal Assistance), which is the official form required for all Federal grants. It requests basic information about the grantee and the proposed project. Under Part 10 of this form, use 20.920 and Transportation Statistics Research Grants for the Catalog of Federal Domestic Assistance Number and Title. Also submit OMB SF–424A (Budget Information—Nonconstruction Programs). You can download these forms from the OMB Internet site at *http://www.whitehouse.gov/omb/grants.*

(3) *An Evaluation Plan.* Include a brief description of how you will evaluate and measure the success of the project, including the anticipated benefits and challenges in completing it. This can be part of the Project Narrative.

(4) *Resumes.* Include resumes from up to three key personnel who would be significantly involved in the project.

(5) *Letters of Commitment.* If your proposal includes the significant involvement of other eligible organizations, your application must include letters of commitment from them.

IV. Application Review Process and Selection Criteria

The Transportation Statistics Research Grants program uses a competitive process and applications will be evaluated based on the merit and relevance of the proposed project in relation to the other applications received. BTS anticipates making multiple awards based on this solicitation. While BTS will select the

most meritorious proposals, we may choose to not award all available funds.

Upon receiving an application, BTS will conduct an initial review to determine if it meets the eligibility criteria and contains all of the items specified under the Application Contents section of this announcement. A BTS evaluation committee will then review each complete application from an eligible recipient using the evaluation criteria listed below (the order of criteria does not designate priority) and the BTS Director will select the final grants. The evaluation criteria are:

(1) How well does the proposal support BTS's strategic goals of improving the quality, comparability, completeness, timeliness, relevance, and utility of transportation data? How well does the proposal serve the broad transportation interests of the United States?

(2) How innovative is the proposed activity? To what extent is the work being accomplished elsewhere?

(3) How much experience has the applicant demonstrated in one or more of the following areas—collecting, analyzing, storing, or disseminating transportation data, particularly data collected or disseminated by BTS, and working with theoretical statistical issues concerning transportation data?

(4) Does the applicant have the professional qualifications and team members necessary for satisfactory performance of the proposed activity?

(5) How well does the technical approach and proposed costs reflect an understanding of the procedures necessary to complete the required tasks?

(6) To what degree does the proposal include cost-sharing? More weight will be given to proposals with cash contributions than in-kind services. For awards of $100,000 or more, BTS requires cash contributions of 50 percent toward the total project's cost.

V. Amount of Funds Available and Period of Support

We anticipate that approximately $500,000 per year will be designated to support grants over the next five years, subject to the availability of appropriated funds. This estimate does not bind BTS to a specific number of offers or awards, nor to a specific amount of funding support for particular awards or awards in aggregate. It is anticipated that individual award amounts, based upon demonstrated needs, will likely range from $50,000 to $200,000, though BTS has not established minimum or maximum funding levels.

Given the amount of funds available, applicants are strongly encouraged to seek other funding opportunities to supplement the federal funds. Preference will be given to applicants with cost sharing proposals from within or outside their organizations.

The period of time of awards will vary with the complexity of the project and it is possible that grants will be awarded for periods greater than one year.

VI. BTS Involvement

BTS involvement, if any, will vary by award. If you anticipate BTS involvement, you must note this in your project narrative and any support BTS provides will be specified in the award agreement. BTS will assign a liaison to serve as the primary contact regarding the grant.

VII. Terms and Conditions of Award

(1) Prior to award, each grantee will be required to complete additional government application forms, such as OMB SF–424B (Assurances—Nonconstruction Programs) and with the certification requirements of 49 CFR Part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR Part 29, Department of Transportation Government-Wide Debarment and Suspension (Non-Procurement) and Government-Wide Requirements for Drug Free Workplace (Grants).

(2) Each grantee shall submit a program implementation plan no more than one month after award. The BTS liaison will review and comment, if necessary.

(3) Each grantee shall submit quarterly progress reports, a draft final report, and a final report that reflects the BTS liaison's comments.

Thank you for your interest in our Transportation Statistics Research Grants program.

Ashish Sen,

Director.

[FR Doc. 02–28092 Filed 11–4–02; 8:45 am]

BILLING CODE 4910–HY–P

Corrections

Federal Register

Vol. 67, No. 214

Tuesday, November 5, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 41, and 190

RIN 3038–AB76

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–46473; File No. S7–17–01]

RIN 3235–AI32

Applicability of CFTC and SEC Customer Protection, Recordkeeping, Reporting, and Bankruptcy Rules and the Securities Investor Protection Act of 1970 to Accounts Holding Security Futures Products

Correction

In rule document 02–23274 beginning on page 58284 in the issue of Friday, September 13, 2002, make the following corrections:

1. On page 58287, in the first column, in footnote 30, in the third line, ‘‘ ‘‘FCM’’ that is fully registered’’ should read, ‘‘ ‘‘FCM’’ pertains to an FCM that is fully registered’’.

2. On page 58288, in the first column, in footnote 35, ‘‘notes through’’ should read, ‘‘notes 15 through 18’’.

3. On the same page, in the second column, in footnote 39, in the seventh line, after ‘‘note’’, add ‘‘44’’.

4. On the same page, in the third column, in footnote 41, ‘‘notes and’’ should read, ‘‘notes 42 and 43.’’.

5. On page 58291, in the second column, in footnote 69, after ‘‘note’’, add ‘‘8’’.

6. On page 58292, in the third column, in footnote 79, in the fifth line, after ‘‘note’’, add ‘‘74’’.

7. On page 58295, in the first column, in footnote 88, ‘‘NSD’’ should read, ‘‘NASD’’.

[FR Doc. C2–23274 Filed 11–4–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent to Prpare a Draft Supplemental Environmental Impact Statement for the Design Modifications and Recreational Enhancements to the Wyoming Valley Levee Raising Project at the Wilkes-Barre, PA Historic River Commons

Correction

In notice document 02–27156 beginning on page 65343 in the issue of Thursday, October 24, 2002, make the following correction:

On page 65343, in the third column, under the heading **3. Purpose and Need**, in the second line, ‘‘will project’’ should read ‘‘ will provide’’.

[FR Doc. C2–27156 Filed 11–4–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
November 5, 2002

Part II

Department of Transportation

National Highway Traffic Safety Administration

Consumer Information Regulations; Federal Motor Vehicle Safety Standards; Safety Rating Program for Child Restraint Systems; Notice and Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2001-10053]

Consumer Information Regulations; Federal Motor Vehicle Safety Standards; Safety Rating Program for Child Restraint Systems

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

ACTION: Response to Comments, Notice of Final Decision.

SUMMARY: The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act requires that, by November 2002, a safety rating for child restraints be established to create a consumer information program to provide practicable, readily understandable, and timely information to consumers. Consumers could use the information to make informed decisions on the purchase of child restraint systems (CRS). In addition, TREAD directed the Secretary of Transportation to take into consideration, ''whether to include a child restraint in each vehicle crash-tested under the New Car Assessment Program.'' In response to this mandate, the agency has decided to establish a consumer information program for add on child restraints based on ease of use. We believe that this consumer information program will encourage child restraint manufacturers to produce child restraints with features that make it easier for consumers to use and install, thereby, leading to increased correct use of child restraints and increased safety for child passengers. In addition, we have decided to perform two pilot programs to gather additional information about two other aspects of child passenger safety. One pilot program will subject child restraints to a 48 kmph (30 mph) sled test under the same test conditions as a proposed upgrade to FMVSS No. 213. The second pilot program will continue to include child restraints in the frontal crashes of our New Car Assessment Program. In 2003 and 2004, the agency will collect results from the vehicle tests and from the child restraint 30 mph (48 kmph) dynamic sled tests, as a pilot program, and not publish the results as consumer information. At the conclusion of the pilot program, and if analyses of the pilot program show this would be meaningful consumer information, the agency will seek public comments on a proposal for full implementation of the rating of vehicles for child protection and the dynamic child restraint test to commence in Model Year 2005. (By Model Year 2005, we mean October 2004 to coincide with the commencement of the fiscal year 2005 New Car Assessment Program.) We believe this consumer information will enable prospective purchasers to make better, informed choices about new child restraints and passenger vehicles.

FOR FURTHER INFORMATION CONTACT: Concerning issues related to the dynamic performance pilot program of the CRS, call Nathaniel Beuse of the New Car Assessment Program. For issues concerning the passenger vehicles pilot program, call Brian Park of the New Car Assessment Program. Both of these individuals can be reached at (202)-366-1740. For issues related to the ease of use rating, you may call Lori Miller of the Office of Planning and Consumer Standards at (202)-366-2191. You may send mail to these officials at: National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Discussion of General Issues Raised by Commenters
A. Major Safety Problem is the Unrestrained Child
B. The Belief that Retailers Might Eliminate Lower-Priced Child Restraints
III. CRS Ease of Use Rating Program
A. Summary of Proposal
B. Summary of Comments
1. Inclusion of LATCH
2. Forms for Each Type of Restraint
3. Features and Feature Criteria Evaluation
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I. Introduction

Congress has directed the National Highway Traffic Safety Administration (NHTSA) to develop a child restraint safety rating system that is practicable and understandable (Section 14(g) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, November 1, 2000, Pub. L. 106–414, 114 Stat. 1800) and that will help consumers to make informed decisions when purchasing child restraints. Section 14(g) reads as follows:

(g) Child restraint safety rating program. No later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a notice of proposed rulemaking to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraints. No later than 24 months after the date of the enactment of this Act the Secretary shall issue a final rule establishing a child restraint safety rating program and providing other consumer information, which the Secretary determines, would be useful to consumers who purchase child restraint systems.

This notice outlines the program that NHTSA will use to incorporate a new safety rating for child restraint systems. The agency will rate child restraints in 2003 for ease of use. In addition, we have decided to conduct two pilot

programs to gather additional information on the possibility of rating child restraints for dynamic performance, and, by installing such restraints in vehicles tested in our existing frontal New Car Assessment Program (NCAP), the possibility of rating these vehicles on their ability to protect children. NCAP currently gives consumers a crashworthiness rating for new vehicles in frontal and side impact crashes, and a crash avoidance rating in rollover. For Model Year (MY) 2003 and 2004 vehicles, we will conduct a pilot program and collect results for the vehicles subjected to NCAP frontal crashes with child restraints installed in the back seat. We will also conduct a second pilot program with child restraints subjected to a sled test. We plan to evaluate those results, but not publish them as part of NCAP during 2003 and 2004. If analyses of the pilot programs show either or both of these would be meaningful consumer information, we anticipate adding performance ratings for either or both in MY 2005 (By Model Year 2005, we mean October 2004 to coincide with the commencement of the Fiscal Year 2005 New Car Assessment Program.)

II. Discussion of General Issues Raised by Commenters

A notice was published November 6, 2001 (66 FR 56146), with the comment period closing January 7, 2002. Nineteen commenters replied. These responders were child restraint manufacturers, vehicle manufacturers, a testing laboratory, independent researchers, an insurance association, and consumer safety groups. Comments were provided regarding the agency's proposed rating system, and also cautioning that the agency should be alert to other issues. The other issues fell into two categories: (1) The most serious child safety problem comes from unrestrained children, and (2) retailers would only carry top-rated child seats, that would be the most expensive seats.

A. Major Safety Problem Is the Unrestrained Child

The Insurance Institute for Highway Safety (IIHS) argued, ''by far the biggest problem contributing to child injury and death in motor vehicle crashes is nonuse of restraints.'' IIHS cautioned that rating a child restraint might do nothing to get more children into a restraint. Evenflo, National Automotive Dealers Association (NADA), General Motors (GM), Children's Hospital of Philadelphia (CHOP), and Britax stated reservations similar to IIHS's.

The agency agrees that even the best child seat does little good if not used. The agency, manufacturers, local governments, and consumer groups have given a consistent message to the public to put children in age-appropriate restraints in the back seat of automobiles. This educational effort is bearing fruit: over the past decade the percentage of unrestrained child fatalities has decreased significantly.[1] Recent analysis found that, ''among children 0 to 3 years old, the percentage of fatalities where the child was unrestrained dropped from 58 percent in 1991 to 34 percent in 2000, mainly due to the increased usage of child restraint seats. This percentage dropped from 64 percent to 48 percent for the 4 to 8 year old age group, as lap and/or shoulder belt usage increased.'' Usage rates for child seats have also increased; in particular, during a rush hour survey, the under 5-age group had a child seat usage rate of 95% in 2000.[2] The agency and all safety groups must continue their efforts to get more children in age-appropriate restraint systems and to educate the public about the systems' proper use and installation.

Our belief is that an ease of use rating will help provide much needed guidance to consumers about certain child restraint features. We believe this guidance may help them choose the appropriate restraint for their child and vehicle. The goal is that an easy-to-use and an easy-to-adjust child seat will result in more children being properly restrained in the child seat. This increased correct use will increase the safety of child passengers. Our efforts to increase correct use of child restraints are not a substitute for our efforts to get all children in age-appropriate restraint systems. NHTSA and others will continue those efforts. This new child seat ratings program will add another element to our comprehensive program to increase restraint use among children and decrease child fatalities and injuries.

B. The Belief That Retailers Might Eliminate Lower-Priced Child Restraints

The Juvenile Products Manufacturers Association (JPMA) contended, ''* * * mass market retailers are free to pick and choose among the product models offered * * * Any of these retailers * * * could easily insist that it will handle only 'double five-star' child restraint models * * * Such a result would also likely lead to the elimination of lower-priced child restraints that have dynamic performance equal to or better than higher priced child restraints * * *.'' JPMA, GM, and the National Safe Kids Campaign voiced the same cautionary message, indicating that while the lower-priced CRS does an excellent job of protecting children, a safety rating system may have the unintended consequence of leaving some less-affluent families without a restraint. The groups giving child seats to lower-income families, ''* * * rely on those low-cost seats to distribute through their grass roots programs in order to reach families most in need.''

We do not believe that lower priced child restraints will be eliminated from the market. The agency purchased twenty child seats ranging in price from $23 to $250. Without divulging the cost of the child seats to the evaluators, we applied the ease of use protocol to rate the twenty CRS in a pilot study. In this limited investigation, our analysis showed no correlation between higher priced seats and higher rated seats. We also present information in the notice showing that low priced CRS could provide highly rated dynamic performance.

III. CRS Ease of Use Rating Program

A. Summary of Proposal

NHTSA modeled its proposed ease of use rating program on that used by the Insurance Corporation of British Columbia (ICBC) because ICBC developed reasonably objective criteria for what is ''good,'' ''acceptable,'' and ''poor,'' and NHTSA found ICBC's program to be repeatable. NHTSA proposed to rate ease of use features in four categories as A, B, or C, with A being the highest rating and C the lowest. NHTSA also proposed to take the ICBC rating one step further by combining the four category ratings into an overall ease of use rating. NHTSA proposed to rate each child restraint under the following four ease of use categories: Assembly, Evaluation of Labels/Instructions, Securing the Child, and Installation in Vehicle.

B. Summary of Comments

In general, the individual child restraint manufacturer's comments were similar to the Juvenile Products Manufacturers Association (JPMA). The child restraint manufacturers (Evenflo, Dorel Juvenile Group) commented that the proposed ease of use program was too subjective and they stated that they support a program that is based on objective criteria. In that respect, the

[1] Fatalities and Injuries to 0–8 Year Old Passenger Vehicle Occupants based on Impact Attributes, Technical Report DOT HS 809 410, National Center for Statistics and Analysis, 400 Seventh Street, SW., Washington, DC 20590, March 2002.

[2] *National Occupant Protection Use Survey—2000 Controlled Intersection Study,* Research Note DOT HS 809 318, National Center for Statistics and Analysis, 400 Seventh Street, SW., Washington, DC 20590.

child restraint manufacturers and JPMA provided recommendations to several areas of the proposal.

In general, the individual vehicle manufacturers comments were similar to the Alliance of Automobile Manufacturers (Alliance). The automobile manufacturers (General Motors, Toyota, Honda) and National Automobile Dealers Association supported an ease of use rating program. Ford did not state whether they supported the proposed program or not. Ford and the Alliance did state that they were unclear how the proposed program would apply to vehicle add-on and built in booster seats.

Advocates for Highway and Auto Safety, Safe Ride News, Child Passenger Protection Technical Consulting, Children's Hospital of Philadelphia (CHOP), Consumers Union, the Insurance Institute for Highway Safety (IIHS), and the ICBC generally supported the ease of use rating program. The Florida Child Passenger Safety and Resource Center suggested an alternative program; the National SAFE KIDS Campaign does not support an ease of use rating system, however, they do believe that communicating ease of use characteristics is important. Several commenters expressed their opinion that the ease of use ratings system should be presented in such a way as to not mislead consumers that it is a safety performance indicator.

The major issues discussed by the commenters are summarized below.

1. Inclusion of LATCH

NHTSA's proposal did not include ease of use evaluation criteria specific to Lower Anchors and Tethers for Children (LATCH).[3] Several commenters (General Motors, Advocates, CHOP, and the Alliance) recommended LATCH be included.

2. Forms for Each Type of Restraint

NHTSA's **Federal Register** Notice of November 6, 2001 included, as Appendix B, the proposed Ease of Use Rating Form. The first sheet of the form included a cover sheet to gather general information about the restraint; the type of restraint, make and model number, measurements, and size range for the restraint. The remaining sheets included the four proposed ease of use categories, the features under each category and the evaluation criteria for each feature. One of the choices for several of the feature criteria was non-applicable (n/a), intended to be the choice selected if that feature was not applicable to the restraint being evaluated. Also included in the notice was an Appendix C, which included an ease of use rating sample. This included a list of categories, the features under each category and sample scoring and rating for each. JPMA recommended NHTSA provide different criteria for the different types of restraints. They suggested that some child restraints would receive lower ratings because they may not have or need some features. Dorel concurred with JPMA, stating that they believe different types of child restraints will require separate, detailed criteria for each factor. Dorel stated, ''each type of child restraint has to have separate and distinct set of factors from which a rating will be assessed, otherwise certain types of child restraints will be unfairly rated.'' Evenflo recommended that NHTSA provide separate rear—and forward—facing ratings. Consumers Union ''urges inclusion of evaluation of ease of use of a convertible used rear-facing and forward-facing.'' Advocates also recommended that child restraints be rated in all positions recommended by the manufacturer.

3. Features and Feature Evaluation Criteria

NHTSA proposed to rate each child restraint in the same manner as ICBC, rating each child restraint based on two elements per feature, a fixed weighting factor for each feature and an ease of use rating for each feature that can change depending on the child restraint being rated. NHTSA proposed to rate child restraints under the following four ease of use categories: Assembly, Evaluation of Labels/Instructions, Securing the Child, and Installation in Vehicle. Each feature was given a fixed weighting factor as determined by the child restraint usability task force of ISO/TC22/SC12/WG1 (child restraints).[4] It is based on each ease of use feature being given an A, B, or C according to risk of injury and severity of misuse. [Component features that minimize misuse that would pose a high risk of injury if misused are given a fixed weighting factor of ''A.''] Each factor is assigned a numerical value, where A = 3 points, B = 2 points, and C = 1 point. In addition, NHTSA proposed to rate each feature in the four categories as A, B, or C, with A (3 points) being the highest rating and C (1 point) the lowest, using the same numerical values as used by ICBC. The form containing NHTSA's proposed rating system criteria can be found in Appendix A. Below is a summary of comments by category.

a. Assembly

ICBC recommended clarifying ''all functional parts * * * ready to use'' to confirm that a convertible child restraint, whether threaded for rear facing infant restraint use or forward facing restraint use is ''ready to use.'' ICBC also suggested rating the restraint based on the harness straps being set for the lowest rate range. JPMA requested a list of the components that will be evaluated under this feature. The proposed evaluation criterion for the ''ready to use'' feature states that a ''yes'' is an A and ''no'' is a C. Consumers Union recommended modifying the evaluation criteria to include a ''no tools required'' option.

JPMA recommended changing the evaluation criteria under ''owner's manual easy to find'' and ICBC recommended clarifying ''clearly visible location.'' JPMA also stated that ''obvious storage pocket for the manual'' should not be rated. Under the feature, ''obvious storage pocket for manual'' JPMA and Evenflo disagreed with downgrading the rating for child restraints using plastic clips to store instructions. Evenflo supports a rating based on accessibility of instructions when the child restraint is installed, but stated they were concerned about visibility of instructions and them being accessible to children. Evenflo suggested rating accessibility and visibility of the instructions at time of purchase under ''owner's manual easy to find.''

b. Evaluation of Labels/Instructions

Both ICBC and Evenflo recommended clarifying which features applied to labels and which applied to instructions. JPMA believes that NHTSA should prescribe exactly what it wants to see on labels and labels should not be part of a ratings program. Evenflo stated that they support a proposal to objectively evaluate consistency of information on labels. ICBC recommended under ''air bag warning in written instructions,'' that it not apply to booster seats. They also

[3] ''LATCH'' is a term used by industry and retail groups referring to the child restraint anchorage system required by Federal Motor Vehicle Safety Standard No. 225. LATCH stands for ''Lower Anchorages and Tethers for Children.'' The term is used to refer to vehicles equipped with the anchorage system (*e.g.*, ''LATCH vehicles'') and to child restraints equipped with attachments that connect to the anchorage system (*e.g.*, ''restrained with LATCH,'' or ''LATCH child restraints''). For convenience, we will use the term in this notice.

[4] Working group TC22/SC12/WGI, ''Child Restraint Systems,'' to the International Organization for Standardization (ISO), a worldwide voluntary federation of ISO member bodies, is considering developing an ease of use usability rating system for child restraint systems. The group has based its preliminary work on the rating system of ICBC, which is similar to NHTSA's work.

suggested adding a minimum size to the illustration. ICBC also recommended that ''information in written instructions and on labels match,'' be clarified to refer to size specifications only. Both JPMA and Evenflo expressed concerns about the ''durability of labels'' feature. NHTSA proposed that a restraint would receive an A rating if the child restraint labels were molded or embossed or a C rating if the labels were sticky or one or more are already peeling when the restraint is removed from the box. JPMA stated that a highest rating for molded or heat embossed would be very costly for child restraint manufacturers. Evenflo also stated that this feature should be addressed in rulemaking and not through an ease of use rating system. ICBC did not agree that molded or embossed labels were better than sticky labels stating that embossed labeling which is the same color as plastic of child restraint can be difficult to read. They suggested that durability of labels be handled by performance tests. Consumers Union recommended adding the following features to this category, ''Shows clear use of lower anchor system,'' and ''shows clearly when chest-clip has to be used.''

c. Securing the Child

JPMA stated, ''unless features under 'securing the child' can be converted to objective criteria they should not be included in the ratings program.'' They did agree with lowering the rating if the buckle can be secured in reverse. ICBC suggested that if the number of harness slots in the cover is not the same as the number of harness slots in the shell then the child restraint should automatically receive a C rating. Evenflo expressed concern that rating the number of harness slots would lead to consumer confusion. They also recommended investigating limitations imposed by patents for devices that reposition or adjust the harness. JPMA opposed a rating based on the number of harness slots. In addition to the proposed criteria rating ''harness adjustment easy to tighten and loosen when child restraint is installed,'' SAFE KIDS recommended a feature be included that rates ''easy access to shoulder harness height adjusters and harness tensioning devices.'' CHOP recommended NHTSA evaluate ease of use in regard to harness tightness. Consumers Union recommended moving ''ease of attaching/removing base'' from Securing the Child category to the Installation in Vehicle category. IIHS commented that these categories along with ''Installing in Vehicle'' are the most important categories.

d. Installing in Vehicle

NHTSA specifically asked for views and comment on the consideration of adding a feature ''Ease of tightening belt around child restraint.'' Advocates responded to this request by stating they support adding such a feature but did not provide any recommendations for objective criteria by which to evaluate this feature. Both JPMA and Evenflo stated that they disagree with the category because it lacks specific criteria. They suggested rating the following features: size of belt path, whether any belt positioning device allows seat belt slack, presence of feedback to identify proper seat back angle (rear facing only), presence or means to adjust back angle, and accessibility of tether adjustment when child restraint is installed in the vehicle. ICBC recommended, under ''ease of vehicle belt routing (hand clearance)'' that the male hand be better defined. CHOP recommended NHTSA evaluate ease of use in regard to child restraint tightness in the vehicle. Consumers Union recommended adding a new feature, ''fit to the vehicle.''

4. Weighting the Features

NHTSA proposed a weighting of the ease of use features similar to ICBC, where each child restraint is rated based on two elements per feature. Each feature is given a fixed weighting factor that remains the same for all child restraints. It is based on each ease of use feature being given an A, B, or C according to risk of injury and severity of misuse. [Component features that minimize misuse that would pose a high risk of injury if misused are given a fixed weighting factor of ''A.''] Each factor is assigned a numerical value, where A = 3 points, B = 2 points, and C = 1 point. The second element, which is based on rating the features of each child restraint, are similarly assigned a numerical value where an A rating = 3 points, a B rating = 2 points, and a C rating = 1 point. NHTSA proposed rating the category by taking the numerical value of the fixed weighting factor for each feature and multiplying it by the numerical value of that features rating. Point ranges for A, B, and C were determined through a 3-part split of the range of possible points for that factor, from the minimum (if all scores were coded ''C'') to the maximum (if all scores were coded ''A'') number of points. Appendix B of this final notice contains the ''NHTSA Ease of Use Rating Sample'' which was included in the proposed Notice. NHTSA also proposed using a ''limiting factor'' approach so that an overall rating could not be an A if more than one of the four categories was rated less than an A. Similarly, an overall rating could not be a B if more than one of the four categories was rated a C. There was only one comment addressing the weighting of the features. Consumers Union agreed that a seat should not receive an A rating if more than one out of the four categories is rated below an A or B and, they agreed with the determining factor for a B rating as well. They recommended this limiting factor approach be applied to the individual ease of use categories as well.

5. Low Cost Seats

General Motors responded to the agency's proposed ease of use rating system by stating, ''higher priced seats tend to have more non-safety related features that could affect ease of use rating.'' The National SAFE KIDS Campaign believes that with the rating system there will be a perceived correlation between higher rated seats and higher costs for child restraints. With this perception, they believe that low cost seats will less likely be produced. JPMA also expressed concern that lower cost seats would be forced from the market.

6. Subjectivity of Ease of Use Rating

JPMA, Evenflo, and Dorel Juvenile Group commented that the proposed ease of use program was too subjective and they stated that they support a program that is based on objective criteria.

7. Other Comments

Advocates recommended that along with the rating system NHTSA include recall information as a separately listed item that is rated. They suggested including recall information with each category. They also suggested that a product with no recalls would get high marks and a product with one or more recalls no points.

C. Focus Group Testing on Proposed Child Restraint Rating Program

Following the publication of the proposed rating program on November 6, NHTSA conducted research aimed at exploring the perceptions, opinions, beliefs, and attitudes of parents and caregivers regarding NHTSA's Proposed Ease of Use and Performance Ratings for child safety seats. This research was conducted in two phases. The first phase consisted of 21 in-depth, one-on-one interviews with caregivers who regularly transported children. These interviews took place in Baltimore, MD and explored how participants would interpret and use ratings. During the

interviews, draft versions of charts that provide the ease of use and performance ratings were tested. Using the findings of the in-depth interviews, minor changes were made to the chart displaying the ratings to make them easier to read. The findings of this research were used for phase two of this research and will be used to determine the direction of presenting consumer information concerning child safety seats.

The second phase involved conducting 12 focus groups to test ways to present ratings to consumers. Twelve focus groups were conducted, four in Minneapolis, MN, four in Phoenix, AZ, and four in Richmond, VA. Participants were recruited by a professional recruiting agency. Screening criteria used in selecting participants included: were a parent or caregiver of a child up to six years of age or expecting a child within the next three months; purchased or planned to purchase a child safety seat themselves or were as likely as the other parent or caregiver to purchase a child safety seat; regularly transported a child in an automobile (or planned to do so); did not work or volunteer for any organization involved in the regulation, advocacy, or policy setting for motor vehicles; did not work or volunteer for any organization involved in the regulation, advocacy, or policy setting for children's products; and were between 20 and 55 years of age. Key outcomes from these focus groups:

Choosing a Child Safety Seat

- For most participants, safety ranked among the top two or three considerations in purchasing a child safety seat, along with price and appearance.
- Most respondents did not believe that, in general, the more a seat costs the safer it is. They stated that additional costs for a child seat were mainly due to extra features such as cup holders or the make/brand of the seat. Many, however, believed that people other than themselves held the belief that the safety of the seat is correlated with its cost.
- Most participants said that ratings influence their decision-making process when making a purchase.
- Respondents overwhelmingly preferred the use of stars to rate the seats.
- Most participants believed safety ratings are assigned based on absolute criteria, *i.e.*, the product must meet certain specified requirements to get a given rating.

Ease of Use Rating

- Most participants reacted positively to the information tables they saw and said the Ease of Use Rating would help them when deciding on a child safety seat.
- Most participants preferred the chart that included the Ease of Use Criteria. They explained that they liked having as much information as possible, and because they valued some criteria over others, seeing all the individual ratings was more helpful.
- Most respondents said they understood that the Total Ease of Use Rating was derived from combining the ratings on each Ease of Use Criterion.
- Most reacted positively to the use of a letter grade scale for the Ease of Use Rating because it differentiated the Ease of Use Rating from the Performance Rating that would be assigned based on the child seats performance in dynamic tests.

Performance Rating of Child Restraints in Dynamic Testing

- The Performance Rating was well received by participants, with many saying that it was more important than the Ease of Use Rating. However, many said that they wanted more information on how the ratings are derived and what constitutes ''serious injury.''

Combining Ratings

- Most participants said they would not want a rating that combined performance and ease of use. They mentioned that they usually like more information to be available and that a combined rating might be misleading.

Brochure

- Participants stated that a brochure including one of the charts they viewed should also include information on different harness types, price ranges of individual seats, explanations of the tests that are done when a seat is rated, and explanations of the column headings on the chart. Respondents said that the brochure should use color and graphics and text should be in a bullet-point format.

D. Response to Comments and Final Ease of Use Rating Program

The agency reviewed and considered all the comments. NHTSA's responses to the comments are below. Along with the responses to the comments, the final ease of use rating program is also presented. The final Ease of Use rating and scoring forms used for child restraints can be found in Appendix C of this notice. This ease of use rating program will apply to add on child restraints only. In developing an ease of use ratings program, NHTSA did not consider built-in child restraints, thus the features and rating criteria are designed to evaluate only add on child restraints. In order for NHTSA to evaluate built-in child restraints, a modified set of criteria would need to be developed. Based on the time frame for implementing the child restraint ratings program, developing and testing criteria to rate built-in child restraints is not possible. However, rating built-in child restraints may be explored by the agency in the future.

1. LATCH

The agency concurs with the commenters' belief that the ease of use rating program should include an assessment of a child restraint's incorporation of LATCH. LATCH will be the standardized means of attaching child restraints to vehicle seats in the future, so it is reasonable to include LATCH in the rating program. To address LATCH, we expanded some features within the ''Evaluation of Labels,'' ''Evaluation of Instructions,'' and ''Installing in Vehicle''categories. Certain features in these categories were identified as being appropriate for addressing LATCH, in addition to assessing attachment of the child restraint by way of the belt system. These are discussed below. NHTSA is also considering incorporating other LATCH features into the ease of use program, such as ease of attaching LATCH attachments to the vehicle anchors. The agency will be considering the work of the ISO/WGI Usability Task Force in developing other ways of assessing LATCH in the agency's ease of use program. The agency will request comments on how other aspects of LATCH should be addressed in the future.

Two LATCH features have been added to the ''Evaluation of Labels'' category. The first is ''Shows how to prepare lower LATCH attachments for use.'' An A rating is ''visually obvious and able to use with illustration only, no need to read text, or no illustration required,'' a B rating is ''Illustrations plus written instructions provided, need to read text,'' and a C rating is ''Written instruction only provided or nothing.'' This feature's fixed weighting factor is A. The second added feature is ''Shows how to use lower LATCH attachments.'' An A rating is ''visually obvious and able to use with illustration only, no need to read text. This feature has the same B, and C rating criteria and fixed weighting factor as the first feature. To get an A rating under the feature ''shows how to use lower LATCH attachments,'' NHTSA believes that having an

illustration on the label showing the attachments connecting to the vehicle anchors will provide consumers with clear information about how this new technology is to be used. NHTSA believes that providing consumers with visual obvious and instruction on preparing and using this new technology is important for not only ease of use, but for correct use, which in turn results in increased safety for child occupants.

Three LATCH features have been added to the ''Evaluation of Instructions'' category. The first is, ''Instructions describe how to prepare lower LATCH attachments for use.'' An A rating is ''Visually obvious and able to use with illustration only, no need to read text, a B rating is ''Illustrations plus written instructions provided, need to read text,'' and a C rating is ''Written instruction only provided or nothing.'' The fixed weighting factor for this feature is a B.

The second is, ''Instructions show how to use lower LATCH attachments.'' The A, B, and C ratings are the same as the first as well as the fixed weighting factor. The fixed weighting factors are lower for these features (weighting factor is B) under the ''Evaluation of Instructions'' category than under the ''Evaluation of Labels'' category (weighting factor is A) because NHTSA is aware that many consumers look only at the labels for instruction and not the instruction manual.

The third is, ''Orientation for LATCH tether and lower attachments.'' An A rating is ''Correct orientation of LATCH tether and lower attachments clearly illustrated or text clearly states that it can be used in any orientation,'' a B rating is ''Correct orientation of LATCH tether and lower attachments explained only in text,'' and a C rating is ''No information regarding orientation of LATCH tether and lower attachments.'' This feature is not applicable if orientation cannot be changed. The fixed weighting factor for this feature is a B. This feature is similar to ''Buckle can be secured in reverse'' feature under ''Securing the Child.'' NHTSA included this feature because of experiencing some LATCH hardware which when reversed was difficult to un-attach. Orientation for LATCH tether is not applicable to rear facing restraints or booster seats.

Two LATCH features were also added to the ''Installing in Vehicle'' category: The first is, ''Can LATCH attachments interfere with harness.'' An A rating is ''No'' and a C rating is ''Yes.'' The fixed weighting factor for this feature is an A. This was included to coincide with the ''Separation of vehicle belt path from harness'' criteria for seat belts out of concern that if there is interference of the LATCH attachment (or seat belt) with the harness, it could prevent the harness from being properly adjusted on the child. The second is ''LATCH tether and lower attachments can be installed in reverse.'' An A rating is ''no, or yes but works in usual way,'' a B rating is ''yes, but usual release requires more effort,'' and a C rating is ''yes, and can't release.'' The fixed weighting factor for this feature is a A. This feature is similar to ''Buckle can be secured in reverse'' feature under ''Securing the Child.'' NHTSA has seen some LATCH hardware, which can be reversed and is difficult to un-attach if this is done. The tether features being rated do not apply to rear facing restraints. Also, if a child restraint does not have LATCH (*e.g.*, booster seats) then these features will not be rated.

2. Forms for Each Type of Restraint

While the agency published one set of forms encompassing all rating criteria, NHTSA was aware that not all features would apply to all restraints and thus had not intended to rate all child restraints with all criteria. NHTSA recognized that this caused confusion among commenters and agrees that separate forms should be used for the different types of restraints. NHTSA has revised its forms and the final ease of use rating program has three sets of forms, which can be found in Appendix C. One set will be used to rate infant or convertible restraints used rear facing. Another set will be used to rate convertible restraints forward facing, forward facing only, and transitional forward facing/booster with the harness. The third set will be used to rate booster seats and transitional forward facing/booster as a booster.

NHTSA also agrees with comments recommending rating dual or multiple purpose seats each way. Therefore, a convertible restraint will be rated both rear facing and forward facing. A combination forward facing/booster will be evaluated as a forward facing restraint and as a booster seat. NHTSA is also aware that some of the features apply to some child restraints but do not apply to others, for example, under ''Evaluation of Labels'' and ''Evaluation of Instructions,'' one of the features is ''shows which harness slots OK to use.'' When evaluating a convertible seat, there are harness slots in this type of seat that can only be used forward facing while the others are used for rear facing, therefore this feature applies and thus would be rated. When evaluating a forward facing only or transitional forward facing/booster with the harness it would be ''n/a'' because all the slots can be used in the forward facing position. This is taken into consideration when scoring. This issue is discussed later in the notice under the section titled ''Weighting the Features.''

3. Features and Feature Evaluation Criteria

Below, comments on the final features and feature evaluation criteria are addressed by category. This section also lists the final features within each category. Each of the forms, located in Appendix C has the categories, the features and the feature evaluation criteria listed.

a. Assembly

NHTSA concurs with ICBC that we should clarify the language under ''all functioning parts * * * ready to use.'' NHTSA also agrees that adding ''harness straps set for lowest rate range'' to this feature was a good idea. NHTSA believes that this is a sufficiently clear criterion to describe whether a restraint, when taken out of the box, is ready for a consumer to use. The proposed evaluation criterion for this feature was: an A was ''yes,'' and a C was ''No.'' There was no B rating. NHTSA has adopted Consumers Union's recommendation to add a ''no tools required'' criteria and has modified the evaluation criteria to reflect this. Under this feature, an A is ''yes,'' and B is ''No, tools not required,'' and C is ''No, tools required.'' For a convertible seat used rear facing this feature will be rated. Then, when evaluated as forward facing, this feature will not be rated. The same applies for a transitional forward facing/booster seat with harness. When this restraint is being rated as a forward facing restraint this feature will be rated. Then, when it is rated as a booster seat this feature will not be rated.

NHTSA has clarified the feature ''Owner's manual easy to find'' and the evaluation needed to get an A rating for that feature. The feature now states ''Owner's manual easy to find when taken out of box'' and ''A'' was clarified to say, ''Attached to child restraint in a clearly visible location.'' The evaluation criteria for B and C remain the same. ''Attached to child restraint in a clearly visible location'' does not mean the manual has to be in the storage compartment. In many cases NHTSA found manuals clearly visible in plastic bags attached to the child restraint harness when the restraint was taken out of the box. NHTSA would give these seats an A rating for this feature.

NHTSA believes that the feature ''storage pocket for the manual'' is an important feature to rate for ease of use

because if consumers can access and store the manual easily, they will be more likely to keep it with the restraint and refer to it if need be. NHTSA found that the term ''pocket'' was misleading in that we were referring to an actual storage system, not just a pocket. Therefore, NHTSA has replaced the word ''pocket'' with ''system.'' NHTSA reviewed JPMA and Evenflo's comments to provide a lower score to a child restraint that uses plastic clips as the tool for storing instruction manuals. After testing the ease of use in relation to plastic clips, NHTSA has modified its evaluation criteria. NHTSA found that in many cases it was easy to remove and replace the manuals on child restraints that used plastic clips for storage. Therefore, under ''Storage system for manual,'' the revised evaluation criteria are as follows: an A rating is ''manual removed and replaced easily,'' and a C rating is ''manual cannot be removed and replaced easily.'' There is no B rating. This revised evaluation criteria also addresses the concerns Evenflo had about accessibility and visibility of the instructions when the restraint is installed.

The rating forms, located in Appendix C include the categories, the features and the feature evaluation criteria. Listed below are the features under the Assembly category that will be in NHTSA's final rating program:

(1) All functioning parts including seat pad or cover attached and ready to use; harness in lowest usable slots; includes tether attached (tether attached applies to forward facing only restraints and transitional forward facing/booster seats used with the harness);

(2) Tether attached to child restraint (this applies to convertible seats used forward facing);

(3) Owner's manual easy to find when child restraint removed from box; and

(4) Storage system for manual.

b. Evaluation of Labels

Even though NHTSA requires certain information to be on child restraint labels and in the instructions (such as model number, date of manufacture, statement concerning manufacturer's recommendations for maximum mass and height of children who can use the restraint, etc.), we do not think it is possible to specify the exact content of labels. There are so many different designs of child restraints, each with unique features that must be used differently to get optimal protection for the child occupant. However, we believe that clear, concise, and consistent information with illustrations of children in child restraints can be very effective in aiding consumers to properly use and install a child restraint. Therefore, NHTSA will include evaluation of labels and instructions in its ease of use rating program.

The agency agrees with the comments about the need to clarify which features applied to labels and which applied to instructions. NHTSA has responded to this comment by making separate categories for each. NHTSA also found a need to have separate categories because we found that as we rated several child restraints in our pilot study of the rating system, which is discussed in detail further in the notice under the section titled ''Low Cost Seats and Repeatability,'' the child restraints received different ratings for the same feature. For example, for the feature ''Clear indication of child's size range'' we found that the same restraint may receive an ''A'' rating on its label and a ''C '' rating in the instructions.

NHTSA also agreed with comments related to our proposed durability rating. Therefore, we have modified the evaluation criteria. Under ''durability of labels,'' in this notice, an A rating is now ''sticky label not peeling or other method of technology label not peeling,'' and a C rating remains the same ''sticky label if one or more are already peeling when restraint is removed from box.'' There is no B rating.

NHTSA chose not to adopt Consumers Union's recommendation to add the following as a separate feature ''shows clearly when chest clip has to be used.'' However, we included this element as part of the feature ''Clear indication of child's size range,'' under both the categories ''Evaluation of Labels'' and ''Evaluation of Instructions.'' This feature is the only one where we rate an illustration of a child in the restraint. Under this feature we are looking for a picture of a child in the restraint (with use of harness clip) along with size measurements (*e.g.*, height and weight) for use. Listed below are the features under the Evaluation of Labels category in NHTSA's final rating program:

(1) Clear indication of child's size range;

(2) All modes of use clearly indicated (*e.g.*, rear-facing only, or RF vs. FF; FF + tether (vs. RF); FF + tether (v. booster); LATCH);

(3) Shows which harness slots OK to use (on forward facing form only);

(4) Instructions for routing both lap belt and lap/shoulder belt (tether use for FF);

(5) Shows how to prepare lower LATCH attachments for use (not on booster seat form);

(6) Shows how to use lower LATCH attachments (not on booster seat form);

(7) Visibility of seat belt routing for lap belt, lap/shoulder belt, and LATCH when child restraint is in position in vehicle (LATCH not on the booster form); and

(8) Durability of labels.

c. Evaluation of Instructions

NHTSA has chosen to apply the feature ''air bag warning in written instructions'' to forward facing/convertible child restraints used forward facing and to booster seats as well as rear facing restraints. While NHTSA requires an air bag warning only for seats that can be used rear facing, NHTSA recommends children ages 12 and under ride in the back seat, because an air bag can seriously injure or kill a child. Therefore, NHTSA believes it is important to rate this feature for all types of child restraints. Although NHTSA is going to rate ''air bag warning in written instructions,'' the agency is not going to add a size minimum to the rating criteria because we believe that the evaluation criteria under A, ''Separate, highlighted, and illustrated,'' are sufficient for rating this feature.

NHTSA agrees with ICBC 's recommendation to clarify that the feature ''information in written instructions and on labels match'' referred to size measurements, and NHTSA has added that on the form.

The rating forms, located in Appendix C include the categories, the features and the feature evaluation criteria. Listed below are the features under the Evaluation of Instructions category in NHTSA's final rating program:

(1) Clear indication of child's size range;

(2) All modes of use clearly indicated (*e.g.*, rear-facing only, or RF vs. FF; FF + tether (vs. RF); FF + tether (v. booster) and LATCH);

(3) Air bag warning in written instructions;

(4) Shows which harness slots OK to use (on forward facing form only);

(5) Instructions for routing both lap belt and lap/shoulder belt;

(6) Instructions describe how to prepare lower LATCH attachments for use (not on booster seat form);

(7) Instructions show how to use lower LATCH attachments (not on booster seat form);

(8) Orientation of LATCH tether and lower attachments (tether not on rear facing restraint form and LATCH not on booster seat form); and

(9) Information in written instructions and on labels match (size measurements)

d. Securing the Child

NHTSA concurs with ICBC's recommendation that if the number of harness slots in the cover do not match the number of harness slots in the shell, then the child restraint should automatically receive a C rating. NHTSA wants to ensure that consumers will not be confused and potentially misuse a seat because there are differences in the number of slots in the pad vs. the shell. NHTSA is also aware that fit is an important aspect to proper use and by having more variation in harness slot number this allows more choices for fit as a child grows. Therefore, the proposed feature has been modified to two features: ''Number of harness slots match (pad and shell)'' and ''Number of harness slots in shell.'' Under rating ''Number of harness slots match (pad and shell)'' an A is ''yes'' and a C is ''no.'' Under rating ''Number of harness slots in shell'' an A is ''at least 3 or 1 adjustable,'' a B is ''2'' and a C is ''1.''

NHTSA has examined the issue raised by commenters about patents for devices that reposition or adjust the harness. We do not believe our ratings raise a patent issue. The agency is not making reference to a specific product or device, only to a feature that would allow the harness straps to be adjusted without rethreading the straps.

NHTSA agrees with SAFE KIDS' comment recommending a feature be added that rates accessibility to the harness adjustment. NHTSA has added the following feature, ''When installed, easy access to harness adjustment for tightening and loosening,'' and A rating is ''yes'' and a C rating is ''no.'' There is no B rating.

NHTSA does not believe that it is possible to rate ease of use in regard to harness tightness. CHOP did not provide any objective rating evaluation criteria in support of its recommendation. Therefore NHTSA will not be adopting this recommendation.

NHTSA agrees with Consumers Unions' recommendation to move ''Ease of attaching removing base'' to the ''Installing in Vehicle'' category. NHTSA has moved this feature to the form applicable to rear facing child restraints. NHTSA appreciates IIHS' comment regarding the importance of this category and the ''Installing in vehicle'' category. However, NHTSA doesn't want to decide that certain categories are the ''most important.'' NHTSA believes that all the categories are important to proper use and installation of a child restraint.

Under NHTSA's final rating program the booster seat form only has one feature under this category: (1) Ease of conversion forward facing to booster or highback to backless.

The rating forms, located in Appendix C include the categories, the features and the feature evaluation criteria. Listed below are the features under the Securing the Child category in NHTSA's final rating program:

(1) Buckle can be secured in reverse;

(2) When installed, easy access to harness adjustment for tightening and loosening;

(3) Harness adjustment easy to tighten and loosen when child restraint is installed;

(4) Number of harness slots match (pad and shell);

(5) Number of harness slots in shell;

(6) Visibility of harness slots;

(7) Ease of conversion forward facing to rear facing (rear facing form)

—Ease of conversion from rear facing to forward facing (forward facing form);

—Ease of conversion from booster to forward facing (forward facing form);

(8) Ease of changing harness slot position;

(9) Ease of reassembly if pad/cover is removed for cleaning or rethreading of harness; and

(10) Ease of adjusting/removing shield.

e. Installing in Vehicle

NHTSA will not be including the proposed feature ''Ease of tightening belt around child restraint,'' because we could not come up with objective rating criteria and did not receive any recommendations from commenters. JPMA and Evenflo suggested features to rate under this category, the first being the size of the belt path. NHTSA will not be rating specific size of the belt path because we believe that belt path size is not the only factor involved in belt routing. We believe that child seat design is also a factor. A child seat could have a large enough belt path, but the design of the restraint may make it difficult to route the vehicle belt through. However, also under this feature, ICBC had recommended the ''male hand'' be better defined. We agree that the male hand could be better defined. Therefore, NHTSA will be using a human hand that represents the 95th percentile male dimensions as defined in Human Factors Design Handbook Wesley E. Woodson, Man Factors, Inc. McGraw Hill, 1981 to determine the rating for this feature.

NHTSA will retain the proposed feature ''does belt positioning device allow slack to occur?'' This is an evaluation criterion only for booster seats. NHTSA has also adopted the recommendation to add ''presence of feedback to identify proper seat back angle'' for rear-facing restraints. NHTSA has not adopted the recommendation to rate ''accessibility of tether adjustment when child restraint is installed in the vehicle'' because NHTSA believes that this may vary depending on the tether anchor location in the vehicle and therefore it would be very challenging to objectively rate this feature.

NHTSA chose not to include any feature related to tightness in vehicle and fit to vehicle because the geometry of vehicle seats varies so much from vehicle to vehicle. Under NHTSA's final rating program, the booster seat form only has two features under this category and both could be non-applicable depending on the seat being rated: (1) Ease of use of any belt positioning hardware on the child restraint, and (2) Does belt positioning device allow slack to occur?

The rating forms, located in Appendix C include the categories, the features and the feature evaluation criteria. Listed below are the features under the Installing in Vehicle category in NHTSA's final rating program. The features related to LATCH do not apply to booster seats:

(1) Separation of belt path from harness (on rear facing form applies to base also if applicable);

(2) Can lower LATCH attachments interfere with harness;

(3) Ease of vehicle belt routing (hand clearance) (on rear facing form applies to base also if applicable);

(4) Ease of attaching and removing from child seat from base (on rear facing form applies to base if applicable);

(5) Ease of use of any belt positioning feature including lock off;

(6) Tether easy to tighten and release (on forward facing form only);

(7) Presence of feedback for seat back angle (on rear facing form only); and

(8) LATCH tether and lower attachments can be installed in reverse.

4. Weighting the Features

NHTSA will adopt the procedure for weighting the features as proposed, with slight modifications to determining the point ranges for scoring as well as changes to the limiting factor approach for obtaining an overall ease of use score. The limiting factor approach could not be applied in the final notice because the final rating program has five ease of use categories instead of four as originally proposed.

Child restraints are rated for ease of use based on five categories: (1) Assembly, (2) Evaluation of Labels, (3) Evaluation of Instructions, (4) Securing the Child, and (5) Installing in the

Vehicle. Each category has several ease of use features that child restraints are evaluated on. As in the proposal, a score for each feature is based on two elements. The first element is a fixed weighting factor and is based on each ease of use feature being given an A, B, or C according to risk of injury and severity of misuse. Component features that could be associated with a high risk of injury if misused are given a fixed weighting factor of ''A.'' Each factor is assigned a numerical value, where A = 3 points, B = 2 points, and C = 1 point. The scoring forms to be used to rate child restraints are located in Appendix C along with the rating forms. Each features' fixed weighting factor can be found on the scoring forms. The second element, which is based on rating the features of each child restraint, are similarly assigned a numerical value where an A rating = 3 points, a B rating = 2 points, and a C rating = 1 point. As explained above, some features may include only two of these three ratings (A or C). Also, if a feature is not applicable, the points for that feature and the weighted factor are both treated as zero. NHTSA proposed a feature score by multiplying the numerical values of the feature rating by the fixed weighting factor. The weighted average for the category is calculated by taking the sum of the feature scores divided by the sum of the applicable fixed weighting factors. The weighted average will be between 1.00 and 3.00. Each category rating can then be given a rating of A, B, or C based on the weighted average.

A: Weighted Average from 2.40 to 3.00

B: Weighted Average from 1.70 to less than 2.40

C: Weighted Average less than 1.70

This differs from the proposal where point ranges for category rating A, B, or C were determined by a 3-part split of the range of possible points for that category.

The overall rating is calculated in a similar manner. The overall weighted average is equal to the sum of the feature scores for all features divided by the sum of the weighted factors for all applicable features. This will still be between 1.00 and 3.00. The overall rating uses the same ranges as the category ratings listed above. A sample of the revised ease of use scoring can be found in Appendix D.

Weight, W

Score, S

Weighted Score, $Ws = W \times S$

Weighted Average, $A = \frac{\sum Ws}{\sum W}$

5. Low Cost Seats and Repeatability/Subjectivity

To address commenters' concerns about the rating system producing a correlation between higher rated seats and the higher priced child restraints, the agency conducted a pilot study using the revised ease of use rating program to examine this issue. During this pilot study the agency also examined the repeatability/subjectivity of the ease of use rating program.

NHTSA purchased a total of 20 child restraints of varying price ranges from four different retail stores. The agency rated four infant only restraints ranging in price from $34.99 to $119.95; five convertible restraints ranging in price from $49.99 to $249.95; two forward facing only restraints ranging in price from $59.99 to $179.95; five transitional forward facing/booster seats ranging in price from $54.99 to $89.99; and four booster seats ranging in price from $22.99 to $124.95. NHTSA followed the proposed protocol for rating the child restraints in the pilot study, using draft-revised forms based on comments received from the notice. Following a one-day training to review the forms, each of the features and their evaluation criteria, two 2-person teams evaluated each child restraint. To determine the installation ratings, we used a representative seating device, as opposed to the current FMVSS No. 213 bench, since a FMVSS No. 213 bench seat was not available within the time constraints for this pilot study. The results of the pilot study did not show a correlation between higher priced seats and higher rated seats. Of the 20 seats rated in the pilot study, there were a range of A and B scores across the price ranges. Only one of the 20 restraints rated received an overall score of C, and it was a mid-priced convertible restraint. While the most expensive seat purchased did receive an overall A rating, there were A rated seats among the lower priced seats. Based on this, we do not believe that the concerns with lower priced child restraints being eliminated from the market are warranted.

Following the pilot study, the agency also concluded that an ease of use rating program would be repeatable. During the pilot study, to the extent that the teams ended up with a different rating (we did find minor differences within ratings of features within each category), the two teams jointly reexamined the child restraint before a rating was determined. The variations between the teams did not affect the overall rating. The findings in the pilot study were consistent with the findings when NHTSA conducted a hands-on evaluation of ICBC ratings program. We believe that the process of having two, or more, 2-person teams evaluating each child restraint is important to ensure repeatability and objectivity. Two teams of two will be used to rate the child restraints and if there are instances of non-concurrence, a third team of two will rate the restraint.

6. Other Comments

NHTSA agrees that informing the public about recalls of child restraints is important. However, NHTSA does not know how recalls could be incorporated into a ratings program. Recalls do not occur until after a child restraint is on the market. NHTSA plans to rate child restraints prior to or shortly after they are available on the retail market. In an effort to publish ratings information and make it available to the public in a timely fashion and following the same procedure as the compliance child seat testing, NHTSA will be ordering child restraints from the manufacturers before they are shipped to retailers. NHTSA plans to coordinate rating the child restraints and releasing the information with their availability to consumers at retailers.

NHTSA plans to continue improving our methods of informing the public about recalls. NHTSA currently has a list of child restraints that are available to consumers. As part of that list, if a seat on the market has been recalled, it is highlighted on the Web site. NHTSA plans to post the child restraint ratings on the Web site, and if a child restraint is recalled, the agency will highlight the rated child restraint on the Web site to alert consumers that a particular seat has been recalled.

7. Summary of Final Ease of Use Protocol

The final ease of use rating program consists of the following elements:

- Three sets of forms will be used to evaluate add-on child restraints. Combination child restraints will be rated in each mode of use. One set of forms will be used to rate rear-facing only and convertible child restraints in the rear-facing mode. Another set of forms will be used to rate convertible seats in the forward facing mode, forward facing only restraints, and combination forward facing/booster seats in the forward facing mode. The third set of forms will be used to rate booster seats and combination forward facing/booster seats in the booster seat mode.
- Five ease of use categories will be rated: (1) Assembly, (2) Evaluation of Labels, (3) Evaluation of Instructions, (4)

Securing the Child, and (5) Installing in Vehicle. Features related to ease of use within each category, including LATCH, will be rated.

• Two, or more, 2-person teams will be used to rate each child restraint. Prior to rating, the teams will have a day of training to review and examine the forms, review each of the features and their evaluation criteria, conduct practice ratings and answer questions. To determine ease of use installation ratings, NHTSA will install the restraint using the current FMVSS No. 213 bench. If and when the FMVSS No. 213 bench is updated, the team will use the updated test bench. No dummy will be used during this process.

• Each child restraint will receive a rating for each of the five ease of use categories as well as an overall ease of use rating. The weighted average for the category is calculated by taking the feature score divided by the sum of applicable fixed weighting factors. The weighted average will be between 1.00 and 3.00. Each category rating can then be given a rating of A, B, or C based on the weighted average.

A: Weighted Average from 2.40 to 3.00

B: Weighted Average from 1.70 to less than 2.40

C: Weighted Average less than 1.70

• The overall rating is calculated in a similar manner. The overall weighted average is equal to the sum of all feature scores divided by the sum of all fixed weighting factors. This will still be between 1.00 and 3.00. The overall rating uses the same ranges as the category ratings.

• NHTSA plans to begin implementing the ease of use rating program following the publication of this Notice. NHTSA plans to obtain child restraints from the manufacturers and begin rating them shortly before they are available to the public. NHTSA's plans for distribution of rating results can be found in section VII of this notice.

IV. CRS Dynamic Performance Rating Program

A. Summary of Proposal

In the notice document dated November 6, 2001, NHTSA proposed to rate the dynamic performance of child restraints using the same approach as NCAP crashworthiness. With this approach, child restraints would undergo an identical test procedure to that used in FMVSS No. 213, the compliance tests of child restraints, except for test speed. In FMVSS No. 213, child restraints are subjected to a specific pulse that has a change in velocity of 48 kmph (30 mph). In the agency proposal, child restraints would be rated using the FMVSS No. 213 test conditions however, the speed would be 8 kmph (5 mph) faster. NHTSA also sought comments on using the 48 kmph (30 mph) compliance test as a basis for a rating program.

The proposal was for a 56 kmph (35 mph) sled test using forward-facing child restraints. The CRS would be installed following the FMVSS No. 213 compliance test procedures and would be secured to the FMVSS No. 213 bench seat using the lower anchorages and a top tether (LATCH). NHTSA proposed that the Hybrid III three-year-old and the 12-month-old CRABI dummies be used in this sled-testing program to rate the CRS performance. A rating system would be based on two injury criteria: Head Injury Criterion (HIC) and chest acceleration. For each child dummy tested in a child restraint, the agency would find the combined probability of a head and chest injury and provide a star rating for that child restraint.

Child restraints would also be subjected to a physical examination after the higher-speed sled test. This examination, as outlined in the FMVSS No. 213 testing procedure, would evaluate the structural integrity of the child restraint. The agency would make the child restraint's star rating available to the public in a manner similar to the NCAP vehicle results. Any safety concerns observed during the structural integrity evaluation would be noted, but would not affect the star rating.

B. Summary of Comments

This section will summarize the comments received relative to rating child restraints based on dynamic sled performance.

1. 48 kmph (30 mph) Sled Test

Evenflo, Ford, GM, Honda, Alliance of Automobile Manufacturers (Alliance), Consumers Union (CU), Child Passenger Protection Technical Consulting (CPPTC), Dorel Juvenile Group (DJG), the National Automobile Dealers Association (NADA), and National Safe Kids Campaign favored rating child restraints based on a 30 mph dynamic sled test as required in FMVSS No. 213. All felt that the current FMVSS No. 213 is a severe test, and has done a good job in protecting children. DJG and GM further stated that an initial rating of CRS performance based upon the current frontal impact requirements of FMVSS No. 213 could give consumers some useful information and does have merit. The Advocates for Highway and Auto Safety and CHOP, however, commented that FMVSS No. 213 is outdated and not representative of real world crashes. The Advocates for Highway and Auto Safety also commented that there would only be marginal difference in performance across a wide variety of CRS models if FMVSS No. 213 were used as a basis for a rating. Nevertheless, all commenters felt that a rating system based on 48 kmph (30 mph) sled test should be deferred until FMVSS No. 213 is upgraded as required by TREAD.

2. 56 kmph (35 mph) Sled Test

Some respondents to the notice, including Evenflo, the Alliance, JPMA, and CHOP, stated that the FMVSS No. 213 pulse is a very severe pulse. They maintained that increasing the speed to 56 kmph (35 mph) would not be a helpful indicator of expected performance in most real world crashes. They also stated that the majority of real world crashes involving children occur at speeds far lower than 56 kmph (35 mph).

Britax stated that the increased stiffness added to the restraint—required by the higher crash speeds—would lead to less inherent energy absorption by the restraint at lower speeds. Consequently, Britax believes that such an approach would pass more harmful energy to the children, resulting in more injuries to children in restraints due to the greater frequency of crashes at lower speeds.

The Advocates for Highway and Auto Safety, JPMA, Honda, and IIHS noted that NHTSA's own study found little discernable difference between the child restraint models tested at the higher-speed.

JPMA, DJG, Child Passenger Protection Technical Consulting, Royal Automobile Club of Spain, Honda, and CU supported the agency proposal to rate CRS via a 56 kmph (35 mph) sled test. JPMA believed that due to the Congressional mandate, a 56 kmph (35 mph) sled test rating had some merit due to its objectivity. Honda and DJG supported the higher speed sled test, because the agency's early data showed all seats would receive ''5 stars.'' DJG later stated that CRS manufacturers could focus on the ease of use rating.

3. Test Dummies and Injury Assessment Reference Values

Several commenters advocated the use of the Hybrid III family of dummies and their associated injury criteria. The Advocates for Highway and Auto Safety, GM, Toyota, the Alliance, and CU, all noted that the current FMVSS No. 213 still uses the Hybrid II family of dummies and not the more up-to-date Hybrid III dummies. GM noted that the

safety community had developed these dummies to meet the biomechanical impact response corridors that were scaled from the mid-size adult male to various sizes of child dummies, and that, the dummies' responses to forehead impact, neck flexion and extension, and blunt chest impact represent the responses of children of similar ages.

CU, the Alliance, and the Advocates for Highway and Auto Safety all suggested that the Injury Assessment Reference Values (IARV's) used for the rating program, should be the same as those outlined in the recent FMVSS No. 208 rulemaking, published May 12, 2000. These IARV's are different than the IARV's currently used in FMVSS No. 213.

Consumers Union (CU) suggested that child restraints should be tested with dummies that weigh the maximum weight specified for the restraint. CU said, ''there needs to be some objective, dependable assurance that child restraints will provide adequate safety when occupied by a child at the weight listed by the manufacturer as the maximum safe occupant weight. Two additional pounds can significantly increase the kinetic energy of the child in a crash, and as [CU's] 1995 testing demonstrated, can mean the difference between adequate protection and certain danger to that child.'' Ford noted that many convertible child restraints are recommended for use in the rear-facing direction for children up to 30 and 35 pounds.

4. Testing Procedure

In the agency's proposed rating, child restraints in the forward-facing LATCH (including top tether) mode only would be rated. Some commenters suggested that child restraints should be rated in more than one configuration. Commenters discussed each of these configurations and why child restraints should or should not be rated in such configurations.

Safe Ride News suggested that NHTSA rate child restraints both with and without top tethers. They stated that both tethered and non-tethered performance is important. Safe Ride News speculated that seeing the difference between tethered and non-tethered performance might inspire some consumers to install top tether anchors in their older vehicle. Child Passenger Protection Technical Consulting (CPPTC) also stated that showing the consumer the effect of a top tether is important.

Several responses favored rating child restraints tested using the lap belt instead of lower anchors. Evenflo stated that testing with LATCH presupposes that the bulk of the buying public has a new vehicle that can fully take advantage of LATCH. The National Safe Kids Campaign and the JPMA stated that parents would be securing their child restraints with the vehicle seat belts for many years. Toyota and CU suggested that NHTSA phase in the use of LATCH for a safety rating. They recommended that for the first several years of testing, child restraints be rated both by the results of testing with LATCH and by the result of testing with the lap belt. This dual testing should continue until the majority of cars on the road have LATCH available.

GM noted that a rating based on child restraints installed with LATCH would be of greater value to consumers, as an increasing percentage of vehicles become LATCH equipped. GM also said ''testing child restraints installed using only LATCH provisions would also reduce installation variability that could compromise performance assessment results.''

Honda and Toyota suggested that NHTSA rate rear-facing child restraints and the rear-facing mode of convertible seats. Honda provided real-world data that suggested fatalities to children in a rear-facing seat are as frequent as those in a forward-facing seat. Toyota mentioned that new parents might be most likely to seek out safety information on a child restraint, and that the agency should provide information that would be applicable to their situation. Honda speculated that new parents might misinterpret the lack of ratings for rear-facing seats to mean that there is no safe rear-facing restraint. ''Including rear-facing seats would build a rapport with new parents who would be more likely to return for information when they are searching for a forward-facing seat.''

The Alliance, the Advocates for Highway and Auto Safety, Evenflo, GM, the Royal Automobile Club of Spain (RACE), and Toyota suggested that NHTSA consider other crash modes for its rating of child restraints. These commenters advocated the development of a side impact CRS rating program. Evenflo suggested that NHTSA do an investigative study of real-world side crashes to learn if child seats protect children seated on the struck side of the vehicle. Toyota and GM recommended that the agency first adopt a side impact sled test for FMVSS No. 213 followed by a CRS rating program for side impacts.

5. Rating System

Comments were received regarding what injury measures should be used for the CRS rating program and whether or not the agency should use compliance margin to rate child restraints. Compliance margin is defined as the amount by which products go above and beyond the requirement of the standard in a compliance test. Four commenters specifically addressed compliance margin, and they did not support a child restraint rating system based on a compliance margin. The IIHS and Dorel Juvenile Group (DJG) argued that no one has proven that an increase in compliance margin translates to better overall performance in the real world. JPMA also stated that a rating that rewards based on the amount of the compliance margin might encourage designs that are not optimized for safe performance in the real world. In addition, JPMA also stated that a rating system based on compliance margin might not provide useful information to consumers because ''it may not distinguish among child restraints in a meaningful way.'' Britax commented that a compliance margin would not provide meaningful information, would not improve safety for children, and would not address the real-world vehicle population.

Comments were also received regarding what injury measures should be used for the CRS rating program. HIC and Chest G are currently used in the compliance tests and in the frontal NCAP vehicle tests. Toyota and the Alliance agreed with NHTSA that HIC and chest acceleration were a good basis for computing a child restraint rating. Honda, Safe Ride News, CPPTC, and CU suggested that head or knee excursion be added to the rating scheme. Compliance tests currently use both head and knee excursion to determine if a child restraint passes or fails. Toyota recommended that the agency conduct a real-world crash data analysis to determine if head contact with the vehicle interior due to head excursion is a significant contributor to child injuries. If the analysis showed that head excursion is a significant contributor, then head excursion should be used as a criterion to rate child restraints for dynamic performance.

Other commenters raised the possibility of including neck injury readings to rate child restraints. GM, Toyota, and the Alliance advocated the use of some sort of neck injury criteria in the rating and not just head and chest injury measures. GM also proposed that NHTSA initiate a study of motor vehicle field crash data better to quantify the extent of neck trauma in restrained children. Such a study ''should determine the crash severity level(s) at which neck injury begins to occur.''

JPMA submitted comments opposing the use of head excursion for rating a child restraint's dynamic performance. They stated, though no specific examples were given that, ''other performance attributes measured in FMVSS No. 213 tests, such as head excursion, should not be included [in the rating system] because doing so could lead to unintended adverse consequences.''

C. Analysis of Comments

1. 48 kmph (30 mph) Sled Test

Evenflo, Ford, GM, Honda, the Alliance, CU, CPPTC, JPMA, DJG, NADA, and National Safe Kids Campaign stated that if a rating system must be developed, a rating system based on an a 48 kmph (30 mph) FMVSS No. 213 sled test would be beneficial and prudent. All felt that the FMVSS No. 213 is a severe test and has done a good job protecting children. However, all commenters felt that the agency should delay the implementation of the rating until the proposed bench and pulse upgrades for FMVSS No. 213 are implemented. The agency agrees with the commenters that FMVSS No. 213 has ensured good safety protection for children. In addition, we acknowledge the commenters concerns that concurrent with the CRS rating, TREAD also mandates an upgrade to FMVSS No. 213. The upgrade to FMVSS No. 213 is a separate rulemaking effort that is mandated to be completed by November 1, 2002. The fundamental issue raised by the commenters is that since requirements and lead-time schedules for the FMVSS No. 213 upgrade will not be finalized prior to implementation of the CRS rating system, child seats would be evaluated according to their performance under the new requirements before those new requirements were final and had been explained in a notice. We agree that a CRS rating system based upon an upgraded FMVSS No. 213 should not occur until after any such changes to the standard have become effective. For this reason, we will perform a pilot program to evaluate the dynamic performance of child restraints. This pilot program will gather data in 2003 and 2004 and be based on the changes proposed in the FMVSS No. 213 rulemaking. In 2005, assuming the pilot program shows that the results could be used as useful consumer information, we expect full implementation of a rating program with a test procedure based on the finalized FMVSS No. 213.

2. 56 kmph (35 mph) Sled Test

Evenflo, the Alliance, CHOP and JPMA stated that increasing the test speed of FMVSS No. 213 an additional 8 kmph (5 mph) would not provide any additional information. We disagree with the commenters on this issue. Prior to issuing the notice on November 6, 2001, the agency conducted sled tests at both 48 kmph (30 mph) and 56 kmph (35 mph). These sled tests were based on the FMVSS No. 213 pulse. In those tests, we found that CRS dummy measurement responses had a greater dispersion when tested at the higher speed.

In addition, the commenters further stated that most real world crashes involving children occur at speeds less than 56 kmph (35 mph). The agency also analyzed 1988–2000 National Automotive Sampling System (NASS) Crashworthiness Data System. We looked at non-rollover, frontal crashes involving light vehicles where a child restraint was involved. The data was not further defined by age. The NASS data showed that 97% of the crashes involving a child restraint occurred at speeds less than 56 kmph (35 mph) compared to 94% at speed less than 48 kmph (30 mph). The agency recognizes the fact that most crashes occur at speeds less than 56 kmph (35 mph) and speeds less than 48 kmph (30 mph). This is also true for the adult population. However, the majority of adult fatal crashes occur at speeds of 48 kmph (30 mph) and greater. Unfortunately, we have insufficient data to know the velocity distribution of fatal CRS crashes.

DJG commented that a higher speed sled test would cause manufacturers to stiffen up the CRS to avoid structural failure of the CRS in the sled tests. The commenter hypothesized that a stiffer seat could have a negative influence on children in crashes at lower speeds. The agency is not aware of any data that would support the DJG assertion that stiffer child seats would have a negative influence on restrained children in lower crash velocities. In higher speed sled testing, the agency has observed some structural failures. Thus, we agree that CRS manufacturers would have to provide structural modifications to the seat. However, we do not have any quantification of the relative influence of the shell versus webbing stiffness, and believe that the structural stiffness of the seat shell would have considerably less influence on the overall occupant response measurements than the webbing material.

3. Test Dummies and Injury Assessment Reference Values

The Advocates for Highway and Auto Safety, GM, Toyota, the Alliance, and Consumer's Union advocated the use of the more biofidelic Hybrid III family of dummies, the CRABI dummy, and their associated injury criteria. FMVSS No. 213 currently uses the Hybrid II three-year-old child dummy, Hybrid II six-year-old child dummy, and the TNO non-instrumented, nine-month-old child dummy. The agency recognizes that the Hybrid III and CRABI child dummies are more biofidelic and have greater instrumentation capabilities than the Hybrid II dummy family. This was one of the primary reasons the agency proposed the CRABI and the Hybrid III dummy family, as an upgrade to FMVSS No. 213 and for the CRS dynamic rating.

However, the agency is also aware that only Hybrid II dummies have been used to date in NHTSA compliance tests for FMVSS No. 213. In addition, CRS manufacturers do not have any substantial experience testing child seats with Hybrid III dummies. NHTSA believes it is appropriate to take the time to run tests with the Hybrid III dummies, and make regulatory decisions about when to mandate use of the newer dummies as opposed to using the new dummies in a CRS rating program tests. Hence, NHTSA intends to conduct a pilot program in 2003 and 2004 using the test dummies proposed in the FMVSS No. 213 upgrade.

4. Testing Procedure

In the notice published November 6, 2001, the agency proposed to rate CRS in LATCH mode only. Safe Ride News, National Safe Kids Campaign, JPMA, Toyota and CU suggested that NHTSA use additional configurations in addition to LATCH to rate child restraints. NHTSA acknowledges that there are many vehicles being used today that do not have a top tether anchor and LATCH attachment for a child seat. However, beginning September 1, 2002, all child restraints and all vehicles manufactured will be required to have LATCH. Vehicles manufactured after September 1, 2000 are all required to have a top tether. The agency has performed several tests comparing tether and no-tether seats. These test results have shown that a tether decreases head excursion in addition to lowering HIC values. NHTSA tests have also shown that HIC and chest acceleration readings from child restraints tested with LATCH are similar to those tested with the lap belt and tether. The agency, however, must also consider the vehicle fleet. It will

take some time before the entire vehicle fleet will be equipped with lower anchorages and top tether, and we feel that consumers should have information on both LATCH and non-LATCH configurations. Therefore, the pilot program will examine and evaluate the LATCH and lap belt/tether configuration performance.

The Alliance, the Advocates for Highway and Auto Safety, Evenflo, GM, the Royal Automobile Club of Spain (RACE), and Toyota suggested that NHTSA include a side impact program to rate CRS. NHTSA agrees that the available data indicates that side impact represents a substantial portion of the total harm to children in crashes. Because of this, we are currently researching the dynamic performance of child restraints in crash modes other than a frontal crash. In response to the TREAD Act, NHTSA issued an ANPRM for side impact. Depending on the results of that research, we will consider whether we should rate CRS performance in a side impact configuration after this research is completed.

5. Rating System

Four commenters specifically addressed the use of compliance margin to rate child restraints. Because it would be easy to implement, the cost would be minimal, and it could provide meaningful information, the agency proposal listed compliance margin as an option for rating child restraints. A compliance margin rating would rate child restraints based on how much better they performed than required by the standard. In the notice, the agency showed that many seats passed by a large margin. This was true for both HIC and Chest G. Contrary to HIC and Chest G, the agency found head and knee excursion close to their respective limits set forth in the standard. However, the agency does not have a probability of injury risk curve for head or knee excursion. Of those commenters that specifically addressed compliance margin, none agreed with the premise of using it as the basis for a rating program. IIHS argued that there was no correlation between the margins of compliance a particular CRS seat had and its performance in the real world. We disagree with the commenter. The risk of injury is derived from human tolerance data. Just as injury numbers above the minimum standard correlate to an increased risk of injury, injury measures below the minimum level correlate to a lower risk of injury. IIHS further commented that it would be difficult for the agency to determine if a seat that passes the HIC requirement by 60% is safer than one that passes by 50%. As noted above, a seat that passes by a 60% compliance margin is safer than one with a 50% margin. However, we agree with IIHS that the magnitude of this difference would be small and it would be difficult to quantify precisely.

JPMA argued that a child restraint is a system, and that focusing on one or two parameters could adversely affect others. JPMA stated that manufacturers, for example, could get a wide compliance margin on head excursion, but that would increase the accelerations experienced by the head (HIC). We understand that system modifications to reduce one parameter could adversely affect other parameters with safety trade-offs. However, manufacturers would still have to meet the head excursion requirement for FMVSS No. 213. We feel that the head excursion limit in FMVSS No. 213 would prevent the manufacturers from taking such an approach.

JPMA also argued that if the agency used compliance margin to rate a CRS the agency would have to choose and rate the ''more important'' performance requirements of FMVSS No. 213. That is, is knee excursion more important than chest G? On this point, the agency also agrees with the commenter and also stated this fact in the notice. We agree that it would be difficult to choose what factor(s) among the many are most important and convey the information to the public.

For these reasons and as indicated in the notice, the agency believes that the use of compliance margin (*i.e.* rating seats on how close or far from the compliance limit the injury measures are) does not appear to be the most meaningful way to rate child safety seats. We will consider this further during our pilot program.

Comments were also received regarding what metrics should be used in the rating system. Toyota and the Alliance agreed with the agency that HIC and chest acceleration were a good basis for computing a child restraint rating. However, Honda, Toyota, Safe Ride News, JPMA, and Child Passenger Protection Technical Consulting suggested that head and/or knee excursion should be added to the rating scheme. The agency agrees that head and knee excursion limits in FMVSS No. 213 protect children from striking the vehicle's interior. However, HIC and chest acceleration can more easily be correlated to probability of injury than head and knee excursion. None of the commenters provided specific suggestions on how to incorporate head and knee excursions into a rating system. In addition, by developing the rating system based on HIC and chest acceleration, the agency can follow the same approach that is used for the adult dummies in the frontal NCAP. Therefore, NHTSA will not incorporate head and knee excursions into a safety rating for child restraints, but plans to use HIC and chest acceleration.

GM, Toyota, and the Alliance advocated the use of some sort of neck injury criteria in the rating and not just head and chest injury measures. GM also proposed that NHTSA initiate a study of motor vehicle field crash data better to quantify the extent of neck trauma in restrained children. Such a study ''should determine the crash severity level(s) at which neck injury begins to occur.'' The agency agrees that neck injuries for children in the field need to be examined and will therefore utilize several sources both inside and outside the agency like NHTSA's Special Crash Investigations and the Children's Hospital of Pennsylvania to assess neck injuries in children. The agency is also assessing the need to include neck injury criteria in frontal NCAP star ratings.

D. NHTSA's Decision on a CRS Dynamic Rating Program

In the notice published November 6, 2001, the agency suggested a 56 kmph (35 mph) sled test to rate child restraints. The 56 kmph (35 mph) option specified that the agency would rate child restraints based on sled tests performed in accordance with the FMVSS No. 213 standard, but at a speed 8 kmph (5 mph) faster than the standard specifies. It was proposed that these 56 kmph (35 mph) sled tests would be conducted using the three-year-old Hybrid III dummy and the 12-month-old CRABI dummy to assess CRS performance as it relates to head injury and chest acceleration. However, many respondents voiced concerns of using a 56 kmph (35 mph) FMVSS No. 213 crash pulse to rate child restraints, and most suggested a rating program be deferred until FMVSS No. 213 is upgraded as required by TREAD.

NHTSA shares the concerns raised by commenters, and agrees that a dynamic CRS rating should be deferred until incorporation of the FMVSS No. 213 upgrades required by TREAD. Another option that we seriously considered was to develop a dynamic CRS rating using the current FMVSS No. 213 with the Hybrid II dummies. However, the current standard does not have an instrumented dummy for rear facing infant seats, meaning that a dynamic rating would be limited to only forward facing CRS for 3-year-old and 6-year-old children. We believe that consumers

would have an equally high, if not higher, interest in obtaining dynamic rating information for rear facing infant seats, and that an inability to provide ratings for this segment of CRSs would cause a great deal of confusion for consumers.

Furthermore, NHTSA has other concerns with providing a dynamic CRS rating at this time. In considering development of a dynamic rating using the current standard, we found that all child restraints would have received either a four or five star rating. This is consistent with the finding from field studies showing that CRSs, when used and used properly, are very effective in providing protection to children. Given that all CRS would receive either a four or five star rating, we have concerns that such a dynamic rating would not be meaningful to consumers.

Another concern is that in addition to facing potential upgrades to FMVSS No. 213 as required by TREAD, CRS manufacturers have also been recently required to incorporate LATCH into all CRS. Further burdening these manufacturers with a dynamic rating using the older Hybrid II dummies while the manufacturers are modifying their designs to account for the possible use of newer dummies would be a diversion with no apparent safety benefit.

In consideration of the above, NHTSA has decided not to implement a dynamic component to the CRS rating at this time, but rather to rely upon the Ease of Use rating to satisfy the TREAD mandate. As noted previously, the agency has published an NPRM to upgrade FMVSS No. 213. The agency plans to conduct a pilot dynamic test program in 2003 and 2004 using the test seat assembly, test dummies and IARV's as proposed in the upgraded FMVSS No. 213 and adopted by the agency in its final rule pertaining to that rulemaking.

We believe the performance of the CRS in a dynamic test is an important and meaningful part of an overall rating of child safety. If our pilot program goes as anticipated, we will go forward in 2005 with a consumer information program for the dynamic rating of child restraint systems. We will re-notice this program to define the test procedures, test dummies, configurations and IARV's for that consumer information program.

The dynamic pilot test program for CRS will be conducted at the 48 kmph (30 mph) test speed and in accordance with the upgraded FMVSS No. 213 test procedures adopted by the agency. The pilot program will use the 12-month-old CRABI, the Hybrid III three-year-old, and the Hybrid III six-year-old child dummies. Lower anchorages and top tethers (if provided) will be used to restrain all child seats. In addition, we will also use a lap belt only configuration (no tether) [or (with tether)] for all these seats. The results of this pilot program will be made available only as research, and no ratings will be assigned to any of the tested CRS.

V. Vehicle Rating System for Child Protection

A. Summary of Proposal

The TREAD Act specified that the agency consider ''whether to include child restraints in each vehicle crash tested under the New Car Assessment Program'' [14(b)(9)], and to ''issue a final rule establishing a child restraint safety rating program and providing other consumer information which the Secretary determines would be useful [to] consumers who purchase child restraint systems.'' Therefore, in addition to the child restraint rating system, the agency proposed a program that would rate new vehicles based on their protection of child passengers when restrained in a CRS in the rear seat when in a frontal crash.

Under this proposed vehicle rating system, the agency would ask vehicle manufacturers for a recommendation of at least three forward-facing child restraints. We would require that (1) at least one of the recommended child restraints have a retail price of less than $60 and (2) a different CRS manufacturer make each of the three restraints. The agency would choose one of these three CRS to use in the NCAP frontal crash for child protection.

We proposed to place the forward-facing child restraint on the vehicle seat directly behind the right front passenger. A 3-year-old Hybrid III dummy would be placed in the child restraint system. After the vehicle crash, a five star rating would be applied to the vehicle based on HIC and chest G values measured by the child dummy. Risk curves would be developed based on the injury assessment reference values developed for child dummies in FMVSS No. 208. Under this proposed rating system, in addition to the two ratings now provided based upon the performance of the driver and the right front passenger, the subject vehicle would receive one additional rating for the child dummy in the rear occupant seat.

Finally, after each vehicle crash test, we proposed to examine the child restraint for structural integrity. We would conduct the physical evaluation for structural integrity specified in the test procedure of FMVSS No. 213.

B. Summary of Comments

This section summarizes the comments that addressed the rating of vehicles based on child restraint performance. Of the nineteen commenters to the notice, sixteen specifically addressed the proposed vehicle rating system.

Britax, Juvenile Products Manufacturers Association (JPMA), SAFEKIDS, and Evenflo suggested that CRS performance depends on vehicle performance. They agreed that NHTSA's research showed that CRS performance varies significantly with vehicle crashworthiness design, including such factors as vehicle stiffness, rear seat detail, and belt configuration. GM and National Automobile Dealers Association (NADA) also suggested that vehicle weight influences CRS performance. Child Passenger Protection Technical Consulting (CPPTC) also voiced a concern that rating a child restraint based on how well it performs in a vehicle is not a feasible method, due to the significant influence of vehicle performance as shown in Euro NCAP.

JPMA explained that child seat companies are typically small-scale companies compared to the vehicle manufacturers. Most child seat companies do not have the resources to do expensive vehicle testing to design better child seats. They said, ''* * * child restraint manufacturers can't reasonably conduct tests that would predict NHTSA's ratings under an NCAP-based system, because NHTSA (or the vehicle manufacturer) could choose to place any child restraint in any motor vehicle, and child restraint manufacturers could not reasonably or feasibly conduct crash tests. * * *''

NADA said that not all child restraints would be tested if NHTSA were to evaluate child restraints in vehicle testing. They further explained that this condition would be an unfair and incomplete test because not all child restraints would be subjected to the same conditions. Testing every child restraint in every vehicle would result in a great many tests. NADA also expressed concern that testing child restraints in NCAP vehicles would ignore the fact that most child seats are bought for use in used vehicles. Dorel, CU, Alliance, GM, JPMA, and Advocates also supported this view. Honda said that under the proposed rating system; child restraints with poor performance would never be tested in vehicle testing because vehicle manufacturers would never select those CRSs.

IIHS said rating child restraints in vehicle testing would not advance world harmonization. IIHS advised that, based on Australian NCAP and Euro NCAP rating programs, rating child seats in vehicles had many disadvantages. They said, ''* * *One is that, because so few vehicles are tested and only one or two restraints can be installed for each test, the tests can provide useful information for only a small number of vehicle/child restraint combinations. * * *''

The Children's Hospital of Philadelphia (CHOP) and Child Passenger Protection Technical Consulting (CPPTC) suggested that the agency examine head and knee excursion in vehicle testing due to variability in vehicle interior design. CPPTC said, ''Head excursion is the most important criterion for forward-facing child restraints, as it indicates overall structural integrity and how well the restraint is likely to keep the child's head out of harm's way.'' They suggested that evaluating head excursion is more important than evaluating chest acceleration. CPPTC said field data confirm that contact head injury is the most common type of serious injury among restrained children.

Honda, Toyota, and Advocates said rear-facing mode child restraints and booster seats should also be rated. Advocates interpreted that TREAD mandates NHTSA to rate all CRS types, not just forward-facing restraints. Honda declared that, since NHTSA understands that many fatalities are occurring to restrained children less than three years of age, the agency also has to evaluate rear-facing child restraints. Toyota said most new parents are likely to look for information on rear-facing seats. Such information should be made available. If NHTSA were to provide this information, Toyota explains that those parents would be more educated about child safety seats and would eventually seek more information on the safety of child seats.

Several CRS manufacturers and consumer advocates suggested that testing child restraints in vehicles would be beneficial. Evenflo and ARCCA, Inc. said that adding CRS to vehicle testing would be beneficial in understanding how child restraints are influenced by vehicle crashworthiness. In addition, ARCCA, Inc. favors the incorporation of child restraints into NCAP tests. ARCCA stated that NCAP tests more closely replicate real world conditions than the FMVSS No. 213 compliance tests.

CHOP, CU, and Advocates said that performing CRS in-vehicle testing is good for future research on improving child occupant safety. CHOP commented that, ''* * * including child restraints in NCAP tests is important to build a fund of knowledge. This will lead to a better understanding of the interaction of various child restraints with the various types of vehicles, their space, and seat stiffness.'' Advocates added that conducting vehicle testing with child seats would provide important information such as CRS and vehicle seat interaction and assessment of head and knee excursion in vehicle crashes. They suggested that such information would be extremely valuable for prospective car buyers, especially for parents who transport their young children.

C. Analysis of Comments

Most of the commenters generally disagreed with rating child restraints in vehicle testing. We agree with these comments that vehicle tests would not be an appropriate means of rating CRS performance. The notice indicated that the agency felt ''the most effective consumer information system is one that gives the consumer a combination of information about child restraints' ease of use and dynamic performance, with the dynamic performance obtained through higher speed sled testing and/or in-vehicle NCAP testing.'' In describing the proposal for CRS performance in NCAP frontal vehicle testing, the notice said that ''unlike the rating systems proposed for the sled tests * * *, this option would rate the vehicle equipped with a CRS as a system in protecting the child.''

CHOP and CPPTC comments suggested that head and knee excursion are important parameters to monitor due to variability in vehicle interior designs. While we agree that this is true, we do not believe that these parameters are the most critical measurements to be made. Excursion of the child within the vehicle compartment, along with the available interior space, will determine whether the child strikes an interior component of the vehicle compartment. Indeed, to maximize child protection and reduce the average head acceleration, the optimal design is a system that maximizes head excursion without permitting a head strike on an interior component. However, the space within the compartment is limited. The HIC measurement would show whether the dummy's head struck an interior component. Thus, for built-in seats, head excursion is not measured in FMVSS No. 213, since HIC reflects head contact events. For built-in seats, HIC by itself provides a measure of both excursion and available compartment space.

The agency does not fully agree with the IIHS comments about in-vehicle testing not being suited for world harmonization. As indicated above, the agency does not believe that in-vehicle testing is an appropriate test for rating the CRS alone. To the extent that the IIHS comments were meant to reflect that point, we agree. However, both the Euro NCAP and Australian NCAP program vehicle ratings incorporate the vehicle's ability to protect CRS restrained children. Since the proposed in-vehicle rating would also provide such an indication, we believe that, in this respect, the proposed vehicle rating for child protection in frontal testing would be similar to the Euro NCAP and Australian NCAP ratings.

Finally, Honda, Toyota, and Advocates suggested that rear-facing CRS and booster seats should also be rated. As indicated above, we do not believe that in-vehicle testing is appropriate for rating the CRS. Rather, the in-vehicle test rates the vehicle's contribution to protecting the restrained child in a crash. We concur with the commenters desire to have the vehicle rating reflect the protection afforded to children restrained in child restraints in addition to forward facing child seats. We will examine the feasibility of this in the pilot program described below.

D. NHTSA's Decision on a Vehicle Rating System for Child Protection

As indicated in the November 6, 2001, notice, optimal child protection requires that the child be properly placed in an appropriate restraint, that the CRS perform well, and that the vehicle work in concert with the CRS to protect the restrained child. In the notice, the agency presented an analysis of results of both dynamic sled and in-vehicle CRS testing. The dynamic sled testing showed tighter clustering of the CRS responses than observed in the vehicle tests. We inferred that the greater range of HIC response in the vehicle tests was not due to the child restraint, but was due to vehicle crash characteristics, such as crash pulse, belt geometry (important for child restraints that use a lap/shoulder belt), seat contour, and seat cushion stiffness. A vehicle with good crashworthiness characteristics appeared to provide better child occupant protection independent of the CRS.

Occupant protection fundamentals require that the vehicle restraints and dynamic crash characteristics operate as a system to provide energy management for optimal protection of the occupant. For children, the CRS and vehicle must

work together as a complete system to protect the child. To accomplish this, CRS and vehicle manufacturers must work together to ensure that an optimal design of the CRS/vehicle system is developed for maximum child protection. Consumers wishing to select the best protection systems available for their children need to have not only a rating of the CRS, but also a rating of the CRS/vehicle system. We believe this was the intent of the TREAD mandate that the agency consider ''whether to include child restraints in each vehicle crash tested under the New Car Assessment Program,'' and to ''provide other consumer information which the Secretary determines would be useful [to] consumers who purchase child restraint systems.''

Given this, NHTSA anticipates that, in addition to providing a rating of child restraint systems, we will try to rate vehicles on their ability to protect child occupants in a frontal crash. We proposed an approach for rating vehicles for crash protection for children in the notice, with an additional star rating to be added to the vehicle's NCAP score. The additional star rating would be based upon the likelihood that a CRS restrained child occupant would receive severe (AIS ≥4) injuries in a frontal crash.

Notwithstanding this belief, however, NHTSA is concerned that it is premature to begin assigning NCAP ratings to vehicles at this time. We are aware of little testing in the public domain to assess the vehicles' role in protecting child occupants in the rear seats. Further, we have not finished our analysis of the results of our testing to date, which showed that some vehicles that provide good front seat occupant protection provide relatively poor rear seat occupant protection. We would prefer to gather more information on vehicles with child seats in the rear, do a thorough analysis of the results, and publish our conclusions to allow a public review before we implement a ratings program in this area.

To gather additional information and a better understanding of what vehicle attributes contribute to good rear seat occupant protection, NHTSA will collect data during the 2003 and 2004 model year NCAP frontal crash tests on child protection in the rear seat, but will not publish any child protection vehicle ratings based on that testing. During the 2003 and 2004 model years, the agency will select a range of seats to be used and final selection will be based on a set of objective criteria yet to be developed.

Using a single forward-facing seat also leads us to plan to use a single test dummy (the Hybrid III three-year-old) to allow comparisons among the vehicles, and to make those comparisons reflect the difference in vehicle performance. NHTSA believes that vehicle performance with the three-year old in a forward-facing seat will be representative of the vehicles' ability to provide child occupant protection for other sizes and ages of children in other CRS, including rear-facing and booster seats. However, we will gather data to verify or disprove this belief during the pilot program. Specifically, we will continue to use the additional rear seating positions to collect data for research purposes on the performance of various size dummies in rear-facing, booster, and built-in CRS. Should we proceed as we currently expect, we will add the element of rear seat child protection to frontal NCAP beginning in the 2005 model year. We will publish a notice to get public comments on the test procedures and rating criteria, including what size or sizes of child dummies should be used for the rating.

VI. Combined Child Restraint Rating

A. Summary of Proposal

In the proposal, NHTSA stated that we were not currently planning to do an overall summary rating combining ease of use and dynamic performance. The agency had not been able to develop an acceptable methodology for a summary rating. We requested comments and suggestions on this issue.

B. Summary of Comments

General Motors and JPMA commented that they did not support a combined rating system. Toyota proposed a combined rating concept that included injury criteria, head excursion and ease of correct use. Toyota believes that a combined rating could help parents select safer child restraints. Consumers Union supports a combined ease of use and dynamic testing rating system and also proposed one. They included recommendations for arriving at a single summary rating. They also recommended a numerical procedure to convert individual ratings to a continuous scale that was then converted to an overall star rating.

C. NHTSA Will Not Combine Rating

NHTSA reviewed the comments received. While the agency believes a combined rating may have merit, we believe that further evaluation into the methodology would be needed. In addition, subsequent to the proposed Notice, NHTSA conducted focus groups and found that most participants did not want a rating that combined performance and ease of use. They mentioned that they usually like more information to be available and that a combined rating might be misleading. Also, given the factors described in Section IV.D, we have decided to continue dynamic testing of CRS on a pilot basis rather than providing dynamic ratings at this time. Based on these factors NHTSA will not have a combined rating.

VII. Distribution and Schedule

A. Summary of Proposal

In the Notice published on November 6, 2001, NHTSA discussed the two publications that are produced related to safety ratings for vehicles and vehicle safety features specific to children. One publication is a print brochure titled Buying a Safer Car that provides NCAP ratings and safety feature information for new vehicles. The other is a brochure titled *Buying a Safer Car for Child Passengers* that provides new vehicle safety features and other information relevant to children.

The agency also stated that we believe new printed information about child restraint ratings would be needed. Unlike vehicles, child restraint models do not tend to change on an annual cycle, therefore, NHTSA would have to pick a date and only include in a print brochure child restraints that are available in the marketplace at that time. The Notice also indicated that in Canada the largest concentration of child restraints were introduced in the months of May and June. We requested comments on whether this timing was also accurate for the United States.

Lastly, in the Notice, NHTSA noted that a print brochure could be used in addition to our Web site. The Web site can be updated on a continuous basis. Therefore, we could test child restraints as they become available and add new models to the Web site when testing is complete.

B. Summary of Comments

NHTSA did not receive any comments on whether the timing, May and June, for the introduction of a large concentration of child restraints on the market was accurate. The National SAFE KIDS Campaign did voice their concern about releasing timely information to consumers. They suggested that to do this, child restraints would need to be rated prior to being placed on retail shelves.

In addition to seeking comments on the accuracy of when child restraints are introduced into the marketplace, NHTSA conducted research aimed at exploring the perceptions, opinions, beliefs, and attitudes of parents and

caregivers regarding our Proposed Ease of Use Rating and the Performance Rating for child safety seats (see Section III C for full summary of focus group findings). Relative to how this ratings program is presented to and would be received and used by consumers, we found that overall most participants said that ratings influence their decision-making process when making a purchase. Also, respondents overwhelmingly preferred the use of stars to rate the seats. Specific to ease of use ratings, most participants preferred the chart that included the ease of use criteria. They explained that they liked having as much information as possible, and because they valued some criteria over others, seeing all the individual ratings was more helpful. Also, most reacted positively to the use of a letter grade scale for the Ease of Use Rating because it differentiated the Ease of Use Rating from the Performance Rating. Specific to the performance rating, many believed that it was more important than the Ease of Use Rating. However, many said that they wanted more information on how the ratings are derived. Participants stated that a brochure should include information on different harness types, price ranges of individual seats, and explanations of the tests that are done when a seat is rated. Respondents also said that the brochure should use color and graphics and text should be in a bullet-point format.

C. Rating and Distribution Plan

NHTSA agrees with the National SAFE KIDS Campaign in that timing of information is an important element of the ratings program. Also of importance is how this information is presented to the consumer. After considering the comment received and the focus group findings, NHTSA's rating and distribution plan is as follows:

- NHTSA plans to obtain child restraints from the manufacturer and begin rating them before they are available to the public. The process for doing this will be similar to how NHTSA receives child restraints from the manufacturers for compliance testing. A letter will be sent to the manufacturers requesting a list of new child restraints that will be introduced into the marketplace. NHTSA will also request these seats be shipped to a designated testing location. NHTSA plans to conduct testing and evaluations beginning this fall and publish a print brochure in the spring of 2003. From discussions with manufacturers and retailers, early spring is a transition time for stocking retail shelves with new child restraints.

- The brochure will provide explanatory information to consumers as well as have charts listing the ratings of child safety seats. The brochure will list child seats by type: (1) Infant only, (2) convertible, (3) forward facing only, (4) combination forward facing booster, and (5) booster, followed by their ratings. NHTSA may include additional information about the child restraint such as harness type, weight ranges for the restraint, etc. NHTSA already has on its Web site, a listing of child restraints with features and will be considering combining this information with the ratings in print and on the Web site.

- There will be several ratings listed for each child restraint. Each ease of use category (there are 5) as well as an overall ease of use score will be listed. Also in 2005, we anticipate that each restraint will also have star ratings from the dynamic tests. Because multimode child restraints will be rated in each mode it is recommended for use, one seat may have 16 total ratings. For example, a convertible child restraint will have six ease of use ratings (5 categories and 1 overall) for rear-facing and the same amount for forward-facing, for a total of 12. The convertible seat will also have two dynamic tests for each mode for a total of four. Refer to Table 1 in the November 6, 2001, Notice to see the testing protocol for each type of restraint.

- The brochure, which will be updated on annual basis, will be posted on the NHTSA Web site as well as distributed through our outreach mechanisms (*e.g.*, Regional offices, State Highway Safety Offices, National Organizations, etc.).

- Following initial publication of the print brochure, throughout the remainder of the year (until October), NHTSA will continue to rate any new child restraints that will be introduced into the market. Following our rating, the results will be posted on the Web site as well as announced through a press release.

VIII. Conclusion

In response to the TREAD Act, NHTSA has decided to establish a consumer information program for add on child restraints based on their ease of use. We believe that this consumer information program will encourage child restraint manufacturers to produce child restraints with features that make it easier for consumers to use and install, thereby, leading to increased correct use of child restraints and increased safety for child passengers. Secondly, we believe that child protection is a systems approach. It involves both the child restraint manufacturer and the vehicle manufacturer. We feel that consumers would value information from both of these entities. Therefore, we have decided to perform two pilot programs to gather additional information about these two aspects of child passenger safety. One pilot program will subject child restraints to a 48 kmph (30 mph) sled test under the same test conditions as a proposed upgrade to FMVSS No. 213. The second pilot program will continue to include child restraints in the frontal crashes of our New Car Assessment Program. We will collect information from these two pilot programs in 2003 and 2004 and not publish the results as consumer information. At the conclusion of the pilot programs, and if analyses of the pilot program show this would be meaningful consumer information, the agency will seek public comments on a proposal for full implementation of the rating of vehicles for child protection and the dynamic child restraint test to commence in Model Year 2005. (By Model Year 2005, we mean October 2004 to coincide with the commencement of the Fiscal Year 2005 New Car Assessment Program). We believe this consumer information will enable prospective purchasers to make better, informed choices about new child restraints and passenger vehicles.

Authority: 49 U.S.C. §§ 32302, 30111, 30115, 30117, 30166, and 30168, and Pub. L. 106–414, 114 Stat. 1800; delegation of authority at 49 CFR 1.50.

Issued on: October 29, 2002.

Noble N. Bowie,

Acting Associate Administrator for Rulemaking.

BILLING CODE 4910–59–P

Appendix A

Proposed Ease of Use Rating Form

NHTSA Child Restraint Usability Rating Form – 2001

Date _____ Evaluated by _____ Seat # (on tag) _____

Manufacturer _____ DOM _____

Make & Model _____ Model # (on CRS) _____

If optional base, model # on base _____ DOM on base _____

Style: ❑ Infant (RF) ❑ Convertible (RF/FF) ❑ Combination (FF harness/booster) ❑ Booster ❑ Other

Harness: ❑ 5-point ❑ "V" or 3-point ❑ T-shield ❑ OH shield ❑ Shield booster ❑ No shield booster

Measurements (imperial units for North American consumer guide) – *take out slack in seat cover*

Total number of crotch strap positions ❑ 1 ❑ 2 ❑ n/a (booster only)

Distance crotch strap opening on base to seat bight Position 1 _____ Position 2 _____ ❑ na

Lower harness slot height (bottom center slot to seat bight) _____ Upper harness slot height _____ ❑ n/a

Seat height (from seat bight) _____ ❑ n/a (no back-booster)

Size range given in owner' manual: _____ **Date on manual:** _____

	WEIGHT (kg and lb)		HEIGHT (cm and inches)	
	Minimum	**Maximum**	**Minimum**	**Maximum**
RF				
FF				
Booster				

❑ Yes ❑ No, note any differences _____

_____

Infant restraint has optional base ❑ Yes ❑ No ❑ n/a (eg convertible)

Type: ❑ Booster Only
❑ Combination (harness/booster)

Style: ❑ No-back with non-removable shield
❑ No-back with removable shield
❑ No-back NO shield
❑ High back with soft back
❑ High back with hard back

Booster recommened for use with: Lap/torso ❑ Yes ❑ No ❑ not shown on seat
Lap belt ❑ Yes ❑ No ❑ not shown on seat

If shield booster, recommended t/belt position: ❑ front of child ❑ behind child ❑ not shown on seat ❑ n/a

NHTSA CHILD RESTRAINT USABILITY RATING FORM – 2001

Assemly *(When first out of box)*

	A	B	C	Notes
All functional parts including seat pad or cover attached and ready to use	Yes*		No	*parent may still need to adjust system to fit child
Tether attached to child restraint	Yes		No	n/a
Owner's manual easy to find	Attached to child restraint in a clearly visible location	Attached to child restraint but not clearly visible	In box, not attached	
Obvious storage (pocket) for manual	Easily accessible when installed in all modes and manual can be removed and replaced easily	Easily accessible when installed in all modes but manual cannot be removed and replaced easily (any use of plastic clips as the sole means of storing the instructions will not be higher than "acceptable")	Not accessible when installed in all modes	

Evaluation of Labels/Instructions

	A	B	C	Notes
Clear indication of child's size range	Separate clear text with illustrations of child in upper range	Separate clear text Independent paragraph	Size range buried in other text	
All mode/s of use clearly indicated e.g., rear-facing only or forward- and rear-facing if convertible	CRS illustration in complete vehicle seat (not FSP) Mode/s clear, no need to read text	CRS illustration in outline vehicle seat (could be front seat) Need to read text	No illustration, text only May be illustrated, but not all modes shown	*Infant restraint = RF* *Convertible = RH and FF (+tether could be separate illustration)* *Combination = FF (+harness/tether and booster)*
Air bag warning in written instructions	Separate, highlighted & illustrated	Separate & highlighted	Buried in other text or no warning	
Show harness slots okay to use for occupant size	Clear illustration or markings – no need to read text	Markings of top slot – need to read text	Other, includes text only or in manual only	n/a, all harness slots can be used
Instructions for routing for both lap belt and lap/shoulder belt in all modes	All modes illustrated clearly with CR in seat S/belt (tether) in illustration with s/b ***No need to read***	All modes illustrated with CR in seat (tether may have own illustration of s/belted CRS in seat) ***Need*** to read text	Not all illustrated (e.g. tether not shown)	*All modes = RF/FF & lap, lap/torso* *and for **infant restraint** if torso belt shown behind CRS, alternative if torso belt not long enough* *and for **FF harness systems** + tether* *and for **booster** – whether or not okay for both lap and lap/torso seat belt*

NHTSA CHILD RESTRAINT USABILITY RATING FORM – 2001

Evaluation of Labels/Instructions *(Continued)*

		A	B	C	Notes
Visability of seat belt routing (for lap belt and lap/torso) when CRS in position in vehicle i.e. is seat belt routing obvious	Without base	Clear routing illustration or clear contrast belt path marking ***both*** sides No need to read text	Markings or some form of routing illustration ***both*** sides Need to read text	Other incl illustration only ***one*** side or illustrations do not match CRS or belt direction or hidden by seat cover	
	Installing add-on base (alone) or n/a	Clear routing illustration or clear contrast belt path marking ***both*** sides No need to read text	Markings or some form of routing illustration ***both*** sides Need to read text	Other incl illustration only ***one*** side or illustrations do not match CRS or belt direction or hidden by seat cover	
Visibility of tether use		Yes		No	
Information in written instructions and on labels match		Yes		No	
Durability of labels		All labels molded or embossed	Sticky label	Sticky label if one or more are already peeling when restraint removed from box	

Securing the Child

	A	B	C	Notes
Buckle can be secured in reverse	No, or yes but usual release works with same degree of effort	Yes, but usual release requires more effort	Yes, but can't use release mechanism	
Harness adjustment easy to tighten or loosen when child restraint installed	One had to tighten Max 2 to loosen	Two hands to tighten, but easy No re-threading	Other	*Do not count one hand to support CRS*
Number of harness slots/ usable slots	3	2*	Top only	*2nd slot okay to 30 lb then top only
Ease of attaching/removing base (infant restraint systems only)	One had to attach Max two to release – handle easy to access	One hand to attach Max two to release – handle not easy access	Other includes need to tilt or tip to release	n/a, not an infant restraint n/a, no base offered with this infant restraint
Ease of conversion rear-facing to forward-facing or forward-facing to booster and back again	One had to change Easy to access	1-2 hands to change – not easy access or binds	Other	n/a, single mode
Visibility of harness slots	Clear view of both slots (slots aligned)	Clear view cloth slots, not aligned with plastic slots	Something in way when sold, e.g. pad, head hugger	n/a, no harness slots (booster only)

NHTSA CHILD RESTRAINT USABILITY RATING FORM – 2001

Securing the Child *(Continued)*

	A	B	C	Notes
Ease of changing harness slot position	No need to rethread Possible for one person to do	Possible for one person to do, easy to attach/remove Large slots easy to thread	Other, slot size too small for easy threading Loose mandatory pieces Could misroute through buckle	
Ease of reassembly if pad/cover removed for cleaning	No loose parts Easy to attach/ remove – clear slots No realignment necessary	No loose parts Slots may be misaligned	Loose parts, need hand tool Slot size too small for easy threading Could misroute through buckle	
Ease of adjusting/removing shield	Clear illustration simple action shield marked	Need to read text, simple action, shield not marked	Other tool/s required	n/a, no shield n/a, shield not adjustable

Installing in Vehicle

		A	B	C	Notes
Separation of vehicle belt path	***Without base***	No contact possible	Cover to avoid contact	Possible contact including crotch strap	
	Installing add-on base (alone) or n/a	No contact possible	Cover	Possible contact	
Ease of vehicle belt routing (hand clearance)	***Without base***	Male hand can route s/b through including flap in seat, nothing in way	Male hand fit but need to move CRS (no x-tilt), or move padding	Hand does not fit	
	Installing add-on base (alone) or n/a	Male hand can route s/b through including flap in seat	Male hand fit but need to move CRS (no x-tilt)	Hand does not fit	
Ease of seat belt routing (boosters)		Single action (could be done by child in seat)	Includes 2 hands to operate belt positioning hardware	Detachable or multiple steps	
Ease of use of any belt-positioning hardware on CRS including lock-off		One hand to use	Two hands to use	Detachable or multiple steps	n/a, no belt positioning hardware
Tether easy to tighten (& release)		One hand to tighten	Two hands but easy	Other	
Does belt-positioning device allow excessive slack to occur including lock off		Guides only		Slack could be introduced	n/a, no belt positioning hardware
Ease of tightening belt around CRS		???	????	???	

Appendix B

Proposed Ease of Use Rating Sample

NHTSA Ease of Use Rating Sample

Evaluation Category	Feature	Possible Points for Feature	Example Rating	Example Rating: Points for Each Feature	Feature Weight	Example Rating: Weighted Points for Each Feature	Category Point Range for C Rating	Category Point Range for B Rating	Category Point Range for A Rating	Example Rating: Result for this Category
Assembly										
	All functional parts including seat pad or cover attached and ready to use	1, 3	C	1	2	2				
	Tether attached to child restraint	1, 3	C	1	2	2				
	Owner's manual easy to find	1, 2, 3	A	3	1	3				
	Obvious storage (pocket) for manual	1, 2, 3	C	1	2	2				
	Total					9	7 to 11	12 to 16	17 to 21	C
Labels/ Instructions										
	Clear indication of child's size range	1, 2, 3	A	3	2	6				
	All mode/s of use clearly indicated e.g., rear-facing only or forward- and rear-facing if convertible	1, 2, 3	A	3	2	6				
	Air bag warning in written instructions	1, 2, 3	A	3	2	6				
	Show harness slots okay to use for occupant size	1, 2, 3	C	1	3	3				
	Instructions for routing for both lap belt and lap/shoulder belt in all modes	1, 2, 3	A	3	2	6				
	Visibility of seat belt routing (for lap belt and lap/torso) when CRS in position in vehicle i.e., is seat belt routing obvious	1, 2, 3	C	1	3	3				
	Visibility of tether use	1, 3	A	3	2	6				
	Information in written instructions and on labels match	1, 3	A	3	2	6				
	Durability of labels	1, 2, 3	B	2	2	4				
	Total					46	20 to 33	34 to 47	48 to 60	B
Securing the Child										
	Buckle can be secured in reverse	1, 2, 3	C	1	3	3				
	Harness adjustment easy to tighten or loosen when child restraint installed	1, 2, 3	B	2	3	6				
	Number of harness slots/usable slots	1, 2, 3	B	2	1	2				
	Ease of attaching/removing base (infant restraint systems only)	1, 2, 3	C	1	3	3				
	Ease of conversion rear-facing to forward-facing or forward-facing to booster and back again	1, 2, 3	A	3	3	9				
	Visibility of harness slots	1, 2, 3	A	3	2	6				
	Ease of changing harness slot positions	1, 2, 3	A	3	2	6				
	Ease of reassembly if pad/cover removed for cleaning	1, 2, 3	C	1	3	3				
	Ease of adjusting/removing shield	1, 2, 3	A	3	1	3				
	Total					41	21 to 35	36 to 49	50 to 63	B
Installing in Vehicle										
	Separation of vehicle belt path	1, 2, 3	B	2	3	6				
	Ease of vehicle belt routing (hand clearance)	1, 2, 3	B	2	2	4				
	Ease of seat belt routing (boosters)	1, 2, 3	B	2	2	4				
	Ease of use of any belt-positioning hardware on CRS, including lock-off	1, 2, 3	A	3	1	3				
	Tether easy to tighten (& release)	1, 2, 3	C	1	3	3				
	Does belt-positioning device allow slack to occur	1, 3	C	1	3	3				
	Ease of tightening belt around CRS	1, 2, 3	A	3	2	6				
	Total					29	16 to 26	27 to 37	38 to 48	B
Overall Rating										B
Qualifiers:										
To be rated B, no more than one out of four categories can be rated C										
To be rated A, no more than one out of four categories can be rated less than A										

Appendix C

Final Ease of Use Rating and Scoring Forms

NHTSA Ease of Use Rating Form – 2002

Complete if Infant Restraint or Convertible RF Mode

Date _____ Evaluated by _____ Seat # (on tag) _____

Manufacturer _____ DOM _____

Make & Model _____ Model # (on CRS) _____

If optional base, model # on base _____ DOM on base _____

Style: ❑ Infant (RF) ❑ Convertible (RF/FF) ❑ Car Bed

Infant restraint has optional base ❑ Yes ❑ No

Harness: ❑ 5-point ❑ "V" or 3-point ❑ T-shield ❑ OH shield

Measurements

Total number of crotch strap positions ❑ 1 ❑ 2

Distance crotch strap opening on base to seat bight Position 1 _____ Position 2 _____

Lower harness slot height (bottom center slot to seat bight) _____ Upper harness slot height _____ ❑ n/a

Seat height (from seat bight) _____ ❑ n/a (no back-booster)

Size range given in owner's manual: **Date on manual:** _____

	WEIGHT (kg and lb)		HEIGHT (cm and inches)	
	Minimum	Maximum	Minimum	Maximum
RF				

NHTSA Ease of Use Rating Form – 2002

Complete if Infant Restraint or Convertible RF Mode

Make & Model _____ Seat # (on tag) _____

Assembly *(When first out of box)*

	A	B	C	Notes
All functional parts including seat pad or cover attached and ready to use; rear facing slots for lowest weight range	Yes*	No, tools not required	No, tools required	*parent may still need to adjust system to fit child
Owner's manual easy to find when taken out of box	Attached to child restraint in a clearly visible location	Attached to child restraint but not clearly visible	In box, not attached	
Storage system for manual	Manual removed and replaced easily		Manual cannot be removed and replaced easily	

Evaluation of Labels

	A	B	C	Notes
Clear indication of child's size range e.g., picture of child in seat use of harness clip weight range	Separate clear text with illustrations of child in upper range		Separate clear text Independent paragraph	
All mode/s of use clearly indicated e.g., rear-facing only or rear-facing vs. forward-facing, LATCH	CRS illustration in complete vehicle seat (not FSP) Mode/s clear, ***No need*** to read text	CRS illustration in outline vehicle seat (could be front seat) ***Need*** to read text	No illustration, text only May be illustrated, but not all modes shown	
Instructions for routing for both lap belt and lap/shoulder belt	Illustrated clearly with CR in vehicle seat Lap, lap/ shoulder belts ***No need*** to read text	Illustrated, outlined or no vehicle seat ***Need*** to read text	Not all modes illustrated Unclear or incorrect instructions	
Shows how to prepare lower attachments for use	Visually obvious and able to use with illustration only, no need to read text OR No illustration required	Illustration plus written instructions provided, need to read text	Written instructions only provided or nothing	In "A" category one or two words OK for extra clarification
Shows how to use lower attachments	Visually obvious and able to use with illustration only, no need to read text	Illustration plus written instructions provided, need to read text	Written instructions only provided or nothing	In "A" category one or two words OK for extra clarification

NHTSA Ease of Use Rating Form – 2002

Complete if Infant Restraint or Convertible RF Mode

Evaluation of Labels *(Continued)*

		A	B	C	Notes
Visability of seat belt routing (for lap and lap/shoulder belts), and lower LATCH attachments, when CRS in position in vehicle i.e. Is seat belt routing, LATCH attachments obvious?	***Without base***	Clear routing illustration or clear contrast belt path marking ***No need*** to read text	Markings or some form of routing illustration ***Need*** to read text	Illustrations do not match CRS or belt direction or are hidden by seat cover	LATCH n/a
	Installing add-on base (alone)	Clear routing/ LATCH attachment illustration or clear contrast belt path marking ***No need*** to read text	Markings or some form of routing illustration ***Need*** to read text	Illustrations do not match CRS or belt direction or are hidden by seat cover	n/a
Durability of labels		Sticky label not peeling or other method of technology label not peeling		Sticky label if one or more are already peeling when restraint removed from box	

Evaluation of Instructions

	A	B	C	Notes
Clear indication of child's size range e.g., picture of child in seat use of harness clip weight range	Separate clear text with illustrations of child in upper range		Separate clear text Independent paragraph	
All mode/s of use clearly indicated e.g., rear-facing only or rear-facing vs. forward-facing, LATCH	CRS illustration in complete vehicle seat (not FSP) Mode/s clear, ***No need*** to read text	CRS illustration in outline vehicle seat (could be front seat) ***Need*** to read text	No illustration, text only May be illustrated, but not all modes shown	
Air bag warning in written instructions	Separate, highlighted & illustrated	Separate & highlighted	Buried in other text or no warning	
Instructions for routing for both lap belt and lap/shoulder belt	Illustrated clearly with CR in vehicle seat Lap, lap/ shoulder belt ***No need*** to read text	Illustrated, outlined or no vehicle seat ***Need*** to read text	Not all illustrated Unclear or incorrect instructions	
Instructions describe how to prepare lower LATCH attachments for use	Visually obvious, able to use with illustration only	Illustration plus written instructions provided	Written instructions only provided or nothing	In "A" caterogy one or two words OK for extra clarification
Instructions show how to use lower LATCH attachments	Visually obvious, able to use with illustration only	Illustration plus written instructions provided	Written instructions only provided or nothing	In "A" caterogy one or two words OK for extra clarification

NHTSA Ease of Use Rating Form – 2002

Complete if Infant Restraint or Convertible RF Mode

Evaluation of Instructions *(Continued)*

	A	B	C	Notes
Orientation for LATCH lower attachments	Correct orientation of LATCH lower attachments clearly illustrated or text clearly states that it can be used in any orientation	Correct orientation of LATCH lower attachments explained only in text	No information regarding orientation of LATCH lower attachments	n/a if orientation cannot be changed
Information in written instructions and on labels match (size measurements)	Yes		No	

Securing the Child

	A	B	C	Notes
Buckle can be secured in reverse	No, or yes but usual release works with same degree of effort	Yes, but usual release requires more effort	Yes, but can't use release mechanism	
When installed, easy access to harness adjustment for tightening and loosening	Yes		No	
Harness adjustment easy to tighten or loosen when child restraint is installed	One hand to tighten/loosen, or automatically adjusts Max 2 to loosen	Two hands to tighten/loosen, but easy No re-threading	Other	*Do not count one hand to support CRS*
Number of harness slots match (plastic and pad)	Yes		No	
Number of harness slots in shell	At least 3 or 1 adjustable	2	1	
Visibility of harness slots	Clear view of all slots (slots aligned)	Clear view cloth slots, not aligned with plastic slots	Something in way when sold, e.g. pad, head hugger	
Ease of conversion forward-facing to rear-facing	One hand to change Easy to access	1-2 hands to change – not easily access-ible or binds	Other	n/a, single mode
Ease of changing harness slot position	No need to re-thread Possible for one person to do	Possible for one person to do, easy to attach/remove Large slots easy to thread	Other, slot size too small for easy threading Loose mandatory pieces Could misroute through buckle or could incorrectly resecure, requires multiple threading of harness	

NHTSA Ease of Use Rating Form – 2002

Complete if Infant Restraint or Convertible RF Mode

Securing the Child *(Continued)*

	A	B	C	Notes
Ease of re-assembly if pad/cover removed for cleaning or rethreading of harness	No loose parts Easy to attach/ remove – clear slots No realignment necessary	No loose parts Slots may be misaligned	Loose parts, need hand tool Slot size too small for easy threading Could misroute through buckle	
Ease of adjusting/removing shield	Clear illustration, simple action, shield marked	Need to read text, simple action, shield not marked	Other tool/s required	n/a, no shield n/a, shield not adjustable

Installing in Vehicle

		A	B	C	Notes
Separation of vehicle belt path from harness	***Without base***	No contact possible		Possible contact including crotch strap	
	Installing add-on base (alone)	No contact possible	Cover	Possible contact	n/a
Can lower LATCH attachments interfere with harness	***Without base***	No		Yes	n/a
	Installing add-on base (alone)	No		Yes	n/a
Ease of vehicle belt routing (hand clearance)	***Without base***	Male hand can route s/b through including flap in seat, nothing in way	Male hand fit but need to move CRS (no x-tilt), or move padding	Hand does not fit	
	Installing add-on base (alone)	Male hand can route s/b through including flap in seat	Male hand fit but need to move CRS (no x-tilt)	Hand does not fit	n/a
Ease of attaching/removing infant seat from base		One hand to attach Max two to release – handle easy to access	One hand to attach Max two to release – handle not easily accessible	Other includes need to tilt or tip to release	n/a, no base offered with this infant restraint
Ease of use of any belt positioning feature on CRS including lock-off		One hand to use	Two hands to use	Detachable or multiple steps	n/a, no belt positioning hardware
Presence of feedback for seat back angle	***Seat***	Yes		No	
	Base	Yes		No	n/a
LATCH lower attachment can be installed in reverse		No, or yes but works in usual way	Yes, but usual release requires more effort	Yes, and can't release	

NHTSA Ease of Use Rating Form – 2002

Complete if Convertible FF Mode , Forward Facing Only or Transitional with Harness

Date _____ Evaluated by _____ Seat # (on tag) _____

Manufacturer _____ DOM _____

Make & Model _____ Model # (on CRS) _____

Style: ❑ Convertible (RF/FF) ❑ FF only ❑ Combination (FF harness/booster)

Harness: ❑ 5-point ❑ "V" or 3-point ❑ T-shield ❑ OH shield ❑ Shield booster

Measurements

Total number of crotch strap positions ❑ 1 ❑ 2

Distance crotch strap opening on base to seat bight Position 1 _____ Position 2 _____ ❑ n/a

Lower harness slot height (bottom center slot to seat bight) _____ Upper harness slot height _____ ❑ n/a

Seat height (from seat bight) _____

Size range given in owner's manual: **Date on manual:** _____

	WEIGHT (kg and lb)		HEIGHT (cm and inches)	
	Minimum	Maximum	Minimum	Maximum
FF				

NHTSA Ease of Use Rating Form – 2002

Complete if Convertible FF Mode , Forward Facing Only or Transitional with Harness

Make & Model _____ Seat # (on tag) _____

Assembly *(When first out of box)*

	A	B	C	Notes
All functional parts including seat pad or cover attached and ready to use; harness in lowest usable slots; includes tether attached (FF only)	Yes*	No, tools not required	No, tools required	*parent may still need to adjust system to fit child n/a if convertible
Tether attached to restraint	Yes		No	n/a if single mode
Owner's manual easy to find when taken out of box	Attached to child restraint in a clearly visible location	Attached to child restraint but not clearly visible	In box, but not attached	
Storage system for manual	Manual removed and replaced easily		Manual cannot be removed and replaced easily	

Evaluation of Labels

	A	B	C	Notes
Clear indication of child's size range e.g., picture of child in seat use of harness clip weight range	Separate clear text with illustrations of child in upper range		Separate clear text Independent of illustration or no illustration	
All mode/s of use clearly indicated e.g., FF + tether (v. RF) FF + tether (v. booster) LATCH	CRS illustration in vehicle seat (not FSP) Mode/s clear, no need to read text	CRS illustration in outline vehicle seat (could be front seat) Need to read text	No illustration, text only May be illustrated, but not all modes shown (e.g. tether not shown)	
Shows which harness slots OK to use	Clear illustrations or markings ***No need*** to read text	Markings of top slot ***Need*** to read text	Text only or missing	n/a, all can be used
Instructions for routing both lap belt and lap/shoulder belt	Illustrated clearly with CR in vehicle seat and tether in illustration ***No need*** to read text	Illustrated, outlined or no vehicle seat Tether may have own illustration ***Need*** to read text	Not all modes illustrated (e.g. tether not shown) or unclear instructions	
Shows how to prepare lower attachments for use	Visually obvious and able to use with illustration only, no need to read text OR No illustration required	Illustrations plus written instructions provided, need to read text	Written instructions only provided or nothing	In "A" category one or two words OK for extra clarification

NHTSA Ease of Use Rating Form – 2002

Complete if Convertible FF Mode , Forward Facing Only or Transitional with Harness

Evaluation of Labels *(Continued)*

	A	B	C	Notes
Shows how to use lower attachments	Visually obvious and able to use with illustration only, no need to read text	Illustrations plus written instructions provided, need to read text	Written instructions only provided or nothing	In "A" category one or two words OK for extra clarification
Visability of seat belt routing (for lap and lap/shoulder belts), and LATCH attachments, when CRS in vehicle position i.e. Is seat belt routing, LATCH attachments obvious?	Clear routing illustration or clear contrast belt path, LATCH marking ***No need*** to read text	Markings or some form of routing illustration ***Need*** to read text	Illustrations do not match CRS or belt direction or are hidden by seat cover	
Durability of labels	Sticky label not peeling or other method of technology label not peeling		Sticky label if one or more are already peeling when restraint removed from box	

Evaluation of Instructions

	A	B	C	Notes
Clear indication of child's size range e.g., picture of child in seat use of harness clip weight range	Separate clear text with illustrations of child in upper range		Separate clear text Independent paragraph	Must have illustration with at least weight
All mode/s of use clearly indicated e.g., FF + tether (v. RF) FF + tether (v. booster) lower LATCH	CRS illustration in vehicle seat (not FSP) Mode/s clear, no need to read text	CRS illustration in outline vehicle seat (could be front seat) Need to read text	No illustration, text only May be illustrated, but not all modes shown (e.g. tether not shown)	
Shows which harness slots OK to use	Clear illustrations or markings ***No need*** to read text	Markings of top slot ***Need*** to read text	Text only or missing	n/a, all can be used
Air bag warning in written instructions	Separate, highlighted & illustrated	Separate & highlighted	Buried in other text or no warning	
Instructions for routing both lap belt and lap/shoulder belt	Illustrated clearly with CR in vehicle seat and tether in illustration ***No need*** to read text	Illustrated, outlined or no vehicle seat Tether may have own illustration ***Need*** to read text	Not all modes illustrated (e.g. tether not shown) or unclear instructions	
Instructions describe how to prepare lower attachments for use	Visually obvious, able to use with illustrations only	Illustrations plus written instructions provided	Written instructions only provided or nothing	In "A" caterogy one or two words OK for extra clarification

NHTSA Ease of Use Rating Form – 2002

Complete if Convertible FF Mode , Forward Facing Only or Transitional with Harness

Evaluation of Instructions *(Continued)*

	A	B	C	Notes
Instructions show how to use lower attachments	Visually obvious, able to use with illustrations only	Illustrations plus written instructions provided	Written instructions only provided or nothing	In "A" caterogy one or two words OK for extra clarification
Orientation for LATCH tether and lower attachments	Correct orientation of LATCH tether and lower attachments clearly illustrated or text clearly states that it can be used in any orientation	Correct orientation of LATCH tether and lower attachments explained only in text	No information regarding orientation of LATCH tether and lower attachments	n/a if orientation cannot be changed
Information in written instructions and on labels match (size measurements)	Yes		No	

Securing the Child

	A	B	C	Notes
Buckle can be secured in reverse	No, or yes but usual release works with same degree of effort	Yes, but usual release requires more effort	Yes, but can't use release mechanism	
When installed, easy access to harness adjustment for tightening and loosening	Yes		No	
Harness adjustment easy to tighten or loosen when child restraint is installed	One hand to tighten/loosen, or automatically adjusts Max 2 to loosen	Two hands to tighten/loosen, but easy No re-threading	Other	*Do not count one hand to support CRS*
Number of harness slots match (plastic and pad)	Yes		No	
Number of harness slots in shell	At least 3 or 1 adjustable	2	1	
Visibility of harness slots	Clear view of all slots (slots aligned)	Clear view of cloth slots, not aligned with plastic slots	Something in way when sold, e.g. pad, head hugger	
Ease of conversion from rear-facing to forward-facing	One hand to change Easy to access	1-2 hands to change – not easily access-ible or binds	Other	n/a, single mode
Ease of conversion from booster to forward-facing	Easy to access Illustrations provided on seat showing change made	Easy to access No illustration provided on seat	Access difficult or need instructions	n/a

NHTSA Ease of Use Rating Form – 2002

Complete if Convertible FF Mode , Forward Facing Only or Transitional with Harness

Securing the Child *(Continued)*

	A	B	C	Notes
Ease of changing harness slot position	No need to re-thread Possible for one person to do	Possible for one person to do, easy to attach/remove Large slots easy to thread	Other, slot size too small for easy threading Loose mandatory pieces Could misroute, requires multiple threading of harness or could incorrectly resecure	
Ease of re-assembly if pad/cover removed for cleaning or rethreading of harness	No loose parts Easy to attach/ remove – clear slots No realignment necessary	No loose parts Slots may be misaligned	Loose parts, need hand tool Slot size too small for easy threading Could misroute through buckle	
Ease of adjusting/removing shield	Clear illustration, simple action, shield marked	Need to read text, simple action, shield not marked	Other tool/s required	n/a, no shield n/a, shield not adjustable

Installing in Vehicle

	A	B	C	Notes
Separation of vehicle belt path from harness	No contact possible		Possible contact including crotch strap	
Can lower LATCH attachments interfere with harness	No		Yes	
Ease of vehicle belt routing (hand clearance)	Male hand can route s/b through including flap in seat, nothing in way	Male hand fit but need to move CRS (no x-tilt), or move padding	Hand does not fit	
Ease of use of any belt positioning feature on CRS including lock-off	One hand to use	Two hands to use	Detachable or multiple steps	n/a, no belt lock feature
Tether easy to tighten (& release)	One hand to tighten/loosen	Two hands but easy	Other	
LATCH tether and lower attachments can be installed in reverse	No, or yes but works in usual way	Yes, but usual release requires more effort	Yes, and can't release	

NHTSA Ease of Use Rating Form – 2002

Complete if Booster or Transitional Mode

Date _____ Evaluated by _____ Seat # (on tag) _____

Manufacturer _____ DOM _____

Make & Model _____ Model # (on CRS) _____

Type:
- ❑ Booster Only
- ❑ Combination (harness/booster)
- ❑ Other, energy absorbing restraint

Style:
- ❑ No-back with non-removable shield
- ❑ No-back with removable shield
- ❑ No-back NO shield
- ❑ High back with soft back
- ❑ High back with hard back
- ❑ No base

Booster recommended for use with:

Lap/shoulder	❑ Yes	❑ No	❑ not shown on seat
Lap belt	❑ Yes	❑ No	❑ not shown on seat

If shield booster, recommended shoulder belt position: ❑ front of child ❑ behind child ❑ not shown on seat ❑ n/a

Measurements

Seat height (from seat bight) ❑ n/a (no back-booster)

Size range given in owner's manual: **Date on manual:** _____

	WEIGHT (kg and lb) (Optional for belt-positioning seats)		HEIGHT (cm and inches)	
	Minimum	Maximum	Minimum	Maximum
Booster				

NHTSA Ease of Use Rating Form – 2002

Complete if Booster or Transitional Mode

Make & Model_____ Seat # (on tag) _____

Assembly *(When first out of box)*

	A	B	C	Notes
All functional parts including seat pad or cover attached and ready to use	Yes*	No, tools not required	No, tools required	*parent may still need to adjust system to fit child n/a if combination seat
Owner's manual easy to find when taken out of box	Attached to child restraint in a clearly visible location	Attached to child restraint but not clearly visible	In box, but not attached	
Storage system for manual	Manual removed and replaced easily		Manual cannot be removed and replaced easily	

Evaluation of Labels

	A	B	C	Notes
Clear indication of child's size range e.g., picture of child in seat weight and height range	Separate clear text with illustrations of child in upper range		Separate clear text Independent paragraph	Belt positioning seat may show height only
Mode of use clearly indicated (i.e. with lap belt or lap/shoulder belt, and if transitional seat, booster v. FF with harness)	CRS illustration in complete vehicle seat (not FSP) Mode/s clear, ***No need*** to read text	CRS illustration in outline vehicle seat (could be front seat) ***Need*** to read text	No illustration, text only May be illustrated, but not all modes shown	
Instructions for routing lap/shoulder belt and lap if applicable	Illustrated clearly with CR in vehicle seat Lap/shoulder belt in illustration ***No need*** to read text	Illustrated, outlined or no vehicle seat ***Need*** to read text	Not all modes illustrated, unclear or incorrect instructions	Whether or not OK for both lap and lap/shoulder seat belt
Visability of seat belt routing (for lap and lap/shoulder belts) when CRS in position in vehicle i.e. Is seat belt routing obvious?	Clear routing illustration or clear contrast belt path marking ***No need*** to read text	Markings or some form of routing illustration ***Need*** to read text	Illustrations do not match CRS or belt direction or hidden by seat cover	
Durability of labels	Sticky label not peeling or other method of technology label not peeling		Sticky label if one or more are already peeling when restraint removed from box	

NHTSA Ease of Use Rating Form – 2002

Complete if Booster or Transitional Mode

Evaluation of Instructions

	A	B	C	Notes
Clear indication of child's size range	Separate clear text with illustrations of child in upper range		Separate clear text Independent paragraph	
Mode of use clearly indicated (i.e. with lap belt or lap/shoulder belt, and if transitional seat, booster v. FF with harness)	CRS illustration in complete vehicle seat (not FSP) Mode/s clear, ***No need*** to read text	CRS illustration in outline vehicle seat (could be front seat) ***Need*** to read text	No illustration, text only May be illustrated, but not all modes shown	
Air bag warning in written instructions	Separate, highlighted & illustrated	Separate & highlighted	Buried in other text or no warning	
Instructions for routing both lap belt and lap/shoulder belt	Illustrated clearly with CR in vehicle seat Lap, lap/shoulder belt in illustration ***No need*** to read text	Illustrated, outlined or no vehicle seat ***Need*** to read text	Not all modes illustrated, unclear or incorrect instructions	Whether or not OK for both lap and lap/shoulder seat belt
Information in written instructions and on labels match (size measurements)	Yes		No	

Securing the Child

	A	B	C	Notes
Ease of conversion forward facing to booster or highback to backless	Easy to access illustrations provided on seat showing mode change	Easy access no illustrations provided on seat	Access difficult or need instructions	n/a

Installing in Vehicle

	A	B	C	Notes
Ease of use of any belt-positioning hardware on CRS	One hand to use	Two hands to use	Detachable or multiple steps	n/a, no belt positioning hardware
Does belt-positioning device allow slack to occur	No		Yes	n/a, no belt positioning hardware

Booster Seat Scoring Form

CRS #		**BOOSTER or TRANSITIONAL MODE**		
A=3,B=2,C=1		A = 3, B = 2, C = 1		
Weighting Factor		**Feature**	**0-N/A A (3) B (2) C (1)**	
		Assembly	**Score**	**Weighted Score**
A	3	Is seat assembled ready to use		0
B	2	Owner's manual easy to find		0
B	2	Storage system for manual		0
			Total	0
			Weighted Ave	0.00
			Score	C
		Evaluation of Labels		
A	3	Clear indication of child's size range		0
A	3	mode/s of use clearly indicated		0
A	3	Instructions for routing s/b		0
A	3	Visibility of seat belt routing		0
B	2	Durability of labels		0
			Total	0
			Weighted Ave	0.00
			Score	C
		Evaluation of Instructions (manual)		
B	2	Clear indication of child's size range		0
B	2	mode of use clearly indicated		0
B	2	Air bag warning in written instructions		0
B	2	Instructions for routing of s/b		0
B	2	Information in written instructions and labels match		0
			Total	**0**
			Weighted Ave	0.00
			Score	C
		Securing the Child		
B	2	Ease of conversion from high back to backless		0
		(could be n/a)	Score	C
		Installation in vehicle		
B	2	Ease of use of belt positioning device		0
A	3	Does belt positioning device allow slack		0
		(note could be n/a for both)	Total	**0**
			Weighted Ave	0.00
			Score	C
			TOTAL	0
			Weighted Ave	0.00
			Overall Score	C

Rear Facing Scoring Form

CRS #		**INFANT REAR FACING or CONVERTIBLE RF**		
A=3,B=2,C=1		Ratings A = 3, B = 2, C = 1		
Weighted Factor		**Feature**	**0-N/A A (3) B (2) C (1)**	
		Ready to use	**Score**	**Weighted Score**
A	3	Assembled ready to use		0
B	2	Owner's manual easy to find		0
B	2	Storage system for manual		0
			Total	0
			Weighted Ave	0.00
			Score	**C**
		Evaluation of Labels		
A	3	Clear indication of child's size		0
A	3	All modes clearly indicated		0
A	3	Instructions for routing s/b		0
A	3	Shows how to prepare attachments		0
A	3	Shows how to use attachments		0
		Visibility of seat belt routing/LATCH		
A	3	without base (latch n/a)		0
A	3	base alone *(infant seat w/base would have 2 scores)*		0
B	2	Durability of labels		0
			Total	0
			Weighted Ave	0.00
			Score	**C**
		Evaluation of Instructions (manual)		
B	2	Clear indication of child's size		0
B	2	Mode/s of use clearly indicated		0
B	2	Air bag warning in written instructions		0
B	2	Instructions for routing belts		0
B	2	Instructions describe how to use attachments		0
B	2	Instructions show how to use attachments		0
B	2	Orientation for LATCH		0
B	2	Information in written instructions and labels match		0
			Total	0
			Weighted Ave	0.00
			Score	**C**
		Securing the child		
A	3	Buckle can be secured in reverse		0
A	3	When installed, easy access to harness adjustment		0
A	3	Harness adjustment easy to tighten and loosen		0
B	2	No. of harness match (pad and shell)		0
A	3	No. harness slots in shell		0
B	2	Visibility of harness slots		0
A	3	Ease of conversion forward-facing to rear-facing		0
B	2	Ease of changing harness slot position		0
A	3	Ease of reassembly		0
B	2	Ease of adjusting/removing shield		0
			Total	0
			Weighted Ave	0.00
			Score	**C**
		Installation in vehicle		
		Separation of vehicle belt path from harness:		
A	3	without base		0
A	3	base alone *(infant seat w/ base would have 2 scores)*		0
		Can lower LATCH attachments interfere with harness		
A	3	seat		0
A	3	base		0
		Ease of vehicle belt routing:		
B	2	without base		0
B	2	base alone *(infant seat w/ base would have 2 scores)*		0
A	3	Ease of attaching/removing from base		0
B	2	Ease of use of any belt positioning feature		0
		Presence of seat back angle:		
A	3	seat		0
A	3	base		0
A	3	Can lower LATCH attachments be installed in reverse		0
			Total	0
			Weighted Ave	0.00
			Score	**C**
			TOTAL	**0**
			Weighted Ave	0.00
			Overall Score	**C**

Forward Facing Scoring Form

CRS #		**CONVERTIBLE FF, FF ONLY or TRANSL w/HARNESS**		
ALL CRS				
A=3,B=2,C=1		Ratings A = 3, B = 2, C = 1		
Weighting Factor		**Feature**	**0-N/A A** **(3) B** **(2) C** **(1)**	
		Ready to use	**Score**	**Weighted Score**
A	3	Assembled ready to use (n/a if convertible)		0
A	3	Tether attached and ready to use (n/a if single mode)		0
B	2	Owner's manual easy to find		0
B	2	Storage system for manual		0
			Total	0
			Weighted Ave	0.00
			Score	C
		Evaluation of Labels		
A	3	Clear indication of child's size		0
A	3	All modes clearly indicated		0
A	3	Shows harness slots OK to use		0
A	3	Instructions for routing s/b		0
A	3	Shows how to prepare attachments		0
A	3	Shows how to use attachments		0
A	3	Visibility of seat belt routing/LATCH		0
B	2	Durability of labels		0
			Total	0
			Weighted Ave	0.00
			Score	C
		Evaluation of Instructions (manual)		
B	2	Clear indication of child's size		0
B	2	Mode/s of use clearly indicated		0
B	2	Shows which harness slots OK to use		0
B	2	Air bag warning in written instructions		0
B	2	Instructions for routing belts		0
B	2	Instructions describe how to prepare attachments		0
B	2	Instructions show how to use attachments		0
B	2	Orientation for LATCH		0
B	2	Information in written instructions and labels match		0
			Total	0
			Weighted Ave	0.00
			Score	C
		Securing the child		
A	3	Buckle can be secured in reverse		0
A	3	When installed, easy access to harness adjustment		0
A	3	Harness adjustment easy to tighten and loosen		0
B	2	No. of harness slots match (shell and pad)		0
A	3	No. of harness slots in shell (max.)		0
B	2	Visibility of harness slots		0
A	3	Ease of conversion rear-facing to forward-facing		0
A	3	Ease of conversion from booster to forward-facing		0
		If single mode no ease of conversion score:		
B	2	Ease of changing harness slot position		0
A	3	Ease of reassembly		0
B	2	Ease of adjusting/removing shield		0
			Total	0
			Weighted Ave	0.00
			Score	C
		Installation in vehicle		
A	3	Separation of vehicle belt path from harness		0
A	3	Can lower LATCH attachments interfere with harness		0
B	2	Ease of vehicle belt routing		0
B	2	Ease of use of any belt positioning feature		0
A	3	Tether easy to tighten and loosen		0
A	3	Can lower LATCH attachments be installed in reverse		0
			Total	0
			Weighted Ave	0.00
			Score	C
			TOTAL	0
			Weighted Ave	0.00
			Overall Score	C

Appendix D

Final Ease of Use Rating Sample

Final Ease of Use Rating Sample

Evaluation Category	Feature	Possible Points for Feature	Example Feature Rating	Example Rating: Points for Each Feature	Fixed Weighting Factor	Example Feature Score= Feature Rating x Fixed Weighting Factor	Weighted Avg. = Feature Score/ Sum of (appl.) fixed Weighting Factors	Category Score	Overall Weighted Avg. = Sum of all Feature Scores /Sum of all Fixed Weighting Factors	Overall Rating
Assembly										
	All functional parts including seat pad or cover attached and ready to use; harness in lowest slots; includes tether attached	1, 2, 3/ n/a	B	2	3	6				
	Tether attached and ready to use	1,3, n/a	n/a		3	n/a				
	Owner's manual easy to find when taken out of box	1, 2, 3	A	3	2	6				
	Storage system for manual	1, 3	G	1	2	2				
	Total					**14**	**14/7 = 2.00**	**B**		
Labels										
	Clear indication of child's size range	1, 3	A	3	3	9				
	All mode/s of use clearly indicated e.g., FF + tether (vs. RF) FF + tether (vs. booster); LATCH	1, 2, 3	B	2	3	6				
	Show which harness slots OK to use	1, 2, 3,n/a	n/a	n/a	3	n/a				
	Instructions for routing both lap and lap/shoulder belt	1, 2, 3	C	1	3	3				
	Shows how to prepare lower attachments for use	1, 2, 3	B	2	3	6				
	Shows how to use lower attachments	1, 2, 3	B	2	3	6				
	Show which harness slots OK to use									
	Visibility of seat belt routing for lap belt and lap/shoulder, LATCH when crs in vehicle position	1, 2, 3	C	1	3	3				
	Durability of labels	1, 3	A	3	2	6				
	Total					**39**	**39/20 = 1.95**	**B**		
Instructions										
	Clear indication of child's size range	1, 3	A	3	2	6				
	All mode/s of use clearly indicated e.g., FF + tether (vs. RF) FF + tether (vs. booster); LATCH	1, 2, 3	A	3	2	6				
	Show which harness slots OK to use	1, 2, 3, n/a	n/a	n/a	2	n/a				
	Air bag warning in written instructions	1, 2, 3	C	1	2	2				
	Instructions for routing both lap and lap/shoulder belt	1, 2, 3	B	2	2	4				
	Instructions describe how to prepare lower attachments for use	1, 2, 3	B	2	2	4				
	Instructions show how to use lower attachments	1, 2, 3	B	2	2	4				
	Orientation for LATCH tether and lower attachments	1, 2, 3	B	2	2	4				
	Information in written instructions and on labels match	1, 3	A	3	2	6				
	Total					**36**	**36/16 = 2.25**	**B**		
Securing the Child										
	Buckle can be secured in reverse	1, 2, 3	A	3	3	9				
	When installed, easy access to harness adjustment for tightening and loosening	1,3	A	3	3	9				
	Harness adjustment easy to tighten or loosen when child restraint installed	1, 2, 3	B	2	3	6				
	Number of harness slots match	1, 3	A	3	2	6				
	Number of harness slots in shell	1, 2, 3	B	2	3	6				
	Visibility of harness slots	1, 2, 3	B	2	2	4				
	Ease of conversion rear-facing to forward-facing	1, 2, 3, n/a	n/a	n/a	3	n/a				
	Ease of conversion from booster to forward-facing	1, 2, 3, n/a	A	3	3	9				
	Ease of changing harness slot position	1, 2, 3	B	2	2	4				
	Ease of reassembly if pad/cover removed for cleaning or rethreading	1, 2, 3	C	1	3	3				
	Total					**56**	**56/24 = 2.33**	**B**		
Installing in Vehicle										
	Separation of vehicle belt path from harness	1, 3	A	3	3	9				
	Can lower LATCH attachments interfere with harness	1, 3	A	3						
	Ease of vehicle belt routing	1, 2, 3	A	3	2	6				
	Ease of use of any belt-positioning hardware on CRS, including lock-off	1, 2, 3,n/a	n/a	n/a	2	n/a				
	Tether easy to tighten (& release)	1, 2, 3	A	3	3	9				
	LATCH tether and lower attachments can be installed in reverse	1, 2, 3	A	2	3	6				
	Total					**30**	**30/10 = 3.0**	**A**		
	Overall Rating								**175/77= 2.27**	**B**
	Weighted Averages:									
	A = from 2.40 to 3.00									
	B = from 1.70 to less than 2.40									
	C = less than 1.70									

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–02–10053]

RIN 2127–AI65

Consumer Information; Safety Rating Program for Child Restraint Systems

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

ACTION: Final rule.

SUMMARY: Section 14(g) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act requires that, by November 1, 2002, a final rule be issued to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraint systems (CRS). In response to this mandate, NHTSA is establishing such a program. The program will not impose any binding legal obligations on any child restraint manufacturer regarding the generation or distribution of information.

The details of the new program are set forth in a companion document being published today in the **Federal Register**. The agency is establishing an ease of use rating program at this time. This rating program will enhance the safety of children by informing consumers about the features of child restraints that make child restraints easier to use, and evaluating each child restraint on those features. The agency anticipates that the program will result in more child restraints being used correctly. NHTSA is also evaluating whether to establish two complementary consumer information programs. The first would be based on child restraint dynamic performance. The second would involve expanding the agency's New Car Assessment Program to include consumer information on how vehicles do in protecting child occupants. The agency will be conducting two pilot programs in these areas to assess how to proceed in these programs.

DATES: The amendments made in this rule are effective January 6, 2003. If you wish to petition for reconsideration of this rule, your petition must be received by December 20, 2002.

ADDRESSES: If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC, 20590.

FOR FURTHER INFORMATION CONTACT: For issues related to the ease of use rating program, you may call Lori Miller of the Office of Planning and Consumer Standards, at (202) 366–2191. For issues related to the pilot programs for the dynamic performance of child restraints or for the New Car Assessment Program, call Nathaniel Beuse or Brian Park, respectively, of the Office of Crashworthiness Standards, at (202) 366–1740. For legal issues, call Deirdre Fujita of the Office of Chief Counsel, at (202) 366–2992. You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Congress has directed the National Highway Traffic Safety Administration (NHTSA) to establish a child restraint safety rating system that is practicable and understandable (Section 14 (g) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, November 1, 2000, Pub. L. 106–414, 114 Stat. 1800) and that will help consumers to make informed decisions when purchasing child restraints. Section 14(g) reads as follows:

> (g) Child restraint safety rating program. No later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a notice of proposed rulemaking to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraints. No later than 24 months after the date of the enactment of this Act the Secretary shall issue a final rule establishing a child restraint safety rating program and providing other consumer information which the Secretary determines would be useful [to] consumers who purchase child restraint systems.

NHTSA issued an NPRM (66 FR 56048; November 6, 2001) and a companion request for comments on the details of the new program (66 FR 56146; November 6, 2001). Nineteen comments were submitted in response.

Pursuant to the TREAD Act, the agency is issuing this final rule. In this final rule, the agency establishes a program for rating the ease-of-use of child restraints. This final rule accompanies the agency's Response to Comments, Notice of Final Decision published elsewhere in today's **Federal Register**. That document addresses the comments we received on the ratings program, and sets forth the complete details of the program established today.

The program furthers the agency's efforts to harmonize its regulations internationally where possible. The program is modeled after the Insurance Corporation of British Columbia's (ICBC's) ease of use program, which evaluates all child restraints sold in Canada. NHTSA's program uses similar ratings categories as those of the ICBC, and the features that are rated and the criteria for rating the restraints are based on ICBC's features and criteria.

The ratings program established today is just a first step towards providing consumers more information about child occupant protection for use in making informed purchasing decisions. NHTSA believes that the most effective consumer information system would be one that gives the consumer a combination of information about child restraints' ease of use and dynamic performance, and vehicle performance in crash tests. The ease of use program is sufficiently developed at this time to proceed, whereas programs evaluating the dynamic performance of child restraints and vehicles are not ready for implementation at this time.

The Notice of Final Decision explains that NHTSA will conduct a pilot test program of child restraints using new test devices and procedures incorporated into the Federal motor vehicle safety standard for child restraint systems. We will also conduct a pilot test program involving the placement of child restraints in vehicles tested in the agency's New Car Assessment Program in MY 2003 and 2004. The pilot programs will evaluate the performance of child restraints and the ability of vehicles to provide child occupant protection. The agency will evaluate the results of the two pilot programs to decide how the ratings programs on the dynamic performance of child restraints and vehicles should proceed.

In comments to the Request for Comments, the Juvenile Products Manufacturers Association (JPMA) suggested that Congress wanted NHTSA to establish the ratings program ''by rulemaking in order to ensure that public notice and an opportunity to comment would be provided not only for the initial establishment of the program, but also when subsequent changes to the program are contemplated.'' JPMA also stated that, to fulfill the mandate of section 14(g) of the TREAD Act, NHTSA must assure the public that it will not make changes to the ratings program without providing the public an opportunity to comment

and providing the industry time to change their products.

It is our current policy, and one generally followed in the past, to seek public input when establishing new consumer information ratings programs. Public comment on the performance criteria and test protocols to be used in the programs assists the agency in developing consumer information programs that are readily understandable to consumers and helpful to their purchasing decisions. Generally, the agency has sought comment through issuing a Request for Comments or by holding public meetings on possible consumer information programs under consideration, rather than issuing a Notice of Proposed Rulemaking (NPRM). The agency has not deemed it necessary formally to propose particular performance criteria and procedures through an NPRM because the purpose of the consumer information programs is to rate products. There is no minimum level of performance specified as in the FMVSS, and the performance criteria and test protocols impose no legally binding obligations on manufacturers and are not published in the Code of Federal Regulations. However, the Request for Comments we have issued and the meetings we have held have included descriptions of the performance criteria and test protocols under consideration. In our view, there is no substantive difference between providing for that notice and comment through these procedures or through a Notice of Proposed Rulemaking.

The TREAD Act requires that we initially establish this consumer information program through a Notice of Proposed Rulemaking and a Final Rule. It is silent as to the process contemplated for any substantive changes to the program in the future. Although the agency often seeks public comment on significant substantive changes in consumer information programs, the agency does not believe a formal process is required. The agency may determine, based on experience or testing, that changes in the program are necessary to provide more descriptive or more accurate information to the public. The agency is concerned that a prolonged comment period during the course of a program could unduly delay the public's access to the best information available with which to make purchase decisions. While Congress acted to ensure that this consumer information program was developed with public comment, we do not believe that Congress intended for there to be delays in providing ''timely information'' by requiring a full rulemaking process when experience has shown that the quality of the information available could be markedly enhanced.

Nor do we agree that the TREAD Act provision mandates that we provide leadtime for the industry to change their products in order to enhance performance in our consumer information program. Unlike the issuance or amending of a Federal motor vehicle safety standard, our consumer information programs impose no binding legal obligations on child restraint or vehicle manufacturers, and are therefore not constrained by the practicability concerns addressed through the statutory mandates applicable to the FMVSSs. Manufacturers may sell motor vehicles or motor vehicle equipment regardless of how well or poorly the product performs in our consumer information program, as long as it meets the requirements of any applicable FMVSS.

This issue illustrates the difference between making changes to our consumer information programs and making changes to the Federal motor vehicle safety standards. The consumer information programs are intended to identify distinctions between products and provide the public with useful and timely information about products currently available to them to assist their purchase decisions. The programs don't require product manufacturers to make any changes to their products. If the manufacturers decide nevertheless to make changes, they can make their own decisions about the timing, nature and extent of any changes. Delaying the implementation of new procedures and the dissemination of timely and useful information about currently available products would undermine, rather than further, the intent of the consumer information programs. The FMVSSs, on the other hand, are intended to ensure that all products subject to them meet minimum performance criteria in accordance with a uniform schedule set by the agency. Accordingly, sufficient leadtime is necessary to allow manufacturers to change their products in response to the new FMVSS requirements.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $ 100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal Governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This document was not reviewed under Executive Order 12866. Since this final rule will not establish a rule imposing binding legal obligations on any party, it does not involve a significant rule within the meaning of that Executive Order or the Department of Transportation's Regulatory Policies and Procedures. Further, preparation of a full regulatory evaluation is not required under these circumstances. NHTSA is issuing this final rule and a companion response to comments, instead of a response to comments alone, because section 14(g) of the TREAD Act expressly requires the issuance of a final rule.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule

will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. For the reasons noted above in the section on Executive Order 12866 and DOT Regulatory Policies and Procedures, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this final rule does not involve a rule that will have any significant impact on the quality of the human environment.

D. 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 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 regulation.

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

E. Civil Justice Reform

This final rule does not involve a rule that would have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 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 final rule does not require any collection of information.

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 NHTSA to use voluntary consensus standards in its 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 International Organization for Standardization (ISO), a worldwide voluntary federation of ISO member bodies. The NTTAA directs NHTSA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

The NTTAA does not apply to this final rule since it does not involve regulatory activities. The final rule will not impose binding legal obligations on any party. Nonetheless, NHTSA looked for but did not find voluntary consensus standards for an ease of use ratings program developed or adopted by voluntary consensus standards bodies. We did find and consider work being done by the ISO Usability Task Force on the ease of use of child restraints using ISOFIX systems. (ISOFIX refers to a child restraint anchorage system consisting of two lower anchor bars at the intersection of a vehicle seat cushion and vehicle seat back. A related anchorage system is what is commonly referred to as the LATCH system in the U.S.[1]) The ISO task force is in the early stages of exploring a possible ISOFIX ease of use ratings program.

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 final rule will not require any expenditures by State, local, or tribal governments, or by private parties.

List of Subjects in 49 CFR Part 575

Consumer information, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 575 is amended as follows:

[1] ''LATCH'' stands for ''Lower Anchors and Tethers for Children,'' a term that was developed by child restraint manufacturers and retailers to refer to the standardized child restraint anchorage system required by Federal Motor Vehicle Safety Standard No. 225, *Child Restraint Anchorage Systems* (49 CFR § 571.225). This system has two lower anchorages and one tether anchorage. Each lower anchorage includes a rigid round rod or bar onto which the connector of a child restraint system can be snapped. The bars will be located at the intersection of the vehicle seat cushion and seat back. The upper anchorage is a fixture to which the tether of a child restraint system can be hooked. The draft ISOFIX system would not include the upper tether anchorage.

PART 575—CONSUMER INFORMATION

1. The heading for part 575 is revised to read as set forth above.

2. The authority citation for part 575 is revised to read as follows:

Authority: 49 U.S.C. 32302, 30111, 30115, 30117, 30166, and 30168, and Pub.L. 106–414, 114 Stat. 1800; delegation of authority at 49 CFR 1.50.

3. The heading for subpart A is revised to read as follows:

Subpart A—Regulations; General

4. The heading for subpart B is revised to read as follows:

Subpart B—Regulations; Consumer Information Items

5. Subpart C is added to read as follows:

Subpart C—Transportation Recall Enhancement, Accountability, and Documentation Act; Consumer Information

§ 575.201 Child restraint performance.

The National Highway Traffic Safety Administration has established a program for rating the performance of child restraints. The agency makes the information developed under this rating program available through a variety of means, including postings on its Web site, *http://www.nhtsa.dot.gov.*

Issued on October 29, 2002.

Jeffrey W. Runge,

Administrator.

[FR Doc. 02–27998 Filed 10–31–02; 2:00 pm]

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Federal Register

Tuesday,
November 5, 2002

Part III

Securities and Exchange Commission

17 CFR Part 240

Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–46745; File No. S7–41–02]

RIN 3235–AI19

Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing to amend its rule granting an exemption to banks from dealer registration for certain de minimis riskless principal transactions, to amend certain of its rules that define terms used in the bank exceptions to dealer registration, and to grant a new exemption to banks from broker and dealer registration for certain securities lending under the Securities Exchange Act of 1934. These rules address certain of the exceptions for banks from the definitions of ''broker'' and ''dealer'' that were added to the Securities Exchange Act of 1934 by the Gramm-Leach-Bliley Act.

DATES: Comments should be submitted on or before December 5, 2002.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–41–02; this file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, comments should be submitted by one method only. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC 20549–0102. Electronically submitted comment letters will be posted on the Commission's Internet site (*http://www.sec.gov*). Personal identifying information, such as names or e-mail addresses will not be edited from electronic submissions. Submit only information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Catherine McGuire, Chief Counsel; Lourdes Gonzalez, Assistant Chief Counsel; or Linda Stamp Sundberg, Attorney Fellow; (202) 942–0073, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street., NW, Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') is requesting public comment on the proposed amendments to Rules 3a5–1 [17 CFR 240.3a5–1] and 3b–18 (17 CFR 240.3b–18) under the Securities Exchange Act of 1934 (''Exchange Act''). The Commission also is requesting public comment on the proposed exemption from the definitions of ''broker'' and ''dealer'' for banks engaging in securities lending transactions pursuant to new Exchange Act Rule 15a–11 (17 CFR 240.15a–11).

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Statutory Authority

Text of Proposed Rules and Rule Amendments

I. Introduction

A. Statutory Background—The Gramm-Leach-Bliley Act

On November 12, 1999, the President signed the Gramm-Leach-Bliley Act (''GLBA'') into law.[1] The GLBA changed federal statutes governing the scope of permissible activities and the supervision of banks, bank holding companies, and their affiliates. The GLBA lowered barriers between the banking and securities industries erected by the Banking Act of 1933 (popularly known as the ''Glass-Steagall Act'')[2] and between the banking and the insurance industries erected by the 1982 amendments to the Bank Holding Company Act of 1956 (the ''Bank Holding Company Act'').[3]

When first enacted in 1934, the Exchange Act completely exempted banks from the regulatory scheme provided for brokers and dealers. Over the past 60 years, however, evolution of the financial markets driven by competition and technology eroded the separation that previously existed between banks, insurance companies, and securities firms. Regulators responded to these changes with interpretations that increasingly sought to accommodate these market changes.[4] In recent years, the Board of Governors of the Federal Reserve System (''Federal Reserve''), the Office of the Comptroller of the Currency (''OCC''), and the Federal Deposit Insurance Corporation (''FDIC'') have permitted banks and bank holding companies to engage in retail and institutional securities brokerage and private placement activities.

The Commission supported modernizing the legal framework governing financial services consistent with a system of functional regulation to ensure that investors purchasing securities through banks received the same protections as when they purchased securities from registered broker-dealers.[5] The GLBA codified this

[1] Pub. L. No. 106–102, 113 Stat. 1338 (1999).

[2] Pub. L. No. 73–66, ch. 89, 48 Stat. 162 (1933) (as codified in various sections of 12 U.S.C.).

[3] The Garn-St. Germain Depository Institutions Act of 1982, Pub. L. No. 97–320, 96 Stat. 1469 (1982) (as codified in various sections of 12 U.S.C.), amending section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. 1841–1850 (1994).

[4] *See* Mayer, Martin, ''Banking's Future Lies in its Past,'' *The New York Times*, Sec. 4, page 9, August 25, 2002.

[5] *See, e.g.*, letter from Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, to Senator Phil Gramm, Chairman, Committee on

concept of functional regulation—that is, regulation of the same functions, or activities, by the same expert regulator, regardless of the type of entity engaging in those activities. Congress believed that, given the expansion of the activities and affiliations in the financial marketplace, functional regulation was important in building a coherent financial regulatory scheme.[6]

Accordingly, Title II of the GLBA amended the federal securities laws to provide for functional regulation of securities activities by eliminating the complete exception for banks from the definitions of ''broker'' and ''dealer.'' As the legislative history noted, prior to the passage of the GLBA, the exception for banks from broker-dealer registration created a competitive disparity by permitting banks to engage in securities activities without being subject to the same regulatory requirements as broker-dealers. Indeed, Congress specifically expressed concern that the complete exception had permitted banks to engage in securities activities without being subject to the provisions of the federal securities laws that were designed to protect investors.[7]

The federal securities laws provide a comprehensive and coordinated system of regulation of securities activities under the oversight of a single regulator. The primary purpose of the federal securities laws is the protection of investors. The securities laws are also aimed at ensuring the maintenance of fair and orderly markets as well as fair competition among all participants in the securities markets. In contrast, the primary purpose of the federal banking laws is to protect the solvency of banks.[8] Bank securities activities have historically taken place outside of the coordinated system of securities regulation that is designed to protect investors. This led to regulatory disparities that, in part, fostered the GLBA.[9]

The GLBA is the product of many years of Congressional deliberation. It reflects a careful balance between providing investors with the same protections wherever they purchase securities, while not unnecessarily disturbing certain bank securities activities.

In particular, Sections 201 and 202 of the GLBA substantially amended the Exchange Act's definitions of ''broker'' and ''dealer,'' respectively.[10] Before amendment, Sections 3(a)(4) and 3(a)(5) of the Exchange Act provided that the terms ''broker'' and ''dealer'' did not include a ''bank.''[11] Accordingly, banks [12] that engaged in securities activities were excepted from the requirement to register as broker-dealers under the Exchange Act.[13] The amended definitions narrowed this general exception for banks by specifying particular functional exceptions from broker-dealer registration for certain bank securities activities.

The amended definitions create eleven ''broker'' and four ''dealer'' exceptions for banks. The GLBA provided that these amended definitions had a delayed effective date of May 12, 2001. To accommodate the industry's compliance concerns, the Commission delayed the effective dates as more fully set forth below.

B. Regulatory and Procedural Background—the Interim Final Rules, Public Comment, and the Temporary Exemptions

Because the exceptions from the definition of ''dealer'' are exceptions to the Exchange Act, the Commission is statutorily charged with interpreting these exceptions. In response to interpretive questions as well as industry-specific concerns, the Commission adopted interim final rules (''the Rules'') on May 11, 2001.[14] The Rules were designed to provide guidance by defining certain key terms used in the new statutory exceptions. The Rules also provided additional exemptions from the definition of broker for banks that were engaged in certain types of securities activities. Although the Rules were adopted as interim final rules, the Commission specifically solicited public comment on them. Moreover, in order to give banks time to comply, the Rules included a temporary exemption that effectively extended the general exception from broker-dealer registration until October 1, 2001.[15]

The Commission received over 200 letters commenting on the Rules. The vast majority of these letters came from banks or persons representing banks and the banking industry. Of those letters, 33 described concerns about the process of adopting the Rules, with most of those expressing concern about the lack of a comment period before adoption. Of those 33 letters, thirteen were from trade

Banking, Housing and Urban Affairs, U.S. Senate (Oct. 14, 1999) (stating that ''the Securities and Exchange Commission has long supported financial modernization legislation that provides the protections of the securities laws to all investors.'').

[6] H.R. Rep. No. 106–74, pt. 3, at 113 (1999).

[7] *Id.* at 113–14.

[8] *See Board of Governors of Federal Reserve System* v. *Investment Co. Institute*, 450 U.S. 46, 61, 101 S. Ct. 973, 984, 67 L. Ed. 2d 36 (1981); 75 Cong. Rec. 9913–9914 (1932) (remarks of Sen. Bulkley).

[9] *See* U.S. General Accounting Office, Report to Congressional Requesters: *Bank Mutual Sales Practices and Regulatory Issues* GAO/GGD–95–210, at p. 52 (Sept. 1995); U.S. General Accounting Office, Report to Congressional Requesters: *Banks' Securities Activities—Oversight Differs Depending on Activity and Regulator*, GAO/GGD–95–214, at p. 25 (Sept. 1995).

[10] Exchange Act Sections 3(a)(4) and 3(a)(5) [15 U.S.C. 78c(a)(4) and 78c(a)(5)].

[11] Before the GLBA, Exchange Act Section 3(a)(4) defined the term ''broker'' as ''any person engaged in the business of effecting transactions in securities for the account of others, but does not include a bank.'' Before the GLBA, Exchange Act Section 3(a)(5) defined the term ''dealer'' as ''any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include a bank * * *.''

[12] Exchange Act Section 3(a)(6) [15 U.S.C. 78c(a)(6)] defines the term ''bank'' as:

(A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, (C) any other banking institution, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency * * * and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of this title, and (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph.

[13] Exchange Act Section 15(a) [15 U.S.C. 78o(a)] generally provides that:

[i]t shall be unlawful for any broker or dealer which is either a person other than a natural person or a natural person not associated with a broker or dealer which is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with [the provisions] of this section.

[14] Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, Release No. 34–44291, 66 FR 27760 (May 18, 2001).

[15] 17 CFR 240.15a–7.

groups,[16] thirteen were from banks,[17] two were from eight Congressmen,[18] two were from mutual fund companies,[19] one was from a Senator,[20] one was from a law firm,[21] and one was from three Federal banking agencies.[22]

Commenters offered various reasons for their concern about adopting the Rules before considering public comment. Some of the Congressmen expressed concern that this process may have caused confusion and created a dilemma for banks. The banking agencies stated that there would be significant practical operational implications of potential approaches to implementing the statutory exceptions and they specifically urged that resolution of those issues could be greatly aided by an open process of public comment on a proposal. One trade group questioned whether the Commission had satisfied section 553 of the Administrative Procedure Act by publishing the Rules without prior notice and comment.[23]

Separate from the issue of public comment, the banking agencies, as well as some trade groups and individual banks, stated that the immediate effective date, coupled with exemptions that function only to suspend temporarily the Rules' effectiveness, placed banks in an untenable position. The banking agencies strongly urged the Commission to extend the effective date of these GLBA provisions (until after considering public comment and adopting final rules) and to provide banks with at least a one-year transition period after the revised rules become final.

In response to concerns that banks needed more time, and in recognition of the likelihood that the Rules would be amended in light of the continuing dialogue between the Commission and industry participants, we extended the effective date of the Rules on July 18, 2001.[24] At the same time, we extended the temporary exemption from the definitions of ''broker'' and ''dealer'' provided in Exchange Act Rule 15a–7. On May 8, 2002, we further extended the temporary exemption from the definition of ''dealer'' to November 12, 2002.[25] By separate order issued in conjunction with this release, we are further extending that temporary exemption to February 10, 2003.

II. Dealer Activities and the Dealer/Trader Distinction

Exchange Act section 3(a)(5) defines a ''dealer'' generally as a person that is ''engaged in the business of buying and selling securities'' for its own account through a broker or otherwise, but excepts persons, whether bank or non-bank, who do not buy or sell securities ''as part of a regular business.''[26] Undertaking the analysis of whether a bank's securities activities come within the definition of dealer under the federal securities laws is something that banks did not have to consider before the passage of the GLBA. Banks, however, can take advantage of several additional exceptions or exemptions from the ''dealer'' definition, as discussed below. If a bank's securities-related activities fall under the general definition of ''dealer,'' the bank must register as a broker-dealer unless that bank can meet the terms of an exception or exemption from the dealer definition.

The question of whether a bank acts as a ''dealer'' that must register with the Commission therefore turns upon a two-stage analysis. The first stage focuses on two factual questions: (1) Whether the bank is ''buying and selling securities'' for its own account; and (2) whether the bank is ''engaged in the business'' of that activity ''as part of a regular business.'' A bank would not be a dealer unless both of those factual tests are met. The second stage of the analysis focuses on whether the bank can take advantage of bank-specific exceptions or exemptions from the definition of dealer. If all of the bank's securities activities fall within one or more of those bank-specific exceptions or exemptions, the bank does not have to register as a broker-dealer.

As a result, a bank has flexibility in the way that it analyzes whether its securities activities would require it to register with the Commission as a dealer. A bank may opt first to consider whether its proprietary securities purchases and sales cause it to be ''engaged in the business'' of buying and

[16] *See* letter dated June 4, 2001 from James D. McLaughlin, Director, Regulatory and Trust Affairs, American Bankers Association and Beth L. Climo, Executive Director, ABA Securities Association; letter dated July 17, 2001 from Edward L. Yingling, Deputy Executive Vice President and Executive Director, American Bankers Association, and Beth L. Climo, Executive Director, ABA Securities Association; letter dated July 17, 2001 from John Duncan, American Bar Association Banking Law Committee of the Business Law Section; letter dated July 16, 2001 from Roger D. Wiegley, Chair, Committee on Banking Law, The Association of The Bar of the City of New York; letter dated July 17, 2001 from Charlotte M. Bahin, Director of Regulatory Affairs, Senior Regulatory Counsel, America's Community Bankers; letter dated July 17, 2001 from Robert M. Kurucza, General Counsel, Bank Securities Association (''the BSA letter''); letter dated July 17, 2001 from Neil Milner, President and CEO, the Conference of State Bank Supervisors; letter dated July 17, 2001 from Gerald M. Noonan, President, the Connecticut Bankers Association; letter dated July 17, 2001 from Richard M. Whiting, Executive Director, Financial Services Roundtable; letter dated July 17, 2001 from Robert I. Gulledge, Chairman, Independent Community Bankers of America (''the ICBA letter''); letter dated July 17, 2001 from Lawrence R. Uhlick, Executive Director and General Counsel, Institute of International Bankers; letter dated August 1, 2001 from Jeffrey P. Neubert, President and Chief Executive Officer, New York Clearing House (''the NYCH letter''); and letter dated July 17, 2001 from A. Michelle Roberts, Executive Director, The Trust Financial Services Division of the Texas Bankers Association.

[17] *See* letter dated July 16, 2001 from Alan R. Leach, President, BancorpSouth Investment Services, Inc.; letter dated July 16, 2001 from John M. Kramer, Deputy General Counsel, Bank One Corporation; letter dated September 10, 2001 from David P. Johnson, Investment Advisor, Bank Midwest; letter dated September 4, 2001 from Warren R. Jamieson, Chairman, Bonham State Bank; letter dated July 17, 2001 from Jeffrey S. Missman, Vice President, Director—Regulatory Compliance, Commerce Bancshares, Inc.; letter dated July 10, 2001 from William Nappi, CTCP, Trust Compliance Officer, FirstMerit Corp., N.A.; letter dated July 16, 2001 from William C. Mutterperl, Executive Vice President, General Counsel and Secretary, FleetBoston Financial Corporation; letter dated July 17, 2001 from Maureen W. Sullivan, Associate General Counsel, Manufacturers and Traders Trust Company; letter dated July 16, 2001 from David A. Daberko, Chairman and Chief Executive Officer, National City Corporation; letter dated July 17, 2001 from James S. Keller, Chief Regulatory Counsel, PNC Financial Services Group (PNC); letter dated July 17, 2001 from Norimichi Kanari, President and CEO, Union Bank of California; letter dated July 16, 2001 from W. David Hemingway, Chief Financial Officer Zions Bancorporation; and letter dated July 16, 2001 from A. Scott Anderson, President and Chief Executive Officer, Zions Bank Capital Markets, Zions First National.

[18] *See* letter dated July 19, 2001 from Representative Michael G. Oxley, Chairman, Committee on Financial Services, Representative Richard H. Baker, Chairman Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, Representative Spencer Bachus, Chairman, Subcommittee on Financial Institutions and Consumer Credit, Marge Roukema, Chairwoman, Subcommittee on Housing and Community Opportunity, Sue W. Kelly, Chairwoman, Subcommittee on Oversight and Investigations, Peter T. King, Chairman, Subcommittee on Domestic Monetary Policy, Technology, and Economic Growth, Doug Bereuter, Chairman, Subcommittee on International Monetary Policy and Trade, U.S. House of Representatives; and letter dated July 20, 2001 from Representative John J. LaFalce, Ranking Member, Committee on Financial Services, U.S. House of Representatives.

[19] *See* letter dated July 2, 2001 from Melanie L. Fein, Attorney at Law, on behalf of Federated Investors, Inc.; letter dated July 17, 2001 from Stewart P. Greene, Chief Counsel, Securities Law, Teachers Insurance and Annuity-College Retirement Equities Fund.

[20] *See* letter dated July 18, 2001 from Senator Phil Gramm, Ranking Member, Committee on Banking, Housing and Urban Affairs, United States Senate.

[21] *See* letter dated July 17, 2001 from Satish M. Kini of Wilmer, Cutler & Pickering.

[22] *See* letter dated June 29, 2001 from Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System, Donna Tanoue, Chairman, Federal Deposit Insurance Corporation, and John D. Hawke, Comptroller of the Currency (collectively, ''the banking agencies'' and ''the Banking Agencies' letter'').

[23] The BSA letter.

[24] Release No. 34–44570.

[25] Release No. 34–45897. At the same time, we further extended the temporary exemption from the definition of broker until May 12, 2003.

[26] Exchange Act Section 3(a)(5) [15 U.S.C. 78c(a)(5)].

selling securities for its own account ''as part of a regular business.'' If the bank meets that part of the test, the bank then would have to consider whether those securities activities fall within one of the bank-specific exceptions or exemptions from the dealer definition in Exchange Act section 3(a)(5). Alternatively, a bank may simply analyze whether its proprietary securities purchases and sales fall within an exception or exemption from section 3(a)(5). If all of the bank's securities activities fall within one or more exception or exemption from the dealer definition, then the bank could avoid having to determine separately whether it satisfies the ''engaged in the business'' component of the definition.

As exemplified by the discussion of riskless principal transactions below, the question of whether a bank acts as a dealer under the securities laws is entirely separate from the question of whether it acts as a dealer under the banking laws, and it is possible for a bank to be a ''dealer'' under the securities laws but not under the banking laws. Banks therefore should look to the securities laws and the Commission's rules and interpretations in conducting the analysis under the Exchange Act. A bank also should continue to determine whether any proposed securities activity is permitted under banking law, and should consult its appropriate Federal banking agency to assist it in that analysis.

In addition, the bank-specific exceptions and exemptions from the definition of ''dealer'' for specific products or transactions are independent of the question of whether a person would satisfy the general definition of ''dealer'' in the first instance.[27]

A. Buying and Selling Securities for Own Account

The phrase ''buying and selling securities for such person's own account'' means purchasing or selling securities as principal, which includes so-called ''riskless principal'' transactions. Under the securities laws, ''riskless principal'' transactions are dealer activity.[28] Entities that engage in these transactions as a matter of course would be involved in the business of buying and selling securities for their own accounts, even if the risk associated with the transactions is minimal or non-existent.[29] Although the OCC and the Federal Reserve interpret ''riskless'' principal activity as equivalent to agency activity under the banking laws,[30] ''riskless'' principal activity requires registration under the securities laws unless an exception or exemption applies.

B. ''Engaged in the Business'' Test

As noted above, a person that is buying securities for its own account may still not be a ''dealer'' because it is not ''engaged in the business'' of buying and selling securities for its own account as part of a regular business. This exclusion is often referred to as the dealer/trader distinction. A ''trader'' does not have to register as a broker-dealer.

As developed over the years, the dealer/trader distinction recognizes that dealers normally have a regular clientele, hold themselves out as buying or selling securities at a regular place of business, have a regular turnover of business (or participate in the distribution of new issues), and generally transact a substantial portion of their business with investors (or, in the case of dealers who are market makers, principally trade with other professionals).[31] In contrast, traders have a less regular volume, do not handle others' money or securities, do not make a market, and do not furnish dealer-type services such as rendering investment advice, extending or arranging for credit, or lending securities.[32]

A person generally may satisfy the definition, and therefore, be acting as a dealer in the securities markets by conducting various activities: (1) Underwriting; (2) acting as a market maker or specialist on an organized exchange or trading system; (3) acting as a *de facto* market maker whereby market professionals or the public look to the firm for liquidity; or (4) buying and selling directly to securities customers together with conducting any of an assortment of professional market activities such as providing investment advice, extending credit and lending securities in connection with transactions in securities, and carrying a securities account. These principles demonstrate that the analysis of whether a person meets the definition of a dealer depends upon all of the relevant facts and circumstances.

A person must evaluate the totality of its securities activities to determine if those activities may constitute engaging in dealer activities for which there is no exception or exemption from the dealer registration requirements. By analogy when analyzing whether a security exists, some courts have used an analysis that turns on the ''economic realities'' underlying a transaction and not the name appended to the transaction.[33]

The GLBA bank ''dealer'' exceptions are outlined briefly below.[34]

- *Investment transactions:* permits banks to buy and sell securities for investment purposes for the bank and for its customers' trustee and fiduciary accounts.
- *Permissible securities transactions:* permits banks to buy and sell exempted securities, certain Canadian government obligations, and Brady bonds.
- *Identified banking products:* permits banks to buy and sell certain ''identified banking products,'' as defined in Section 206 of the GLBA.
- *Asset-backed transactions:* permits banks through a grantor trust or other separate entity to issue and sell to qualified investors certain asset-backed securities representing obligations predominantly originated by a bank, an affiliate of the bank other than a broker-dealer, or a syndicate in which the bank is a member for some types of products.

With respect to the ''dealer'' exceptions, the Rules defined terms found in the asset-backed transactions exception and provided an exemption for a de minimis number of riskless principal transactions.

In general, the bank dealer exceptions apply to specified products and contain

[27] The SEC's analysis of what constitutes ''dealer'' activity has not changed for persons that are not banks just because banks have exceptions and exemptions for specific securities activities and products. These exceptions and exemptions provide banks with legal certainty for their securities business.

[28] ''Riskless principal'' transactions are generally described as trades in which, after receiving an order to buy (or sell) from a customer, the broker-dealer purchases (or sells) the security from (or to) another person in a contemporaneous offsetting transaction. *See* Exchange Act Rule 10b–10(a)(2)(ii)(A) [17 CFR 240. 10b–10(a)(2)(ii)(A)]; Rel. No. 34–33743 (Mar. 9, 1994) at n.11.

[29] *See* Exchange Act Section 3(a)(5). The Commission has noted that ''riskless'' principal transactions are in many respects equivalent to transactions effected on an agency basis. *See Securities Confirmations,* Rel. No. 34–15219 (Oct. 6, 1978), 43 FR 47495 (Oct. 6, 1978).

[30] The OCC stated that, ''riskless principal activities are the legal and economic equivalent of permissible brokerage activities inasmuch as riskless principal brokerage is conducted in a manner consistent with the express terms of section 16,'' of the Glass-Steagall Act. *See* OCC Interpretive Letter No. 371 (June 13, 1986). *See also* 1989 FRB 829 (October 30, 1989) and 1996 FRB 748 (June 13, 1996).

[31] See, *e.g.*, Rel. No. 34–11742 (October 5, 1975) (noting that a bank might be subject to registration as a municipal securities dealer if it engaged in underwriting, maintain a trading account or carried a dealer inventory, advertised itself as a dealer or otherwise held itself out as a dealer).

[32] *See generally* L. Loss & J. Seligman, Securities Regulation, §§ 8–A–2 and 8–A–3 nn.115 and 143 (3d ed. 2001).

[33] See *United Housing Foundation, Inc.* v. *Forman,* 421 U.S. 837, 849, *rehearing denied,* 423 U.S. 884 (1975).

[34] This outline is a summary. It does not describe the exceptions in full.

certain limiting conditions. For example, some of the bank dealer exceptions permit a bank to buy and sell securities, but the asset-backed transactions exception only permits a bank to issue and sell securities through a grantor trust or other separate entity to qualified investors. The investment transactions exception only permits the bank to buy or sell securities ''for investment purposes'' for its own account or for the accounts for which it acts as a trustee or fiduciary.

As a bank considers its securities activities, the bank must evaluate the totality of its securities activities to determine if those activities are permissible under banking law, meet the definition of dealer (or broker) activities under the securities laws, and are excepted or exempted from the dealer registration requirements under the Exchange Act.[35]

III. Discussion of Comments Received on ''Dealer'' Rules

As outlined above, the GLBA provides four exceptions to banks from the definition of ''dealer.'' Each of these exceptions permits a bank to act as a dealer with respect to the specified securities products if the bank complies with the enumerated statutory conditions. Only six comment letters addressed either the dealer statutory exceptions or the dealer exemption.[36]

In particular, the Risk Management Association (''RMA'') addressed the need for interpretive relief or an exemption for noncustodial securities lending. A letter from a coalition of banks also addressed the need for clarification that would provide legal certainty for banks engaging in securities lending with entities that might not strictly meet the statutory definition of qualified investor in Exchange Act section 3(a)(54).

The Banking Agencies' and the NYCH addressed the definitions interpreting the statutory dealer exception for asset-backed activities. The remaining two commenters addressed the asset-backed exception and the de minimis exception. To more fully understand the concerns leading to these comments, the staff held meetings in person and by telephone with interested parties.

A. De Minimis Exception and Rule 3a5–1

Exchange Act section 3(a)(4)(B)(xi)[37] excepts a bank from the definition of broker, if the bank effects no more than 500 securities transactions per calendar year, other than transactions that qualify for one of the other statutory exceptions. A transaction in which a bank is acting as an agent for a customer would count as one transaction toward the 500-transaction limit. The GLBA provisions did not extend this *de minimis* exception to dealer transactions.

Questions arose as to whether banks can rely on the *de minimis* exception from the definition of broker when they engage in riskless principal transactions.[38] The Commission addressed this issue in the Rules by providing an exemption that permits riskless principal transactions as well as agency transactions to be counted under the 500-transaction limit. The Rules provide that a transaction in which the dealer bank is acting as a riskless principal intermediary between two non-broker-dealer customers counts as two trades (one with each customer) under the 500-transaction limit.

1. Discussion of Comments Received on Rule 3a5–1, the *De Minimis* Exemption

Two commenters addressed this exemption. Both commenters criticized the Rules for counting as two transactions something that they characterize as essentially being a single transaction.

2. Proposed Amendment to Rule 3a5–1, the *De Minimis* Exemption

As we explained in adopting the Rules, riskless principal transactions are ''dealer'' transactions under the securities laws. The GLBA did not provide an exception for dealer transactions, except for limited types of securities. Indeed, the GLBA did not provide any exception from the definition of dealer that would allow banks to continue to engage in riskless principal transactions. By allowing banks to use the *de minimis* transaction exception found in the broker exceptions for riskless principal transactions, the Commission was attempting to give banks more—not less—flexibility than provided under the literal terms of the GLBA. In other words, this exemption permits banks to continue to engage in a limited number of these transactions without having to register as a dealer.

We continue to believe that a *de minimis* exemption for a limited number of riskless principal transactions is appropriate. We believe that one reason that the GLBA may not have extended the de minimis exception to riskless principal transactions is the difference in the way riskless principal transactions are viewed under banking law as compared to the securities laws. In banking law, riskless principal transactions are considered agency activity because the principal does not assume principal risk.[39] Under the securities laws, however, riskless principal activity is conducted by a dealer, acting as principal, attempting to eliminate his principal risk. Because the exception is in the Exchange Act, the interpretation under the securities laws is controlling.

The Commission addressed this distinction in the Rules by providing that riskless principal transactions as well as agency transactions can be counted under the limit of 500 securities transactions per calendar year. Exchange Act Rule 3a5–1 counted a transaction in which the dealer bank is acting as a riskless principal intermediary between two non-broker-dealer customers as two trades under the 500-transaction limit.

In response to the two comments on this issue that expressed the view that counting a riskless principal transaction as two trades in certain circumstances may be needlessly restrictive, we

[35] A bank that contemplates a new securities activity may also seek an exemption or no-action relief from the Commission. Exchange Act Section 36 [15 U.S.C. 78mm] authorizes us to exempt any person, security, or transaction from the provisions of the Exchange Act, to the extent that such exemption is necessary or appropriate in the public interest, and consistent with the protection of investors. We authorized the Director of the Division of Market Regulation to consider, on a case-by-case basis, individual requests for exemptive relief from banks, savings associations, and savings banks. Exchange Act Rule 30–3 [17 CFR 200.30–3(a)(72)].

In appropriate circumstances, the staff also may provide guidance in the form of no-action letters. *See* Release No. 33–5127 (January 25, 1971). *See also* Release No. 33–6279 (December 5, 1980).

[36] *See* the ICBA letter, the NYCH letter, the Banking Agencies' letter, letter dated July 17, 2001 from Rick D. Burtenshaw, Senior Vice President, Investment Division, Zions First National Bank (''the Zions letter''). In addition, a letter dated October 16, 2002 from Elizabeth Shea Fries of Goodwin Proctor on behalf the Risk Management Association (''the RMA letter'') addresses the need for an exemption for activities related to securities lending. Moreover, a letter to Annette Nazareth, Director, Division of Market Regulation, dated October 9, 2002, from Edward J. Rosen, Cleary, Gottlieb, Steen & Hamilton, on behalf of a coalition of banks actively involved in securities lending (''Coalition of Banks letter'') suggests that the definition of ''qualified investor'' be clarified to cover all entities with at least $25 million in investments that are not otherwise covered under the statutory definition in connection with the securities lending exemption.

[37] 15 U.S.C. 78c(a)(4)(B)(xi).

[38] *See* description of riskless principal transactions under the securities laws at notes 28 to 30, *supra*.

[39] *See* Bankers Trust New York Corporation, 75 Fed. Res. Bull. 829 (1989); Bank of New York Company, Inc. (Order dated June 10, 1996); and OCC Interp. Ltr. No. 626, reprinted in [1993–1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ (July 7, 1993).

propose amending the counting of the number of riskless principal transactions. Under the proposed amendment to Rule 3a5–1, a riskless principal transaction, even if it involves two separate counterparties, would count as only one transaction against the annual 500-transaction limit.[40] We believe that this change will simplify the rule and make it easier for banks to understand and apply its terms to a small annual number of riskless principal securities transactions.

We request comment on this proposed amendment to Exchange Act Rule 3a5–1 and whether this is an appropriate way to count transactions under this exemption.

B. Rule 3b–18—Definition of Terms Used in Asset-Backed Transaction Exception to Dealer Registration

The GLBA exception to the definition of dealer for banks engaging in certain asset-backed issuance and sale transactions provides that a bank may engage in the issuance or sale to qualified investors, through a grantor trust or other separate entity, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations (other than securities of which the bank is not the issuer), or pools of any of these obligations predominantly originated by the bank, an affiliate of the bank other than a broker-dealer, or a syndicate in which the bank is a member.[41] As we explained when we adopted the Rules, this statutory exception allows banks to issue and sell asset-backed securities through a grantor trust or other separate entity. It does not, however, allow banks to deal in asset-backed securities. In other words, this exception is not broad enough to permit banks to regularly purchase and sell these securities in the secondary market.[42]

Exchange Act Rule 3b–18 defined terms used in the asset-backed transactions exception to clarify the parameters of this exception. In particular, Rule 3b–18 defined the terms: ''affiliate,'' ''consumer-related receivable,'' ''member of a syndicate of banks,'' ''obligation,'' ''originated,'' ''pool,'' ''predominantly originated,'' and ''syndicate of banks.''

1. Discussion of Comments Received on Rule 3b–18—Definition of Terms Used in Asset-Backed Exception to Dealer Registration

Four commenters addressed these definitions.[43] All four commenters focused primarily on the definition of ''predominantly originated.'' One commenter also addressed the requirement that a member of a syndicate originate more than 10% of the value of a pool of obligations.[44]

For the purpose of the asset-backed transaction exception, the Rules defined ''predominantly originated'' so that a bank could engage in the issuance or sale of asset-backed securities without registration as a dealer if at least 85% of the obligations underlying the securities were originated by the bank or its affiliates, other than its broker-dealer affiliates. The definition also stated that the bank and its affiliates include any financial institution with which the bank or its affiliates have merged but does not include the purchase of a pool of obligations or the purchase of a line of business.

Each of the commenters stated that the definition was too narrow and should be expanded to permit a greater percentage of the assets in a pool to be purchased. The commenters suggested that the percentage used in this definition should be reduced to a simple majority or 51% to permit a bank to issue asset-backed securities on pools with a smaller percentage of assets originated by the bank and its affiliates. Each of the commenters urged the Commission to consider the impact that a rule that discourages banks from selling assets could have on smaller banks.

One commenter also addressed the definition of the term, ''syndicate of banks of which the bank is a member.''[45] That commenter stated that Exchange Act Rule 3b–18 defines a ''syndicate'' in a manner that is wholly inconsistent with banking practice and, thus, effectively eliminates the statutory provisions authorizing syndicate transactions. In particular, the commenter stated that by defining a ''syndicate'' to mean ''a group of banks that acts jointly, on a temporary basis, to loan money in one or more bank credit obligations,'' the rule reflected a fundamental misunderstanding of how syndicates function in the banking industry. This would effectively preclude banks from taking advantage of the syndicate portion of the asset-backed transactions exception in the GLBA, and will have ''seriously deleterious effects on bank securitization activities.''

One commenter addressed the requirement that each member of a syndicate of banks originate at least 10% of the value of a pool of obligations.[46] This commenter stated that this test is too high, that there is no reason to impose a minimum percentage on the concept of syndicate membership, and that the test discriminates against smaller banks that may be unable to securitize obligations individually and must participate in a syndicate.

2. Proposed Amendments to Rule 3b–18—Definition of Terms Used in Asset-Backed Exception to Dealer Registration

The asset-backed transactions exception permits a bank to create, issue, and sell through a grantor trust or other separate entity asset-backed securities predominantly originated by the bank and its affiliates. This exception does not permit a bank to be a dealer by regularly repurchasing and reselling the asset-backed securities that it issues.[47] However, a bank may purchase these asset-backed securities for investment purposes, so long as the bank is not acting as a dealer.[48]

We considered the comments we received as well as additional factual information that the staff learned during subsequent conversations with banking agencies and some individual banks.[49] After considering the banks' business practices, we propose to expand the definition of ''originated'' by considering obligations that a bank initially approves and underwrites, or agrees to purchase, to be ''originated'' by the bank as long as the bank meet two

[40] If, however, a bank offsets the risk in a transaction with one counterparty by arranging multiple transactions with other counterparties, the bank must count each of the transactions on the side of the transaction that involves the largest number of transactions as a separate transaction against the annual 500 transaction-limit.

[41] Exchange Act section 3(a)(5)(C)(iii) [15 U.S.C. 78c(a)(5)(C)(iii)].

[42] 66 FR 27760 at 27785 (May 18, 2001).

[43] *See* note 36, *supra.*

[44] *See* the NYCH letter.

[45] *See* the Banking Agencies' letter.

[46] *See* the NYCH letter.

[47] *See* Section II, *supra,* for a discussion of dealer activities and the dealer/trader distinction.

[48] Exchange Act Section 3(a)(5)(C)(ii) [15 U.S.C. 78c(a)(C)(ii)]. In contrast, a bank also may deal in government securities, such as securities of the Federal National Mortgage Association (''Fannie Mae'') and the Federal Home Loan Mortgage Corporation (''Freddie Mac''). Exchange Act Sections 3(a)(5)(C)(II) (exception from ''dealer'' for exempted securities) [15 U.S.C. 78c(a)(5)(C)(II)], 3(a)(12)(A) (exempted security defined) [15 U.S.C. 78c(a)(12)(A)], and 3(a)(42)(B) and (C) (government securities defined) [15 U.S.C. 78c(a)(42)(B) and (C)].

[49] We were informed that very few banks issue and sell asset-backed securities without employing a registered broker-dealer. The banking agencies identified only four banks that might have issued and sold asset-backed securities directly without using a broker-dealer within the past two years. Of these four banks, only two regularly issue and sell asset-backed securities without employing a broker-dealer. These two banks actively participate in making new small business, residential and automobile loans for securitization but employ loan distribution channels that would not permit the banks to meet the definition of ''originated'' in Exchange Act Rule 3b–18.

conditions. First, the obligation would have to conform to the bank's underwriting standards or be evidenced on the bank's documents. This requirement is imposed to ensure that the bank and the entity from whom it obtains the loan have an established arrangement prior to the time the loan is made to either use the bank's underwriting standards or documentation prepared by the bank. Second, the bank would be required to fund the obligation in a timely manner, not to exceed six months after the obligation is created. We also continue to define an obligation that the bank funds at the time that the obligation is closed as ''originated'' by the bank.

Under this revised definition, a bank should be able to use loan origination channels such as automobile dealers, mortgage companies, and other banks, even though the bank does not ''make and fund'' the obligation at the exact time that the obligation is created. Conversely, a bank that purchases obligations that do not meet the conditions of this exemption would not have originated that particular obligation for the purpose of the 85% test. We believe that it is important to limit the time within which funding of the obligation must occur in order to give meaning to the term ''originate'' in the exception.

Although commenters urged the Commission to modify the definition of ''predominantly originated'' to permit banks to purchase more of the underlying obligations being securitized, we have not proposed to modify the 85% test because the test closely tracks the language of the statute.[50] To enhance clarity, however, we are modifying the definition to expressly set forth the meaning of the term in the context of a syndicate of banks. Thus, the banks, and their affiliates other than broker-dealer affiliates, participating in any such syndicate must have originated 85% of the obligations in any pool as measured by the value of the obligations.

We also propose to clarify the rule by replacing the definition of ''member of a syndicate of banks'' with two separate definitions. In particular, we first propose to define ''member'' as it relates to the term ''syndicate of banks'' to make clear that the individual banks and their affiliates other than their broker or dealer affiliates, originate the obligations, rather than the syndicate. The syndicate of banks only comes together to issue and sell the obligations. Second, we propose to modify the definition of ''syndicate of banks'' to mean a group of banks that acts jointly, on a temporary basis, to issue securities backed by obligations originated by each of the individual banks and their affiliates other than their broker or dealer affiliates. These definitions will make it clear that banks may join together for the purpose of issuing securities backed by the pool of obligations, rather than having to join together before the obligations are created.

We propose to retain the requirement that when a syndicate of banks issues asset-backed securities through a grantor trust or other separate entity, each bank and its affiliates other than its broker or dealer affiliates selling the securities, and thus acting as a dealer in the transaction, must have originated at least 10% of the value of the pool of obligations backing the securities. This 10% requirement is applicable only to the bank or banks that actively sell the securities backed by the pool because these are the only banks that need to use the dealer exception. We received only one comment on this requirement.[51] We believe that this commenter viewed the definition as applicable to all of the banks that provide assets to the pool but do not actually sell the securities.

We propose to retain this requirement because the legislative history indicates that each bank selling the securities should be more than an insignificant member of the syndicate.[52] The legislative history suggests that threshold is met when a bank together with its affiliates other than broker or dealer affiliates provided at least 10% of the obligations in the pool. We believe that it is reasonable as well as in accordance with the legislative history to retain this requirement for the bank or banks that need the exception because they sell the securities secured by the pool of obligations originated by banks that are members of a syndicate of banks. We did, however, modify the rule to clarify that the affiliates of the banks other than broker or dealer affiliates also may originate the obligations.

Based on our staff's conversations with those banks that sold asset-backed securities, we expect that the changes we propose will permit the banks that currently issue and sell asset-backed securities directly to continue to do so under the terms of the exception without having to employ a broker-dealer.

We request comment on all aspects of the proposed amendments to Rule 3b–18. In particular, we request comment from banks that currently sell asset-backed securities on the impact, if any, of the proposed definition of ''originate'' on them. We request that these banks confirm whether the proposed changes to the definitions will permit them to continue to conduct this business. We also request comment on the requirement to fund the loans in a timely manner not to exceed six months and whether this requirement will have any impact on the banks making or funding the loans. In addition, we request comment on the requirement that there be established relationships as shown by conforming loans to the underwriting standards of the bank or using documentation prepared by the bank to evidence the loans. Commenters are invited to discuss whether these requirements would impose any burdens on banks.

IV. Rule 15a–11 Exemption From the Definitions of ''Broker'' and ''Dealer'' for Banks Engaging in Securities Lending Transactions

Institutional investors often place securities in custody with banks. These custodian banks effect and administer securities loans in return for an agreed fee. Banks also may engage in securities lending transactions when they do not have custody of the securities. A non-custodial securities lending arrangement permits a customer to divide custody and securities lending management between two expert entities. For example, a custodian may be selected for efficiency and low cost, while a lending agent may be selected for its ability to maximize the profitability of the portfolio.

Although banks play a role in both custodial and non-custodial securities lending transactions, the GLBA bank exceptions to the definitions of broker and dealer provide only one exception for securities lending and borrowing

[50] In defining the term ''predominantly,'' which modifies the term ''originated,'' we looked to other sections of the GLBA in which the term is used. Section 103(n) of the GLBA uses the term ''predominantly'' to modify ''financial'' and to allow analysis of whether nonfinancial activities and affiliations may be retained. Bank Holding Company Act Section 4(n)(2) [12 U.S.C.1843(n)(2)]. Section 103(n)(2) of the GLBA expressly provides that a firm is predominantly engaged in financial activities when at least 85% of the annual gross revenues of the consolidated company derive from financial activities, excluding any revenue from banks. To be consistent, we applied the same numerical test found in Section 103(n)(2) of GLBA for loan product originations for the purpose of the asset-backed securities exception from the definition of dealer.

[51] *See* the NYCH letter.

[52] The legislative history states that, ''[t]he Committee expects this provision shall be interpreted so that the bank will [have] not less than ten percent of the assets in the syndicate or pool of obligations.'' H.R. Rep. No. 106–74, pt. 3, at 171 (1999).

transactions. The need for an exemption to give banks legal certainty for securities lending transactions when the bank does not have custody of the securities was initially drawn to our attention through a letter from a trade group.[53]

Exchange Act section 3(a)(4)(B)(viii) addresses securities lending by custodian banks as an exception to the definition of broker.[54] Under paragraph (cc) of section 3(a)(4)(B)(viii), a bank is permitted, without being considered a broker, to effect securities lending or borrowing transactions by custodian banks with or on behalf of customers in two situations: (1) As part of the services provided to safekeeping and custody customers; and (2) when facilitating the transfer of funds or securities as a custodian or a clearing agency in connection with the settlement of customers' transactions in securities.

We have been advised that the existence of this limited bank exception from the definition of broker creates uncertainty for banks that may engage in securities lending or borrowing transactions without having custody of the underlying securities or in situations where a bank might meet the definition of dealer under the securities laws. To provide legal certainty to banks engaging in securities lending transactions, we propose to add an exemption from the definition of broker for banks engaging in non-custodial securities lending activities as well as an exemption from the definition of dealer for banks engaging in certain custodial and non-custodial securities lending activities. This exemption would also enhance legal certainty for banks that have custody of collateral or that have custody of the securities subject to a lending arrangement for less than the entire period of the stock loan.

Industry representatives have advised our staff that banks' primary role in securities lending transactions, whether operating with or without custody of the securities, is to act in an agency capacity. Less frequently, banks may engage in securities lending as principal while acting as a conduit between the parties.[55] In that role, a bank provides credit intermediation and anonymity by standing between the lender and borrower.

The proposed exemption would require a written securities lending agreement, which would be any contract to conduct securities lending transactions on behalf of a qualified investor. In connection with a securities lending transaction, the bank may select and negotiate with a borrower and execute, or direct the execution of, the loan with the borrower; receive, deliver, or take custody of loaned securities; receive, deliver, or take custody of collateral; provide mark-to-market, corporate action, recordkeeping or other services incidental to the administration of the securities lending transaction; reinvest, or direct the reinvestment of, cash collateral; or indemnify the lender of securities with respect to various matters.

We propose to make this exemption available for banks' current securities lending business. The exemption would be limited to transactions with ''qualified investors,'' as defined in Exchange Act section 3(a)(54).[56] Commenters have suggested that both custodial and non-custodial banks should be able to act either as a conduit lender or as agent in order to offer to institutional investors the opportunity to select different banks to provide this service.[57]

We propose that a bank be required to deal with a qualified investor on both sides of the transaction as a condition of this exemption. We understand that borrowers of securities that are not qualified investors do not directly borrow securities from noncustodial banks. Any borrowers of securities that do not meet the qualified investor test generally borrow securities through intermediaries that would be qualified investors. We request comment on any business practices that involve banks engaging in noncustodial securities lending directly with persons that are not qualified investors.

We do not propose extending the securities lending exemption to banks borrowing securities for, or lending from, their own accounts except as a conduit lender.[58] For the purposes of this provision, the term conduit lender means a bank that borrows (or loans) securities, as principal, for its own account, and contemporaneously loans (or borrows) the same securities, as principal, for its own account. A bank that qualifies under this definition as a conduit lender at the commencement of a transaction would continue to qualify as long as the original securities lending transaction remains outstanding, even though substitutions of collateral may occur on the securities borrowing side of the transaction.

To the extent that banks may have a legitimate need to, on occasion, lend or borrow securities on their own behalf for hedging or for other reasons, they should be subject to the same dealer/trader distinction that applies to all other market participants.[59] In addition, the exemption is not indicative of whether banks or other persons may otherwise engage in securities lending as principal without being considered a dealer.

Even though we recognize that engaging in securities lending transactions involves taking risks that require effective internal controls, we have not proposed conditions to the exemption that would require that banks conform to the standards applicable to registered broker-dealers that engage in securities lending transactions.[60] We are proposing an exemption because we believe that it will assist institutional investors in obtaining stock loan services for banks that do not act as their custodians. We also believe that the exemption is appropriate in the public interest and is consistent with the protection of investors because it is limited to qualified investors.

We have asked bank regulators to advise us if this exemption would pose any risks that the Commission should address. We specifically request commenters to address our decision not to impose the kinds of conditions that are applicable to broker-dealers that engage in securities lending, which require them to take precautions against financial risks to the firm.

If conditions were to be imposed, we request comment on whether we should require banks to verify that: (1) The participants to the securities lending transactions are borrowing securities for a proper purpose; or (2) the participants to the transaction have been evaluated for their suitability to participate in the transaction, including their creditworthiness. Moreover, we request comment on whether this exemption should include a condition that it not be used to avoid U.S. margin requirements applicable to securities financing

[53] *See* the RMA letter, *supra,* note 36.

[54] 15 U.S.C. 78c(a)(4)(B)(viii).

[55] This conduit role is similar to a riskless principal transaction, but does not involve activities that could be characterized as running a matched book. Running a matched book of repurchase agreements or other stock loans has been characterized as a dealer activity because the ''book running dealer'' holds itself out as willing to buy and sell and as thus, engaged in the business of buying and selling securities. Unlike a riskless principal transaction, a conduit lender may on occasion substitute collateral on the securities borrowing side of the transaction while the original securities lending transaction remains outstanding.

[56] *See* discussion at Section V, *infra.*

[57] *See* the RMA letter, *supra* note 36.

[58] Under banking law, with some exceptions, banks are not permitted to own equity securities.

[59] *See* Section II, *supra,* for a discussion of dealer activities and the dealer/trader distinction.

[60] *See* Rule 15c3–3(b)(3) [17 CFR 240.15c3–3(b)(3)].

transactions, or to avoid other restrictions on the alienability of securities. We also request comment on all other aspects of the proposed exemption for securities lending transactions.

V. Definition of ''Qualified Investor''

In defining the term ''qualified investor,'' Exchange Act section 3(a)(54) expressly provides authority to the Commission by rule or order to expand the definition to include any other person, taking into consideration such factors as the financial sophistication of the person, net worth, and knowledge and experience in financial matters.[61] In the context of the securities lending exemption, one commenter suggested that we use this authority to clarify the definition of ''qualified investor'' so that it would include any other person, plan, or legal entity of any kind that owns or invests on a discretionary basis not less than $25 million in investments, even if it is not expressly included in section 3(a)(54).[62]

The term ''qualified investor'' was defined as a part of the GLBA and has application to several of the bank exceptions from broker-dealer registration. Under the GLBA bank exceptions to broker and dealer registration, certain securities may only be sold to qualified investors. The sections that list the securities that may only be sold to qualified investors include:[63] (1) The broker exception for identified banking products when the product is an equity swap agreement;[64] (2) the dealer exception for identified banking products when the product is an equity swap agreement;[65] and (3) the dealer exception for asset-backed securities.[66]

With regard to the expansion of the definition of qualified investor in the context of the exemption for securities lending transactions, one commenter stated:

> As you are aware, banks provide custodial and non-custodial securities lending services to a variety of different types of lenders of securities. Frequently, these lenders include U.S. persons that are not organized as corporations, companies, or partnerships. For example, a significant number of lenders are organized as trusts. In addition, some banks regularly provide securities lending services to non-U.S. entities whose legal form has been established pursuant to applicable non-U.S. law. Such entities may be organized as trusts, pension plans managed by foreign banks or advisers qualified under local law (and as a result not included within Section 3(a)(54)(A)(v)), or as some other legal form that does not fit clearly within the U.S.-based concepts of a ''corporation, company or partnership.''[67]

Exchange Act section 3(a)(54) enumerates an extensive list of persons who qualify for the designation, ''qualified investor.''[68] Some of these entities qualify by merely being certain types of entities, while other entities must qualify by being both a certain type of entity and by meeting an ownership and investment test. For example, subsection (xi) of section 3(a)(54)(A) provides that ''any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $25,000,000 in investments'' is a qualified investor.

In considering this definition, we first looked to Exchange Act section 3(a)(9), which defines the term ''person'' to mean ''a natural person, company, government, or political subdivision, agency, or instrumentality of a government.''[69] We also looked to Investment Company Act section 2(a)(8), which provides that the term ''company'' means a corporation, a partnership, an association, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated or not; or any receiver, trustee in a case under title 11 of the United States Code or similar official or any liquidating agent for any of the foregoing, in his capacity as such.''[70]

In light of these other definitions, for the purposes of the GLBA provisions in the Exchange Act, we interpret the term ''company'' as used in the definition of ''qualified investor'' in subsection (xi) of section 3(a)(54) to have a broad meaning that encompasses any other type of entity not otherwise specifically listed in section 3(a)(54). We believe that interpreting the definition of qualified investor in this way is an appropriate way to enhance legal certainty for entities that are not as precisely described as others in the list of entities expressly listed as ''qualified investors.''

We believe that it may be appropriate to utilize this interpretation in all circumstances where the term is used in the GLBA exceptions as well as in the securities lending exemption. However, any type of entity that is specifically listed in Exchange Act section 3(a)(54) will continue to be subject to the requirements imposed by that section. For example, a government or political subdivision, agency, or instrumentality of a government is required to invest on a discretionary basis at least $50 million in investments in order to be considered a qualified investor.[71] The statutory requirement for these governmental entities would not be changed by this interpretation.

We request comment on all aspects of this interpretation, including whether there are any other entities that should be considered qualified investors or whether we should exclude any entities that might meet the qualifying investment threshold but that nonetheless should be excluded from the definition. In addition, we request comment on whether the expansion of the definition of ''qualified investor'' should apply: (1) Whenever the term is used in the GLBA exceptions; or (2) only to securities lending transactions. We also request comment on whether this interpretation brings sufficient clarity to provide legal certainty to banks and their customers.

VI. Procedural Matters

A. General Request for Comments

We are soliciting comments on all aspects of these proposed amendments as well as the portions of the Rules pertaining to banks' dealer activities that we are not proposing to amend. We will amend the Rules as appropriate in response to comments received when we adopt final rules relating to the

[61] 15 U.S.C. 78c(a)(54). Under this definition qualified investors include investment companies, banks, small business investment companies, any State sponsored employee benefit plan, institutional trusts, market intermediaries, and natural persons, corporations or partnerships that own and invest on a discretionary basis more than $25,000,000.

[62] *See* Coalition of Securities Lending Banks letter.

[63] In addition to these three provisions, a participation in a loan to be an ''identified banking product,'' also must either be sold to: (1) A qualified investor; or (2) to other persons that have an opportunity to review and assess any material information regarding the borrower's creditworthiness and based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines. Thus, a bank utilizing the exceptions to broker and dealer registration to sell a participation interest would either have to sell such an interest to a qualified investor or undertake a more extensive factual assessment of the purchaser. *See* Section 206(a)(5) of Pub. L. 106–102 [15 U.S.C. 78c note] as incorporated into Exchange Act Section 3(a)(4)(B)(ix) [15 U.S.C. 78c(a)(4)(B)(ix)] and Section 3(a)(5)(C)(iv) [15 U.S.C. 78c(a)(5)(C)(iv)].

[64] Section 206(a)(6) of Pub. L. 106–102 [15 U.S.C. 78c note] as incorporated into Exchange Act Section 3(a)(4)(B)(ix) [15 U.S.C. 78c(a)(4)(B)(ix)].

[65] Section 206(a)(6) of Pub. L. 106–102 [15 U.S.C. 78c note] as incorporated into Exchange Act Section 3(a)(5)(C)(iv) [15 U.S.C. 78c(a)(5)(C)(iv)].

[66] Exchange Act Section 3(a)(5)(C)(iii) [15 U.S.C. 78c(a)(5)(C)(iii)].

[67] Coalition of Securities Lending Banks letter.

[68] Subsections (i) through (xiv) of Section 3(a)(54) list entities that are qualified investors.

[69] Exchange Act Section 3(a)(9) [15 U.S.C. 78c(a)(9)].

[70] Investment Company Act Section 2(a)(8) [15 U.S.C. 80a–2(a)(8)].

[71] Section 3(a)(54)(C)(xiii) of the Exchange Act [15 U.S.C. 78c(a)(54)(C)(xiii)].

exceptions from the definition of dealer and the new proposed exemption set forth in this proposal. We also specifically request comment on the timing of the final implementation of this proposal and the Rules relating to the exceptions from the definition of dealer as well as any specific extensions that individual banks may need.

B. Paperwork Reduction Act

These proposed rules do not impose recordkeeping or information collection requirements, or other collections of information that require approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq*. Accordingly, the Paperwork Reduction Act does not apply.[72]

C. Consideration of Benefits and Costs

We believe that these proposed amendments and the new exemption are consistent with Congress's intent in enacting the GLBA and are responsive to the comments we received. These proposed amendments to the Rules are very limited in scope. The amendments propose three changes. In particular, we propose to: (1) Modify the way in which transactions are counted under the exemption from the definition of ''dealer'' for a bank engaged in riskless principal transactions, which would permit the bank to engage in more transactions under the *de minimis* exception to broker and dealer registration; (2) modify certain definitions under the exemption for asset-backed transactions exception to the ''dealer'' rules to permit banks to issue and sell more asset-backed securities; and (3) add a new exemption from the definitions of both ''broker'' and ''dealer'' to provide banks with enhanced legal certainty when they engage in securities lending transactions.

1. Benefits

Both of the proposed amendments to the existing Rules would modify the exceptions and the interpretations found in Rules 3a5–1 and 3b–18 in a way that expands the scope of activity in which banks may engage without registering as dealers. The new proposed exemption for banks to engage in securities lending transactions found in new Rule 15a–11 also grants increased legal certainty to banks. All of these proposals make it easier for banks to conduct these activities.

Amending Rule 3a5–1 to change the way riskless principal transactions are counted will allow banks to engage in more such transactions before triggering the dealer registration requirement.

Directly engaging in asset-backed transactions without employing a broker-dealer is very unusual for banks. We found only two banks that regularly issue and sell asset-backed securities. Based on the staff discussions with these two banks, we believe that the proposed amendments to Rule 3b–18 will permit these two banks to continue to utilize their existing business models with little or no change in their procedures. These proposed amendments modify the definition of ''originate'' to permit banks to use loan origination channels that would not be permitted under the Rules. We believe that the proposed amendments to the definitions under the asset-backed transactions exception will accommodate these banks' business without sacrificing the statutory limits Congress imposed on banks' dealer activities.

Lending securities is a highly specialized business for which Congress provided partial relief under the custody exception to broker registration. As discussed above, some banks were concerned about legal certainty for securities lending transactions that may not meet the terms of the custody exception to broker registration and to the extent that some securities lending transactions might be considered to be subject to dealer registration. The proposed amendments modify the definition of ''originate'' to permit banks to use loan pipelines that would not be permitted under the Rules. We believe that banks provide an important function in this market and that it is in the public interest that they continue to do so. The proposed exemption should provide banks that lend securities with enhanced legal certainty that will permit them to continue to engage in this activity without broker-dealer registration.

2. Costs

Although banks may incur certain costs to comply with the GLBA, these costs will be necessary because of the statutory change. Congress determined that all securities activities should be functionally regulated by the expert securities regulator to ensure investor protection, regardless of the entity in which the activities occur. Thus, any regulatory costs arise from Congress's determination that amendment of the Exchange Act was necessary. There are no out-of-pocket costs as a result of these proposals. Any costs would be those associated with moving the supervision of these limited securities transactions or products from the Commission and placing them under the banking agencies, which we do not believe to be significant.

In addition, because the types of dealer activities that are the subject of these rules are not the types of activities in which small banks or small broker-dealers participate, there should be no competitive costs to small broker-dealers due to the way in which these rules modify the terms of the bank exceptions and exemptions. None of the commenters on the dealer rules specifically identified costs to complying with those rules.

D. Consideration of Burden on Competition, and on Promotion of Efficiency, Competition, and Capital Formation

In accordance with our responsibilities under section 3(f) of the Exchange Act, we have considered both the protection of investors and whether these proposed amendments to certain of the Rules would promote efficiency, competition, and capital formation in determining whether they are consistent with the public interest.[73] In addition, section 23(a)(2) of the Exchange Act[74] requires us, in adopting rules under the Exchange Act, to consider the anticompetitive effects of such rules, if any, and to refrain from adopting a rule that will impose a burden on competition not necessary or appropriate in furthering the purpose of the Exchange Act.

We do not believe that the interpretations, definitions, and exemptions contained in these proposed amendments to certain of the Rules, or the proposed rules will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The interim final rules define terms in the statutory exceptions to the definitions of broker and dealer added to the Exchange Act by Congress in the GLBA, and provide guidance to banks regarding the scope of those exceptions. The proposed rule amendments and proposed rules also do not impose any additional competitive burdens on banks engaging in a securities business, other than those imposed by Congress through functional regulation in the GLBA.

Because the types of dealer activities that are the subject of these rules are not the types of activities in which small banks or small broker-dealers directly

[72] We would expect banks, as a matter of good business practice, to be able to demonstrate that they meet the terms of a particular exemption. We also note that Section 203 of the GLBA specifically requires the bank regulators to promulgate recordkeeping requirements.

[73] 15 U.S.C. 78c(f).

[74] 15 U.S.C. 78w(a)(2).

participate, there should be no competitive costs to small banks or small broker-dealers due to the way in which these rules modify the terms of the bank exceptions and exemptions.

The new conditional exemption from broker-dealer registration would provide banks increased legal certainty when they engage in securities lending transactions without any new burdens on banks seeking to use this limited exemption. Nothing in the proposed amendments to the Rules, in the new proposed exemption, or in the proposed rule will adversely affect capital formation. Banks that alter their securities-related activities in accordance with the GLBA will continue to be able to provide securities services to their customers. In enacting the GLBA, Congress determined that functional regulation was appropriate—that is, when a bank was conducting a securities business outside of the enumerated exceptions, that bank should be registered as a broker-dealer or shifted securities activities to a registered broker-dealer. In the interest of protecting the public and ensuring orderly markets, Congress determined that banks conducting a broad securities business should be subject to the same regulatory oversight as broker-dealers conducting the same types of activities. These amendments to the Rules and the new proposed exemption promote Congress' intent and make it easier for banks to comply with the requirements of the GLBA.

Since certain of these proposed amendments to the Rules define statutory exceptions mandated by Congress, we do not believe that those rules impose any extra-statutory adverse effects on efficiency, competition, or capital formation. With respect to the proposed amendment to a Rule that provides exemptive relief and the new proposed exemption for banks, both changes would make it easier for banks to comply with the GLBA and the Rules and give them enhanced legal certainty. We also do not believe that those rules impose any extra-statutory adverse effects on efficiency, competition, or capital formation. When Congress passed the GLBA, it effectively determined that regulation of banks conducting a securities operation outside of certain exceptions was necessary, appropriate, and in the public interest.

We are, however, interested in receiving comments regarding the effect of these proposed amendments to the Rules, the new proposed exemption, and the proposed rule may have on efficiency, competition, and capital formation. We will consider those comments in making any changes to the proposed amendments to the Rules, the new proposed exemption, and the new rule as necessary.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission is also requesting information regarding the potential impact of the proposed rules and rule amendments on the economy on an annual basis. Commenters should provide empirical data to support their views.

E. Regulatory Flexibility Act Certification

Section 3(a) of the Regulatory Flexibility Act [75] requires the Commission to undertake an initial regulatory flexibility analysis of the effects of proposed rules and rule amendments on small entities, unless the Commission certifies that the rules and rule amendments, if adopted, would not have a significant economic impact on a substantial number of small entities.[76]

The Commission hereby certifies pursuant to 5 U.S.C. 605(b) that proposed amendments to Rules 3a5–1 and 3b–18 under the Exchange Act, and a proposed exemption for securities lending transactions in Rule 15a–11 under the Exchange Act under the Exchange Act contained in this release, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed amendments and proposed rules will not impose compliance requirements on depository institutions of any size. They impose no performance standards, no fees, no reporting or recordkeeping criteria, nor any other type of restriction or requirement with which depository institutions must comply. Furthermore, nothing in these rules prevents or impedes small banks from engaging in any of these activities. The activities addressed by these proposed amendments and proposed rules are not of a type that a small bank is likely to engage in. In addition, all of these rules remove impediments to any bank, including a small bank, engaging these activities.

First, the proposals would modify the method of counting a bank's riskless principal transactions for purposes of determining whether the volume of such transactions requires the bank to register as a dealer. The modification would, if anything, permit banks to engage in more transactions than would be permitted without registration under the Rules. Second, the proposals would amend a rule defining certain terms in section 3(a)(5) of the Exchange Act concerning exceptions to the statutory definition of ''dealer'' for certain bank activities. These amendments also would, if anything, permit banks to engage in more transactions than would be permitted without registration under the Rules. Third, the proposals would add a new rule permitting banks to engage in certain securities lending activities without triggering registration requirements. Again, this proposal would, if anything, permit banks to engage in more transactions than would be permitted without registration under the Rules. For these reasons, none of the proposals should have a significant economic impact on a substantial number of small entities.

We encourage written comments regarding this certification. We solicit comment as to whether the proposed changes could have an effect that we have not considered. We request that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

Statutory Authority

The Commission is proposing amendments to Rules 3a5–1 and 3b–18, and a new exemption for securities lending transactions in Rule 15a–11 under the Exchange Act, pursuant to authority set forth in sections 3(b), 15, 23(a), and 36 of the Exchange Act (15 U.S.C. 78c(b), 78o, 78w(a), and 78mm, respectively).

Text of Proposed Rules and Rule Amendments

List of Subjects in 17 CFR Part 240

Broker-dealers, Reporting and recordkeeping requirements, Securities.

Text of Amendment

For the reasons set forth in the preamble, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.3a5–1 is revised to read as follows:

[75] 5 U.S.C. 603(a).

[76] 5 U.S.C. 605(b).

§ 240.3a5–1 Exemption from the definition of ''dealer'' for a bank engaged in riskless principal transactions.

(a) A bank is exempt from the definition of the term ''dealer'' solely for engaging in riskless principal transactions if the number of such riskless principal transactions during a calendar year combined with transactions in which the bank is acting as an agent for a customer pursuant to section 3(a)(4)(B)(xi) of the Act (15 U.S.C. 78c(a)(4)(B)(xi)) during that same year does not exceed 500.

(b) For purposes of this section, the term *riskless principal transaction* means a transaction in which, after having received an order to buy from a customer, the bank purchased the security from another person to offset a contemporaneous sale to such customer or, after having received an order to sell from a customer, the bank sold the security to another person to offset a contemporaneous purchase from such customer.

3. Section 240.3b–18 is revised to read as follows:

§ 240.3b–18 Definitions of terms used in Section 3(a)(5) of the Act.

For the purposes of section 3(a)(5)(C) of the Act (15 U.S.C. 78c(a)(5)(C):

(a) The term *affiliate* means any company that controls, is controlled by, or is under common control with another company.

(b) The term *consumer-related receivable* means any obligation incurred by any natural person to pay money arising out of a transaction in which the money, property, insurance, or services (being purchased) are primarily for personal, family, or household purposes.

(c) The term *member* as it relates to the term ''syndicate of banks'' means a bank that is a participant in a syndicate of banks and together with its affiliates other than its broker or dealer affiliates, originates no less than 10% of the value of the obligations in a pool of obligations used to back the securities issued through a grantor trust or other separate entity.

(d) The term *obligation* means any note, draft, acceptance, loan, lease, receivable, or other evidence of indebtedness that is not a security issued by a person other than the bank.

(e) The term *originated* means:

(1) Funding an obligation at the time that the obligation is created; or

(2) Initially approving and underwriting the obligation, or initially agreeing to purchase the obligation, provided that:

(i) The obligation conforms to the bank's own underwriting standards or is evidenced by the bank's own loan documents; and

(ii) The bank funds the obligation in a timely manner, not to exceed six months after the obligation is created.

(f) The term *pool* means more than one obligation or type of obligation grouped together to provide collateral for a securities offering.

(g) The term *predominantly originated* means that no less than 85% of the value of the obligations in any pool were originated by:

(1)The bank, or its affiliates other than its broker or dealer affiliates; or

(2) Banks that are members of a syndicate of banks and affiliates of such banks other than their broker or dealer affiliates, if the obligations or pool of obligations consist of mortgage obligations or consumer-related receivables.

(3) For this purpose, the bank and its affiliates include any financial institution with which the bank or its affiliates have merged but does not include the purchase of a pool of obligations or the purchase of a line of business.

(h) The term *syndicate of banks* means a group of banks that acts jointly, on a temporary basis, to issue through a grantor trust or other separate entity, securities backed by obligations originated by each of the individual banks or their affiliates other than their broker or dealer affiliates.

4. Section 240.15a–11 is added to read as follows:

§ 240.15a–11 Exemption from the definitions of ''broker'' and ''dealer'' for banks engaging in securities lending transactions.

(a) Except as otherwise provided in paragraph (d) of this section, a bank is exempt from the definitions of the terms ''broker'' and ''dealer'' under sections 3(a)(4) and 3(a)(5) of the Act (15 U.S.C. 78c(a)(4) and (a)(5)), solely to engage in or effect securities lending transactions with a qualified investor, pursuant to an agreement to provide securities lending services to a qualified investor, whether the bank acts as a conduit lender, or an agent.

(b) *Securities lending transaction* means a transaction in which the owner of a security lends the security temporarily to another party pursuant to a written securities lending agreement under which the lender retains the economic interests of an owner of such securities, and has the right to terminate the transaction and to recall the loaned securities on terms agreed by the parties.

(c) An *agreement to provide securities lending services* means any contract to conduct securities lending transactions on behalf of a qualified investor in connection with which the bank may:

(1) Select and negotiate with a borrower and execute, or direct the execution, of the loan with the borrower;

(2) Receive, deliver, or take custody of loaned securities;

(3) Receive, deliver, or take custody of collateral;

(4) Provide mark-to-market, corporate action, recordkeeping or other services incidental to the administration of the securities lending transaction;

(5) Reinvest, or direct the reinvestment of, cash collateral; or

(6) Indemnify the lender of securities with respect to various matters.

(d) For the purposes of this section, the term *conduit lender* means a bank that borrows (or loans) securities, as principal, for its own account, and contemporaneously loans (or borrows) the same securities, as principal, for its own account. A bank that qualifies under this definition as a conduit lender at the commencement of a transaction will continue to have that character as long as the original securities lending transaction remains outstanding, even though substitutions of collateral may occur on the securities borrowing side of the transaction.

(e) For the purposes of this section, the term *qualified investor* has the meaning set forth in section 3(a)(54) of the Act (15 U.S.C. 78c(a)(54)).

Dated: October 30, 2002.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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H.R. 2486/P.L. 107–253

Inland Flood Forecasting and Warning System Act of 2002 (Oct. 29, 2002; 116 Stat. 1731; 2 pages)

H.R. 5647/P.L. 107–254

To authorize the duration of the base contract of the Navy-Marine Corps Intranet contract to be more than five years but not more than seven years. (Oct. 29, 2002; 116 Stat. 1733; 1 page)

H.J. Res. 113/P.L. 107–255

Recognizing the contributions of Patsy Takemoto Mink. (Oct. 29, 2002; 116 Stat. 1734; 1 page)

S. 1227/P.L. 107–256

Niagara Falls National Heritage Area Study Act (Oct. 29, 2002; 116 Stat. 1735; 2 pages)

S. 1270/P.L. 107–257

To designate the United States courthouse to be constructed at 8th Avenue and Mill Street in Eugene, Oregon, as the ''Wayne Lyman Morse United States Courthouse''. (Oct. 29, 2002; 116 Stat. 1737; 1 page)

S. 1339/P.L. 107–258

Persian Gulf War POW/MIA Accountability Act of 2002 (Oct. 29, 2002; 116 Stat. 1738; 3 pages)

S. 1646/P.L. 107–259

To identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System. (Oct. 29, 2002; 116 Stat. 1741; 2 pages)

S. 2558/P.L. 107–260

Benign Brain Tumor Cancer Registries Amendment Act (Oct. 29, 2002; 116 Stat. 1743; 2 pages)

H.R. 669/P.L. 107–261

To designate the facility of the United States Postal Service located at 127 Social Street in Woonsocket, Rhode Island, as the ''Alphonse F. Auclair Post Office Building''. (Oct. 30, 2002; 116 Stat. 1745; 1 page)

H.R. 670/P.L. 107–262

To designate the facility of the United States Postal Service located at 7 Commercial Street in Newport, Rhode Island, as the ''Bruce F. Cotta Post Office Building''. (Oct. 30, 2002; 116 Stat. 1746; 1 page)

H.R. 3034/P.L. 107–263

To redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the ''Frank Sinatra Post Office Building''. (Oct. 30, 2002; 116 Stat. 1747; 1 page)

H.R. 3738/P.L. 107–2

4 To designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the ''Herbert Arlene Post Office Building''. (Oct. 30, 2002; 116 Stat. 1748; 1 page)

H.R. 3739/P.L. 107–265

To designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the ''Rev. Leon Sullivan Post Office Building''. (Oct. 30, 2002; 116 Stat. 1749; 1 page)

H.R. 3740/P.L. 107–266

To designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the ''William A. Cibotti Post Office Building''. (Oct. 30, 2002; 116 Stat. 1750; 1 page)

H.R. 4102/P.L. 107–267

To designate the facility of the United States Postal Service located at 120 North Maine Street in Fallon, Nevada, as the ''Rollan D. Melton Post

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H.R. 4717/P.L. 107–268

To designate the facility of the United States Postal Service located at 1199 Pasadena Boulevard in Pasadena, Texas, as the ''Jim Fonteno Post Office Building''. (Oct. 30, 2002; 116 Stat. 1752; 1 page)

H.R. 4755/P.L. 107–269

To designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the ''Clarence Miller Post Office Building''. (Oct. 30, 2002; 116 Stat. 1753; 1 page)

H.R. 4794/P.L. 107–270

To designate the facility of the United States Postal Service located at 1895 Avenida Del Oro in Oceanside, California, as the ''Ronald C. Packard Post Office Building''. (Oct. 30, 2002; 116 Stat. 1754; 1 page)

H.R. 4797/P.L. 107–271

To redesignate the facility of the United States Postal Service located at 265 South Western Avenue, Los Angeles, California, as the ''Nat King Cole Post Office''. (Oct. 30, 2002; 116 Stat. 1755; 2 pages)

H.R. 4851/P.L. 107–272

To redesignate the facility of the United States Postal Service located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, as the ''Robert Wayne Jenkins Station''. (Oct. 30, 2002; 116 Stat. 1757; 1 page)

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