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Rules and Regulations

Federal Register
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Tuesday, November 26, 2002

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

[Docket No. 02–077–1]

Subpoenas Issued Under the Animal Health Protection Act

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: We are amending the administrative regulations of the Office of the Secretary of Agriculture to reflect the subpoena provisions of the Animal Health Protection Act. Under the Animal Health Protection Act, the Secretary of Agriculture can subpoena witnesses and documents relating to the administration or enforcement of the Animal Health Protection Act or any matter being investigated in connection with the Animal Health Protection Act. This final rule is necessary to establish regulations governing the issuance of subpoenas under this authority. We are also amending the administrative regulations, where necessary, by including references to the Animal Health Protection Act, the Plant Protection Act, and Title V of the Agricultural Risk Protection Act of 2000, and removing references to statutes repealed by the Plant Protection Act.

EFFECTIVE DATE: November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Alan R. Christian, Director, Investigative and Enforcement Services, APHIS, 4700 River Road Unit 85, Riverdale, MD 20737–1231; (301) 734–8684.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS), through its Veterinary Services (VS) program, regulates animals, animal products, and other articles to prevent the introduction or spread of animal diseases and pests. When it appears that VS regulations have been violated, APHIS conducts an investigation. In conducting the investigation, it may be necessary to issue a subpoena for testimony or for documents and other records.

Title X, subtitle E, of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, 7 U.S.C. 8301–8317), known as the Animal Health Protection Act (AHPA), updates and consolidates a number of animal health statutes. Under section 10415 of the AHPA (7 U.S.C. 8314), the Secretary of Agriculture has the authority to issue subpoenas for testimony and for documents and other records relating to administration or enforcement of the AHPA. The authority for signing subpoenas has been delegated from the Secretary to the Under Secretary of Marketing and Regulatory Programs, and from the Under Secretary of Marketing and Regulatory Programs to the Administrator, APHIS (7 CFR 2.22 and 2.80).

The AHPA requires that we publish procedures for issuing subpoenas. According to § 10415(a)(2)(E) of the AHPA (7 U.S.C. 8314), the procedures must include a requirement that subpoenas be reviewed for legal sufficiency and signed by the Secretary. The Act further requires that ''if the authority to sign a subpoena is delegated to an agency other than the Office of Administrative Law Judges, the agency receiving the delegation shall seek review of the subpoena for legal sufficiency outside that agency.''

To comply with these requirements, we are amending 7 CFR 1.29 and 1.131. Section 1.29 governs the issuance of subpoenas relating to investigations under statutes administered by the Secretary. Paragraph (3) states that the Office of the General Counsel, USDA, will review subpoenas for legal sufficiency that are issued under certain statutes. We are amending paragraph (3) to state that the Office of the General Counsel will also review for legal sufficiency subpoenas that are issued under the AHPA.

Section 1.131 comes under subpart H of part 1. Subpart H contains rules of practice for formal adjudicatory proceedings instituted by the Secretary under various statutes. We are amending § 1.131 to add the AHPA to the list of covered statutes. We are also updating § 1.131 by removing references to statutes that were repealed by the Plant Protection Act (PPA, 7 U.S.C. 7701–7772).

We are also updating § 1.183, which comes under subpart J of part 1. Subpart J contains procedures relating to awards under the Equal Access to Justice Act in proceedings before the Department. We are amending § 1.183 by adding the AHPA and Title V of the Agricultural Risk Protection Act of 2000, section 501(a) (7 U.S.C. 2279e) to the list of covered statutes and by revising the citations provided in the entry for the PPA.

This rule relates to internal agency management. Therefore, this rule is exempt from the provisions of Executive Orders 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Agriculture, Antitrust, Blind, Claims, Concessions, Cooperatives, Equal access to justice, Federal buildings and facilities, Freedom of information, Lawyers, Privacy.

Accordingly, we are amending 7 CFR part 1 as follows:

PART 1—ADMINISTRATIVE REGULATIONS

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

Authority: 5 U.S.C. 301, unless otherwise noted.

Subpart B—Departmental Proceedings

§ 1.29 [Amended]

2. In § 1.29, paragraph (a)(3) is amended by adding the words ''Animal Health Protection Act (7 U.S.C. 8301–8317),'' before the word ''Plant'', and by adding a comma before the word ''or''.

Subpart H—Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes

3. The authority citation for Subpart H is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 61, 87e, 228, 268, 499o, 608c(14), 1592, 1624(b), 2151, 2279e, 2621, 2714, 2908, 3812, 4610, 4815, 4910, 6009, 6107, 6207, 6307, 6411, 6808, 7107, 7734, 8313; 15 U.S.C. 1828; 16 U.S.C. 620d, 1540(f), 3373; 21 U.S.C. 104, 111, 117, 120, 122, 127, 134e, 134f, 135a, 154, 463(b), 621, 1043; 43 U.S.C. 1740; 7 CFR 2.35, 2.41.

§ 1.131 [Amended]

4. In § 1.131, paragraph (a) is amended by adding, in alphabetical order, ''Animal Health Protection Act, section 10414 (7 U.S.C. 8313).'', and by removing ''Act of August 20, 1912, commonly known as the Plant Quarantine Act, section 10, as amended (7 U.S.C. 163, 164).'', ''Act of January 31, 1942, as amended (7 U.S.C. 149).'', and ''Federal Plant Pest Act, section 108, as amended (7 U.S.C. 150gg).''.

Subpart J—Procedures Relating to Awards Under the Equal Access to Justice Act in Proceedings Before the Department

5. The authority citation for Subpart J continues to read as follows:

Authority: 5 U.S.C. 504(c)(1).

§ 1.183 [Amended]

6. In § 1.183, paragraph (a)(2) is amended by adding, in alphabetical order, ''Animal Health Protection Act, sections 10414 and 10415 (7 U.S.C. 8313 and 8314)'' and ''Title V of the Agricultural Risk Protection Act of 2000, section 501(a) (7 U.S.C. 2279e)''; and in the entry for the Plant Protection Act, by removing the citations ''7 U.S.C. 2279e, 7734(b), 7736'' and adding the citations ''7 U.S.C. 7734, 7735, and 7736'' in their place.

Dated: November 20, 2002.

Ann M. Veneman,

Secretary of Agriculture.

[FR Doc. 02–29985 Filed 11–25–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket No. 02–117–1]

Exotic Newcastle Disease; Designation of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the exotic Newcastle disease regulations by quarantining Los Angeles County, CA, and portions of Riverside and San Bernardino Counties, CA, and restricting the interstate movement of birds, poultry, products, and materials that could spread exotic Newcastle disease from the quarantined area. This action is necessary on an emergency basis to prevent the interstate spread of exotic Newcastle disease from the quarantined area.

DATES: This interim rule was effective November 21, 2002. We will consider all comments that we receive on or before January 27, 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. 02–117–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–117–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–117–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Aida Boghossian, Senior Staff Veterinarian, Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231; (301) 734–8073.

SUPPLEMENTARY INFORMATION:

Background

Exotic Newcastle disease (END) is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of birds and poultry. END is so virulent that many birds and poultry die without showing any clinical signs. A death rate of almost 100 percent can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry.

The END regulations, contained in 9 CFR 82.1 through 82.15 (referred to below as the regulations), were established to prevent the spread of END in the United States in the event of an outbreak. Section 82.3, paragraph (a), provides that any area where birds or poultry infected with END are located will be designated as a quarantined area. Less than an entire State will be designated as a quarantined area only if the State enforces restrictions on intrastate movements from the quarantined area that are at least as stringent as the regulations. The regulations restrict the interstate movement of birds, poultry, products, and materials that could spread END from quarantined areas. Prior to this rule, no areas were listed as quarantined in § 82.3(c) because of END.

On October 1, 2002, END was confirmed in the State of California. The disease has been diagnosed in backyard poultry, which are raised on private premises for hobby, exhibition, and personal consumption. At this time, commercial poultry are not involved in the disease occurrence.

The State of California and the Animal and Plant Health Inspection Service have begun an intensive END eradication program in the quarantined area in Los Angeles, Riverside, and San Bernardino Counties. Also, California has taken action to restrict the intrastate movement of birds, poultry, products, and materials that could spread END from the quarantined area.

Accordingly, to prevent the spread of END into other States, we are amending § 82.3(c) by designating Los Angeles County and portions of Riverside and San Bernardino Counties, CA, as a quarantined area for END. The quarantined area is described in the rule portion of this document.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent END from spreading to other States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule amends the END regulations by adding Los Angeles County and portions of Riverside and San Bernardino Counties, CA, to the list of quarantined areas. The regulations restrict the interstate movement of birds, poultry, products, and materials that could spread END from the quarantined area.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 82 is amended as follows:

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

1. The authority citation for part 82 is revised to read as follows:

Authority: 7 U.S.C. 8304–8306, 8308, 8313, and 8315; 7 CFR 2.22, 2.80, and 371.4.

2. In § 82.3, paragraph (c) is revised to read as follows:

§ 82.3 Quarantined areas.

* * * * *

(c) The following areas are quarantined because of END:

California

Los Angeles, Riverside, and San Bernardino Counties. All of Los Angeles County. That portion of San Bernardino County south of State Highway 58 and bounded by an imaginary line beginning at the intersection of the Kern County line and State Highway 58; then southeast along State Highway 58 to Interstate Highway 15; then south along Interstate Highway 15 to State Highway 247; then southeast along State Highway 247 to State Highway 62; then south along State Highway 62 to the Riverside County line. That portion of Riverside County south of the Riverside County line and bounded by an imaginary line beginning at the intersection of State Highway 62 and the Riverside County line; then south along State Highway 62 to Interstate Highway 10; then southeast along Interstate Highway 10 to State Highway 111 (Golf Center Parkway); then south along State Highway 111 to State Highway 86; then southeast along State Highway 86 to the Imperial County line.

Done in Washington, DC, this 21st day of November, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–29987 Filed 11–25–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

[Docket No. EE–RM–96–400]

RIN 1904–AB11

Energy Efficiency Program for Certain Commercial and Industrial Equipment: Extension of Time for Electric Motor Manufacturers To Certify Compliance With Energy Efficiency Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: This procedural rule amends the compliance certification regulations by revising the deadline date for all electric motor manufacturers to certify compliance to the Department of Energy that their motors meet the applicable energy efficiency standards.

DATES: This rule is effective November 26, 2002.

FOR FURTHER INFORMATION CONTACT: James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–41, 1000 Independence Avenue, SW., Washington, DC 20585–0121, telephone (202) 586–8654, telefax (202) 586–4617, or: *jim.raba@ee.doe.gov.*

Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–7432, telefax (202) 586–4116, or: *francine.pinto@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 345(c) of the Energy Policy and Conservation Act of 1975 (EPCA) requires ''manufacturers to certify, through an independent testing or certification program nationally recognized in the United States, that such motor meets the applicable [nominal full load efficiency standard]'' (42 U.S.C. 6316(c)). The Department of Energy (DOE) construes the statutory language to provide manufacturers with two equivalent ways to fulfill the certification requirement: (1) A

manufacturer may certify, through an independent testing program nationally recognized in the United States, that a covered motor meets the standard; or (2) a manufacturer may certify, through an independent certification program nationally recognized in the United States, that a covered motor meets the standard. DOE is of the view that section 345(c) does not require preference for one program over the other.

The procedures by which a manufacturer may certify the energy efficiency of the manufacturer's electric motors, through either a certification program or an accredited laboratory, are set forth in 10 CFR 431.24(a)(5). Section 431.123(a) in 10 CFR part 431 currently provides that, beginning on June 7, 2002, no electric motor ''subject to an energy efficiency standard set forth in subpart C of this part'' may be distributed in commerce unless it is covered by a Compliance Certification that the manufacturer has submitted to DOE.

II. Background

On November 9, 2001, DOE published a notice of final rulemaking in the **Federal Register** that amended 10 CFR 431.123(a) to change the deadline for submission of compliance certifications from November 5, 2001, to June 7, 2002 (66 FR 56604). That action was taken because there was insufficient independent testing laboratory capacity for testing the thousands of basic models of electric motors covered by EPCA's efficiency standards. The notice of final rulemaking reported that a number of motor manufacturers had elected to base the certification of their motors' energy efficiency on testing conducted in a National Voluntary Laboratory Accreditation Program (NVLAP) accredited laboratory. However, about half of the motor manufacturers had elected to base their compliance on a certification program that DOE classifies as nationally recognized. Many of those manufacturers have committed resources in anticipation of certification programs being recognized by DOE. As of the November 9, 2001 date of publication of the notice of final rulemaking, there were no certification programs nationally recognized for the purposes of section 345(c) of EPCA. Therefore, it was impossible for manufacturers electing to use a nationally recognized certification program, as allowed by EPCA, to test and certify their motors for energy efficiency before November 5, 2001.

At that time, DOE believed that the extension of the certification deadline to June 7, 2002, would provide sufficient time for all manufacturers to come into compliance with EPCA's requirements. The new deadline was based on DOE's belief that it would be able to promptly complete action on the petitions for certification program recognition that had been submitted by CSA International and Underwriters Laboratories, Inc., and that such action could be completed in a timeframe that would allow manufacturers, if they so chose, to use an approved certification program and submit required certifications to DOE by the June 7, 2002 deadline. DOE had published for public comment the petition of CSA International on April 26, 2000 (65 FR 24429), and the petition of Underwriters Laboratories, Inc. on October 3, 2001 (66 FR 50355).

III. Discussion of Rule Amendment

DOE was not able to complete action on these two petitions for certification program recognition by June 7, 2002. DOE published its interim determinations to approve the CSA International and Underwriters Laboratories, Inc., petitions for certification program recognition on July 5, 2002. 67 FR 45018 and 45028. Under the certification program recognition process set forth in 10 CFR 431.28(a)–(f), after the period for public comment for the interim determinations closes, DOE will review any comments and information submitted, as well as any responsive statements of the petitioners. DOE then will publish a final determination on the petitions. In the meantime, however, the situation remains the same as it was in November 2001 when DOE granted the previous extension of the deadline in 10 CFR 431.123(a). That is, a number of motor manufacturers have elected to base the certification of their motors' energy efficiency on a certification program that DOE classifies as nationally recognized; many of those manufacturers have committed resources in anticipation of certification programs being recognized by DOE; there are no certification programs nationally recognized for the purposes of section 345(c) of EPCA; it is impossible for manufacturers electing to use a nationally recognized certification program, as allowed by EPCA, to test and certify their motors for energy efficiency before June 7, 2002; and there is insufficient independent testing laboratory capacity for testing the thousands of basic models of electric motors covered by EPCA's efficiency standards. Therefore, DOE is amending section 431.123(a) to further extend the deadline for motor manufacturers to certify compliance with EPCA.

In view of the foregoing, DOE today amends 10 CFR 431.123 to replace ''June 7, 2002'' with a phrase cross-referencing a new paragraph (g), which establishes a new compliance date. New paragraph (g) of 10 CFR 431.123 provides that the new compliance date is April 30, 2003, or the date that is 120 days after the date on which DOE publishes its final determinations for the CSA International and Underwriters Laboratories, Inc. petitions, whichever is earlier. The rule further provides that if DOE publishes the final determinations for the CSA International and Underwriters Laboratories, Inc. petitions on different dates, the compliance certification date is the date that is 120 days after the date of publication of the earlier final determination. DOE believes this approach will result in certifications by manufacturers using certification programs at the earliest possible time. While establishing April 30, 2003 as the outside limit on the extension, DOE expects to issue final determinations on the two petitions in time to allow manufacturers to come into compliance before that date.

The Secretary of Energy has approved issuance of this final rule.

IV. Procedural Issues and Regulatory Review

A. Review Under the National Environmental Policy Act

DOE reviewed today's rule under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality, 40 CFR parts 1500–1508, and DOE's regulations on compliance with NEPA, 10 CFR part 1021. DOE has determined that today's rule is covered by the Categorical Exclusion found at paragraph A6 of appendix A to subpart D of DOE's NEPA regulations, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement has been prepared.

B. Review Under Executive Order 12866, ''Regulatory Planning and Review''

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, requires that a federal agency prepare a regulatory flexibility analysis for any rule for which the agency is required to publish a general notice of proposed rulemaking. Today's rule is a rule of agency procedure that is exempt from the Administrative Procedure Act's notice and comment requirements. Therefore, a regulatory flexibility analysis has not been prepared.

D. Review Under Executive Order 13132, ''Federalism''

Executive Order 13132, ''Federalism'' (64 FR 43255) requires federal agencies 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 are 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.'' On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's rule and determined that it does 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. No further action is required by the Executive Order.

E. Review Under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

DOE has determined that this regulation would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

F. Review Under the Paperwork Reduction Act

No new collection of information will be imposed by this rulemaking. Accordingly, no clearance by the Office of Management and Budget is required under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*).

G. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, section 3 of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729) imposes on Executive agencies the general duty to eliminate drafting errors and ambiguity; write regulations to minimize litigation; provide a clear legal standard for affected conduct rather than a general standard; and promote simplification and burden reduction. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

H. Review Under Section 32 of the Federal Energy Administration Act

Today's final rule does not incorporate commercial standards by reference. Therefore, section 32 of the Federal Energy Administration Act does not apply to today's final rule.

I. Review Under the Unfunded Mandates Reform Act

DOE has determined that today's final rule does not include a federal mandate that may result in estimated costs of $100 million or more to state, local or to tribal governments in the aggregate or to the private sector. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) do not apply.

J. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

K. Review Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) requires federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposed action be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's final rule would not have any adverse effects on the supply, distribution, or use of energy.

L. Review Under the Administrative Procedure Act

Today's final rule is not subject to requirements for prior notice and opportunity for public comment because it is procedural in nature. However, to the extent that 5 U.S.C. 553(b) may apply to this rulemaking, DOE finds that is impracticable and contrary to the public interest to publish prior notice because it is impossible for manufacturers who elected to use a nationally recognized certification program, as allowed by EPCA, to comply with the certification requirement by the June 7, 2002 deadline, and because regulated manufacturers should be relieved as promptly as possible of the threat of potential enforcement of the June 7, 2002 deadline, with which it was impossible for them to comply. This situation also warrants DOE making this final rule effective upon publication in the **Federal Register**.

M. Review Under the Small Business Regulatory Enforcement Fairness Act

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Energy conservation,

Reporting and recordkeeping requirements.

Issued in Washington, DC, on November 18, 2002.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, part 431 of chapter II of title 10, Code of Federal Regulations, is amended as follows:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6311–6316.

2. Section 431.123 is amended in paragraph (a), in the first sentence, by removing the phrase ''Beginning June 7, 2002'' and adding in its place the phrase ''Beginning on the compliance date specified in paragraph (g) of this section'', and by adding a new paragraph (g) to read as follows:

§ 431.123 Compliance certification.

* * * * *

(g) *Compliance date.* The compliance date for purposes of this section is February 28, 2003, or the date that is 120 days after the date of publication in the **Federal Register** of DOE's final determinations on petitions for certification program recognition submitted by CSA International and Underwriters Laboratories, Inc., whichever is earlier. If DOE publishes the final determinations on different dates, the compliance certification date for purposes of this section shall be the date that is 120 days after the date of publication of the earlier final determination.

[FR Doc. 02–29969 Filed 11–25–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–406–AD; Amendment 39–12962; AD 2002–23–18]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes Equipped with Collins LRA–900 Radio Altimeters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes equipped with certain Collins LRA–900 radio altimeters, that currently requires a revision to the Airplane Flight Manual to prohibit autopilot coupled autoland operations in certain conditions; or, for certain airplanes, replacement of certain Collins LRA–900 radio altimeters with Collins LRA–700 radio altimeters. This amendment also requires a one-time inspection to determine whether a Collins LRA–900 radio altimeter receiver/transmitter with a certain part number is installed, and modification of such a radio altimeter. This amendment is prompted by reports indicating that a fault in Collins LRA–900 radio altimeters having a certain part number could result in an incorrect and unbounded output of radio altitude to other airplanes. The actions specified by this AD are intended to prevent an undetected anomalous radio altitude signal that is passed along to the flare control law of the flight control computer, which could cause the airplane to flare too high or too low during landing, and consequently result in a hard landing. This action is intended to address the identified unsafe condition.

DATES: Effective December 31, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–24–51, amendment 39–10929 (63 FR 66422, December 2, 1998), which is applicable to certain McDonnell Douglas Model MD–11 series airplanes equipped with certain Collins LRA–900 radio altimeters having certain part numbers, was published in the **Federal Register** on May 15, 2002 (67 FR 34637). The action proposed to continue to require a revision to the Airplane Flight Manual to prohibit autopilot coupled autoland operations in certain conditions; or, for certain airplanes, replacement of certain Collins LRA–900 radio altimeters with Collins LRA–700 radio altimeters. The action also proposed to require a one-time inspection to determine whether a Collins LRA–900 radio altimeter receiver/transmitter with a certain part number is installed, and modification of such a radio altimeter.

Comments

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

Request To Change Applicability

The commenter suggests that the applicability in the proposed AD be changed from ''McDonnell Douglas Model MD–11 and –11F Airplanes Equipped with Collins LRA–900 Radio Altimeters,'' to ''McDonnell Douglas Model MD–11 and –11F Airplanes Equipped with Collins LRA–900, Part Number (P/N) 822–0334–220, Radio Altimeters.'' The commenter states that this would prevent operators of MD–11 airplanes with Collins radio altimeters having other P/Ns from performing an unnecessary inspection to comply with the proposed AD.

The FAA acknowledges, but does not agree with, the commenter's suggestion. The inspection to determine if airplanes have the radio altimeter with the P/N specified above is required by paragraph (b) of this AD, and the affected P/N is specified in paragraph (b)(1) of this AD. Operators can ascertain what the affected P/N is, and if the radio altimeters do not have the affected P/N, no further action is required by this AD. Therefore, no change to the applicability in this final rule is necessary.

Explanation of Change Made to Proposed AD

The FAA has clarified the inspection requirement contained in the proposed AD. Whereas the proposed AD specified a visual inspection, the FAA has revised

this final rule to clarify that its intent is to require a general visual inspection. Additionally, a note has been added to the final rule to define that inspection.

Conclusion

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

Cost Impact

There are approximately 195 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 64 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 98–24–51 take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $3,840, or $60 per airplane.

The new actions that are required in this AD will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $3,840, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10929 (63 FR 66422, December 2, 1998), and by adding a new airworthiness directive (AD), amendment 39–12962, to read as follows:

2002–23–18 Boeing: Amendment 39–12962. Docket 2000–NM–406–AD. Supersedes AD 98–24–51, Amendment 39–10929.

Applicability: Model MD–11 and –11F airplanes equipped with certain Rockwell Collins LRA–900 radio altimeters; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an undetected anomalous radio altitude signal that is passed along to the flare control law of the flight control computer, which could cause the airplane to flare too high or too low during landing, and consequently result in a hard landing, accomplish the following:

Restatement of Certain Requirements of AD 98–24–51

(a) Within 24 hours after December 7, 1998 (the effective date of AD 98–24–51, amendment 39–10929): accomplish either paragraph (a)(1) or (a)(2) of this AD.

(1) Revise the Limitations Section of the FAA-approved Airplane Flight Manual to include the following statement: ''Autopilot coupled autoland operations below 100 feet above ground level (AGL) are prohibited.''

(2) For airplanes on which the LRA–700 radio altimeter installation has been approved in accordance with Type Certificate or Supplemental Type Certificate procedures: Replace both Collins LRA–900 radio altimeters having part number (P/N) 822–0334–220, with Collins LRA–700 radio altimeters having P/N 622–4542–221.

New Requirements of This AD

(b) Within 90 days after the effective date of this AD: Perform a general visual inspection to determine the P/N of the radio altimeter receiver/transmitters, in accordance with McDonnell Douglas Service Bulletin MD11–34–091, dated August 19, 1999.

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

(1) If the airplane is equipped with Collins LRA–900 radio altimeter receiver/transmitters having P/N 822–0334–220: Prior to further flight, modify the radio altimeter receiver/transmitter in accordance with McDonnell Douglas Service Bulletin MD11–34–091, dated August 19, 1999.

(2) If the airplane is not equipped with Collins LRA–900 radio altimeter receiver/transmitters having P/N 822–0334–220: No further action is required by this paragraph.

Note 3: Upon completion of the actions required by paragraph (b) of this AD, the revised limitations in the AFM, as required by paragraph (a)(1) of this AD, may be removed.

Note 4: McDonnell Douglas Service Bulletin MD11–34–091, dated August 19, 1999, refers to Rockwell Avionics Service Bulletin LRA–900–34–D, Revision 1, dated May 26, 1999, as an additional source of service information.

(c) As of the effective date of this AD, no person shall install on any airplane a Collins

LRA–900 radio altimeter having P/N 822–0334–220.

Alternative Methods of Compliance

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

(2) Alternative methods of compliance, approved previously in accordance with AD 98–24–51, amendment 39–10929, are approved as alternative methods of compliance with this AD.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(f) The inspection and modification shall be done in accordance with McDonnell Douglas Service Bulletin MD11–34–091, dated August 19, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the **FEDERAL REGISTER**, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on December 31, 2002.

Issued in Renton, Washington, on November 15, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–29674 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–270–AD; Amendment 39–12959; AD 2002–23–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –200B, –200C, –200F, –300, –400, –400F, and 747SR Series Airplanes, Equipped with a Main Deck Side Cargo Door (MDSCD) Manufactured by Boeing

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, –200B, –200C, –200F, –300, –400, –400F, and 747SR series airplanes equipped with a MCSCD manufactured by Boeing. This action requires repetitive inspections for cracking of the lower lobe panel of the fuselage skin of the aft cargo bay, and repair if necessary. This action is necessary to find and fix cracking of the skin, which could lead to reduced structural integrity of the side cargo door cutout of the main deck, and result in rapid depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective December 11, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 11, 2002.

Comments for inclusion in the Rules Docket must be received on or before January 27, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–270–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–270–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2131; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA recently received a report of cracking of the lower lobe panel of the fuselage skin of the aft cargo bay, between Station (STA) 1720 and 1740, on a Model 747–200F series airplane. The crack was 11.6 inches long and was located below the stringer 34L lap joint and the upper fastener row of the external reinforcing doubler of the cargo door cutout of the main deck. The airplane had accumulated 18,688 total flight cycles and 81,902 total flight hours. Subsequent examination and analysis of the cracked skin revealed that the crack originated from scratches in the skin exterior surface at multiple locations. Such cracking, if not found and fixed, could lead to reduced structural integrity of the side cargo door cutout of the main deck, and result in rapid depressurization of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2487, Revision 1, dated October 31, 2002, which describes procedures for repetitive internal detailed or eddy current inspections for cracking of the lower lobe panel of the fuselage skin of the aft cargo bay at section 46, below stringer 34L, from STA 1640 through 1740 inclusive. If any cracking is found, the service bulletin specifies contacting the manufacturer for repair information. The service bulletin also recommends that operators submit inspection findings to Boeing following each inspection. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD requires

accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between AD and Service Bulletin

The service bulletin specifies that the manufacturer may be contacted for disposition of repairs; however, this AD requires all repairs to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.

Although the service bulletin recommends that operators report findings to the manufacturer after each inspection, this AD does not include such a reporting requirement.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–270–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–23–15 Boeing: Amendment 39–12959. Docket 2002–NM–270–AD.

Applicability: Model 747–100, –200B, –200C, –200F, –300, –400, –400F, and 747SR series airplanes; equipped with a main deck side cargo door manufactured by Boeing; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To find and fix cracking of the lower lobe panel of the fuselage skin of the aft cargo bay, which could lead to reduced structural integrity of the side cargo door cutout of the main deck, and result in rapid depressurization of the airplane, accomplish the following:

Repetitive Inspections

(a) Do either an internal detailed or eddy current inspection to find cracking of the lower lobe panel of the fuselage skin of the aft cargo bay, below stringer 34L, from Station (STA) 1640 through 1740 inclusive, per Boeing Alert Service Bulletin 747–53A2487, Revision 1, dated October 31, 2002. Do the initial inspection at the time shown in paragraph (a)(1) or (a)(2) of this AD, as applicable. If the initial inspection was a detailed inspection, repeat that inspection at least every 50 flight cycles; if the initial inspection was an eddy current inspection, repeat that inspection at least every 250 flight cycles; as applicable. Although the service bulletin references a reporting requirement in paragraph 1.D., such reporting is not required by this AD.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) For airplanes on which the main deck side cargo door (MDSCD) was installed after the date of manufacture of the airplane: Do the inspection within 10,000 flight cycles after installation of the MDSCD, or within 90 days after the effective date of this AD, whichever is later.

(2) For airplanes on which the MDSCD was installed before the date of manufacture of the airplane: Do the inspection prior to the accumulation of 15,000 total flight cycles on the airplane, or within 90 days after the effective date of this AD, whichever is later.

(b) Inspections done before the effective date of this AD per Boeing Alert Service Bulletin 747–53A2487, dated October 24, 2000; are considered acceptable for compliance with paragraph (a) of this AD.

Repair

(c) If any crack is found during any inspection required by paragraph (a) of this AD: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(f) Unless otherwise provided by this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–53A2487, Revision 1, dated October 31, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, PO Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on December 11, 2002.

Issued in Renton, Washington, on November 14, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–29675 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–375–AD; Amendment 39–12960; AD 2002–23–16]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–90–30 airplanes. This action requires replacement of the Captain's and First Officer's chart holder assemblies on the cockpit control columns with new, improved assemblies. This action is necessary to prevent interference between the cockpit control wheels and the chart holder assembly, which could result in restricted movement of the control wheel travel when rotating the right- and left-wing-down, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective December 11, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 11, 2002.

Comments for inclusion in the Rules Docket must be received on or before January 27, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–375–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–375–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ken Sujishi, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5353; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA has received information from an MD–90 flight simulator manufacturer of an interference problem between the cockpit control wheels and the Captain's and First Officer's chart holder assemblies on the cockpit control columns. Investigation revealed that when the control wheels are rotated both right-wing-down and left-wing-down, the grips/horns strike the left and right edge of the existing chart holders. Such interference restricts movement to a maximum of 107 to 109 degrees. The roll control tab stops are set at 116 degrees (no air load), and the travel-to-wheel stops are identified as 135 degrees. Such interference, if not corrected, could result in restricted movement of the control wheel travel when rotating the right- and left-wing-down, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

We have reviewed and approved Boeing Alert Service Bulletin MD90–25A070, excluding Evaluation Form, Revision 01, dated February 26, 2002, which describes procedures for replacement of the Captain's and First Officer's chart holder assemblies located on the cockpit control columns, with new, improved assemblies. The service bulletin also references the airplane maintenance manual which describes procedures for a functional test after doing the replacement. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, the actions are required to be accomplished in accordance with the service bulletin described previously, except that the AD does not require completing the Evaluation Form.

Cost Impact

None of the Model MD–90–30 airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the required replacement, at an average labor rate of $60 per work hour. Parts will be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the replacement required by this AD would be $60 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–375–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–23–16 McDonnell Douglas: Amendment 39–12960. Docket 2001–NM–375–AD.

Applicability: Model MD–90–30 airplanes, as listed in Boeing Alert Service Bulletin MD90–25A070, Revision 01, dated February 26, 2002; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent interference between the cockpit control wheels and the chart holder assembly, which could result in restricted movement of the control wheel travel when rotating the right- and left-wing-down, and

consequent reduced controllability of the airplane, accomplish the following:

Replacement

(a) Within 18 months after the effective date of this AD: Replace the Captain's and First Officer's chart holder assemblies on the cockpit control columns with new assemblies (including a functional test after replacement), per Boeing Alert Service Bulletin MD90–25A070, excluding Evaluation Form, Revision 01, dated February 26, 2002.

Replacement Accomplished Per Previous Issue of Service Bulletin

(b) Accomplishment of the replacement before the effective date of this AD per Boeing Alert Service Bulletin MD90–25A070, dated November 8, 2001, is considered acceptable for compliance with paragraph (a) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done per Boeing Alert Service Bulletin MD90–25A070, excluding Evaluation Form, Revision 01, dated February 26, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on December 11, 2002.

Issued in Renton, Washington, on November 14, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–29804 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–84–AD; Amendment 39–12961; AD 2002–23–17]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model MD–90–30 airplanes, that requires one-time inspections to detect discrepancies of electrical wiring installations in various areas of the airplane; and corrective actions, if necessary. The actions specified by this AD are intended to prevent electrical arcing and/or heat-damaged wiring due to improper wire installations or maintenance practices, which could result in fire and smoke in various areas of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective December 31, 2002.

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

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model MD–90–30 airplanes was published in the **Federal Register** on June 12, 2002 (67 FR 40249). That action proposed to require one-time inspections to detect discrepancies of electrical wiring installations in various areas of the airplane; and corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Minor Changes to the Proposed AD

Because the language in Notes 4, 5, 6, 7, 8, 9, and 10 of the proposed AD is regulatory in nature, those notes have been redesignated (and consolidated) as new paragraph (c) of this final rule. The remaining lettered paragraphs and Notes have been reidentified accordingly.

The identity of each service bulletin in the proposed AD has been changed in this final rule from ''* * * including Appendix A'' to ''* * * excluding Appendix and Evaluation Form.'' The Appendix and Evaluation Form normally attached to the service bulletins are excluded because they do not contain information necessary to accomplish the requirements of this AD. Further, the Appendix was misidentified in the proposed AD as ''Appendix A.''

Conclusion

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

Cost Impact

There are approximately 115 airplanes of the affected design in the worldwide fleet. The FAA estimates that 25 airplanes of U.S. registry will be affected by this AD, that it will take

approximately 49 work hours per airplane to accomplish all of the inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspections required by this AD on U.S. operators is estimated to be $73,500, or $2,940 per airplane. Warranty remedies may be available from the airplane manufacturer for labor costs associated with this AD. As a result, the costs attributable to the AD may be less than stated above.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–23–17 McDonnell Douglas: Amendment 39–12961. Docket 2001–NM–84–AD.

Applicability: All Model MD–90–30 airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

Note 2: The FAA recommends that the actions required by this AD be accomplished after the replacement of the metallized polyethyleneteraphthalate (MPET) insulation blankets required by AD 2000–11–01, amendment 39–11749.

To prevent electrical arcing and/or heat-damaged wiring due to improper wire installations or maintenance practices, which could result in fire and smoke in various areas of the airplane, accomplish the following:

One-Time Detailed Inspections

(a) Within 5 years after the effective date of this AD, accomplish the actions specified in paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7) of this AD.

(1) Do a one-time detailed inspection of all electrical wiring installations in the flight compartment and forward drop ceiling area, according to the Accomplishment Instructions of Boeing Service Bulletin MD90–24–066, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(2) Do a one-time detailed inspection of all electrical wiring installations in the electronic/electrical (E/E) compartment according to the Accomplishment Instructions of Boeing Service Bulletin MD90–24–067, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(3) Do a one-time detailed inspection of all electrical wiring installations in the forward passenger compartment from stations Y=260.000 to Y=902.000 according to the Accomplishment Instructions of Boeing Service Bulletin MD90–24–068, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(4) Do a one-time detailed inspection of all electrical wiring installations in the aft passenger compartment from stations Y=902.000 to Y=1395.000 according to the Accomplishment Instructions of Boeing Service Bulletin MD90–24–069, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(5) Do a one-time detailed inspection of all electrical wiring installations in the forward and mid cargo compartments from stations Y=218.000 to Y=845.000 according to the Accomplishment Instructions of Boeing Service Bulletin MD90–24–070, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(6) Do a one-time detailed inspection of all electrical wiring installations in the aft cargo compartment from stations Y=1064.000 to Y=1369.000 according to the Accomplishment Instructions of Boeing Service Bulletin MD90–24–071, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(7) Do a one-time detailed inspection of all electrical wiring installations in the forward accessory compartment from stations Y=41.000 to Y=70.000 according to the Accomplishment Instructions of Boeing Service Bulletin MD90–24–072, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

Corrective Action

(b) If any discrepancy is detected during any inspection required by paragraph (a) of this AD: Before further flight, accomplish the applicable corrective action(s) according to the Accomplishment Instructions of the applicable service bulletins listed in paragraphs (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), and (b)(7) of this AD. Corrective actions that may be necessary include repairing cracked, split, or torn wiring insulation; re-attaching nylon (caterpillar) grommets; installing smaller-sized clamps; adjusting, replacing, or tightening sta-straps; repositioning certain wiring or clamps; tightening or securing clamps, terminals, or wire bundles; re-torquing screw terminals of the flag lug bus bar; repairing or replacing certain wiring, terminals, splices, or connectors; installing protective sleeving over wiring; and installing a silicone glass cloth over conduit ends.

(1) Boeing Service Bulletin MD90–24–066, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(2) Boeing Service Bulletin MD90–24–067, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(3) Boeing Service Bulletin MD90–24–068, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(4) Boeing Service Bulletin MD90–24–069, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(5) Boeing Service Bulletin MD90–24–070, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(6) Boeing Service Bulletin MD90–24–071, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

(7) Boeing Service Bulletin MD90–24–072, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001.

Note 4: The Appendix of the service bulletins referenced in paragraphs (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), and (b)(7) of this AD contains a form to report inspection findings. This AD does NOT require such reports to be submitted to the FAA.

Credit for Previous Accomplishment per Earlier Service Bulletin Version

(c) Inspections and corrective actions done before the effective date of this AD according to the Accomplishment Instructions of the applicable service bulletins listed in the following table are acceptable for compliance with the applicable paragraphs of this AD:

McDonnell Douglas service bulletin	Applicable paragraphs of this AD
MD90–24–066, excluding Appendix and Evaluation Form, dated July 28, 2000	(a)(1) and (b)(1)
MD90–24–067, excluding Appendix and Evaluation form, dated July 28, 2000	(a)(2) and (b)(2)
MD90–24–068, excluding Appendix and Evaluation Form, dated July 28, 2000	(a)(3) and (b)(3)
MD90–24–069, excluding Appendix and Evaluation Form, dated July 28, 2000	(a)(4) and (b)(4)
MD90–24–070, excluding Appendix and Evaluation Form, dated July 28, 2000	(a)(5) and (b)(5)
MD90–24–071, excluding Appendix and Evaluation Form, dated July 28, 2000	(a)(6) and (b)(6)
MD90–24–072, excluding Appendix and Evaluation Form, dated July 28, 2000	(a)(7) and (b)(7)

Alternative Methods of Compliance

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

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(f) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin MD90–24–066, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001; Boeing Service Bulletin MD90–24–067, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001; Boeing Service Bulletin MD90–24–068, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001; Boeing Service Bulletin MD90–24–069, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001; Boeing Service Bulletin MD90–24–070, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001; Boeing Service Bulletin MD90–24–071, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001; and Boeing Service Bulletin MD90–24–072, excluding Appendix and Evaluation Form, Revision 01, dated February 8, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on December 31, 2002.

Issued in Renton, Washington, on November 14, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–29805 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–30–AD; Amendment 39–12958; AD 2002–23–14]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D–200 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Pratt & Whitney (PW) JT8D–200 series turbofan engines. This amendment requires initial and repetitive visual inspections, fluorescent magnetic particle inspections (FMPI), and fretting wear inspections of high pressure compressor (HPC) front hubs that have operated with PWA–110 coating in the interface between the hub and the stage 8–9 spacer. This amendment is prompted by the discovery of cracked tierod holes found during routine engine overhauls. The actions specified by this AD are intended to prevent a rupture of the HPC front hub that could result in an uncontained engine failure and damage to the airplane.

DATES: Effective December 31, 2002. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108, telephone (860) 565–6600; fax (860) 565–4503. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to

include an AD that is applicable to PW JT8D–200 series turbofan engines was published in the **Federal Register** on September 19, 2002 (67 FR 59027). That action proposed to require initial and repetitive visual inspections, FMPI, and fretting wear inspections of HPC front hubs that have operated with PWA–110 coating in the interface between the hub and the stage 8–9 spacer in accordance with PWAlert Service Bulletin (ASB) JT8D A6430, dated September 5, 2002.

Comments

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

Credit for Inspections

Two commenters request that the AD be changed to allow credit for inspections occurring before 9,000 cycles in service (CIS). One commenter requests that the second inspection occur within 6,500 cycles of the initial inspection, while the other commenter requests that the second inspection occur as late as 18,000 cycles.

The FAA partially agrees. The FAA agrees that some credit should be given for inspections occurring before 9,000. We do not agree, however, that the second inspection should be delayed until 18,000 CIS. A 15,500 CIS limit is more appropriate. Further, the shop visit requirement will be relaxed to an accessibility requirement for HPC front hubs inspected before accumulating 9,000 CIS. Accordingly, the inspection interval for HPC front hubs has been modified for hubs with less than 17,000 CIS to account for hubs inspected before 9,000 CIS. These hubs can be reinspected at the first accessibility of the HPC front hub after accumulating 9,000 CIS but not to exceed 15,500 CIS.

Effective Date To Include Sufficient Time for Alternative Methods of Compliance (AMOC) Request

One commenter requests that the effective date be chosen to allow sufficient time for an AMOC request.

The FAA agrees. The FAA provides a 35-day time frame from the date of publication to the effective date of the AD which should provide sufficient time to request an AMOC, if necessary.

Exclude Engine Buildup Shop From the Shop Visit Requirements

One commenter requests that an LPT module replacement performed at an engine buildup shop be excluded from the shop visit requirements of this AD. The commenter feels that there are a small number of engines affected annually for this particular operator.

The FAA does not agree. The variability of every operator's maintenance program makes it difficult to define a shop visit that meets all operator's needs. The FAA believes the current definition is best suited for all operators. If an individual operator believes some engines should be exempt from the shop visit definition of the AD because of some unique features of their maintenance program, then they should seek approval for that provision in accordance with paragraph (f) of this AD.

Understated Financial Impact

One commenter states that the FAA underestimates the economic impact of the AD by failing to include ancilliary costs of the AD.

The FAA does not agree. The indirect costs associated with this AD are not directly related to this rule, and, therefore, are not addressed in the economic analysis for this rule. A full cost analysis for each AD, including such indirect costs, is not necessary since the FAA has already performed a cost benefit analysis when adopting the airworthiness requirements to which these engines were originally certificated. A finding that an AD is warranted means that the original design no longer achieves the level of safety specified by those airworthiness requirements, and that other required actions are necessary. Because the original level of safety was already determined to be cost beneficial, these additional requirements needed to return the engine to that level of safety do not add any additional regulatory burden, and, therefore, a full cost analysis would be redundant and unnecessary.

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

Economic Analysis

There are approximately 2,648 PW JT8D–200 series turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 2,352 engines installed on airplanes of U.S. registry would be affected by this AD. The FAA also estimates that it would take approximately 6 work hours per engine to perform the inspection, and that the average labor rate is $60 per work hour. Based on these figures, the total cost of the initial inspection to U.S. operators is estimated to be $846,720.

Regulatory Analysis

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–23–14 Pratt & Whitney: Amendment 39–12958. Docket No. 2001–NE–30–AD.

Applicability: This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT8D–209, –217, –217A, –217C, and –219 series turbofan engines that have high pressure compressor (HPC) front hubs installed that have operated with PWA–110 coating in the interface between the HPC front hub and the stage 8–9 spacer (PWA–110

coating applied to either the spacer or the hub) and were manufactured after June 1, 1988. These engines are installed on, but not limited to McDonnell Douglas MD–80 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done. To prevent a rupture of the HPC front hub, that could result in an uncontained engine failure and damage to the airplane, do the following:

Inspect hubs

(a) Strip the protective coating, visually inspect for fretting wear, fluorescent magnetic particle inspect (FMPI), reidentify and replate HPC front hubs and the stage 8–9 spacers, and replace if necessary in accordance with the accomplishment instructions of Pratt & Whitney Alert Service Bulletin (ASB) JT8D A6430, dated September 5, 2002, as follows:

(1) For HPC front hubs with fewer than 17,000 total cycles-in-service (CIS) on the effective date of this AD, inspect as follows:

(i) For HPC front hubs not inspected in accordance with ASB JT8D A6430, dated September 5, 2002, before accumulating 9,000 total CIS, inspect at the first shop visit after accumulating 9,000 total CIS not to exceed 18,000 total CIS.

(ii) For HPC front hubs inspected in accordance with ASB JT8D A6430, dated September 5, 2002, before accumulating 9,000 total CIS, inspect at the next accessibility of the HPC front hub after accumulating 9,000 total CIS not to exceed 15,500 total CIS.

(2) For HPC front hubs with greater than or equal to 17,000 total CIS but less than 19,000 total CIS on the effective date of this AD, inspect at the next shop visit, not to exceed 1,000 CIS from the effective date of this AD or 19,500 total CIS, whichever occurs first.

(3) For HPC front hubs with greater than or equal to 19,000 total CIS on the effective date of this AD, inspect within 500 CIS from the effective date of this AD.

Repetitive-Inspections

(b) Thereafter, strip the protective coating, visually inspect for fretting wear, FMPI and replate HPC front hubs, and replace if necessary in accordance with the accomplishment instructions of Pratt & Whitney Alert Service Bulletin (ASB) JT8D A6430, dated September 5, 2002, at intervals not to exceed 6,500 CIS since the last inspection.

Optional Terminating Action

(c) Installation of a Nickel-Cadmium plated HPC front hub that has never operated with PWA–110 coating in the interface between the HPC front hub and the stage 8–9 spacer and a Nickel-Cadmium or Electroless Nickel plated spacer is an optional terminating action for the inspections of paragraphs (a) and (b) of this AD.

Definitions

(d) For the purposes of this AD, a shop visit is defined as an engine removal, where engine maintenance entails separation of pairs of major engine flanges or the removal of a disk, hub, or spool at a maintenance facility, regardless of other planned maintenance, except as follows:

(1) Engine removal for the purpose of performing field maintenance type activities at a maintenance facility in lieu of performing them on-wing is not a ''shop visit''.

(2) Separation of flanges of the Combustion Chamber and Turbine Fan Duct Assembly (split flanges) for the purpose of accessing non-rotating accessory hardware is not a ''shop visit''.

(3) Separation of flanges for the purpose of shipment without subsequent internal maintenance is not a ''shop visit''.

(e) For the purposes of this AD accessibility of the HPC front hub is removal of the hub from the engine and deblading of that hub.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Documents That Have Been Incorporated By Reference

(h) The inspections must be done in accordance with Pratt & Whitney Alert Service Bulletin (ASB) JT8D A6430, dated September 5, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108, telephone (860) 565–6600; fax (860) 565–4503. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on December 31, 2002.

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

Mark C. Fulmer,

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

[FR Doc. 02–29670 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–44–AD; Amendment 39–12957; AD 2002–23–13]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada PT6A Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Pratt & Whitney Canada PT6A series turboprop engines that have certain turbine exhaust ducts that were modified by a number of different companies. This amendment requires inspections for low-quality welds and cracks of a large population of turbine exhaust ducts. This amendment is prompted by reports of cracks along the weld seams of certain turbine exhaust ducts. The actions specified by this AD are intended to prevent failure of the turbine exhaust duct due to cracking that could result in possible separation of the reduction gearbox and propeller from the engine, and possible loss of control of the airplane.

DATES: Effective December 31, 2002. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G1A1. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer,

Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7176; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A supplemental proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Pratt & Whitney Canada PT6A series turboprop engines was published in the **Federal Register** on June 10, 2002 (67 FR 39640). That action proposed to require inspections for low-quality welds and cracks of a large population of turbine exhaust ducts that were modified by a number of companies, all using a similar unapproved gas tungsten arc welding (GTAW) process instead of the resistance (seam or stitch) weld process. Since the issuance of that supplemental proposal, Pratt & Whitney Canada issued a revised SB P&WC SB No. PT6A–72–1610, Revision 2, dated October 1, 2002, which deletes models PT6A–114 and PT6A–114A from the applicability.

Bilateral Agreement Information

This engine model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada (TC) has kept the FAA informed of the situation described above. The FAA has examined the findings of TC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Comments

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

Request To Remove SAL Reference

One commenter requests removal of any reference to Standard Aero Limited (SAL) of Winnipeg, Canada, from the AD. Since the first issue of the NPRM, the FAA has found that several other companies have incorrectly used the GTAW weld process. Therefore, any references to SAL can and will cause confusion for the operators.

The FAA agrees. All references to SAL are removed from the final rule.

Misinterpretation of Unsafe Condition

The same commenter points out that the SNPRM incorrectly notes that TC AD CF–98–14 says ''that condition if not corrected could result in possible separation of the reduction gearbox and propeller from the engine and possible loss of control of the airplane,'' and that the TC AD actually states that compliance is required ''to minimize the possibility of an in-flight shutdown due to a cracked exhaust duct.''

The FAA does not agree. The FAA feels that the commenter has misinterpreted the unsafe condition statement in the proposal's preamble, incorrectly attributing it to the TC AD. Based on the structure of the preamble, the FAA understands how the statement could be attributed to the TC AD. However, the FAA has determined ''that condition if not corrected could result in possible separation of the reduction gearbox and propeller from the engine and possible loss of control of the airplane,'' is the correct unsafe condition. Since the questionable section does not appear in the preamble of the final rule, no change needs to be made to the final rule.

Incorrect Total of Cracked Ducts

The same commenter remarks that the SNPRM incorrectly states that a total of 116 exhaust ducts have been discovered with cracks along the affected weld seam, when in fact, to date the actual number of cracked ducts found with cracks is 18.

The FAA agrees. However, since the questionable statement does not appear in the preamble of a final rule, no change needs to be made to the final rule.

Request to Exclude Single Port Exhaust Duct

One commenter requests that the single port exhaust duct, P/N 3112171–01 and subsequently any reference to the PT6A–114 and PT61–114A engine models be excluded from the AD. For conversion of single port exhaust ducts, part number (P/N) 3112171–01, welding is done in a much different fashion. The original inner cone remains in place and the majority of it is untouched. Only a small portion of its free end is removed for the attachment of a cover. No welding is performed anywhere on or near the load bearing outer skin. The original junction between the outer skin and the inner cone is entirely undisturbed so adhesion between the propeller reduction gearbox flange and the outer skin is entirely unaffected and the load path is uncompromised.

The FAA agrees. The FAA has consulted with P&WC and has confirmed that the commenter is correct. The inner skin replacement is performed differently on a single port duct than on the dual duct. No welding is done in the ''A'' flange area for the –114 series. It was the welding at the ''A'' flange that triggered the original TC AD. There have been no reports of cracks or poor welds on the–114 models. P&WC has revised the–114 manuals to clearly state that the ''A'' flange is to be examined in detail at aircraft minor (150 hours) inspections and at hot section inspection. The PT6A–114 and PT6A–114A engines have been incorrectly included in the proposal. Therefore, models–114 and –114A, and exhaust duct P/N 3112171–01 are removed from the final rule.

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

Economic Analysis

There are approximately 22,000 Pratt & Whitney Canada PT6A series turboprop engines of the affected design in the worldwide fleet. The FAA estimates that 7,000 engines installed on airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per engine to perform the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost of the AD to U.S. operators is estimated to be $840,000.

Regulatory Analysis

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–23–13 Pratt & Whitney Canada: Amendment 39–12957. Docket No. 99–NE–44–AD.

Applicability: This airworthiness directive (AD) is applicable to Pratt & Whitney Canada (P&WC) PT6A series turboprop engines, with turbine exhaust ducts part number (P/N) 3012290, P/N 3031988, P/N 3032117, P/N 3035784, P/N 3035786, P/N 3105890–01, P/N 3112167–01, and P/N 3111780–01. These engines are installed on, but not limited to, Beechcraft King Air–90 and–100 series, Bombardier DHC–6 series, Empresa Brasileira de Aeronautica, S.A. (Embraer) EMB–110 series, Pilatus PC–6 series, and Piper PA–42 series airplanes.

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

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

To prevent failure of the turbine exhaust duct due to cracking that could result in possible separation of the reduction gearbox and propeller from the engine, and possible loss of control of the airplane, do the following:

Inspection of Turbine Exhaust Ducts for Low-Quality Welds

(a) If the engine has not yet been overhauled, and if the turbine exhaust duct has not yet been subject to a shop visit for repair, no further action is required.

(b) Otherwise, at the next shop visit or within 150 hours time-in-service (TIS) after the effective date of this AD, whichever occurs first, do the following:

(1) Inspect for low-quality welds created during repair, on the turbine exhaust duct near flange ''A'', in accordance with paragraphs 3B through 3E of P&WC service bulletin (SB) No. PT6A–72–1610, Revision 2, dated October 1, 2002, for models PT6A–6, –6A, –6B, –20, –20A, –20B, –21, –25, –25A, –25C, –27, –28, –34, –34AG, –34B, –36, –135, and –135A engines, and SB No. PT6A–72–12173, dated January 24, 2002, for models PT6A–11, –11AG, –15AG, –110, and –112 engines.

(2) If it is determined that the welds meet the acceptable criteria specified in SB No. PT6A–72–1610, Revision 2, dated October 1, 2002; or SB No. PT6A–72–12173, dated January 24, 2002, continue using the duct until the next scheduled overhaul. Inspect duct per the engine overhaul manual before reinstallation.

(3) If it is determined that the welds do not meet the acceptable criteria specified in SB No. PT6A–72–1610, Revision 2, dated October 1, 2002; or SB No. PT6A–72–12173, dated January 24, 2002, replace the duct with a serviceable part, or perform the initial and repetitive inspections in the following paragraphs.

Initial Visual Inspection of Welds That Do Not Meet SB Acceptable Criteria

(c) Use 5X magnification to visually inspect the circumference of the forward area of the exhaust duct from the propeller reduction gearbox mounting flange to 2 inches aft of the flange for any crack indications. Mark and record cracks and return the duct to service, or replace with a serviceable part as follows:

(1) If no cracks are found, the duct may be returned to service; or

(2) If three or less cracks are found, and the total cumulative length of the cracks exceeds 2.0 inches, replace the duct with a serviceable part; or

(3) If any one crack exceeds 1.0 inch in length, replace the duct with a serviceable part; or

(4) If any two cracks are separated by less than six times the length of the longest crack (6L) or 3.0 inches or less, whichever is the closest separation, replace the duct with a serviceable part; or

(5) If more than three cracks are found, replace the duct with a serviceable part; and

(6) Mark all allowable cracks, on the duct, with suitable metal marking material; and

Note 2: Marking materials that are suitable for use on the exhaust duct may be found in the P&WC Engine Manual.

(7) Record the length of the crack, location, number of duct hours, and time-since-overhaul (TSO).

Repetitive Visual Inspection of Welds That Do Not Meet SB Acceptable Criteria

(d) Repeat the inspection specified in paragraph (c) of this AD as follows:

(1) For ducts that did not exhibit any cracking at the last inspection, repeat the inspection within 150 hours TIS since the last inspection. Return the duct to service or replace with a serviceable part as specified in paragraph (c)(1) through paragraph (c)(5) of this AD.

(2) For ducts that exhibited cracking at the last inspection, repeat the inspection within 25 hours TIS since the last inspection. Return the duct to service or replace with a serviceable part as follows:

(i) Inspect for new cracks, and cracks that were recorded as specified in paragraph (c) of this AD. Return the duct to service or replace with a serviceable part as specified in paragraph (c)(1) through paragraph (c)(5) of this AD.

(ii) In addition, if the growth rate of an existing crack exceeds 0.015 inch per hour TIS since the last inspection, replace the duct with a serviceable part.

Optional Terminating Action

(e) Replacing an affected exhaust duct with a serviceable exhaust duct constitutes terminating action for the repetitive inspection requirements of this AD.

Definition of a Serviceable Exhaust Duct

(f) For the purposes of this AD, a serviceable duct is defined as a duct that meets the acceptability limits of this AD.

Alternative Method of Compliance

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(h) Special flight permits are not allowed.

Documents That Have Been Incorporated By Reference

(i) The inspections must be done in accordance with the following Pratt & Whitney Canada (P&WC) service bulletins:

Document No.	Pages	Revision	Date
PT6A–72–1610	All	2	October 1, 2002.

Document No.	Pages	Revision	Date
Total Pages: 10 PT6A–72–12173 Total pages: 9	All	Original	January 24, 2002.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G1A1. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in AD CF–98–41 in order to assure the airworthiness of these P&WC PT6A series turboprop engines in Canada.

Effective Date

(j) This amendment becomes effective on December 31, 2002.

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

Mark C. Fulmer,

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

[FR Doc. 02–29671 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 90N–0056]

RIN 0910–AA74

Aluminum in Large and Small Volume Parenterals Used in Total Parenteral Nutrition; Amendment; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is further delaying until January 26, 2004, the effective date of a final rule published in the **Federal Register** of January 26, 2000 (65 FR 4103) (aluminum final rule), and originally scheduled to become effective on January 26, 2001. In the **Federal Register** of January 26, 2001 (66 FR 7864), the agency delayed the effective date of the aluminum final rule until January 26, 2003. The aluminum final rule imposes certain requirements for aluminum-containing large volume parenterals (LVPs), small volume parenterals (SVPs), and pharmacy bulk packages (PBPs) used in total parenteral nutrition (TPN). FDA is delaying the effective date of the aluminum final rule to allow time for the agency to finalize an amendment to the aluminum final rule. The agency is also amending the aluminum final rule to change to January 26, 2004, the date that limits the use of historical levels to determine the maximum level of aluminum in SVPs and PBPs; this date corresponds to the effective date of the aluminum final rule, which is delayed until January 26, 2004, by this document.

DATES: This final rule is effective December 26, 2002. The effective date for § 201.323 (21 CFR 201.323), added at 65 FR 4103, January 26, 2000, is delayed until January 26, 2004.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Christine F. Rogers, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: On January 26, 2000, FDA published final regulations at § 201.323 imposing certain requirements for aluminum-containing LVPs, SVPs, and PBPs used in TPN (65 FR 4103). The aluminum final rule was originally scheduled to become effective on January 26, 2001. In the **Federal Register** of January 26, 2001 (66 FR 7864), the agency published a notice delaying the effective date until January 26, 2003.

In the **Federal Register** of August 12, 2002 (67 FR 52429), FDA published a proposed rule to amend § 201.323. The proposed rule would permit SVPs and PBPs containing 25 micrograms per liter (µg/L) or less of aluminum to be labeled with the statement ''Contains no more than 25 µg/L of aluminum'', instead of stating the exact amount of aluminum they contain. Because there is insufficient time to finalize this proposed amendment before January 26, 2003, when § 201.323 is scheduled to become effective, the agency is delaying the effective date of § 201.323 until January 26, 2004.

The agency is also amending § 201.323(c)(3) of the aluminum final rule to reflect the fact that the effective date is now being extended to January 26, 2004. Section 201.323(c)(3) provides that a manufacturer may state the maximum level of aluminum in terms of historical levels, but only until completion of production of the first five batches after January 26, 2001, the date by which manufacturers were to have submitted supplements describing the validated assay method used to determine aluminum content. Because manufacturers now have until January 26, 2004, to submit supplements, this final rule is changing the date in § 201.323(c)(3) to reflect the fact that the effective date of the aluminum final rule has been extended to January 26, 2004.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C 553(b)(3)(A). Alternatively, the agency's implementation of this action without opportunity for public comment comes within the good cause exceptions in 5 U.S.C. 553(b)(3)(B) in that obtaining public comment is impracticable, unnecessary, and contrary to the public interest. The agency is delaying the effective date of § 201.323 because the agency has proposed to amend § 201.323. Given the imminence of the effective date of current § 201.323, seeking prior public comment on this delay is impracticable, as well as contrary to the public interest in the orderly issuance and implementation of regulations. Notice and comment procedures in this instance would create uncertainty, confusion, and undue financial hardship because, during the time that the agency would be proposing to extend the effective date for § 201.323, those companies affected would have to be preparing to relabel to comply with the January 26, 2003, effective date. In accordance with 21 CFR 10.40(e)(1), FDA is providing an opportunity for comment on which this delay should be modified or revoked.

FDA has examined the impacts of this delay of effective date under Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory

alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this action is consistent with the regulatory philosophy and principles identified in the Executive order. This action will ease the burden on industry of compliance with § 201.323 by giving manufacturers more time to relabel affected products. Thus, this action is not a significant action as defined by the Executive order.

List of Subjects in 21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 201 is amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR part 201 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 358, 360, 360b, 360gg–360ss, 371, 374, 379e; 42 U.S.C. 216, 241, 262, 264.

2. Section 201.323(c)(3) is amended by removing the date ''2001'' and adding in its place the date ''2004''.

Dated: November 15, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–29924 Filed 11–25–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences under the United States and District of Columbia Codes

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is amending procedures governing parole proceedings for federal and District of Columbia offenders, and transfer treaty prisoners. Almost all the amendments are corrections and clarifications of the instructions for calculating the salient factor score, a component of the Commission's paroling policy guidelines. The Commission is also correcting a reference to the U.S. Sentencing Guidelines in a regulation regarding the imposition of release conditions for a transfer treaty prisoner released to a term of supervised release.

EFFECTIVE DATE: These rule amendments are effective December 30, 2002.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION:

The salient factor score is an actuarial device used by the Commission to evaluate the risk of parole violation by a prisoner if released to supervision. The score is a component of the Commission's paroling policy guidelines for making parole release decisions for U.S. Code offenders (28 CFR 2.20), and is also employed in the guidelines for DC Code offenders (28 CFR 2.80). The score comprises six criminal history items, including items such as number of prior convictions and commitments, and age at the time of current offense. The total score ranges from 0–10, with the higher score indicating that the prisoner is a better parole risk.

The Commission is now updating the instructions in the salient factor scoring manual to give better guidance in the scoring of the individual items. Some of the changes are corrections of text that should have been amended in earlier revisions of the score, or editorial improvements to make the instructions easier to read. Other changes reflect the application of the score in determining terms of imprisonment for DC Code supervised release violators. Finally, several new instructions implement advice the Commission's Office of General Counsel has provided to Commissioners and staff in the use of DC juvenile consent decrees and juvenile commitments to the DC Department of Human Services for salient factor scoring.

Aside from the amendments to the salient factor scoring manual, the Commission is also correcting a reference to the U.S. Sentencing Guidelines in its regulation at 28 CFR 2.68(l) on the imposition of conditions of supervised release for a transfer treaty prisoner who is released to a term of supervised release.

Implementation

These amendments will be applied in any hearing or record review conducted after the effective date of the amendments.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this final rule does not constitute a significant rule within the meaning of Executive Order 12866. The final rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b), and is deemed by the Commission to be a rule of agency practice that does not substantially affect the rights or obligations of non-agency parties pursuant to section 804(3)(c) of the Congressional Review Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

The Final Rule

Accordingly, the U.S. Parole Commission is adopting the following amendments to 28 CFR part 2.

PART 2—[AMENDED]

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

Subpart A—United States Code Prisoners and Parolees

2. Section 2.20 is amended as follows:

a. In the table entitled ''Guidelines For Decisionmaking'' remove ''salient factor score 1981'' and substitute ''salient factor score 1998'';

b. Revise the Salient Factor Scoring Manual, Item A, paragraphs A.1, A.5, and add paragraph A.14;

c. Revise the Salient Factor Scoring Manual, Item B, paragraphs B.3(b)–(c), and add paragraph B.3(d);

d. Revise the Salient Factor Scoring Manual, Item C, paragraphs C.1–C.4, redesignate paragraph C.5 as C.10, and add paragraphs C.6–C.9;

e. Revise the Salient Factor Scoring Manual, Item E, paragraphs E.3(b)–(c);

f. Revise the Salient Factor Scoring Manual, Item F;

g. Revise the Salient Factor Scoring Manual, Special Instructions—Federal Probation Violators, by revising the title and the paragraphs for scoring Items A and E, remove the paragraph for scoring Item F, and redesignate the paragraph for scoring Item G as Item F;

h. Revise the Salient Factor Scoring Manual, Special Instructions—Federal Parole Violators, by revising the title and the paragraphs for scoring Items A–

D, and F, and remove the paragraph for scoring Item G;

i. Revise the Salient Factor Scoring Manual, Special Instructions—Federal Confinement/Escape Status Violators With New Criminal Behavior In The Community, by revising the title, remove the paragraph for scoring Item F, and redesignate the paragraph for scoring Item G as Item F and revise Item F.

The revised and added text reads as follows:

§ 2.20 Paroling policy guidelines: Statement of general policy.

* * * * *

Salient Factor Scoring Manual

* * * * *

Item A. * * *

A.1 In General.

(a) Count all convictions/adjudications (adult or juvenile) for criminal offenses (other than the current offense) that were committed prior to the present period of confinement, except as specifically noted.

(b) Convictions for prior offenses that are not separated from each other by an intervening arrest (*e.g.*, two burglaries followed by an arrest for both offenses) are counted as a single prior conviction. Prior offenses that are separated by an intervening arrest are counted separately (*e.g.*, three convictions for larceny and a conviction for an additional larceny committed after the arrest for the first three larcenies would be counted as two prior convictions, even if all the four offenses were adjudicated together).

(c) Do not count the current federal offense or state/local convictions resulting from the current federal offense ((*i.e.*, offenses that are considered in assessing the severity of the current offense). Exception: Where the first and last overt acts of the current offense behavior are separated by an intervening federal conviction (*e.g.*, after conviction for the current federal offense, the offender commits another federal offense while on appeal bond), both offenses are counted in assessing offense severity; the earlier offense is also counted as a prior conviction in the salient factor score.

* * * * *

A.5 Diversion.

Conduct resulting in diversion from the judicial process without a finding of guilt (*e.g.*, deferred prosecution, probation without plea, or a District of Columbia juvenile consent decree) is not to be counted in scoring this item. However, an instance of criminal behavior resulting in a judicial determination of guilt before a judicial body shall be counted as a conviction even if a conviction is not formally entered.

* * * * *

A.14 Juvenile Consent Decree (District of Columbia). A juvenile consent decree in the District of Columbia is a diversionary disposition not requiring an admission or finding of guilt. Therefore, it is not to be used in scoring this item.

Item B. * * *

B.3 Definitions.

* * *

(b) This item includes confinement in adult or juvenile institutions, community corrections centers, and other residential treatment centers (*e.g.*, halfway houses and community treatment centers). It does not include foster home placement. Count confinement in a community corrections center (CCC) or other residential treatment center only when it is part of a committed sentence. Do not count confinement in a community corrections center or other residential treatment center when imposed as a condition of probation or parole. Do not count self-commitment for drug or alcohol treatment.

(c) If a committed sentence of more than 30 days is imposed prior to the current offense but the offender avoids or delays service of the sentence (*e.g.*, by absconding, escaping, bail pending appeal), count as a prior commitment. **Note:** Where the subject unlawfully avoids service of a prior commitment by escaping or failing to appear for service of sentence, this commitment is also to be considered in Items D and E. Example: An offender is sentenced to a three-year prison term, released on appeal bond, and commits the current offense. Count as a previous commitment under Item B, but not under Items D and E. To be considered under Items D and E, the avoidance of sentence must have been unlawful (*e.g.*, escape or failure to report for service of sentence). Example: An offender is sentenced to a three-year prison term, escapes, and commits the current offense. Count as a previous commitment under Items B, D, and E.

(d) District of Columbia Juvenile Commitment to Department of Human Services. In the District of Columbia, juvenile offenders may be committed to the Department of Human Services for placement ranging from a foster home to a secure juvenile facility. Such a commitment is counted only if it can be established that the juvenile was actually committed for more than 30 days to a secure juvenile institution or residential treatment center rather than a foster home.

Item C. * * *

C.1 Score 3 if the subject was 26 years of age or more at the commencement of the current offense and has three or fewer prior commitments.

C.2 Score 2 if the subject was 26 years of age or more at the commencement of the current offense and has four prior commitments.

C.3 Score 1 if the subject was 26 years of age or more at the commencement of the current offense and has five or more prior commitments.

C.4 Score 2 if the subject was 22–25 years of age at the commencement of the current offense and has three or fewer prior commitments.

C.5 Score 1 if the subject was 22–25 years of age at the commencement of the current offense and has four prior commitments.

C.6 Score 0 if the subject was 22–25 years of age at the commencement of the current offense and has five or more prior commitments.

C.7 Score 1 if the subject was 20–21 years of age at the commencement of the current offense and has three or fewer prior commitments.

C.8 Score 0 if the subject was 20–21 years of age at the commencement of the current offense and has four prior commitments.

C.9 Score 0 if the subject was 19 years of age or less at the commencement of the current offense with any number of prior commitments.

Item E. * * *

E.3 Definitions. * * *

(b) The term ''parole'' includes parole, mandatory parole, supervised release, conditional release, or mandatory release supervision (*i.e.*, any form of supervised release).

(c) The term ''confinement/escape status'' includes institutional custody, work or study release, pass or furlough, community corrections center or other residential treatment center confinement (when such confinement is counted as a commitment under Item B), or escape from any of the above.

Item F. Older Offenders.

F.1 Score 1 if the offender was 41 years of age or more at the commencement of the current offense and the total score from Items A–E is 9 or less.

F.2 Score 0 if the offender was less than 41 years of age at the commencement of the current offense or if the total score from Items A–E is 10.

Special Instructions—Probation Violator This Time

Item A Count the original conviction that led to the sentence of probation as a prior conviction. Do not count the probation revocation as a prior conviction.

* * *

Item E By definition, no point is credited for this item. Exception: A person placed on unsupervised probation (other than for deportation) would not lose credit for this item.

* * * * *

Special Instructions—Parole or Supervised Release Violator This Time

Item A The conviction from which paroled or placed on supervised release counts as a prior conviction.

Item B The commitment from which paroled or released to supervised release (including a prison term ordered for a prior supervised release revocation), counts as a prior commitment.

Item C Use the age at commencement of the violation behavior (including new criminal behavior).

Item D Count backwards three years from the commencement of the violation behavior (including new criminal behavior).

* * *

Item F Use the age at commencement of the violation behavior (including new criminal behavior).

Special Instructions—Confinement/ Escape Status Violator With New Criminal Behavior in the Community This Time

* * *

Item F Use the age at commencement of the confinement/escape status violation.

* * * * *

Subpart B—Transfer Treaty Prisoners and Parolees

§ 2.68 [Amended]

3. Section 2.68 is amended at paragraph (l) by removing ''5B1.4(a)'' and adding ''5D1.3(a) and (c)'' in its place.

Dated: November 18, 2002.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 02–29952 Filed 11–25–02; 8:45 am]

BILLING CODE 4410–31–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Revisions of Regulations Governing Filing of Documents With the National Labor Relations Board; Provision for Filing Utilizing Forms on the Agency's Web Site

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board is amending its regulations governing filing documents with the Board to permit certain documents to be filed utilizing forms that are now, or are expected to be made available in the future, on the Board's Web site (*http://www.nlrb.gov*).

DATES: Effective: November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Lester A. Heltzer, Acting Executive Secretary, (202) 273–1067.

SUPPLEMENTARY INFORMATION: Pursuant to OMB Memorandum M–00–10, ''OMB Procedures and Guidance on Implementing the Government Paperwork Elimination Act,'' the National Labor Relations Board has been developing forms to be placed on the Board's Web site (*http://www.nlrb.gov*) to permit electronic filings with the Board. In fiscal year 2000, the Board placed on its Web site a form which individuals can use to file electronic requests under the Freedom of Information Act with the Board's Headquarters offices. In the near future, and over the course of the next several years, the Board will be expanding this program to permit electronic filings of other documents, including requests for extensions of time to be filed with the General Counsel's Office of Appeals or with the Executive Secretary's Office.

The Board's present filing and service rules do not address such electronic filings. Indeed, the current rules could, in some respects, be read to prohibit some of the very filings that we are planning to permit. Consequently, we have decided to promulgate an omnibus provision giving blanket authority to members of the public to utilize new electronic forms as soon as they are placed on the Web site. As new forms are developed and implemented, they will be accompanied on the Web site by instructions describing how they are to be used. Documents filed in accordance with these instructions will be accepted even if there is some provision elsewhere in the Board's rules that prohibits, or seems to prohibit, such filings.

In the case of documents that are required to be served on other parties to a Board proceeding, some provision for expedited service must be made, consistent with Section 102.114(a). That paragraph provides that ''service on all parties shall be made in the same manner as that utilized in filing the paper with the Board, or in a more expeditions manner.'' In the case of filings made using forms on the Board's Web site, service by the ''same'' manner is not possible. Instead, we are substituting a requirement, drawn from our experience with our rules for filing by facsimile (Section 102.114(h)), that other parties be notified by phone and then either served personally, by overnight delivery service, or by facsimile transmission.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for procedural rules, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) pertaining to regulatory flexibility analysis do not apply to these rules. However, even if the Regulatory Flexibility Act were to apply, the NLRB certifies that these rules will not have a significant economic impact on a substantial number of small business entities as they merely permit persons, in certain circumstances, to file documents with the Board electronically.

Executive Order 12866

The regulatory review provisions of Executive Order 12866 do not apply to independent regulatory agencies. However, even if they did, the proposed changes in the Board's rules would not be classified as ''significant rules'' under Section 6 of Executive Order 12866, because they will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not

result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

This part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

For the reasons set forth in the preamble, the National Labor Relations Board is amending 29 CFR Chapter I, Part 102, as follows:

PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for part 102 continues to read as follows:

Authority: Sec. 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117 also issued under sec. 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 442a(j) and (k) of the Privacy Act (5 U.S.C. 55a(j) and (k)). Sections 102.143 through 102.155 also issued under sec. 504(c)(1) of the Equal Access to Justice Act as amended (5 U.S.C. 504(c)(1)).

2. § 102.114 is amended by revising the heading and by adding a new paragraph (i), following the existing paragraph (h), to read as follows:

§ 102.114 Filing and service of papers by parties; form of papers; manner and proof of filing or service; electronic filings.

* * * * *

(i) The Agency's Web site (http://www.nlrb.gov) contains certain forms that parties or other persons are permitted to file with the Agency electronically. Parties or other persons choosing to utilize those forms to file documents electronically are permitted do so by following the instructions described on the Web site, notwithstanding any contrary provisions elsewhere in these rules. In the event the document being filed electronically is required to be served on another party to a proceeding, the other party shall be notified by telephone of the substance of the transmitted document and a copy of the document shall be served by personal service no later than the next day, by overnight delivery service, or, with the permission of the party receiving the document, by facsimile transmission.

Dated, Washington, DC, November 14, 2002.

By direction of the Board.

Lester A. Heltzer,

Acting Executive Secretary, National Labor Relations Board.

[FR Doc. 02–29740 Filed 11–25–02; 8:45 am]

BILLING CODE 7545–01–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules Covering Late Filings of Certain Documents in NLRB Representation Cases

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board is revising its rules that govern the time for filing certain papers with the Board. The revisions are being adopted in order to permit certain documents in NLRB representation cases, required to be filed by a certain date, to be filed late where the reason for the late filing constitutes ''excusable neglect'' and provided that no undue prejudice would result from the late filing. The intended effect of the revisions is to avoid the inequities that would result from rejecting all late-filed documents without regard to the reason why the party missed the filing deadline.

DATES: Effective: November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Lester A. Heltzer, Acting Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Room 11600, Washington, DC 20570. Telephone: (202) 273–1067.

SUPPLEMENTARY INFORMATION: At present, the rules of the National Labor Relations Board provide for circumstances in which certain documents in unfair labor practice cases may be filed late but make no similar provision for late filing of documents in NLRB representation cases. The Board has concluded that it would be appropriate to provide a formal basis for accepting certain late-filed documents in representation cases.

The representation documents permitted to be filed late under the new rule are exceptions, requests for review, motions, briefs, and any document filed in response to any of the foregoing documents.

Subsections (a) and (b) of Section 102.111 are retained without modification. Subsection (c) of Section 102.111 is modified to provide that certain documents in representation cases may be filed late where the reason for filing constitutes ''excusable neglect,'' provided that no undue prejudice would result from the late filing. This is the same standard presently found in this section for late filings in unfair labor practice cases, and a standard that was borrowed from Fed. R. Civ. P. 60 (b). No attempt is made to define the myriad situations to which the rule might apply. Rather, this is a matter that is to be left to determination on a case-by-case basis. The rule continues to provide that a party seeking to file a document late must file, along with the document, a motion stating the grounds relied upon for requesting permission to file late, along with affidavits sworn to by individuals with personal knowledge of the specific facts relied upon in support of the request. Finally, the rule continues to stay the time for responding to any untimely filed document until the date a ruling issues accepting the untimely document.

Executive Order 12866

The regulatory review provisions of Executive Order 12866 do not apply to independent regulatory agencies. However, even if they did, the proposed changes in the Board's rules would not be classified as ''significant rules'' under Section 6 of Executive Order 12866, because they will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Regulatory Flexibility Act

Because no notice of proposed rule-making is required for procedural rules, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) pertaining to regulatory flexibility analysis do not apply to these rules. However, even if the Regulatory Flexibility Act were to apply, the NLRB certifies that these rules will not have a significant economic impact on a substantial number of small business entities as they merely set forth procedures to be followed by the

Agency in determining when to accept late-filed documents.

Paperwork Reduction Act

These rules are not subject to Section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since they do not contain any new information collection requirements.

Small Business Regulatory Enforcement Fairness Act

Because these rules relate to Agency procedure and practice and merely modify the agency's filing procedures, the Board has determined that the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801) do not apply.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

To avoid the injustices that could result if the Board had no flexibility in deciding to accept late-filed documents in representation cases, the Board amends 29 CFR part 102 as follows:

PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.111(c) is revised to read as follows:

§ 102.111 Time computation.

(c) The following documents may be filed within a reasonable time after the time prescribed by these rules only upon good cause shown based on excusable neglect and when no undue prejudice would result:

(1) In unfair labor practice proceedings, motions, exceptions, answers to a complaint or a backpay specification, and briefs; and

(2) In representation proceedings, exceptions, requests for review, motions, briefs, and any responses to any of these documents. A party seeking to file such documents beyond the time prescribed by these rules shall file, along with the document, a motion that states the grounds relied on for requesting permission to file untimely. The specific facts relied on to support the motion shall be set forth in affidavit form and sworn to by individuals with personal knowledge of the facts. The time for filing any document responding to the untimely document shall not commence until the date a ruling issues accepting the untimely document. In addition, cross-exceptions shall be due within 14 days, or such further period as the Board may allow, from the date a ruling issues accepting the untimely filed documents.

Dated: November 14, 2002.

By Direction of the Board.

Lester A. Heltzer,

Acting Executive Secretary, National Labor Relations Board.

[FR Doc. 02–29741 Filed 11–25–02; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD05–02–095]

RIN 2115–AA97

Safety Zone; Cove Point, Chesapeake Bay, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will resume enforcement of the safety zone at the Cove Point liquefied natural gas (LNG) facility's offshore terminal on the Chesapeake Bay. The Coast Guard has not enforced the safety zone since the facility discontinued LNG operations in 1980. Due to construction activity at the terminal, the Coast Guard will resume enforcement of the safety zone.

DATES: This notice of enforcement is effective on November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dulani Woods, at Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch, at (410) 576–2513.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The liquefied natural gas (LNG) facility at Cove Point, Maryland is in the process of updating its terminal equipment in anticipation of transfer operations beginning in the spring of 2003. Although the Captain of the Port (COTP) Baltimore has not yet issued a Letter of Recommendation under 33 Code of Federal Regulations (CFR) part 127.009, enforcement of the safety zone established in 33 CFR 165.502 will now resume.

The Cove Point facility originally started terminal operations in 1978 and conducted transfers of LNG from vessels until 1980. During this period a safety zone was established and actively enforced. Safety zone enforcement ceased when LNG transfer operations were stopped. The facility's terminal is located approximately one mile from shore and has developed into a fishing area since the terminal ceased transfer operations. Numerous commercial and recreational boats frequent this area during fishing seasons and at other times throughout the year.

The Coast Guard will resume continual enforcement of the safety zone during the construction process at the terminal, when heavy equipment will be in operation in the area. The enforcement of the safety zone will prevent unauthorized vessels from entering the work zone and creating safety hazards.

Dated: November 8, 2002.

R.B. Peoples,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 02–29972 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Docket No. FEMA–P–7618

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1-percent-annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Administrator for Federal Insurance and Mitigation Administration reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection

at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator for Federal Insurance and Mitigation Administration certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community no.
Illinois: Lake and Cook (Case No. 02–05–2130P).	Village of Deerfield.	September 19, 2002, September 23, 2002, *Deerfield Review*.	The Honorable Steven B. Harris, Mayor, Village of Deerfield, Village Hall, 850 Waukegan Road, Deerfield, IL 60015.	September 6, 2002	170361
Indiana: Hamilton (Case No. 02–05–2995P).	Town of Westfield.	October 22, 2002, October 29, 2002, *The Noblesville Ledger*.	Mr. Michael McDonald, Town Council President, Town of Westfield, 130 Penn Street, Westfield, IN 46074.	September 24, 2002	180083
Kansas: Johnson (Case No. 02–07–1010P.	City of Lenexa.	October 22, 2002, October 29, 2002, *The Legal Record*.	The Honorable Joan Bowman, Mayor, City of Lenexa, 12350 W. 87th Street Parkway, Lenexa, KS 66215.	September 19, 2002	200168
Kansas: Harvey (Case No. 02–07–1008P).	City of Newton.	September 20, 2002, September 27, 2002, *The Newton Kansan*.	The Honorable Marjorie Roberson, Mayor, City of Newton, 201 E. 6th Street, Newton, KS 67114.	September 10, 2002	200133
Kansas: Johnson (Case No. 02–07–1010P).	City of Shawnee.	October 24, 2002, October 31, 2002, *The Journal Herald*.	The Honorable Jim Allen, Mayor, City of Shawnee, 11110 Johnson Drive, Shawnee, KS 66203.	September 19, 2002	200177
Michigan; Wayne (Case No. 01–05–3983P).	Charter Township of Brownstown.	September 11, 2002, September 18, 2002, *The News-Herald*.	Mr. W. Curt Boller, Supervisor, Brownstown Township, 21313 Telegraph Road, Brownstown Township, MI 48183.	December 11, 2002	260218
Minnesota: Dakota (Case No. 02–05–1843P).	City of Burnsville.	October 24, 2002, October 31, 2002, *Dakota County Tribune*.	The Honorable Elizabeth Kautz, Mayor, City of Burnsville, 100 Civic Center Parkway, Burnsville, MN 55337.	September 30, 2002	270102
Missouri: Greene (Case No. 00–07–676P).	Unincorporated Areas.	October 9, 2002, October 16, 2002, *Springfield News-Leader*.	The Honorable David L. Coonrod, Presiding Commissioner, County of Greene, 940 Boonville Avenue, Springfield, MO 65802.	January 15, 2003 ...	290782

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community no.
Missouri: Jasper and Newton (Case No. 01–07–831P).	City of Joplin.	October 4, 2002, October 11, 2002, *The Joplin Globe*.	The Honorable Richard H. Russell, Mayor, City of Joplin, 1710 East 32nd Street, Joplin, MO 64804.	January 10, 2003 ...	290183
Texas: Bexar (Case No. 02–06–1263P).	Unincorporated Areas.	September 23, 2002, September 30, 2002, *San Antonio Express News*.	The Honorable Cyndi Taylor Krief, Judge, Bexar County, 100 Dolorosa, Suite 101, San Antonio, TX 78205.	October 14, 2002 ...	480035
Texas: Dallas (Case No. 01–06–1163P).	City of Dallas.	September 13, 2002, September 20, 2002, *Dallas Morning News*.	The Honorable Laura Miller, Mayor, City of Dallas, 1500 Marilla Street, City Hall, Dallas, TX 75201.	December 20, 2002	480171
Texas: Fort Bend (Case No. 02–06–266P).	Unincorporated Areas.	September 4, 2002, September 11, 2002, *Fort Bend Star*.	The Honorable James C. Adolpus, Judge, Fort Bend County, 301 Jackson Street, Suite 719, Richmond, TX 77469.	August 22, 2002	480228
Texas: Tarrant (Case No. 02–06–064P).	City of Fort Worth.	September 13, 2002, September 20, 2002, *Fort Worth Star Telegram*.	The Honorable Kenneth Barr, Mayor, City of Fort Worth, City Hall, 1000 Throckmorton Street, Forth Worth, TX 76102.	August 30, 2002	480596
Texas: Tarrant (Case No. 02–06–1073P).	City of Fort Worth.	September 26, 2002, October 3, 2002, *Forth Worth Star Telegram*.	The Honorable Kenneth Barr, Mayor, City of Fort Worth, 1000 Throckmorton Street, Forth Worth, TX 76102.	January 2, 2003	480596
Texas: Dallas (Case No. 02–06–1091P).	City of Irving.	September 5, 2002, September 12, 2002, *The Irving Morning News*.	The Honorable Joe Putnam, Mayor, City of Irving, P.O. Box 152288, Irving, TX 75015.	August 19, 2002	480180
Texas: Dallas (Case No. 02–06–384P).	City of Irving.	September, 12, 2002, September 19, 2002, The Irving Morning News.	The Honorable Joe Putnam, Mayor, City of Irving, P.O. Box 15228, Irving, TX 75015.	December 19, 2002	480180
Texas: Dallas (Case No. 01–06–1088P).	City of Lancaster.	October 24, 2002, October 31, 2002, *Lancaster Today*.	The Honorable Joe Tillotson, Mayor, City of Lancaster, P.O. Box 940, Lancaster, TX 75146.	January 27, 2003 ...	480182
Texas: Denton (Case No. 02–06–731P).	City of Lewisville.	September 25, 2002, October 2, 2002, Denton County Morning News.	The Honorable Gene Carey, Mayor, City of Lewisville, P.O. Box 299002, Lewisville, TX 75029.	September 12, 2002	480195
Texas: Montgomery (Case No. 01–06–1444P).	City of Magnolia.	September 11, 2002, September 18, 2002, Magnolia Potpourri.	The Honorable Frank M. Parker III, Mayor, City of Magnolia, P.O. Box 996, Magnolia, TX 77355.	August 30, 2002	481261
Texas: Fort Bend (Case No. 02–06–266P).	City of Missouri City.	September 5, 2002, September 12, 2002, Fort Bend Mirror.	The Honorable Allen Owen, Mayor, City of Missouri City, P.O. Box 666, Missouri City, TX 77459.	August 22, 2002	480304
Texas: Montgomery (Case No. 01–06–1444P).	Unincorporated Areas.	September 11, 2002, September 18, 2002, The Courier.	The Honorable Alan B. Sadler, Judge, Montgomery County, 301 North Thompson Street, Suite 210, Conroe, TX 77301.	August 30, 2002	480483
Texas: Bexar (Case No. 02–06–1263P).	City of San Antonio.	September 23, 2002, September 30, 2002, San Antonio Express News.	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	September 13, 2002	480045
Texas: Bexar (Case No. 02–06–2309P).	City of San Antonio.	October 15, 2002, October 22, 2002, San Antonio Express News.	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	January 21, 2003 ...	480045
Texas: Bexar (Case No. 02–06–1679P).	City of San Antonio.	October 23, 2002, October 30, 2002, San Antonio Express News.	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	January 29, 2003 ...	480045
Texas: Bexar (Case No. 02–06–2309).	City of Shavano Park.	October 15, 2002, October 22, 2002, San Antonio Express News.	The Honorable Tommy Peyton, Mayor, City of Shavano Park, City Hall, 99 Saddletree Road, San Antonio, TX 78231.	January 21, 2003 ...	480047
Texas: Tarrant (Case No. 02–06–1098P).	City of Southlake.	September 12, 2002, September 19, 2002, Fort Worth Star Telegram.	The Honorable Rick Stacy, Mayor, City of Southlake, 1400 Main Street, Southlake, TX 76092.	December 19, 2002	480612
Texas: Fort Bend (Case No. 02–06–266P).	City of Sugar Land.	September 4, 2002, September 11, 2002, Fort Bend Star.	The Honorable David G. Wallace, Mayor, City of Sugar Land, P.O. Box 110, Sugar Land, TX 77487–0110.	August 22, 2002	480234

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 13, 2002.

Anthony S. Lowe,

Administrator, , Federal Insurance and Mitigation Administration.

[FR Doc. 02–29964 Filed 11–25–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1-percent-annual-chance) Flood Elevations and modified Base Flood Elevations (BFEs) are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *michael.grimm@fema.gov.*

SUPPLEMENTARY INFORMATION: FEMA makes final determinations listed below of BFEs and modified BFEs for each community listed. The proposed BFEs and proposed modified BFEse were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of 90 days. The proposed BFEs and proposed modified BFEs were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator of the Federal Insurance and Mitigation Administration certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD) modified	Communities affected
East Marley Creek:		
Approximately 800 feet downstream of Wolf Road	*679	FEMA Docket No. 7611, Mokena (Village) and Will County (Unincorporated Areas).
Just downstream of 104th Street	*686	
Maps are available for inspection at the Village Hall, 11004 Carpenter Street, Mokena, Illinois. Maps are available for inspection at the Land Use Department, Subdivision Engineering Division, 58 E. Clinton Street, Joliet, Illinois.		
Elkhorn River:		
Approximately 4,800 ft. downstream of 558th Avenue	*1498	FEMA Docket No. 7611, Madison County, City of Tilden, Village of Meadow Grove, City of Norfolk, Village of Battle Creek.
Approximately 300 ft. upstream of Center Street/534th Avenue.	*1657	
Union Creek:		
Approximately 1.9 miles upstream of 3rd Street	*1589	Madison County.
Approximately 1.7 miles upstream of 3rd Street	*1588	

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD) modified	Communities affected
Maps are available for inspection at Zoning Administration, 1112 Bonita Drive, Norfolk, Nebraska.		
Maps are available for inspection at the City Clerk, 202 South Center, Tilden, Nebraska.		
Maps are available for inspection at 102 South Second Street, Battle Creek, Nebraska.		
Maps are available for inspection at 208 Main Street, Meadow Grove, Nebraska.		
Maps are available for inspection at 701 Koeningstein Avenue, Norfolk, Nebraska.		
Indian Creek:		
Just upstream of Three Locks Road	*610	FEMA Docket NO. 7611, Ross County (Unincorporated Areas).
Just downstream of confluence of Rozelle Creek	*668	
Little Salt Creek:		
Approximately 1,000 feet upstream of its confluence with Salt Creek.	*602	
Little Salt Creek:		
Approximately 800 feet downstream of the Ross/Jackson county boundary.	*602	FEMA Docket No. 7611, Ross County (Unincorporated Areas).
Middle Fork Salt Creek:		
Just upstream of the confluence with Salt Creek	*600	FEMA Docket No. 7611, Ross County (Unincorporated Areas).
Approximately 1,000 feet upstream of the confluence of Little Salt Creek.	*602	
Paint Creek:		
Approximately 1,900 feet upstream of State Route 104	*612	FEMA Docket No. 7611 Ross County (Unincorporated Areas) City of Chillicothe, Village of Bainbridge.
Just downstream of Jones Levee Road	*683	
Rozelle Creek:		
Just upstream of the confluence with Indian Creek	*668	FEMA Docket No. 7611, Ross County (Unincorporated Areas).
Approximately 1,700 feet above the confluence with Indian Creek.	*684	
Salt Creek:		
Just upstream of CSX Railroad	*590	FEMA Docket No. 7611, Ross County (Unincorporated Areas).
Just downstream of the confluence with Middle Fork Salt Creek.	*600	
Scioto River:		
Approximately 0.1 mile upstream of Main Street	*619	FEMA Docket No. 7611, Ross County (Unincorporated Areas) City of Chillicothe.
Approximately 3.2 miles upstream of U.S. Highway 35	*631	
Maps are available for inspection at the Ross County Engineering Building, 755 Fairgrounds Road, Chillicothe, Ohio.		
Maps are available for inspection at the Village of Bainbridge, City Office, 118 East Main Street, Bainbridge, Ohio.		
Maps are available for inspection at the City of Chillicothe, Administration Building, 35 South Paint Street, Chillicothe, Ohio.		

* National Geodetic Vertical Datum.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: November 13, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–29963 Filed 11–25–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1-percent-annual-chance) Flood Elevations and modified Base Flood Elevations (BFEs) are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *michael.grimm@fema.gov.*

SUPPLEMENTARY INFORMATION: FEMA makes final determinations listed below of BFEs and modified BFEs for each community listed. The proposed BFEs and proposed modified BFEse were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through

the community was provided for a period of ninety (90) days. The proposed BFEs and proposed modified BFEs were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator of the Federal Insurance and Mitigation Administration certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and record keeping requirements.

Accordingly, 44 CFR part 67 is amended to read as follows:

PART 67—[AMENDED]

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

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Modified ♦Elevation in feet (NAVD) Modified
Arizona	Saline County (Unincorporated Areas) (FEMA Docket No. 7609).	Clear Creek	Approximately 4,800 feet downstream of U.S. Route 167.	*252
			Approximately 350 feet upstream of U.S Route 167.	*270
		Duck Creek	Approximately 6,000 feet downstream of S. Springlake Road.	*253
			Approximately 300 feet upstream of U.S. Route 167.	*275
Arizona	Saline County (Unincorporated Areas) (FEMA Docket No. 7609).	Hopt Branch	Approximately 1,500 feet downstream of Honeysuckle Drive.	*268
			Approximately 4,250 feet upstream of Honeysuckle Drive.	*285
		Maple Creek	Approximately 6,200 feet downstream of US Route 65.	*237
			Just upstream of Springlake Road	*287
		Maple Creek Tributary	Approximately 4,500 feet downstream of US Route 167.	*247
			Approximately 100 feet upstream of US Route 167.	*255
		McCright Branch	Approximately 2,000 feet downstream of Pear Orchard Drive.	*285
			Approximately 150 feet upstream of Dena Drive.	*310
		Owen Creek	Approximately 5,200 feet downstream of Midland Road.	*323
			Approximately 2,000 feet upstream of Hilldale Road.	*413
Maps are available for inspection at the Saline County Assessor's Office, Real Estate Department, 215 Main Suite 5, Benton, Arkansas.				
Kansas	Wamego (City) (Pottawatomie County) (FEMA Docket No. 7609).	East Unnamed Creek	Approximately 1000 feet upstream of Pizza Hut Road.	*1019

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Modified ♦Elevation in feet (NAVD) Modified
			Approximately 900 feet upstream of Missile Base Road.	*1041
		East Unnamed Creek Tributary.	Approximately 700 feet upstreasm of the mouth.	*1003
			Approximately 850 feet upstream of Graves Road.	*1012
		North Unnamed Tributary	Just upstream of US Highway 24	*987
			Approximately 100 feet upstream of Spencer Road.	*991
Maps are available for inspection at the City of Wamego, 430 Lincoln Avenue, Wamego, Kansas.				
Minnesota	Northfield (City) (Dakota and Rice Counties) (FEMA Docket No. 7609).	Cannon River	At downstream corporate limits	*890
			Approximately 1,200 feet upstream of the corporate limits (Limit of flooding affecting community).	*913
Maps are available for inspection at 801 Washington Street, Northfield, Minnesota.				
Minnesota	St. Paul (City) (Ramsey County) (FEMA Docket No. 7609).	Mississippi River	Approximately 120 feet upstream of the corporate limits.	*705
			Just downstream of Lock and Dam No. 1	*716
Maps are available for inspections at the St. Paul Planning & Economic Development, 1300 City Hall Annex, 25 West 4th Street, St. Paul, Minnesota.				
Missouri	Dalton (Village) (Chariton County) (FEMA Docket No. 7609).	Missouri River		*642–643
Maps are available for inspection at the Village of Dalton Chairperson's home, 109 N. Sycamore Street, Dalton, Missouri.				

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 13, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–29962 Filed 11–25–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45, 96–262, 94–1, 91–213, 95–72; FCC 97–420]

Universal Service

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the final regulation part 54, which was published in the **Federal Register** on Tuesday January 13, 1998, (63 FR 2094). This document will correct one word in section 54.303(b)(4) of the Commission rules. The regulation relates to the calculation of Long Term Support by the Administrator contained in section 54.303(b)(4).

DATES: Effective November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Katie King, Attorney, Wireline Competition Bureau (formerly, Common Carrier Bureau), Telecommunications Access Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION:

Background

Part 54 rules are issued pursuant to the Communications Act of 1934, as amended. The purpose of the part 54 rules is to implement section 254 of the Communications Act of 1934, as amended, 47 U.S.C. 254. The final regulation that is subject to the correction deals with § 54.303 and how the Administrator calculates long term support.

Need for Correction

As published, the final regulation contains an error which needs to be corrected.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Accordingly, 47 CFR part 54 is corrected by making the following correcting amendments:

PART 54—UNIVERSAL SERVICE

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

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Revise paragraph (b)(4) of § 54.303 to read as follows:

§ 54.303 Long term support.

* * * * *

(b) * * *

(4) Beginning January 1, 2000, the Administrator shall calculate Long Term Support annually by adjusting the previous year's level of support to reflect the annual percentage change in the Department of Commerce's Gross Domestic Product-Chained Price Index (GDP–CPI).

* * * * *

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 02–29967 Filed 11–25–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 02–307]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission asks the Federal-State Joint Board on Universal Service to review certain of the Commission's rules relating to the high-cost universal service support mechanisms to ensure that the dual goals of preserving universal service and fostering competition continue to be fulfilled.

DATES: Effective December 26, 2002.

FOR FURTHER INFORMATION CONTACT: Kathy Tofigh, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket No. 96–45 released on November 8, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

1. In this Order, we ask the Federal-State Joint Board on Universal Service (Joint Board) to review certain of the Commission's rules relating to the high-cost universal service support mechanisms to ensure that the dual goals of preserving universal service and fostering competition continue to be fulfilled. In particular, we request the Joint Board to review the Commission's rules relating to high-cost universal service support in study areas in which a competitive eligible telecommunications carrier (ETC) is providing service, as well as the Commission's rules regarding support for second lines. We request that the Joint Board provide recommendations to the Commission regarding if and how those rules should be modified. We anticipate that the Joint Board will seek public comment on whether these rules continue to fulfill their intended purposes, and whether modifications are warranted in light of developments in the telecommunications marketplace. We also ask the Joint Board to examine the process for designating ETCs.

2. In light of developments in the telecommunications marketplace since 1997, we believe that it is appropriate to request the Joint Board to review the Commission's rules relating to support in competitive study areas and support for second lines. We also ask the Joint Board to examine the process for designating ETCs. The Joint Board should address how its recommendations regarding the issues set forth below further the universal service goals outlined in section 254 of the Act, including the principle of competitive neutrality. In addition, the Joint Board should consider how its analysis relates to the five-year time frame for high-cost support adopted in the *Rural Task Force Order*.

3. We ask the Joint Board to review the methodology for calculating support for ETCs in competitive study areas. In the *First Report and Order,* 62 FR 32862, June 17, 1997, the Commission determined that it was appropriate to calculate per-line portable universal service support for all ETCs based on the support that the incumbent LEC would receive for the same line. The Commission reasoned that calculating support based on the incumbent LEC's costs would aid the emergence of competition and would be the least burdensome way to administer the support mechanisms. In addition, the Commission explained that although a competitive ETC may have different costs than the incumbent LEC, a competitive ETC must also comply with section 254(e) of the Act, and that section 214(e) requirements would prevent competitive ETCs from profiting by limiting service to low cost areas. Some groups have argued that this methodology provides a windfall and creates an unfair advantage for competitive ETCs with lower costs, whereas others argue that the current rules are necessary for competitive neutrality and are the least administratively burdensome way to administer support. We ask the Joint Board to review the methodology for calculating support for ETCs in competitive study areas, taking into consideration the universal service principles outlined in section 254 of the Act and the principle of competitive neutrality. We also ask the Joint Board to examine the rules governing calculation of high-cost support for competitive ETCs utilizing UNEs.

4. Support for competitive ETCs currently is not capped under the Commission's rules. On the other hand, the Commission's rules limit the overall amount of rural high-cost loop support available to incumbent LECs. When the Commission adopted these rules in 2001, it concluded that the modified embedded cost mechanism would provide rural carriers with specific, predictable and sufficient support over the next five years. The Joint Board should address the potential benefits and costs of modifying these rules for stability, predictability, and sufficiency of the fund, as well as their potential effects on competition and competitive neutrality. In addition, the Joint Board should address the specific concerns raised in the *Rural Task Force Order* regarding excessive growth in the fund if incumbent rural carriers lose a significant number of lines to competitive ETCs. The Joint Board should also consider the methodology for determining the location of a line served by a mobile wireless service provider, and whether modifications are warranted.

5. The Joint Board should also consider the extent to which the Commission's current rules relating to support for second lines may impact the size of the universal service fund, and provide recommendations on whether the Commission should adopt modifications in this area. Under our current rules, all residential and business connections provided by ETCs are eligible for high-cost support. In adopting these rules in 1997, the Commission recognized that ''overly expansive universal service mechanisms potentially could harm all consumers by increasing the cost of telecommunications services for all.'' At that time, the Commission indicated it would continue to evaluate the issue. We now ask the Joint Board to consider whether the goals of section 254 would be served if support were limited to a single connection to the end-user—whether provided by the incumbent or a competitive ETC. We also ask the Joint Board to consider whether such a rule would be competitively neutral and how it would impact competition.

6. Finally, the Joint Board should address the system for resolving requests for ETC designations under section 214(e)(2) of the Act. Some parties have argued that shortcomings in the current system hamper the emergence of competition in rural areas, whereas others have expressed concerns that universal service goals will be undermined if state commissions do not impose similar universal service obligations on incumbent LECs and competitive ETCs. Taking into consideration these concerns, we ask the Joint Board to consider whether it is advisable to establish federal processing guidelines for ETC applications, and if so, what should be included in such guidelines. Furthermore, in the *Rural Task Force Order*, the Commission determined that the level of disaggregation of support should be

considered in determining whether to certify new ETCs for a service area other than a rural carrier's entire study area. We ask the Joint Board to consider whether the Commission should provide additional guidance regarding the manner in which the level of disaggregation of support should be considered, and if so, what guidance the Commission should provide.

7. Pursuant to sections 1, 4(i) and (j), 214(e), 254, and 410 of the Communications Act of 1934, as amended, this Order is adopted.

8. Pursuant to sections 1, 4(i) and (j), 214(e), 254, and 410 of the Communications Act of 1934, as amended, the Federal-State Joint Board on Universal Service is requested to review the Commission's rules relating to high-cost universal service support in study areas in which a competitive eligible telecommunications carrier is providing service and support for second lines and provide recommendations to the Commission.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–29966 Filed 11–25–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 01–97; RM–9798; FCC 02–232]

Amendment of the Commission's Rules To Revise the Authorized Duty Cycle on 173.075 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission revised the duty cycle specifications for stolen vehicle recovery system operations on 173.075 MHz by adding a new duty cycle option of 1800 milliseconds every 300 seconds, with a maximum of six messages in any thirty-minute period. This action was taken to enable the enhancement of police performance in the recovery of stolen vehicles and apprehension of suspects. This rule change will facilitate: more efficient law enforcement, a decrease in the time between when a vehicle is discovered stolen and when the theft is reported to the police, greater stolen vehicle recovery rates, and a greater rate of apprehension of criminals.

DATES: Effective December 26, 2002.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Esq., Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0627, TTY (202) 418–7233, or via e-mail at *fthyden@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Report and Order,* FCC 02–232, adopted on August 9, 2002, and released on September 5, 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: 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.*

In this *Report and Order,* we address the proposal set forth in the *Notice of Proposed Rulemaking (NPRM),* 66 FR 31598, June 12, 2001, in WT Docket No. 01–97. In the *NPRM,* the Commission sought comment on whether to revise the duty cycle specifications for stolen vehicle recovery system (SVRS) operations on 173.075 MHz. The *NPRM* also invited comment on whether the public interest continues to be served by specification of duty cycles for the SVRS operations on 173.075 MHz. For the reasons explained below, we are revising § 90.20(e)(6) of the Commission's rules to add a new duty cycle option of 1800 milliseconds every 300 seconds with a maximum of six messages in any thirty-minute period. We believe that this new duty cycle option will enable the enhancement of police performance in the recovery of stolen vehicles and apprehension of suspects, while ensuring that harmful interference does not occur to television reception. It is our view that the specification of SVRS duty cycles continues to serve the public interest by also encouraging a competitive marketplace for provision of SVRS operations.

I. Procedural Matters

A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA) of 1980, the Commission has prepared a Final Regulatory Flexibility Analysis of the possible impact of the rule changes contained in this *Report and Order* on small entities. The Final Regulatory Flexibility Act analysis is set forth in Appendix A of the *Report and Order.* The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Paperwork Reduction Analysis

2. This *Report and Order* does not contain any new or modified information collection. Therefore, it is not subject to the requirements for a paperwork reduction analysis, and the Commission has not performed one.

II. Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in Appendix A of the *Notice of Proposed Rulemaking (NPRM)* issued in this proceeding. The Commission sought written public comment on the proposals in the *NPRM,* including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this *Report and Order* in WT Docket No. 97–82 conforms to the RFA. I. Need for, and Objectives of, the *Report and Order*

3. In the *Report and Order,* we modify the duty cycle for mobile specifications for SVRS operations, contained in 47 CFR § 90.20(e)(6), to 1800 milliseconds every 300 seconds to permit use of new technology. This modification is in the public interest because it enhances the efficient use of spectrum and permits greater efficiency in use of police resources to track and recover stolen vehicles and apprehend more individuals involved in such activities.

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

4. No comments were filed in direct response to the IRFA.

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

5. 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 that: (1) Is independently owned and operated, (2) is not dominant in its field of operation, and (3) satisfies any additional criteria established by the Small Business Administration. 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.''

6. The rule change adopted in this *Report and Order* will provide marketing opportunities for radio manufacturers, some of which may be small businesses. Beyond this we are unable to quantify the potential effects on small entities.

C. Description of Reporting, Recordkeeping, and Other Compliance Requirements

7. No new reporting, recordkeeping, or other compliance requirements would be imposed on applicants or licensees as a result of the actions taken in this rulemaking proceeding.

D. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

8. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603.

9. As an alternative, the Commission considered eliminating specified duty cycles for SVRS mobile and base transmitters. However, the Commission determined that the public interest continues to be served by retention of these duty cycles. The mobile duty cycle ensures that harmful interference to TV Channel 7 reception will not occur, while the base station duty cycle permits the growth of a competitive SVRS marketplace. The rule change adopted will accommodate the use of an early warning detector and, thus, enhance police performance in the recovery of stolen vehicles and apprehension of individuals suspected of committing these thefts.

10. Amendment of the duty cycle rule does not impose any new reporting or compliance requirements, however, it does permit an additional use of SVRS technology. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public.

E. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

11. None

Report to Congress: The Commission will send a copy of this *Report and Order,* including the FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this *Report and Order,* including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**, *see* 5 U.S.C. 604(b).

III. Ordering Clauses

12. Authority for issuance of this *Report and Order* is contained in sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

13. Pursuant to the authority of sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), § 90.20(e)(6) of the Commission's Rules, 47 CFR 90.20(e)(6), *is amended* as set forth in the rule changes.

14. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *Shall send* a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

15. This proceeding *is terminated.*

List of Subjects in 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble the Federal Communications Commission proposes to amend 47 CFR parts 90 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), 303(g), 303(r), and 332(c)(7).

2. Section 90.20 is amended by revising paragraph (e)(6) introductory text to read as follows:

§ 90.20 Public safety pool.

* * * * *

(e) * * *

(6) The frequency 173.075 MHz is available for stolen vehicle recovery systems on a shared basis with the Federal Government. Stolen vehicle recovery systems are limited to recovering stolen vehicles and are not authorized for general purpose vehicle tracking or monitoring. Mobile transmitters operating on this frequency are limited to 2.5 watts power output and base transmitters are limited to 300 watts ERP. F1D and F2D emissions may be used within a maximum authorized 20 kHz bandwidth. Transmissions from mobiles shall be limited to 200 milliseconds every 10 seconds, except that when a vehicle is being tracked actively transmissions may be 200 milliseconds every second. Alternatively, transmissions from mobiles shall be limited to 1800 milliseconds every 300 seconds with a maximum of six such messages in any 30 minute period. Transmissions from base stations shall be limited to a total time of one second every minute. Applications for base stations operating on this frequency shall require coordination with the Federal Government. Applicants shall perform an analysis for each base station located within 169 km (105 miles) of a TV Channel 7 transmitter of potential interference to TV Channel 7 viewers. Such stations will be authorized if the applicant has limited the interference contour to fewer than 100 residences or if the applicant:

* * * * *

[FR Doc. 02–29923 Filed 11–25–02; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 67, No. 228
Tuesday, November 26, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Chapter I

Public Meetings: Development of Regulations Regarding Mandatory Advanced Electronic Cargo Information

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of meetings.

SUMMARY: This document announces that Customs will hold a series of public meetings in accordance with section 343(a) of the Trade Act of 2002 to assist in the development of proposed regulations to provide for the mandatory collection by Customs of electronic cargo information prior to importation into or exportation from the United States. Separate meetings will be held to address specific importation/exportation issues pertaining to air, sea, truck and rail cargo. The meetings are open to interested members of the trade community.

DATES: The meetings to discuss mandatory advanced collection of electronic information pertaining to cargo are scheduled for the following dates:

- Air cargo: January 14, 2003;
- Truck cargo: January 16, 2003;
- Rail cargo: January 21, 2003; and
- Sea cargo: January 23, 2003.

ADDRESSES: All meetings will be held from 10 a.m. to 3 p.m. in room B1.5–10 of the Ronald Reagan Building located at 1300 Pennsylvania Avenue, NW., Washington, DC. Interested parties must provide Customs with notice of intent to attend a particular meeting at least five business days prior to the scheduled date for that meeting. Notice may be provided to Robyn Day at (202) 927–1440 or via e-mail at *traderelations@customs.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Robyn Day, U.S. Customs Service, Office of Trade Relations, at (202) 927–1440 or via e-mail at *traderelations@customs.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 343(a) of the Trade Act of 2002 (the Act), Public Law 107–210, was signed into law on August 6, 2002. Section 343(a) directs the Secretary of the Treasury to promulgate regulations, within one year of enactment of the Act, to provide for the mandatory collection by Customs of electronic cargo information prior to importation into or exportation from the United States. In the course of developing such regulations, section 343(a) directs the Secretary to solicit comments from and consult with a broad range of parties likely to be affected by the regulations, including importers, exporters, carriers, customs brokers, and freight forwarders.

Section 343(a) requires that the electronic cargo information required under the regulations be reasonably necessary to ensure aviation, maritime and surface transportation safety and security pursuant to those laws enforced and administered by Customs. The requirements to provide particular information generally is to be imposed on the party (*e.g.* exporter, importer, carrier, broker) most likely to have direct knowledge of the cargo information. Additionally, the statute requires the Secretary to take specific factors into consideration in the development and promulgation of the regulations, including:

- The existence of competitive relationships among parties upon which the information collection requirements will be imposed;
- Differences among cargo carriers that arise from varying modes of transportation, different commercial practices and operational characteristics, and the technological capacity to collect and transmit information;
- The need for interim requirements to reflect the technology that is available at the time of promulgation of the regulations for purposes of transmitting/receiving/analyzing electronic information; and
- The need for transition periods and differences in transition times among modes of transportation.

This notice announces that Customs will hold a series of public meetings to assist in the development of proposed regulations pertaining to the mandatory advanced collection of electronic cargo information, with particular emphasis on the specific issues addressed above. Separate meetings will be held to address specific importation/exportation issues pertaining to air, sea, truck and rail cargo. The meetings are open to interested members of the trade community, however space is limited. The meetings are scheduled for the following dates:

- Air cargo: January 14, 2003;
- Truck cargo: January 16, 2003;
- Rail cargo: January 21, 2003; and
- Sea cargo: January 23, 2003.

All meetings will be held from 10 a.m. to 3 p.m. in room B1.5–10 of the Ronald Reagan Building located at 1300 Pennsylvania Avenue, NW., Washington, DC. Interested parties must provide Customs with notice of their intent to attend a particular meeting at least five business days prior to the scheduled date for that meeting. Notice may be provided to Robyn Day at (202) 927–1440 or via e-mail at *traderelations@customs.treas.gov.* It is suggested that interested parties provide advance notice of intent to attend a particular meeting, as space is limited and attendance may be restricted accordingly.

It is noted that proposed legislation is currently pending (S. 1214, the Maritime Transportation Security Act) which may amend section 343 of the Trade Act of 2002. Any updates pertaining to either the substance or logistics of the scheduled meetings will be available on the Customs Internet Web site at *http://www.customs.treas.gov/rlf.*

Dated: November 20, 2002.

Michael Schmitz,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 02–29931 Filed 11–25–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 589

[Docket No. 02N–0273]

Substances Prohibited From Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting an advance notice of proposed rulemaking that appeared in the **Federal Register** of November 6, 2002 (67 FR 67572). The document solicited information and views on some potential changes to its current regulation prohibiting the use of certain proteins in ruminant animal feed.

EFFECTIVE DATE: November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Linda Huntington, Executive Secretariat, Office of the Commissioner (HF–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4443.

SUPPLEMENTARY INFORMATION: In FR Doc. 02–28373, appearing on page 67572 in the **Federal Register** of Wednesday, November 6, 2002, the following correction is made:

1. On page 67573, in the second column, in the sixth line, the phone number ''301–594–1755'' is corrected to read ''301–827–3800''.

Dated: November 20, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–29926 Filed 11–25–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106879–00]

RIN 1545–AY27

Dual Consolidated Loss Recapture Events; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations under section 1503(d) regarding the events that require the recapture of dual consolidated losses.

DATES: The public hearing originally scheduled for December 3, 2002, at 10 a.m., is canceled.

FOR FURTHER INFORMATION CONTACT: Sonya M. Cruse of the Regulations Unit, Associate Chief Counsel (Income Tax and Accounting), at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

A notice of proposed rulemaking and notice or public hearing that appeared in the **Federal Register** on Thursday, August 1, 2002, (67 FR 49892), announced that a public hearing was scheduled for December 3, 2002 at 10 a.m., in room 4718, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 1503(d) of the Internal Revenue Code. The public comment period for these proposed regulations expired on November 12, 2002. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, November 19, 2002, no one has requested to speak. Therefore, the public hearing scheduled for December 3, 2002, is canceled.

Cynthia E. Grigsby,

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

[FR Doc. 02–29994 Filed 11–25–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H005C]

RIN 1218–AB76

Occupational Exposure to Beryllium; Request for Information

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Request for information.

SUMMARY: OSHA requests information and comment on issues related to occupational exposure to beryllium, including current employee exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; employee training; medical surveillance for adverse health effects related to beryllium exposure; and other pertinent subjects. The information received in response to this document will assist the Agency in determining an appropriate course of action regarding occupational beryllium exposure.

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or sent) by February 24, 2003.

Facsimile and electronic transmission: Your comments must be sent by February 24, 2003.

(Please see the **SUPPLEMENTARY INFORMATION** section for additional information on submitting comments.)

ADDRESSES: Regular mail, express delivery, hand-delivery, and messenger service: You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. H005C, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., EST.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You must include the docket number of this document, Docket No. H005C, in your comments.

Electronic: You may submit comments, but not attachments, through the Internet at *http://ecomments.osha.gov/.*

(Please see the **SUPPLEMENTARY INFORMATION** section for additional information on submitting comments.)

FOR FURTHER INFORMATION CONTACT: General Information and press inquiries—Bonnie Friedman, Director, OSHA Office of Public Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–1999. Technical Information—Amanda Edens, OSHA Directorate of Standards and Guidance, Room N–3718, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–2093. Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's webpage at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA webpage. Please note that you cannot attach materials such as studies or journal articles to electronic comments. If you have additional materials, you must submit three copies of them to the OSHA Docket Office at the address above. The additional materials must clearly identify your electronic comments by name, date, subject and docket number so we can attach them to your comments. Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

All comments and submissions will be available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web site will be available at *http://www.osha.gov.* OSHA cautions you about submitting personal information such as social security numbers and birth dates. Contact the OSHA Docket Office at (202) 693–2350 for information about materials not available through the OSHA web page and for assistance in using the web page to locate docket submissions.

II. Background

Properties and uses. Beryllium has unique characteristics that make it a superior material for certain specialized applications. Compared to other metals, beryllium is very light, has a high melting point, low electrical conductivity, superior strength and stiffness, high thermal conductivity, and high resistance to corrosion. In addition, it is also transparent to X-rays, absorbs neutrons, and is non-magnetic. Beryllium is used in several forms: as a pure metal, as beryllium oxide, and as an alloy with copper, aluminum, magnesium, or nickel.

Until recently, the primary demand for beryllium came from the Department of Defense and the Department of Energy, where the metal was important in the development of nuclear weapons and in applications for the nuclear power industry. However, the use of beryllium has become more widespread in general industry, both in the manufacture of products containing beryllium and the salvage of materials containing beryllium.

For example, because of its lightness and strength, beryllium and beryllium alloy are used by the aerospace industry in the manufacture of high performance military aircraft, satellites, rocketry and the space shuttle. Beryllium and beryllium alloy are also used in X-ray machines and high-speed computers. Beryllium alloy is used by manufacturers of electrical components to make springs, switches, and other parts that are used in automotive, computer, telecommunication, and other industries. Additional alloy applications include tubing for oil and gas drilling; tool and die making and other mold-making; jewelry; golf clubs; and non-sparking tools. Beryllium oxide is used as a substrate for circuits in computer manufacture and in industries that produce lasers or traveling-wave tubes, automotive ignition systems, radar, microwave systems, and in other electronic and opto-electronic markets. Processes that create employee exposure in these industries typically involve machine shop, metalworking, and finishing processes, such as machining, sanding, stamping, grinding, crushing, lapping, and sintering.

Beryllium is also present in other industries that do not intentionally produce or process the metal. Examples of such activities include abrasive blasting operations, where coal or copper slag is used as a substitute for sand; spot or seam welding of specialized beryllium-copper electrodes; welding processes, where beryllium is in the electrode, in the flux or rod, or in the substrate alloy being fabricated; and recycling metals and other materials from computers and electrical products.

Health Risks Associated With Occupational Exposure to Beryllium and Its Compounds

Some workers exposed to beryllium or beryllium compounds may develop beryllium sensitization, chronic beryllium disease (CBD, also sometimes known as berylliosis), lung cancer, or skin disease (Ex. 4–1). Acute beryllium disease, a pneumonitis resulting from high beryllium exposure, is now considered rare (Ex. 4–9).

Inhalation appears to be the primary route of exposure to beryllium. However, dermal contact can result in a beryllium-related skin disease characterized by a rash, or wart-like bumps (Ex. 4–15). Questions have been raised regarding the contribution of dermal exposure, ingestion, and genetic factors to the risk of sensitization and CBD. (*e.g.,* Exs. 4–2 and 4–14).

Chronic Beryllium Disease

CBD primarily affects the lungs. Inhalation of beryllium dust appears to be the primary route of exposure in CBD. Research indicates that beryllium exposure causes some workers to become sensitized, which may result in the formation of granulomas (inflammatory cells surrounding beryllium particles) in the lung that reduce oxygen exchange (Ex. 4–15). Proliferation of granulomas leads to additional symptoms of CBD, such as dry cough, chest pain, weakness, fatigue and progressive shortness of breath (Ex. 4–9). Progression of the disease may lead to weight loss, acrocyanosis (blueness or pallor of the extremities usually associated with pain and numbness), and eventually, heart failure. The clinical course of CBD is considered highly variable; because the disease may develop slowly over time, workers may have the disease for years without knowing it. With progression, CBD is sometimes fatal. (Ex. 4–10).

The amount or length of exposure to beryllium necessary to cause a specific individual to develop CBD is not known, but recent information suggests that even short exposures to levels of beryllium below OSHA's Permissible Exposure Limit (PEL) of 2 $\mu g/m^3$ averaged over an 8-hour day may lead to CBD in some workers (Exs. 4–5, 4–7, and 4–8). CBD may develop within months after initial exposure to beryllium or may have a very slow onset and not develop for 25 years or more and may even develop after exposure has ceased (Ex. 4–9). The prevalence of CBD among beryllium exposed workers has been reported to range from an average of about 2% to a high of approximately 15% for workers involved in machining operations in the manufacture of beryllium products (Exs. 4–5, 4–6, and 4–8).

Measurement of exposure to total airborne beryllium dust may not be the best predictor of CBD. Particle size, surface area, number of particles, solubility, and the chemical form of beryllium involved may all be relevant to the development of disease. It has been suggested that development of disease may be more closely correlated with the mass or number of particles deposited in the alveolar regions of the lung than with total dust exposure (Exs. 4–4 and 4–11).

Only workers who have developed sensitization to beryllium are believed to develop CBD. Following sensitization, CBD can develop with or without additional exposure (Ex. 4–13). Lang (Ex. 4–10) estimates that the probability of developing CBD following

sensitization is approximately 10% per year and that about half of those sensitized will go on to develop pulmonary granulomas within three to four years. Similarly, Newman (Ex. 4–13) reported that almost 50% of a beryllium-sensitized follow-up group of 44 subjects developed CBD within 4 years of becoming sensitized.

The Beryllium Lymphocyte Proliferation Test (BeLPT) can identify employees who are sensitized to beryllium. Sensitized individuals are typically further evaluated by biopsy, high resolution computerized tomography, or other means, such as the exercise tolerance test or bronchoalveolar lavage, to determine if they have CBD. Diagnosis of CBD depends on demonstration of pathologic changes such as granulomas in the lungs, along with evidence that these changes are the result of hypersensitivity to beryllium (*e.g.*, positive BeLPT results) (Exs. 4–15 and 4–19).

Lung Cancer

The International Agency for Research on Cancer classifies beryllium and beryllium compounds as carcinogenic to humans (Ex. 4–3). The National Institute for Occupational Safety and Health classifies beryllium and beryllium compounds as a ''potential occupational carcinogen'' (Ex. 4–12). The Environmental Protection Agency classifies beryllium and beryllium compounds as a ''probable human carcinogen'' (Ex. 4–18). Recent epidemiological studies have reported excess lung cancer deaths among beryllium-exposed employees (Exs. 4–16 and 4–17). A variety of beryllium metal alloys, compounds, and ores have also been shown to cause lung cancer in rats and monkeys in inhalation and intratracheal instillation studies (Exs. 4–3 and 4–18).

Occupational health regulation of beryllium exposure. The first occupational exposure limit for beryllium was set in 1949 by the Atomic Energy Commission (AEC). The AEC required that beryllium exposure in the workplaces under its jurisdiction be limited to 2 μg/m³ as an 8-hour time-weighted-average (TWA) and 25 μg/m³ as a peak exposure, never to be exceeded.

In 1971, OSHA adopted, under Section 6(a) of the Occupational Safety and Health Act of 1970, and made applicable to general industry, a national consensus standard (ANSI Z37.29–1970) for beryllium and beryllium compounds. The standard sets a PEL for beryllium and beryllium compounds at 2 μg/m³ as an 8-hour TWA; 5 μg/m³ as an acceptable ceiling concentration; and 25 μg/m³ as an acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift. (29 CFR Part 1910.1000; Table Z–2).

In 1975, OSHA proposed a new beryllium standard for all industries based on information that beryllium caused cancer in animal experiments (40 FR 48814 (10/17/75)). Adoption of this proposal would have lowered the 8-hour TWA exposure limit from 2 μg/m³ to 1 μg/m³. In addition, the proposal included provisions for exposure monitoring, hygiene facilities, medical surveillance, and training related to the health hazards from beryllium exposure. This rulemaking was never completed.

Based upon information showing that OSHA's current PEL of 2 μg/m³ may not be adequate to protect workers from developing CBD, OSHA placed beryllium on its Regulatory Agenda in 1998. In 1999, the Department of Energy issued a Chronic Beryllium Disease Prevention Program Final Rule for employees exposed to beryllium in its facilities, setting an action level of 0.2 μg/m³. This action level triggers workplace precautions and control measures. (DOE, 10 CFR part 850)

In 1999, OSHA was petitioned by the Paper, Allied-Industrial, Chemical and Energy Workers International Union (PACE) (Ex. 1–1) and by Dr. Lee Newman and Ms. Margaret Mroz, from the National Jewish Medical Research Center (Ex. 1–2), to promulgate an Emergency Temporary Standard (ETS) for beryllium in the workplace. In 2001, OSHA was petitioned for an ETS by Public Citizen Health Research Group and again by PACE (Ex. 1–10). OSHA denied the petitions.

III. Key Issues On Which Comment Is Requested

The control of occupational exposures to beryllium and its compounds presents a number of complex issues. OSHA is seeking information, data, and comment that the Agency can use to address these issues. OSHA has included these questions to provide a basis for response to this general request for information. When answering specific numbered questions below, key your responses to the number of the question, explain the reasons supporting your views, and identify and provide relevant information on which you rely, including, but not limited to, data, studies and articles. However, respondents are encouraged to address any aspect of occupational exposure to beryllium that they feel is pertinent. OSHA intends to use the information it obtains to decide on a course of action regarding occupational exposures to beryllium.

A. Employee Exposure

(1) Where and how is beryllium currently used? Please provide any workplace or industry-specific data you have indicating the amount of beryllium used, its form, and the processes and products in which it is used. OSHA is particularly interested in identifying industries and operations whose use of beryllium is not noted here, and in identifying uses of beryllium that involve small businesses.

(2) What are the job categories in which employees are potentially exposed to beryllium in your company or industry? For each job category, please provide a description of how the exposure takes place within that job category.

(3) How many employees are exposed to beryllium, or have the potential for exposure, in each job category in your company or industry?

(4) What are the frequency, duration and levels of employee exposures to beryllium in each job category in your company or industry? Please include the analytical method and type of samples used for determining exposure levels. OSHA requests that, if possible, exposure data be personal samples with clear descriptions of the length of the sample. If this is not possible, the exposure data should indicate the form and length of the exposure.

B. Health Effects

OSHA is aware of a number of studies showing an association between adverse health effects and exposure to beryllium. The Agency is seeking the most recent and important studies that can be used to identify significant adverse health effects related to occupational beryllium exposure.

(5) Which studies should OSHA consider in assessing the potential health risks of CBD and lung cancer associated with exposure to beryllium? Please explain your rationale for recommending these studies, including potential strengths and weaknesses, such as size of the population studied, characterization of exposure, and confounding factors.

(6) Which recent studies examine the effects from dermal exposure and absorption of beryllium?

(7) Describe any studies showing adverse health effects resulting from routes of occupational beryllium exposure other than dermal contact and inhalation.

(8) Describe any studies that address the mechanisms of action of beryllium

in the development of CBD, sensitization, or lung cancer.

(9) Which studies or other information should OSHA take into account in examining the role of genetic factors in the development of beryllium-related disease?

(10) Describe characteristics of beryllium aerosols (*e.g.*, particle size, surface area, particle number) that are related to the development of disease.

(11) To what extent do different forms of beryllium have specific properties (*e.g.*, solubility) that should be taken into consideration when assessing health risks?

C. Risk Assessment

OSHA is interested in data that will assist it in developing quantitative estimates of the occupational risk of sensitization, CBD, or lung cancer based on the level, timing, and duration of exposure to beryllium. Case reports and epidemiological and animal studies on these measures, along with associated exposure data characterizing total or respirable mass, particle number, particle surface area, and dermal exposure are desired.

(12) Which studies should be used for a quantitative risk assessment for CBD and lung cancer?

(13) Which approaches (*i.e.*, methods, models, data) should OSHA use for estimating risk from exposure to beryllium?

(14) Which mathematical models are most appropriate to quantify the risk of cancer or other adverse health effects from exposure to beryllium or beryllium compounds? Describe the strengths and weaknesses of these models.

(15) Which mathematical lung deposition models are appropriate to characterize beryllium lung uptake?

(16) Describe studies the Agency should consider that relate to the dose-response behavior of beryllium, including cellular, mechanistic, and dosimetric considerations. For instance, are any adverse health effects of beryllium dependent on the time period over which exposure occurs rather than dependent on the total cumulative dose received, or are there data that suggest beryllium exhibits a threshold effect?

(17) Do short-term peak exposures play a role in causing adverse health effects, especially sensitization? If so, provide any information that addresses this role.

(18) Are there studies or other evidence on the combined effects of inhalation and dermal exposure?

(19) The U.S. Environmental Protection Agency (USEPA) has prepared a quantitative risk assessment addressing the risks for sensitization and lung cancer related to beryllium exposure in the ambient environment (Ex. 4–18). In addition, the California EPA (CalEPA) published a quantitative risk assessment addressing risks for sensitization and CBD in the ambient environment (Ex. 4–20). Should OSHA rely on these assessments to characterize the risk of sensitization, CBD, or lung cancer from occupational exposure to beryllium? Are there other assessments that the Agency should consult? For Beryllium sensitization, the two assessments relied on the same key study of beryllium ceramics plant workers by Kreiss *et al.* (Ex. 4–6), but used some different uncertainty/modifying factors. Should OSHA, in characterizing the risk of beryllium sensitization, rely on (a) the same key study, (b) the same methodology, and (c) the uncertainty/modifying factors used by USEPA and the CalEPA?

D. Exposure Assessment and Monitoring Methods

(20) Is initial sampling, objective data, or some other measure used to estimate beryllium exposures in your facility? Describe any programs that have been implemented for initial assessment of exposure to beryllium.

(21) Describe any follow-up or periodic exposure assessments that you conduct. How often do you conduct such follow-up or periodic exposure assessments?

(22) What type of exposure monitoring methods are available for measuring beryllium in the workplace? Provide information on any sampling and analytical methods available for determining exposure based on total or respirable mass, particle size, particle number, particle surface area, or dermal contact. Information on the precision and accuracy of the sampling method, the range and limits of detection, the method of validation of sampling and analysis, and any potential sources of chemical interference is desired.

E. Control Measures and Technological Feasibility

(23) What types of engineering controls or work practices are used by your facility to reduce exposure to beryllium? Describe the effectiveness of these controls in reducing worker exposure and indicate any operations or processes in your facility for which engineering controls are not available, are ineffective, or are too costly to use. Give specific examples where engineering controls or work practices have been applied or evaluated or where engineering control programs have been implemented to ensure reliable operation of control systems.

(24) Are there other materials available that can be substituted for beryllium in your processes? Describe any technical, economic or other barriers or hindrances to substitution.

(25) Describe housekeeping practices used in your facility to control employee exposure to beryllium, including cleaning methods used (*e.g.*, wet vacuuming, vacuums with HEPA filters, tack cloths), the frequency of these activities, and any prohibited housekeeping practices (*e.g.*, dry sweeping or use of compressed air).

(26) Are clean rooms, change rooms, shower areas, or separate lunchrooms used in your facility for hygiene and housekeeping in the control of beryllium exposure? Indicate the effectiveness of these measures in reducing employee exposure to beryllium, and describe the procedures followed or methods used to ensure that these areas are free from beryllium contamination.

(27) Are respirators or other types of personal protective equipment (*e.g.*, gloves, overalls or other clothing, goggles, face shields) provided to employees in your facility to protect them against exposure to beryllium? If so, describe your program and identify the type of equipment used, the basis for selection, and any difficulties encountered in implementing your program (*e.g.*, problems with cleaning inner surfaces of respirators contaminated with beryllium).

(28) Describe the conditions under which respirators and other personal protective equipment are used, including any criteria (*e.g.*, regulated area, exposure level, type of operation, duration of exposure) used to trigger requirements for use of such equipment.

(29) Are there processes or areas where it is impracticable to use respirators or other protective equipment to protect against exposure to beryllium? Describe those situations and explain what measures are taken to protect employees.

(30) Other than reducing employee exposure to beryllium, has adoption of control measures resulted in any additional benefits? Provide specific details of the benefits.

(31) Have any technological changes within your industry influenced the frequency, duration, or magnitude of exposure to beryllium or the means by which employers attempt to control exposures? The Agency requests that commenters describe in detail any technological changes within industries that have altered methods of control. Information linking control technologies and data on exposure levels associated

with the application of controls is desired.

(32) Is the Department of Energy Beryllium Disease Prevention Program (10 CFR part 850) a viable program for non-DOE beryllium users?

F. Economic Impacts

(33) What are the potential economic impacts of reducing occupational exposures to beryllium in terms of costs of controls, costs for training, benefits from reduction in the number or severity of illnesses, effects on revenue and profit, changes in worker productivity, or any other impact measure that you can to identify? Provide, if possible, explicit examples of costs that could be incurred (*e.g.*, dollar estimates for controls) or benefits that could be achieved (*e.g.*, dollar estimates for medical savings from a reduction in the number or severity of beryllium-related illnesses).

(34) What changes in market conditions would result from reducing employees' exposures to beryllium? Please include in your response any changes in market structure or concentration, or effects on domestic or international shipments of beryllium-related products or services that would be expected to result from reducing occupational exposures to beryllium.

G. Employee Training

(35) What information and training is provided to your employees to reduce risks associated with occupational exposure to beryllium? OSHA seeks comment on the information and training provided or recommended for workers exposed to beryllium, including job categories included in your training program, criteria for determining which employees receive information and training, program structure, content, methods, frequency, and any procedures used to address language barriers.

(36) How do you determine the effectiveness of training? Describe methods used and any factors taken into account in examining the effectiveness of training programs.

(37) Describe any ways in which beryllium-related training could be improved.

H. Medical Surveillance

(38) Which criteria are used, or should be used, to determine when occupational medical screening or surveillance should be provided? Describe the job categories, duties, exposure levels, or any other basis used for determining when health screening should be provided to employees.

(39) Which screening tests or procedures are used, or should be used, for early identification of adverse health effects related to beryllium exposure? Explain the basis for your position.

(40) If the BeLPT is part of your screening and surveillance program, describe its role in the program (*e.g.*, factors used to determine eligibility for receiving the test, how the results are used to make decisions about further actions for the employee and the facility).

(41) If the BeLPT is part of your screening and surveillance program, what confirmation protocols are used for determining a worker's sensitivity (*e.g.*, single specimen followed by split-specimen, split specimen followed by split specimen)?

(42) If the BeLPT is part of your screening and surveillance program, describe your experience with the test, including information regarding the sensitivity, specificity, false positive rate, false negative rate, and positive predictive value of the test, and any difficulties found with the interpretation of test results.

(43) How often should beryllium-related health screening be performed?

(44) What happens after an employee in your facility is identified as sensitized or diagnosed with beryllium-related disease? Describe the policies and procedures that are followed, including any provisions for removal from exposure and return to work.

(45) Has health screening and surveillance had any effect on the number or severity of adverse health effects associated with beryllium exposure?

I. Environmental Effects

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality (CEQ) regulations (40 CFR part 1500), and the Department of Labor (DOL) NEPA Compliance Regulations (29 CFR part 11), require that OSHA give appropriate consideration to environmental issues and the impacts of proposed actions significantly affecting the quality of the human environment. OSHA is currently collecting written information and data on possible environmental impacts that could occur outside of the workplace (*e.g.*, exposure to the community through contaminated air/water, contaminated waste sites, etc.) if the Agency were to issue guidance or revise the existing standard for occupational exposure to beryllium. Such information should include both negative and positive environmental effects that could be expected to result from guidance or a revised standard. Specifically, OSHA requests comments and information on the following:

(46) What is the potential direct or indirect environmental impact (for example, the effect on air and water quality, energy usage, solid waste disposal, and land use) from a reduction in employee exposure to beryllium or the use of substitutes for beryllium?

(47) Are there any situations in which reducing beryllium exposures to employees would be inconsistent with meeting environmental regulations?

J. Impact on Small Business Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), OSHA is required to assess the impact of proposed and final rules on small entities. OSHA requests that members of the small business community, or other parties familiar with regulation of small business, address any special circumstances facing small firms in controlling occupational exposure to beryllium.

(48) How many and what kinds of small businesses or other small entities in your industry could be affected by amending OSHA's beryllium standard? Describe any such effects.

(49) Are there special issues that make control of beryllium exposures more difficult or more costly in small firms?

(50) Are there any reasons that the benefits of reducing occupational exposure to beryllium might be less in small firms than in larger firms? With regard to potential impacts on small firms, describe specific concerns that should be addressed, and any alternatives that might serve to minimize these impacts while meeting the requirements of the OSH Act.

K. Duplication/Overlapping/Conflicting Rules

(51) Are there any federal regulations that might duplicate, overlap or conflict with guidance or a revised standard concerning beryllium? If so, identify which ones and explain how they would duplicate, overlap or conflict.

(52) Are there any federal programs in areas such as defense or energy that might be impacted by guidance or a revised standard concerning beryllium? If so, identify which ones and explain how they would be impacted.

Authority and Signature

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC, 20210. It is issued pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655,

657), Secretary's Order 3–2000, and 29 CFR part 1911.

Signed at Washington, DC, this 21st day of November, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–29984 Filed 11–25–02; 8:45 am]

BILLING CODE 4510–26–P

POSTAL SERVICE

39 CFR Part 501

Authorization To Manufacture and Distribute Postage Meters

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule clarifies and strengthens requirements for postage meter manufacturers to control what a postage meter allows the licensed user to print.

DATES: The Postal Service must receive your comments on or before December 26, 2002.

ADDRESSES: Mail or deliver written comments to the manager, Postage Technology Management, 1735 N. Lynn Street, Room 5011, Arlington, VA 22209–6370. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Wayne Wilkerson, manager of Postage Technology Management, at 703–292–3782, or by fax at 703–292–4073.

SUPPLEMENTARY INFORMATION: Some postage meters and postage evidencing systems can print written or graphic matter in addition to a U.S. Postal Service-approved indicium-evidencing payment of United States postage. Written or graphic matter, other than Postal Service-approved indicia, printed by a meter or postage evidencing system, could convey a false impression that the Postal Service had approved the content of both the indicia and any additional printed matter. For this reason, the Domestic Mail Manual provides in P030.9.8 that such ''printed matter may not be obscene, defamatory of any person or group, or deceptive, and it must not advocate any unlawful action.'' When 39 CFR 501.23(d) was adopted, meter stamps and other printed matter were printed with printing plates engraved for customers by the approved postage meter manufacturers. Accordingly, the responsibility for complying with the regulation clearly rested upon the approved meter manufacturer, and failure to comply with a postal meter regulation could result, under 39 CFR 501.5, in the suspension or revocation of a manufacturer's approval to distribute postage meters. Manufacturers are now distributing Postal Service-approved postage meters and postage evidencing systems that employ digital printing technology. The proposed rule seeks to make clear that the approved manufacturers continue to be responsible for controlling the printing capabilities of their products in order to meet the requirements of the *Domestic Mail Manual.*

We will review any public comments and will issue a final rule amending the regulations. When this proposed rule is issued as a final rule, we will revise the *Domestic Mail Manual* to notify users of meters and postage evidencing systems that the meter manufacturers and providers are responsible for controlling what the user is allowed to print using the postage meter or postage evidencing system.

Notice and Comment

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to the *Code of Federal Regulations.*

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

For the reasons set out in this document, the Postal Service is proposing to amend 39 CFR part 501 as follows:

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

1. The authority citation for part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Public Law 95–452, as amended); 5 U.S.C. App. 3.

2. § 501.23(d) is revised to read as follows:

§ 501.23 Distribution controls.

Each authorized postage meter manufacturer must do the following:

* * * * *

(d) Control all print capabilities of the postage meter or postage evidencing system, including printing of indicia and all other matter printed by the system, by supplying only meter slogans, ad plates, or other print capabilities that meet all Postal Service requirements, including those for suitable quality and content.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–29939 Filed 11–25–02; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–P–7617]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–2878 or (e-mail) *michael.grimm@fema.gov.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean

that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator for Federal Insurance and Mitigation Administration certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

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

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD)		Communities affected
	Existing	Modified	
Scioto River:			
Approximately 260 feet upstream of Trabue Road	*744	*743	(1)
Approximately 870 feet downstream of Frank Road/Highway 104	*713	*714	
Barnes Ditch:			
At the confluence of Scioto River and Barnes Ditch	*737	735	
Approximately 800 feet upstream of McKinley Avenue	*737	*736	
Dry Run:			
At confluence of Scioto River and Dry Run	*731	*729	
Just downstream of culvert at Conrail crossing	*731	*729	

Franklin County

Maps are available for inspection at 280 East Broad Street, 2nd Floor, Columbus, Ohio 43215.

Send comments to Mr. Dewey R. Stokes, President, Franklin County Board of Commissioners, 373 High Street, 26th Floor, Columbus, Ohio 43215.

City of Columbus

Send comments to the Honorable Michael B. Coleman, Mayor, City of Columbus, 90 West Broad Street, Room 247, Columbus, Ohio 43215–9015.

Village of Marble Cliffs

Send comments to The Honorable Frank G. Monaco, Mayor, Village of Marble Cliff, 1600 Fernwood Avenue, Columbus, Ohio 43212.

City of Upper Arlington

Maps are available for inspection at 3600 Tremont Road, Upper Arlington, Ohio 43221.

Send comments to Mr. Richard King, City Manager, City of Upper Arlington, 3600 Tremont Road, Upper Arlington, Ohio 43221.

City of Grandview Heights

Send comments to The Honorable N. Colleen Sexton, Mayor, City of Grandview Heights, 1016 Grandview Avenue, Grandview Heights, Ohio 43212.

* National Geodetic Vertical Datum.

1 Franklin County, OH (Unincorporated Areas), City of Columbus, OH, Village of Marble Cliff, OH, City of Upper Arlington, OH, City of Grandview Heights, OH, City of Columbus, OH.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 13, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–29961 Filed 11–25–02; 8:45 am]

BILLING CODE 6718–04–P

Notices

Federal Register

Vol. 67, No. 228

Tuesday, November 26, 2002

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–103–1]

Public Meeting; Veterinary Biologics

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of public meeting and request for suggested agenda topics.

SUMMARY: We are issuing this notice to inform producers and users of veterinary biological products, and other interested individuals, that we will be holding our 12th public meeting to discuss regulatory and policy issues related to the manufacture, distribution, and use of veterinary biological products. We are planning the meeting agenda and are requesting suggestions for topics of general interest to producers and other interested individuals.

DATES: The public meeting will be held from Monday, March 31, through Wednesday, April 2, 2003, from 1 p.m. to approximately 5 p.m. on Monday, 8 a.m. to approximately 5 p.m. on Tuesday, and from 8:30 a.m. to approximately noon on Wednesday.

ADDRESSES: The public meeting will be held in the Scheman Building at the Iowa State Center, Iowa State University, Ames, IA.

FOR FURTHER INFORMATION CONTACT: For further information on agenda topics, contact Dr. Richard E. Hill, Jr., Director, Center for Veterinary Biologics, Veterinary Services, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010–8197; phone (515) 232–5785, fax (515) 232–7120, or e-mail *CVB@aphis.usda.gov.* For registration information, contact Ms. Kathy Clark at the same address and fax number; phone (515) 232–5785 extension 128; or e-mail *Kathryn.K.Clark@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: Since 1989, the Animal and Plant Health Inspection Service (APHIS) has held 11 public meetings in Ames, IA, on veterinary biologics. The meetings provide an opportunity for the exchange of information between APHIS representatives, producers and users of veterinary biological products, and other interested individuals. APHIS is in the process of planning the agenda for the 12th such meeting, which will be held March 31 through April 2, 2003.

The agenda for the meeting is not yet complete. Topics may include, but will not be limited to: (1) Emerging diseases; (2) vaccine development; (3) current CVB activities, (4) 2002 Farm Bill; (5) animal care; and (6) international harmonization. Before finalizing the agenda, APHIS is seeking suggestions for additional meeting topics from the interested public.

We would also like to invite interested individuals to use this meeting to present their ideas and suggestions concerning the licensing, manufacturing, testing, and distribution of veterinary biologics.

Please submit suggested meeting topics and proposed presentation titles to either of the persons listed under **FOR FURTHER INFORMATION CONTACT** on or before December 20, 2002. For proposed presentations, please include the name(s) of the presenter(s) and the approximate amount of time that will be needed for each presentation.

After the agenda is finalized, APHIS will announce the agenda topics in the **Federal Register**.

Done in Washington, DC, this 21st day of November, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–29986 Filed 11–25–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Report of the Child and Adult Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) is publishing for public comment a summary of a proposed information collection. The proposed collection is an extension of a collection currently approved for the Child and Adult Care Food Program.

DATES: Comments on this notice must be received by January 27, 2003 to be assured of consideration.

ADDRESSES: Send comments and requests for copies of this information collection to Alan Rich, Program Reports, Analysis, and Monitoring Branch, Budget Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Alan Rich, (703) 305–2113.

SUPPLEMENTARY INFORMATION:

Title: Report of the Child and Adult Care Food Program.

OMB Number: 0584–0078.

Expiration Date: December 31, 2002.

Type of Request: Extension of a currently approved collection.

Abstract: The Child and Adult Care Food Program is mandated by Section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. § 1766). Program implementing regulations are contained in 7 CFR Part 226. In accordance with Section 226.7(d), State agencies must submit a monthly report of program activity in order to receive

Federal reimbursement for meals served to eligible participants.

Respondents: State agencies that administer the Child and Adult Care Food Program.

Number of Respondents: 53.

Estimated Number of Responses per Respondent: The number of responses includes initial, revised, and final reports submitted each month. The overall average is three submissions per State agency per reporting month for a total of 36 per year.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average three hours per respondent for each submission.

Estimated Total Annual Burden on Respondents: 5,724 hours.

Dated: November 20, 2002.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 02–30046 Filed 11–25–02; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Report of School Program Operations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) is publishing for public comment notice of a proposed information collection. The proposed collection is an extension of a collection currently approved for the National School Lunch Program, the School Breakfast Program, the Commodity Schools Program, and the Special Milk Program.

DATES: Comments on this notice must be received by January 27, 2003 to be assured of consideration.

ADDRESSES: Send comments and requests for copies of this information collection to Alan Rich, Program Reports, Analysis, and Monitoring Branch, Budget Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Alan Rich, (703) 305–2113.

SUPPLEMENTARY INFORMATION:

Title: Report of School Program Operations.

OMB Number: 0584–0002.

Expiration Date: January 31, 2003.

Type of Request: Extension of a currently approved collection.

Abstract: The National School Lunch Program, the School Breakfast Program, the Commodity Schools Program, and the Special Milk Program are authorized by the National School Lunch Act, 42 U.S.C. 1751, *et seq.*, and the Child Nutrition Act of 1966, 42 U.S.C. 1771, *et seq.* Program implementing regulations are contained in 7 CFR parts 210, 215, and 220. In accordance with 7 CFR 210.5(d)(1), 215.11(c)(2), and 220.13(b)(2), State agencies must submit to FNS a monthly report of program activity in order to receive Federal reimbursement for meals served to eligible participants.

Respondents: State agencies that administer the National School Lunch Program, the School Breakfast Program, the Commodity Schools Program, or the Special Milk Program.

Number of Respondents: 62.

Estimated Number of Responses per Respondent: The number of responses includes initial, revised, and final reports submitted each month. The overall average is four submissions per State agency per reporting month for a total of 48 per year.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 32 hours per respondent.

Estimated Total Annual Burden on Respondents: 95,232 hours.

Dated: November 20, 2002.

Roberto Salazar,

Administrator, , Food and Nutrition Service.

[FR Doc. 02–30047 Filed 11–25–02; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Middle Fork of the Popo Agie Watershed, Fremont County, WY

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (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 being prepared for The Middle Fork of the Popo Agie Watershed, Fremont County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Lincoln E. Burton, State Conservationist, Natural Resources Conservation Service, 100 East B Street, Room 3124, Casper, Wyoming 82601, telephone: 307–261–6453.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Lincoln E. Burton, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns flood prevention and stream channel restoration of the Middle Fork of the Popo Agie through Lander, Wyoming to the confluence of the North Fork of the Popo Agie.

Alternatives under consideration:

1. Diversion through or around town with channel restoration.

2. Flood wall and channel restoration.

3. Upstream Storage and channel restoration.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Natural Resources Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Meeting will be held in Lander, Wyoming on Wednesday, January 8, 2003 at Inn at Lander Best Western, 260 Grand Avenue from 7 p.m. until 9 p.m. To determine the scope of the

evaluation of the proposed action. Further information on the proposed action or the scoping meeting may be obtained from Lincoln E. Burton, State Conservationist, at the above address or telephone.

Dated: November 12, 2002.

Lincoln E. Burton,

State Conservationist.

[FR Doc. 02–30049 Filed 11–25–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351–826]

Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil: Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of Rescission of Antidumping Duty Administrative Review.

EFFECTIVE DATE: November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Anya Naschak or Helen Kramer at (202) 482–6375 or (202) 482–0405, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

SUMMARY: On September 25, 2002, in response to a request made by V&M do Brasil S.A. (V&M), the Department of Commerce (the Department) published in the **Federal Register** (67 FR 60210) a notice announcing the initiation of an administrative review of the antidumping duty order on seamless line and pressure pipe from Brazil. The review period is August 1, 2001, to July 31, 2002. This review has now been rescinded because V&M has withdrawn its request for review.

SUPPLEMENTARY INFORMATION:

The 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, as amended (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to the provisions codified at 19 CFR Part 351 (2002).

Scope of the Review

The scope of this review includes small diameter seamless carbon and alloy standard, line and pressure pipes (seamless pipes) produced to the ASTM A-335, ASTM A-106, ASTM A-53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this order also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification, except glass-lined seamless pressure pipe described below.

For purposes of this review, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross- section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to this review is currently classifiable under subheadings

7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this review, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A-106 may be used in temperatures of up to 1,000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A-335 must be used if temperatures and stress levels exceed those allowed for A-106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A-106 standard.

Seamless standard pipes are most commonly produced to the ASTM A-53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A- 106, ASTM A-53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A-106 specification necessarily meet the API 5L and ASTM A-53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A-53 specification. However, pipes meeting the A-53 or API 5L specifications do not necessarily meet the A-106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A-106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A-106 pipes may be used in some boiler applications.

The scope of this review includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a

non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this review. Therefore, seamless pipes meeting the physical description above, but not produced to the A-335, A-106, A-53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A-106 applications. These specifications generally include A- 162, A-192, A-210, A-333, and A-524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this review.

Specifically excluded from the scope of this review are: (1) boiler tubing and mechanical tubing, if such products are not produced to A-335, A-106, A-53 or API 5L specifications and are not used in standard, line or pressure applications; (2) finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications; (3) redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube; and (4) glass-lined pressure pipes meeting the following specifications: seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness or manufacturing process (hot-finished or cold-drawn) that (1) has been cut into lengths of six to 120 inches, (2) has had the inside bore ground to a smooth surface, (3) has had multiple layers of specially formulated corrosion resistant glass permanently baked on at temperatures of 1,440 to 1,700 degrees Fahrenheit in thicknesses from 0.032 to 0.085 inch (40 to 80 mils), and (4) has flanges or other forged stub ends welded on both ends of the pipe. The special corrosion resistant glass referred to in this definition may be glass containing by weight (1) 70 to 80 percent of an oxide of silicone, zirconium, titanium or cerium (Oxide Group RO sub2), (2) 10 to 15 percent of an oxide of sodium, potassium, or lithium (Oxide Group RO), (3) from a trace amount to 5 percent of an oxide of either aluminum, cobalt, iron, vanadium, or boron (Oxide Group R sub2 O sub3, or (4) from a trace amount to 5 percent of a fluorine compound in which fluorine replaces the oxygen in any one of the previously listed oxide groups. These glass-lined pressure pipes are commonly manufactured for use in glass-lined equipment systems for processing corrosive or reactive chemicals, including acrylates, alkanolamines, herbicides, pesticides, pharmaceuticals and solvents.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Background:

On August 30, 2002, V&M (a producer and exporter of subject merchandise) requested an administrative review of the antidumping duty order on seamless pipe from Brazil published in the Federal Register on August 3, 1995 (60 FR 39707). On September 25, 2002, the Department published in the **Federal Register** (67 FR 60210) a notice of AInitiation of Antidumping and Countervailing Duty Administrative Reviews@ initiating the administrative review. On October 30, 2002, V&M withdrew its request for review. The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of initiation of the requested review, the Secretary will rescind the review. Given that V&M was the only party to request the administrative review, and the withdrawal request is timely, we are rescinding this review of the antidumping duty order on seamless pipe from Brazil covering the period August 1, 2001, to July 31, 2002.

This notice is issued and published in accordance with section 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: November 19, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–29991 Filed 11–25–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–831]

Stainless Steel Plate in Coils from the Republic of Korea: Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of Rescission of Antidumping Duty Administrative Review.

SUMMARY: On June 25, 2002, the Department of Commerce (''the Department's'') initiated an administrative review of the antidumping duty order on stainless steel plate in coils from the Republic of Korea. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 67 FR 42753 (June 25, 2002). The review covers one manufacturer/exporter, Pohang Iron & Steel Co., Ltd. (''POSCO''). The period of review is May 1, 2001 through April 30, 2002. The Department is rescinding this review because it found no entries of subject merchandise by POSCO into the United States during the period of review, in accordance with 19 CFR 351.213(d)(3) of its regulations. The Department is now publishing its determination to rescind this review.

EFFECTIVE DATE: November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0182 or (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to the regulations codified at 19 CFR part 351 (2001).

Background

On May 6, 2002, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on stainless steel plate in coils (''SSPC'') from Korea. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 67 FR 30356 (May 6, 2002). On May 31, 2002, the petitioners in this proceeding, Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), Butler-Armco Independent Union,

Zanesville Armco Independent Union, and the United Steelworkers of America, AFL-CIO/CLC, submitted a request for an administrative review of sales by POSCO, a manufacturer/exporter of SSPC, for the period May 1, 2001 through April 30, 2002. The Department initiated an administrative review on June 25, 2002.

On June 19, 2002, POSCO submitted a letter to the Department stating that it did not export the subject merchandise to the United States during the period of review (''POR''). On July 1, 2002, the Department issued POSCO its standard antidumping duty questionnaire. In response to the Department's questionnaire, POSCO again stated that neither it, nor any of its affiliates, had exports or sales in the United States of subject merchandise manufactured or produced by POSCO during the POR.

On August 21, 2002, the Department sent a no-shipment inquiry concerning SSPC from Korea and POSCO to the U.S. Customs Service (''Customs''). The purpose of this inquiry was to determine whether Customs suspended liquidation of entry summaries of SSPC from Korea manufactured and/or exported by POSCO during the POR. The Customs Service did not identify any suspended entry summaries of SSPC manufactured and/or exported by POSCO during the POR. Therefore, we have determined that there were no entries of subject merchandise produced or exported by POSCO into the customs territory of the United States during the POR.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), the Department will rescind an administrative review, in whole, or only with respect to a particular exporter or producer, if the Department concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. In light of the fact that we have determined that the only company covered by the review did not have entries for consumption into the territory of the United States during the POR in question, we find that rescinding this review is appropriate. On October 25, 2002, we asked petitioners to submit any evidence that POSCO had entries, exports, or sales or subject merchandise during the POR. *See Memorandum to the File from Brandon Farlander through Robert Bolling*, dated October 25, 2002. We did not receive any evidence from petitioners. Therefore, we are rescinding this administrative review for the period May 1, 2001 through April 30, 2002, and will issue appropriate assessment instructions to the U.S. Customs Service. The cash-deposit rate for POSCO will remain at 1.19 percent, the rate established in the most recently completed segment of this proceeding (66 FR 64107, December 11, 2001).

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of APO is a sanctionable violation.

This notice is in accordance with section 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: November 19, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–29992 Filed 11–25–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership National Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of renewal.

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, 41 CFR Part 101–6, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Manufacturing Extension Partnership National Advisory Board is in the public interest in connection with the performance of the duties imposed on the Department by law.

The Committee was first established in October 1996 to advise MEP regarding their programs, plans, and policies. In renewing the Board, the Secretary has established it for an additional two years. During the next two years, the Board plans to address center service mix standardization, eBusiness, moving toward high performance centers, training and education of field staff, MEP University, national awareness of the MEP program, international services, and others.

The Board will consist of nine members to be appointed by the Director of the National Institute of Standards and Technology to assure a balanced membership that will represent the views and needs of customers, providers, and others involved in industrial extension throughout the United States.

The Board will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Copies of the Board's revised charter will be filed with the appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be directed to Linda Acierto, Senior Policy Advisor, Manufacturing Extension Partnership, National Institute of Standards and Technology, 100 Bureau Drive, Stop 4800, Gaithersburg, Maryland 20899–4800; telephone: 301–975–5020.

Dated: November 18, 2002.

Karen H. Brown,

Deputy Director, NIST.

[FR Doc. 02–29936 Filed 11–25–02; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned in whole by the U.S. Government, as represented by the Department of Commerce. The invention is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, ATTN: Mary Clague; Building 820, Room 213, Gaithersburg, MD 20899. Information is also available via telephone: 301–975–4188, e-mail: *mclague@nist.gov;* or fax: 301–869–2751. Any request for information should include the NIST Docket number and title for the invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and

Development Agreement (''CRADA'') with the licensee to perform further research on the invention for purposes of commercialization. The invention available for licensing is:

NIST Docket Number: [01–029US].

Title: Simplified Method For Electrokinetic Focusing Of Samples In Microfluidic Devices.

Abstract: Methods are described for the focusing of ionic species in microfluidic systems using electric field gradients that are generated without external electrical connections.

In the first example, the electric field within a microchannel is effected by putting a highly or partially conductive material inside portions of the channel. The conductive material can consist, for example, of a metal film on the channel walls. The presence of conductive material will alter the total conductivity of the microchannel, and thereby alter the electric field in the microchannel. Regions of different electric field can be created by applying different films (or no films) to different regions of the microchannel. The electric field gradients at the borders between these different regions can then be used to focus and concentrate ionic species by balancing their electrophoretic velocities with an applied bulk fluid velocity.

In the second example, the electric field gradient which is used for electrokinetic focusing is created by application of a temperature gradient. In order for this to work, the conductivity of the buffer within the microchannels must depend on temperature in a way that differs from the typical inverse proportionality with the buffer viscosity. For example, it must have an ionic strength that is temperature dependent.

Also discussed is the possibilty that any apparatus/system which can be used for electrokinetic focusing can also be used to produce streams of either concentrated or diluted analytes.

Dated: November 18, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–29935 Filed 11–25–02; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111202G]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) and its Administrative Committee will hold meetings.

DATES: The meetings will be held on December 10–12, 2002. *See* **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Hyatt Dorado Beach Hotel, Carr. 693, Dorado, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will convene on Tuesday, December 10, 2002, from 9 a.m. to 4 p.m., and the Administrative Committee will meet from 4:15 p.m. to 5:30 p.m. The Council will reconvene on Wednesday, December 11, 2002, from 9 a.m. to 5 p.m., and Thursday, December 12, 2002, from 9 a.m. to 5 p.m., approximately.

The Council will hold its 110th regular public meeting to discuss the items contained in the following agenda:

December 10, 2002, 9 a.m.–4 p.m.

Call to Order

Adoption of Agenda

Consideration of 109th Council Meeting Verbatim Transcription

Executive Director's Report

Essential Fish Habitat (EFH)-Draft Environmental Impact Statement Progress Report

–EFH Designation of Species

–Habitat Areas of Particular Concern (HAPC)

–Impact on Habitat

–Mitigating Measures

–Decision Making Process

–Exclusive Economic Zone (EEZ)

–Recommendations to States

4:15 p.m.–5:30 p.m.

Administrative Committee Meeting

–Advisory Panel/Scientific Statistical Committee/Habitat Advisory Panel Membership

–Budget Projection

–Personnel Retirement Issues

–Other Business

December 11, 2002, 9 a.m.–5 p.m.

Sustainable Fisheries Act

–Status Criteria of Species

–Recovery Plan Queen Conch

–Recovery Plan Nassau Grouper

–Recovery Plan Goliath

–Bycatch

–Management Alternatives

December 12, 2002, 9 a.m. to 5 p.m.

Enforcement

–Fishing in St. Croix–Mr. Farchetti

–Federal Government

–Puerto Rico

–U.S. Virgin Islands

–U.S. Coast Guard

Administrative Committee Meeting Recommendations

Meetings Attended by Council Members and Staff

Other Business

–Recognition to Caribbean Fishery Management Council by Hyperbaric Chamber Group

Next Council Meeting

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–2577, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: November 20, 2002.

Richard W. Surdi,

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

[FR Doc. 02–29971 Filed 11–25–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112002A]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Socioeconomic Panel (SEP).

DATES: A meeting of the SEP will be held beginning at 8:30 a.m. on Wednesday, December 11, 2002, and will conclude at 4 p.m. on Friday, December 13, 2002.

ADDRESSES: The meeting will be held at the Hilton Tampa Airport Westshore, 2225 Lois Avenue, Tampa, FL; telephone: 813–877–6688.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Antonio B. Lamberte, Economist, telephone: 813-228-2815.

SUPPLEMENTARY INFORMATION: The SEP will meet to review available social and economic information on red grouper and yellowedge grouper stocks and to determine the social and economic implications of the levels of acceptable biological catch (ABC) recommended by the Council's Reef Fish Stock Assessment Panel (RFSAP). The SEP may recommend to the Council total allowable catch (TAC) levels for the 2003 fishing year and certain management measures associated with achieving the TACs.

In addition, the SEP will hear presentations on bioeconomic modeling. Dr. Wade Griffin of Texas A&M University will discuss the details of his bioeconomic model and results of a bioeconomic modeling evaluation of the Texas shrimp closure. Dr. John Ward of the National Marine Fisheries Service will present his research on multi-species bioeconomic models. Dr. Lee Anderson (with Mr. Dohoon Kim) of the University of Delaware will present his bioeconomic model for red grouper and yellowedge grouper.

Composing the SEP membership are economists, sociologists, and anthropologists from various universities and state fishery agencies throughout the Gulf. They advise the Council on the social and economic implications of certain fishery management measures.

A copy of the agenda can be obtained by calling 813-228-2815. Although other non-emergency issues not on the agenda may come before the SEP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the SEP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

The meeting is open to the public and is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (*see* **ADDRESSES**) by December 4, 2002.

Dated: November 21, 2002.

Richard W. Surdi,

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

[FR Doc. 02–29970 Filed 11–25–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction notice extension of comment period.

SUMMARY: On October 8, 2002, the Department of Education published a 30-day public comment period notice in the **Federal Register** (67 FR 62701) for the information collection, ''National College Alcohol, Drug and Violence Survey.'' Because of a network connectivity error the contents of *http://edicsweb.ed.gov* were not updated to reflect the materials submitted to OMB. The Leader, Regulatory Management, Office of the Chief Information Officer, sincerely apologies for any inconveniences caused by this error and hereby re-opens and extends the public comment period through December 26, 2002.

Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *Vivian.reese@ed.gov.* Requests may also be faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at *Katrina.ingalls@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Katrina Ingalls at her e-mail address *Katrina.ingalls@ed.gov*

Dated: November 20, 2002.

John D. Tressler,

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

[FR Doc. 02–29940 Filed 11–25–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CDFA Nos: 84.116A and 84.116B]

Office of Postsecondary Education, Fund for the Improvement of Postsecondary Education (FIPSE); Notice Announcing Technical Assistance Workshops on Fiscal Year (FY) 2003 Comprehensive Program

SUMMARY: This notice provides information about a workshop to assist individuals interested in learning more about the FY 2003 programs of the Fund for the Improvement of Postsecondary Education (FIPSE). Program staff will present program information and answer questions about FIPSE's programs. The workshop will focus primarily on the Comprehensive Program, which provides grants for innovative reform projects that hold promise as models for the resolution of important issues and problems in postsecondary education. Additional information about FIPSE's programs can be found on the Internet at the following site: *http://www.ed.gov/FIPSE.*

Although the Department has not yet announced in the **Federal Register** a closing date for its FY 2003 FIPSE grant competitions, the Department is holding this workshop to give potential applicants relevant background information on FIPSE programs for which grant competitions are expected to be held in FY 2003. Specific requirements for grant competitions will be announced in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The technical assistance workshop will be held as follows:

Ontario/Los Angeles, California:

Monday, December 2, 1–4 p.m.

- Hilton Ontario Airport, 700 North Haven Avenue, Ontario, CA 91764.

Registration: Space at the workshop is limited. Interested individuals are invited to register by sending an e-mail message with the subject ''Workshop 2002'' to: *Levenia.ishmell@ed.gov.* You will receive an e-mail reply confirming the status of your registration along with exact information on the workshop

location. All confirmed registrants are asked to bring their printed e-mail confirmation to the workshop.

Assistance to Individuals With Disabilities Attending the Technical Assistance Workshops

The technical assistance workshop site is accessible to individuals with disabilities. If you will need an 1 auxiliary aid or service to participate in the workshop (*e.g.*, interpreting service, assistive listening device, or materials in an alternative format) notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** at least two weeks before the scheduled workshop date. Although we will attempt to meet a request received after this date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

FOR FURTHER INFORMATION CONTACT: Levenia Ishmell, U.S. Department of Education, 1990 K Street NW., room 8031, Washington, DC 20006–8544. Telephone: (202) 502–7668 or by e-mail: *levenia.ishmell@ed.gov.* If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to this Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at either site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498, or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1138–1138d.

Dated: November 21, 2002.

Jeffrey R. Andrade,

Deputy Assistant Secretary for Policy, Planning, and Innovation.

[FR Doc. 02–29977 Filed 11–25–02; 8:45 am]

BILLING CODE 4000–01–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 three-year extension of the OMB expiration date for Forms: NWPA–830C 'Appendix C—Delivery Commitment Schedule', NWPA–830G 'Appendix G—Standard Remittance Advice for Payment of Fees (including Annex A).'

DATES: Comments must be filed by January 27, 2003. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Jim Finucane. To ensure receipt of the comments by the due date, submission by FAX (202–287–1934) or e-mail *jim.finucane@eia.doe.gov* is recommended. The mailing address is Office of Coal, Nuclear, Electric and Alternate Fuels, EI–52, Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0650. Alternatively, Mr. Finucane may be reached by telephone at 202–287–1966.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions should be directed to Mr. Finucane at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the Department of Energy 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) of the collections under Section 3507(h) of the Paperwork Reduction Act of 1995.

Appendix C, Form NWPA–830C, 'Delivery Commitment Schedule, (DCS)' is designed to allow companies purchasing nuclear waste disposal services from the DOE to identify the number of assemblies, including their initial uranium loading, the range of discharge dates, and the mode of transportation, along with the year that the purchaser proposes that the DOE take delivery. This information is required at a point in time at least 63 months before expected transfer to the DOE. The DCS provides purchasers with the opportunity to inform DOE of their plans for utilizing their allocations of projected Federal Waste Management System capacity.

NWPA–830G 'Appendix G—Standard Remittance Advice for Payment of Fees', and 'Annex A to Appendix G—Standard Remittance Advice for Payment of Fees' are designed to serve as the source document for entries into DOE accounting records to transmit data from Purchasers to the DOE concerning payment of their fees for spent nuclear fuel and high-level waste disposal into the Nuclear Waste Fund. The Remittance Advice (RA) must be submitted by Purchasers who signed the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste with the DOE.

II. Current Actions

The current proposed action is a three-year extension of two existing data collections. This is a request for comments on EIA's proposal to request this three-year extension of approval to continue collecting information with Forms NWPA–830C, the Appendix C—'Delivery Commitment Schedule,' and

the NWPA–830G 'Appendix G—Standard Remittance Advice for Payment of Fees' with no change to the existing collections.

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. Are the proposed collections 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 to complete Form NWPA–830C, the estimated burden per response is 2 hours. To complete Form NWPA–830G the average time per response is five and one half hours. The data for the Form NWPA–830G is collected quarterly. 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 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 Data 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: Sections 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, November 20, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–29968 Filed 11–25–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–78–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 20, 2002.

Take notice that on November 15, 2002, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective January 1, 2003:

Twenty-Second Revised Sheet No. 10
Thirty-Sixth Revised Sheet No. 11

CIG states that these tariff sheets revise the Gas Research Institute surcharges.

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 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. 02–30008 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–46–000]

Enbridge Pipelines (UTOS) L.L.C.; Errata Notice

November 20, 2002.

Notice of Filing of Offer of Settlement

November 1, 2002.

In the above referenced proceeding, ''Docket No. RP03–44–000'' has been changed to ''Docket No. RP03–46–000''.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–30004 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2004–074]

Holyoke Gas & Electric Department; Notice of Technical Conference

November 20, 2002.

On September 16, 2002, the city of Holyoke Gas & Electric Department (HG&E) filed, with the Commission, a

request that the Commission schedule a technical conference to discuss outstanding issues related to the relicensing of the Holyoke Hydroelectric Project No. 2004. Commission staff will hold a technical conference with HG&E, state and federal agencies, and other interested parties in the proceeding. The conference will be held on December 5, 2002, from 10 a.m. to 4 p.m., at the Holiday Inn in Holyoke, 245 Whiting Farms Road, Holyoke, Massachusetts.

The purposes of the conference are to learn more about the post-licensing issues that have been the subject of on-going discussions since license issuance in 1999, as well as discuss any related procedural matters and steps. All local, state, and federal agencies, Indian Tribes, and interested parties are invited to attend the conference.

For further information, please contact Allan Creamer at (202) 502–8365, or via e-mail at *allan.creamer@ferc.gov*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29998 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–411–003 and RP01–44–005]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

November 20, 2002.

Take notice that on November 15, 2002, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing Third Revised Sheet No. 36; Third Revised Sheet No. 50A; Second Revised Sheet No. 50B; and Sixth Revised Sheet No. 57A, proposed to become effective November 1, 2002.

Iroquois states that these sheets were submitted in compliance with the Commission's October 31, 2002, Order on Compliance Filing issued in Docket No. RP00–411–000, et al. The tariff sheets included herewith reflect changes required by the Commission.

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 FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or 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. 02–30001 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–7–000]

Natural Gas Pipeline Company of America; Notice of Technical Conference

November 20, 2002.

In the Commission's order issued on October 30, 2002,[1] the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Thursday, December 12, 2002, at 10:30 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested parties and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–30005 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

[1] Natural Gas Pipeline Company of America, 101 FERC ¶ 61,095 (2002).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–74–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

November 20, 2002.

Take notice that on November 15, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Twentieth Revised Sheet No. 22, with an effective date of December 1, 2002.

Natural states that the filing is submitted pursuant to Section 21 of the General Terms and Conditions (GT&C) of its Tariff as the nineteenth limited rate filing under section 4 of the Natural Gas Act and the Rules and Regulations of the Commission promulgated thereunder. The rate adjustments filed for are designed to recover Account No. 858 stranded costs incurred by Natural under contracts for transportation capacity on other pipelines. Costs for any Account No. 858 contracts specifically excluded under section 21 are not reflected in this filing.

Natural states that copies of the filing are being mailed to its 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 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. 02–30006 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–483–002]

Sabine Pipe Line LLC; Notice of Compliance Filing

November 20, 2002.

Take notice that on November 15, 2002, Sabine Pipe Line LLC (Sabine) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to be effective May 3, 2002:

Substitute First Revised Sheet No. 237

Sabine states that this tariff sheet is being filed to comply with the directive of the Federal Energy Regulatory Commission's letter order pursuant to 375.307(f)(1) and (f)(3), issued September 26, 2002, in Docket No. RP00–483–001.

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 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. 02–30002 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–76–000]

Southern Natural Gas Company; Notice of Tariff Filing

November 20, 2002.

Take notice that on November 15, 2002, Southern Natural Gas Company (Southern), tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, Seventh Revised Sheet No. 37; and Fourth Revised Sheet No. 48, with an effective date of December 16, 2002.

Southern states that the purpose of the filing is to clarify that Southern's existing overrun charge in Section 2(d) of Southern's Rate Schedule FT and FT-NN applies to volumes from receipt points which are outside of the zone for which a shipper is paying demand charges.

Southern states that copies of the filing will be served upon its shippers 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 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. 02–30007 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–99–007]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

November 20, 2002.

Take notice that on November 15, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No.1, which sheets are enumerated in Appendix A attached to the filing. The proposed effective dates of such tariff sheets are indicated on Appendix A.

Transco states that the purpose of the instant filing is to comply with a letter order issued by the Commission on November 1, 2002 which directed Transco to file revised tariff sheets to modify certain footnotes on its gathering tariff sheet and to add a list of gathering points to Transco's FERC Gas Tariff.

Transco states that copies of the filing are being mailed to each of its affected customers, interested State Commissions, and other interested parties.

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 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. 02–30003 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–51–000]

Westar Energy, Inc.; Notice of Filing

November 20, 2002.

Take notice that on November 15, 2002, Westar Energy, Inc. tendered a filing in response to a data request issued on November 1, 2002, by the Director of the Division of Tariffs and Market Development-Central, in the above-referenced docket.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. *Comment Date:* December 11, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29997 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–79–000]

Wyoming Interstate Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

November 20, 2002.

Take notice that on November 15, 2002, Wyoming Interstate Company, Ltd. (WIC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Ninth Revised Sheet No. 4C, to become effective January 1, 2003.

WIC states that this tariff sheet revises the Gas Research Institute surcharges.

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 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. 02–30009 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF03–2101–000, et al.]

United States Department of Energy, et al.; Electric Rate and Corporate Filings

November 18, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. United States Department of Energy, Bonneville Power Administration—Pacific; Northwest Coordination Agreement

[Docket No. EF03–2101–000]

Take notice that on November 1, 2002, the Bonneville Power Administration (BPA) tendered for filing with the Federal Energy Regulatory Commission (Commission) a proposed rate adjustment to its Interchange Energy Imbalances Rate under the Pacific Northwest Coordination Agreement, pursuant to section 7(a)(2) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839e(a)(2). BPA seeks interim approval of its proposed rate adjustment effective January 1, 2002, pursuant to Commission regulation 300.20, 18 CFR 300.20. Pursuant to Commission regulation 300.21, 18 CFR 300.21, BPA also seeks final confirmation and approval of the proposed rate.

BPA requests approval effective January 1, 2003, until such time as the rate is subsequently revised and approved. The proposed Interchange Energy Imbalances Rate is a market-indexed rate based on the Dow Jones Mid-Columbia Firm index. This rate is used to keep track of energy exchanges between BPA and the parties to the Pacific Northwest Coordination Agreement and is intended to cover BPA's cost of providing the interchange.

Comment Date: December 2, 2002.

2. Termoelectrica de Mexicali, S. de R.L. de C.V.

[Docket No. EG03–17–000]

Take notice that on, November 13, 2002, Termoelectrica de Mexicali, S. de R.L. de C.V. (Applicant), located at Calle Mission de San Javier No. 10661–305;

Col. Zona Rio, C.P. 22320; Tijuana, Baja California, Mexico, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant will operate and directly own a natural gas-fired and steam-powered generating facility located west of Mexicali in Baja California, Mexico.

Comment Date: December 9, 2002.

3. Virginia Electric and Power Company

[Docket No. ER03–106–001]

Take notice that on November 13, 2002, Virginia Electric and Power Company (the Dominion Virginia Power or Company) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amended filing in this proceeding. Dominion Virginia Power requests an effective date of January 1, 2003.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, and all customers under the wholesale cost based tariff.

Comment Date: December 4, 2002.

4. Virginia Electric and Power Company

[Docket No. ER03–159–001]

Take notice that on November 13, 2002, Virginia Electric and Power Company 2 tendered for filing with the Federal Energy Regulatory Commission (Commission) a modification to the filing made in the above reference docket on November 5, 2002. The filing replaces one page of the Master Power Purchase and Sale Agreement that contains an incorrect reference to a tariff.

Copies of the filing were served upon the public utility's jurisdictional customers and the Virginia State Corporation Commission.

Comment Date: December 4, 2002.

5. New York Independent System Operator, Inc.

[Docket No. ER03–180–000]

Take notice that on November 13, 2002, the New York Independent System Operator, Inc. (NYISO) filed a new Attachment U of its Open Access Transmission Tariff (OATT) to deal with ''Bad Debt Losses.'' The NYISO has requested an effective date of January 12, 2003 for the filing.

The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's Open Access Transmission Tariff or the Market Administration and Control Area Services Tariff and upon the New York State Public Service Commission.

Comment Date: December 4, 2002.

Standard Paragraph

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.

Linwood A. Watson,

Jr., Deputy Secretary.

[FR Doc. 02–29933 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG03–19–000, et al.]

FPL Energy New Mexico Wind, L.L.C., et al.; Electric Rate and Corporate Filings

November 19, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. FPL Energy New Mexico Wind, L.L.C.

[Docket No. EG03–19–000]

Take notice that on November 14, 2002, FPL Energy New Mexico Wind, L.L.C. (the Applicant), with its principal office at 700 Universe Blvd., Juno Beach, Florida 33408, filed with the Federal Energy Regulatory Commission (the Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant states that it is a Delaware limited liability company engaged directly and exclusively in the business of owning and operating an up to 204 MW wind-powered generation facility located in Quay and DeBaca Counties, New Mexico. Electric energy produced by the facility will be sold at wholesale.

Comment Date: December 10, 2002.

2. Duke Energy Fayette, L.L.C.

[Docket No. EG03–20–000]

Take notice that on November 15, 2002, Duke Energy Fayette, L.L.C. (Duke Fayette) filed with the Federal Energy Regulatory Commission (the Commission) an application for determination of exempt wholesale generator status pursuant to section 32 of the Public Utility Holding Company Act of 1935, as amended, and part 365 of the Commission's regulations.

Duke Fayette is a Delaware limited liability company that states it will be engaged directly and exclusively in the business of operating all or part of one or more eligible facilities to be located in Fayette County, Pennsylvania. The eligible facilities will consist of an approximately 620 MW natural gas-fired, combined cycle electric generation plant and related facilities. The output of the eligible facilities will be sold at wholesale.

Comment Date: December 10, 2002.

3. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. ER98–1438–012 and ER02–111–004]

Take notice that on November 15, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing proposed revisions to its Open Access Transmission Tariff (OATT), FERC Electric Tariff, Second Revised Volume No. 1, and Agreement of the Transmission Facilities Owners To Organize The Midwest Independent Transmission System Operator, Inc., First Revised Rate Schedule FERC No. 1 (Midwest ISO Agreement) in compliance with the Commission's Order in Midwest Independent Transmission System Operator Inc., 101

FERC 61,113. The Midwest ISO has requested waiver of the Commission's 60-day notice provision of section 205 of the Federal Power Act in order to accommodate an effective date of the original date of filing in Docket No. ER98–1438–010.

The Midwest ISO has requested waiver of the requirements set forth in 18 CFR 385.2010. The Midwest ISO has electronically served a copy of this filing upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: December 6, 2002.

4. Phoenix Energy Associates, L.L.C.

[Docket No. ER03–182–000]

Take notice that on November 14, 2002, Phoenix Energy Associates, L.L.C. (Phoenix Energy), tendered for filing their Rate Schedule FERC No. 1, under which Phoenix Energy will engage in wholesale electric power and energy transactions as a marketer.

Comment Date: December 5, 2002.

5. PPL Electric Utilities Corporation

[Docket No. ER03–183–000]

Take notice that on November 14, 2002, PPL Electric Utilities Corporation (PPL Electric) and PPL Susquehanna, L.L.C. (PPL Susquehanna) filed with the Commission a notice of cancellation of an Interconnection Agreement to which they are parties designated as FERC Electric Rate Schedule No. 171 and filed on December 7, 1999, and tendered a replacement Interconnection Agreement designated as PJM Service Agreement No. 816.

The Interconnection Agreement is being cancelled, and contemporaneously refiled, in order to implement a revision to Exhibit A and to comport with the Commission's current policy whereby Interconnection Agreements are filed as service agreements under the Open Access Transmission Tariff of the relevant Independent System Operator, here PJM Interconnection, L.L.C. PPL Electric and PPL Susquehanna request the same effective date for cancellation of the Interconnection Agreement and for the amended Interconnection Agreement and request waivers as necessary to permit effective dates for both as of the date of filing.

Comment Date: December 5, 2002.

6. Geysers Power Company, L.L.C.

[Docket No. ER03–184–000]

Take notice that on November 14, 2002, Geysers Power Company, L.L.C., tendered for filing updated rate schedule sheets for calendar year 2003 for its Reliability Must-Run service agreements with the California Independent System Operator (ISO), designated as Rate Schedules FERC Nos. 4 and 5. Copies of the filing have been served upon the ISO and Pacific Gas and Electric Company.

Comment Date: December 5, 2002.

7. Duke Energy Fayette, L.L.C.

[Docket No. ER03–185–000]

Take notice that on November 15, 2002, Duke Energy Fayette, L.L.C. (Duke Fayette) tendered for filing pursuant to section 205 of the Federal Power Act its proposed FERC Electric Tariff No. 1.

Duke Fayette seeks authority to sell energy and capacity, as well as ancillary services, at market-based rates, together with certain waivers and preapprovals. Duke Fayette also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities. Duke Fayette seeks an effective date 60 days from the date of filing of its proposed rate tariff.

Comment Date: December 6, 2002.

8. PacifiCorp

[Docket No. ER03–186–000]

Take notice that on November 15, 2002, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's rules and regulations, notice of cancellation of Rate Schedule No. 428 between PUD No. 1 of Clark County, WA and PacifiCorp.

Copies of this filing were supplied to PUD No. 1 of Clark County, WA, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: December 6, 2002.

Standard Paragraph

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, 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29934 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2146–090,82–019, and 618–104—Alabama]

Alabama Power Company Coosa River Project, Mitchell Project, and Jordan Project; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

November 20, 2002.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding. [1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Alabama and Georgia State Historic Preservation Officer

[1] 18 CFR Section 385.2010.

(hereinafter, SHPOs) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR part 800, implementing Section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. 470 f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at Project Nos. 2146, 82, and 618.

The programmatic agreement, when executed by the Commission, the SHPOs, and the Council, would satisfy the Commission's Section 106 responsibilities for all individual undertakings carried out in accordance with the licenses until the licenses expire or are terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the above projects would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Orders issuing licenses.

Alabama Power Company, as licensee for Project Nos. 2146, 82, and 618, and the Mississippi Band of Choctaw Indians, Jena Band of Choctaw Indians, Chickasaw Nation, Poarch Band of Creek Indians, and the U.S. Bureau of Indian Affairs have expressed an interest in this preceding and are invited to participate in consultations to develop the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for the aforementioned projects as follows: Dr. Laura Henley Dean, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW., Washington, DC 20004.

Amanda McBride, Alabama Historical Commission, 1500 Tower Building, 323 Center Street, Little Rock, AR 72201.

David Crass, Georgia Historic Preservation Division, 156 Trinity Avenue SW. Suite 101, Atlanta, GA 30303–1040.

Christine Norris, Tribal Historic Preservation Officer, Jena Band of Choctaw Indians, P.O. Box 14, Jena, LA 71342.

William Day, Tribal Historic Preservation Officer, Poarch Band of Creek Indians, 128 Olive St., Pineville, LA 71360.

Rena Duncan, Tribal Historic Preservation Officer, Chickasaw Nation, P.O. Box 1548, Ada, OK 74820.

Ken Carleton, Tribal Historic Preservation Officer, Mississippi Band of Choctaw Indians, P.O. Box 6257, Choctaw, MS 39350.

Dr. James Kardatzke, Bureau of Indian Affairs, Eastern Region Office, 711 Stewarts Ferry Pike, Nashville, TN 37214.

Kelly Schaeffer, 6225 Brandon Avenue, Suite 110, Springfield, VA 22150.

Barry Lovett, Alabama Power Company, P.O. Box 2641, Birmingham, AL 35291.

John Harrington, Esq., Office of Solicitor, Southeast Regional Office, 75 Spring St., SW., Suite 304, Atlanta, GA 30303.

Any person on the official service list for the above-captioned proceedings may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about Historic Properties, including Traditional Cultural Properties. If Historic Properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

An original and 8 copies of any such motion must be filed with Magalie R. Salas, the Secretary of the Commission (888 First Street, NE., Washington, DC 20426) and must be served on each person whose name appears on the official service list. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29999 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2165-015—Alabama]

Alabama Power Company, Black Warrior River Project; Notice of Proposed Revised Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

November 20, 2002.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding. [1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Alabama State Historic Preservation Officer (hereinafter, SHPO) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR part 800, implementing Section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. Section 470 f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at Project No. 2165-015.

The programmatic agreement, when executed by the Commission, the SHPO, and the Council, would satisfy the Commission's Section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to Section 106 for the Black Warrior River Project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with Alabama Power Company, the licensee for Project No. 2165; the Mississippi Band of Choctaw Indians; the Jena Band of Choctaw Indians; the Chickasaw Nation, the Poarch Band of Creek Indians; the U. S. Forest Service; the U.S. Army Corp of Engineers; and the U.S. Bureau of Indian Affairs. The executed programmatic agreement would be incorporated into any Order issuing a license.

For purposes of commenting on the programmatic agreement, we propose to add the following person to the restricted service list for the aforementioned project to represent the interests of the U.S. Army Corp of Engineers: Ernie Seckinger, CESAM-PD-EI, U.S. Army Corps of Engineers, Mobile District, P.O. Box 2288, Mobile, AL 36628–0001.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established,

[1] 18 CFR Section 385.2010.

by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about Historic Properties, including Traditional Cultural Properties. If Historic Properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

An original and 8 copies of any such motion must be filed with Magalie R. Salas, the Secretary of the Commission (888 First Street, NE., Washington, DC 20426) and must be served on each person whose name appears on the official service list. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–30000 Filed 11–25–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7413–8]

Meeting of the Drinking Water Contaminant Candidate List Classification Process Work Group of the National Drinking Water Advisory Council

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: Under section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given of the forthcoming meeting of the Drinking Water Contaminant Candidate List (CCL) Classification Process Work Group of the National Drinking Water Advisory Council (NDWAC), established under the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*).

DATES: The next two meetings of the NDWAC CCL Work Group will be held on the following dates: December 16–17, 2002 (9 a.m.–5 p.m. EDT on December 16, and 8 a.m.–3:30 p.m. EDT on December 17); and February 5–6, 2003 (9 a.m.–5 p.m. EDT on February 5, and 8 a.m.–3:30 p.m. EDT on February 6).

ADDRESSES: The December meeting of the NDWAC CCL Work Group will be held at the National League of Cities, 1301 Pennsylvania Avenue, NW., Washington, DC. The February meeting of the CCL Work Group will be held at RESOLVE Inc., 1255 23rd Street, NW., Suite 275, Washington, DC.

FOR FURTHER INFORMATION CONTACT: For more information on the location and times of these meetings, or general background information please contact the Safe Drinking Water Hotline (phone: 800–426–4791 or (703) 285–1093; e-mail: *hotline-sdwa@epa.gov*). Members of the public are requested to contact RESOLVE if they plan on attending, at (202) 944–2300. Any person needing special accommodations at either of these meetings, including wheelchair access, should contact RESOLVE (contact information previously noted), at least five business days before the meeting so that appropriate arrangements can be made. For technical information contact Dr. Jitendra Saxena, Designated Federal Officer, CCL Classification Process Work Group, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (4607M), 1200 Pennsylvania Avenue, NW, Washington, DC 20460 (e-mail: *saxena.jitendra@epa.gov;* Tel. 202–564–5243).

SUPPLEMENTARY INFORMATION: The CCL serves as the primary source of priority contaminants for research and regulatory evaluations for the Agency's drinking water program. The list is comprised of both chemical and microbial contaminants that are known or anticipated to occur in public water systems, and may have adverse health effects, and which at the time of publication are not subject to any proposed or promulgated National Primary Drinking Water Regulations. EPA has formed a CCL Classification Process Work Group of the National Drinking Water Advisory Council (NDWAC) to help the Agency in developing a new risk based priority setting process based upon the recommendations made by the National Research Council (NRC) in its 2001 report.

The work group is comprised of 21 recognized technical experts representing an array of backgrounds and perspectives who are as impartial and objective as possible. The work group is charged with discussing, evaluating, and providing advice on methodologies, activities, and analysis needed to implement the NRC recommendations on an expanded approach for the CCL listing process. This may include advice on developing and identifying: (1) Overall implementation strategy, (2) prototype classification methodology, classification attributes and criteria that should to be used, (3) pilot projects to validate new classification approaches, (4) demonstration studies that explore the feasibility of the VFAR (Virulance-Factor Activity Relationships) approach, (5) risk communication issues, and (6) additional issues not addressed in the NRC report.

The first meeting of the work group was held on September 18–19, 2002. The meeting objectives were to: gain understanding of the NRC recommendations from the invited members of the NRC panel; identify questions, issues and technical expertise needed to fulfill its charge; and plan next steps. At the conclusion of the first meeting, the work group identified four activity areas for small group discussions and formed committees to address each area (4–6 members/committee). The four committees are: committee on characterization of the universe of contaminants, committee on classification systems, committee on VFAR, and committee on developing guiding principles for the work group. Each committee is expected to hold several conference calls for group discussions in between the plenary meetings. EPA will provide technical materials and RESOLVE will arrange a conference call for each committee.

The meetings are open to the public for observation purposes only. Statements from the public will be taken at the close of each meeting. EPA is not soliciting written comments and is not planning to formally respond to comments.

Dated: November 20, 2002.

Nanci Gelb,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 02–29975 Filed 11–25–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7413–7]

EPA Science Advisory Board Staff Office Invitation To Solicit Public Input Concerning Prospective EPA Science Advisory Board Reorganization and Structural Changes

Summary: The Environmental Protection Agency's (EPA or Agency) Science Advisory Board (SAB or Board) is inviting members of the public to register and attend a public session wherein the Board will solicit public input on the SAB's prospective reorganization and structural changes; or, for persons unable to attend, to contribute information on this topic via

e-mail. Although the SAB is subject to the procedural requirements of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App.), for its advisory committee meetings, the purpose of this session is to obtain information from individual attendees and not from the participants as a whole; therefore, the provisions of FACA do not apply to this session.

The session will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, Virginia, 22202, on Wednesday, December 4, 2002, from 9:30 am to 12 pm. The Sheraton Crystal City Hotel main telephone number is: (703) 486–1111. The session is open to members of the public. However, due to limited space, participation will be on a first-come basis. Therefore, members of the public are requested to register in advance. Members of the public who cannot attend in person are encouraged to submit written comments. For further information concerning this session, including procedures both for registration and submitting written comments to the EPA Science Advisory Board Staff Office, please see below.

Purpose: The Reorganization Sub-Committee of the SAB Executive Committee is soliciting public input concerning prospective EPA Science Advisory Board reorganization and structural changes. The Sub-Committee will consider the comments and input received in this public process, as well as written comments received in response to this notice, as it develops and evaluates possible options to enhance the ability of the SAB to carry out its critical mission even more effectively and efficiently. *Please note that this effort is not focused on ''operational'' SAB issues such as the revised panel formation process and the updating of the Board's policies and procedures, both of which are being carried out in parallel.*

Background: The SAB was established by the Congress in 1978 by the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA) (42 U.S.C. 4365). Composed of non-Federal government experts, the Board provides independent advice and peer review to EPA's Administrator on the scientific and technical aspects of environmental problems and issues. The Board's independently-chartered Clean Air Scientific Advisory Committee (CASAC) and Advisory Committee on Clean Air Compliance Analysis (COUNCIL) also provide independent scientific and technical advice as required by the Clean Air Act Amendments of 1977 and the Clean Air Act Amendments of 1990, respectively. While the Board reports to the Administrator, it may also be requested to provide advice to U. S. Senate Committees and Subcommittees and U.S. House Committees and Subcommittees, as appropriate.

Since being established in 1978, the SAB has doubled in size (from five to ten standing committees) and in membership (from some 50 members to more than 110 members and 380 expert consultants). To supplement its standing and chartered committees, the Board forms numerous *ad hoc* panels that look into areas of special interest, all of which provide continuity to areas of scientific study that are relevant to the Agency. These changes in size and organization have come about in response to legislation and the needs of the EPA Administrator, and also as a result of the expanding mission of the Board.

Although the mission of the Board and its overall size have increased substantially in the last 25 years, both the structure of the Board and the procedures by which the SAB conducts reviews have remained essentially the same. Accordingly, there is a crucial need to evaluate the current structure, organization and composition of the Board to ascertain whether improvements in these areas can enhance the Board's ability to carry out its critical mission even more effectively and efficiently. The SAB's Executive Committee, under the leadership of its Chair, Dr. William Glaze, has recently established the Reorganization Sub-Committee for this purpose.

Specific Format and Topics for the December 4, 2002 Session: A draft agenda for the session will be posted on or about December 2, 2002 on the EPA Science Advisory Board Web site at: *http://www.epa.gov/sab.* The session will be specifically designed to solicit public input on the following two broad questions pertaining to the *organization and structure* of the SAB:

1. Overall, how well has EPA's Science Advisory Board fulfilled its mission—and what are some ways in which it could improve?

2. What type of SAB structure and substructures are needed to fulfill the SAB roles and be flexible enough to meet future needs of EPA?

Other public input relevant to the matters of SAB reorganization and structural changes will also be discussed, and accepted at, this December 4, 2002, session. *Input on operational or procedural aspects of the Board are not being solicited at this session.*

Registration for the December 4, 2002 Session: Persons wishing to attend this public session should register by Friday, November 29, 2002, by contacting Ms. Sandra Vincze at telephone (703) 534–1629 or via e-mail at *svincze@mgtech-world.com.* Please include the following information: name, title, organization, telephone number, fax number, and e-mail address.

Provision of Written Comments by Individuals Unable to Attend the December 4, 2002 Session: Persons unable to attend the public session who wish to provide written comments on the specific topics identified above may send those comments to Mr. Fred Butterfield of the Science Advisory Board Staff via email at butterfield.fred@epa.gov. Written comments received prior to 12 noon Eastern time on December 3, 2002, will be included in the discussion at this public session.

Session Access: Individuals requiring special accommodation at this session, including wheelchair access to the conference room, should contact Ms. Sandra Vincze at telephone (703) 534–1629 or via e-mail at *svincze@mgtech-world.com* at least two business days prior to the session (*i.e.*, by 5:00 p.m. on Friday, November 29, 2002) so that appropriate arrangements can be made.

General and Additional Information: Members of the public desiring additional information about the session on December 4, 2002, should contact Mr. Fred Butterfield, Designated Federal Officer, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail (202) 564–4561; fax (202) 501–0323; or e-mail *butterfield.fred@epa.gov.* Additional information on session logistics can be obtained by contacting Ms. Sandra Vincze at telephone (703) 534–1629 or via e-mail at *svincze@mgtech-world.com.*

Further 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: November 19, 2002.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 02–29976 Filed 11–25–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE BOARD

[No. 2002–N–13]

Notice of Public Hearing on Federal Home Loan Bank Views Concerning Registration of Federal Home Loan Bank Stock Under the Securities Exchange Act of 1934

AGENCY: Federal Housing Finance Board.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Federal Housing Finance Board (Finance Board) will hold the following public hearing:

Time and Date of Hearing: 2 p.m., Monday, December 2, 2002.

Place: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

Agenda: The Finance Board has scheduled a public hearing to consider Federal Home Loan Bank views concerning registration of Federal Home Loan Bank Stock under the Securities Exchange Act of 1934.

Only directors and executives of Federal Home Loan Banks may present testimony in person. Other parties will be permitted to submit written testimony only.

Those seeking to testify in person must submit written statements in electronic form no later than 2:00 p.m. EST, Friday, November 29, 2002. In addition, fifty (50) copies of your statement must be delivered to the Finance Board office prior to the hearing.

Banks and others submitting only written views must submit them in electronic form no later than 2:00 p.m. EST Monday, December 2, 2002 and must also deliver fifty (50) copies to the hearing location before the start of the hearing.

Status: This hearing will be open to the public.

ADDRESSES: Send testimony to Elaine L. Baker, Secretary to the Board, by electronic mail to *bakere@fhfb.gov.* Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Thomas D. Casey, Chief Counsel to the Chairman, 202–408–2957 or Elaine L. Baker, Secretary to the Board, 202–408–2837.

Dated: November 22, 2002.

Arnold Intrater,

General Counsel.

[FR Doc. 02–30078 Filed 11–25–02; 8:45 am]

BILLING CODE 6725–02–P

FEDERAL MARITIME COMMISSION

[Petition No. P3–02]

Petition of the Association of Bi-State Motor Carriers, Inc. to Investigate Truck Detention Practices of the New York Terminal Conference at the New York/New Jersey Port District; Notice of Filing and Request for Comments

Notice is hereby given that on November 18, 2002, the Association of Bi-State Motor Carriers, Inc. (''Petitioner'') filed a Petition seeking an investigation under section 11(c) of the Shipping Act of 1984 (''Shipping Act'') of certain activities in the New York/New Jersey Port District.

The Petitioner asks the Commission to determine whether the truck detention practices and tariff regulations of the marine terminal operator (''MTO'') members of the New York Terminal Conference (''NYTC'') [1] constitute unjust and unreasonable practices and regulations in violation of Section 10(d)(1) of the Shipping Act. In support of its request, Petitioner asserts that NYTC and its members are causing port congestion and delay by manipulating entry through the terminal gate or point of processing. Petitioner claims that this manipulation causes congestion and adds to the delay in picking up and delivering containers. Petitioner claims further that NYTC and its members' practices contribute to excessive ''queue waiting time'' outside of the terminal gate and that NYTC and its members are not compensating Petitioner's members for the cost associated with this delay and the delays occurring within the terminal. Moreover, Petitioner claims that the NYTC and its members have established excessive free time provisions in their tariff to avoid paying detention penalties to Petitioner's members. In this regard, Petitioner points out that the terminals require trucks to use offsite chassis depots or other offsite facilities, spending time that is excluded from the truck detention calculus. Finally, Petitioner claims that the NYTC members retaliated against its members after a successful arbitration by modifying their tariff in such a way as to prevent reasonable detention penalties from being paid.

Petitioner asserts that the foregoing results in its members being responsible for the excessive cost of doing business at the Port, both in terms of lost time and financial losses. In this regard, Petitioner states that the excessive delay caused to trucks awaiting access to containers and equipment causes inordinate delay in the delivery of cargo and that these costs are passed along to the shipping public or absorbed by trucking companies.

Petitioner asks the Commission to investigate these practices under section 11(c) of the Shipping Act. If violations are found, Petitioner asks the Commission to order NYTC to modify its tariff to: include a reasonable calculation that captures ''queue waiting time;'' and remove the excessive free time provisions and establish reasonable provisions that address the specific concerns set forth in the Petition such as, roadability issues and exclusions that exempt time spent due to lack of equipment or maintenance and repair. Petitioner also seeks an order directing NYTC to cease and desist from its practices of tendering defective equipment.

The Petition was filed under Rule 69 of the Commission's rules of practice and procedure, 46 CFR 502.69, and states that it was served on the parties named therein. The parties named in the Petition are entitled to file a reply pursuant 46 CFR 502.69 and 502.74. In order for the Commission to make a thorough evaluation of the Petition, the Commission is also inviting interested persons to submit their comments on the Petition. *Replies to the Petition and any comments are due no later than December 20, 2002.* Comments shall consist of an original and 15 copies, or, if e-mailed, as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications; be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001 (e-mail to: *Secretary@fmc.gov* and include a reference to the docket number in the subject field); and be served on Petitioner's counsel: Carlos Rodriguez and Usbaldo Angel, Rodriguez O'Donnell Ross Fuerst Gonzalez & Williams, 1211 Connecticut Avenue, NW., Suite 812, Washington, DC 20036.

Copies of the Petition are available at the Office of the Secretary of the Commission, 800 N. Capitol Street, NW., Room 1046, by telephone request at 202–523–5725, or through e-mail request directed to *Secretary@fmc.gov.*

Parties participating in this proceeding may elect to receive service of the Commission's issuances in this proceeding through e-mail in lieu of service by U.S. mail. A party opting for electronic service shall advise the Office of the Secretary in writing and provide

[1] American Stevedoring, Inc.; Port Newark Container Terminal; and Universal Maritime Service Corp.

an e-mail address where service can be made.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–29981 Filed 11–25–02; 8:45 am]

BILLING CODE 6730–01–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 December 11, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Thomas Taylor Nicholson and Black Creek Limited Partnership, both of Boise, Idaho; to increase their ownership of Silver State Bancorp, and thereby indirectly acquire voting shares of Silver State Bank, both of Henderson, Nevada.

2. Ronald Carl Yanke, Bryan Scott Norby, and Daniel Ronald Yanke, all of Boise, Idaho; to increase their ownership of Silver State Bancorp, and thereby indirectly acquire voting shares of Silver State Bank, both of Henderson, Nevada.

Board of Governors of the Federal Reserve System, November 21, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–30030 Filed 11–25–02; 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 December 20, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Gold Country Financial Services, Inc., Marysville, California; to become a bank holding company by acquiring 100 percent of the voting shares of Gold Country Bank, N.A., Marysville, California.

2. New CCB, Inc., Sandy, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of CCB Financial Corporation, Sandy, Oregon, and thereby indirectly acquire voting shares of Clackamas County Bank, Sandy, Oregon.

Board of Governors of the Federal Reserve System, November 20, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–29950 Filed 11–25–02; 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 December 23, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. FBOP Corporation, Oak Park, Illinois; to acquire an additional 50 percent, for a total ownership of 100 percent, of the voting shares of P.N.B. Financial Corp., Chicago, Illinois, and thereby indirectly acquire additional voting shares of Park National Bank and Trust of Chicago, Chicago, Illinois.

Board of Governors of the Federal Reserve System, November 21, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–30029 Filed 11–25–02; 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 December 20, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. BB&T Corporation, Winston–Salem, North Carolina; to acquire up to 19.9 percent of the voting shares of Equitable Bank, Wheaton, Maryland, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, November 20, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.02–29949 Filed 11–25–02; 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 December 23, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Vision Bancshares, Inc., Gulf Shores, Alabama; to engage *de novo* through its subsidiary, Vision Bank, FSB (in organization), Panama City, Florida, in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, November 21, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.02–30031 Filed 11–25–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: The FTC has submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (PRA) information collection requirements contained in four regulations enforced by the Commission. The FTC is seeking public comments on the proposal to extend through December 31, 2005 the current PRA clearance for information collection requirements contained in the regulations. That clearance expires on December 31, 2002.

DATES: Comments must be filed by December 26, 2002.

ADDRESSES: Send written comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, ATTN.: Desk Officer for the Federal Trade Commission (comments in electronic form should be sent to *oira_docket@omb.eop.gov*), and to the Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580 (comments in electronic form should be sent to *RegsBEMZpprwork@ftc.gov*). All comments should be captioned ''Regs BEMZ: Paperwork Comment.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Carole Reynolds, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3230.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On August 20, 2002, the FTC sought comment on the information collection requirements associated with the regulations discussed below. See 67 FR 53936.

The Commission received one comment pertaining to certain aspects of regulatory burden affecting Regulations B, E, and Z that the commenter believed understated applicable burden.[1] These

[1] The comment was submitted on behalf of Visa U.S.A. (''Visa''), a membership organization comprised of certain domestic financial institutions licensed to offer Visa cards. Visa's comment is centered on open-end credit and EFT services. Furthermore, the focus of Visa's comment generally concerns banks and other depository institutions. For these regulations, however, except for nonfederally insured and noninsured credit unions (less than five thousand entities) and a limited number of securities-type entities engaged in financial activities covered by these regulations, the Commission, generally, lacks jurisdiction over

Continued

issues are discussed more specifically below under the applicable regulations. In summary, much of the comment's analysis of the PRA mistakenly includes as a measure of burden procedural activities (e.g., individual credit decisions, investigating account errors) that are inherent in an entity's business, as opposed to disclosures and recordkeeping that are required by these regulations. Moreover, the comment overlooks the fact that the systems entities establish and maintain are commonly used for purposes extending well beyond the disclosure or recordkeeping requirements that these regulations entail.[2] Nonetheless, staff has revised its burden estimates in several areas to address the issues raised in the comment. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule.

If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, Wordperfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *RegsBEMZpprwork@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR section 4.9(b)(6)(ii)).

The four regulations covered by this notice are:

(1) Regulations promulgated under The Equal Credit Opportunity Act, 15 U.S.C. 1691 et seq. (''ECOA'') (''Regulation B'') (Control Number: 3084–0087);

(2) Regulations promulgated under The Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq. (''EFTA'') (''Regulation E'') (Control Number: 3084–0085);

(3) Regulations promulgated under The Consumer Leasing Act, 15 U.S.C. 1667 et seq., (''CLA''), (''Regulation M''), Control Number: 3084–0086);

(4) Regulations promulgated under The Truth-In-Lending Act, 15 U.S.C. 1601 et seq. (''TILA'') (''Regulation Z'') (Control Number: 3084–0088).

Each of these four rules impose certain PRA recordkeeping and disclosure requirements associated with providing credit or with other financial transactions. All of these rules require covered entities to keep certain records. Staff believes that these entities would likely retain these records in the normal course of business even absent the recordkeeping requirement in the rules. There is, however, some burden associated with ensuring that covered entities do not prematurely dispose of relevant records during the period of time required by the applicable rule.

Disclosure requirements involve both set-up and monitoring costs as well as certain transaction-specific costs. ''Set-up'' burden, incurred by new entrants only, includes identifying the applicable disclosure requirements, determining compliance obligations, and designing and developing compliance systems and procedures. ''Monitoring'' burden, incurred by all covered entities, includes reviewing revisions to regulatory requirements, revising compliance systems and procedures as necessary, and monitoring the ongoing operation of systems and procedures to ensure continued compliance. ''Transaction-related'' burden refers to the effort associated with providing the various required disclosures in individual transactions. While this burden varies with the number of transactions, the figures shown for transaction-related burden in the tables that follow are estimated averages.

The actual range of compliance burden experienced by covered entities, and reflected in those averages, varies widely. Depending on the extent to which covered entities have developed computer-based systems and procedures for providing the required disclosures (and/or the extent which such entities utilize electronic transactions, communications, and/or electronic recordkeeping), and the efficacy of those systems and procedures, some entities may have little burden, while others may incur a higher burden.[3]

Calculating the burden associated with the four regulations' disclosure requirements is very difficult because of the highly diverse group of affected entities. The ''respondents'' included in the following burden calculations consist of credit and lease advertisers, creditors, financial institutions, service providers, certain government agencies and others involved in delivering electronic fund transfers (EFTs) of government benefits, and lessors. The burden estimates represent staff's best assessment, based on its knowledge and expertise relating to the financial services industry. To derive these estimates, staff considered the wide variations in covered entities': (1) Size and location; (2) credit or lease products offered, extended, or advertised, and their particular terms; (3) types of EFTs used; (4) types and occurrences of adverse actions; (5) types of appraisal reports utilized; and (6) computer systems and electronic features of compliance operations.

In some instances, where covered entities may make certain required disclosures in the ordinary course of business, the Regulation imposes no PRA burden. In addition, as noted above, some entities use computer-based and/or electronic means of providing the required disclosures, while others rely on methods requiring more manual effort.

The estimated PRA burden associated with these rules, attributable to the Commission, is somewhat less today than in the past. Staff believes that as computer-based and/or electronic procedures rise, and as quality control procedures are increasingly integrated into business operating systems, financial services entities also increase compliance efficiency.

The cost estimates shown below relate solely to labor costs. The applicable PRA requirements impose minimal capital or other non-labor costs, as affected entities generally have the necessary equipment for other business purposes. Similarly, staff estimates that compliance with these rules entails minimal printing and copying costs beyond that associated with documenting financial transactions in the ordinary course of business. The burden estimates shown below include the time necessary to train staff to be in compliance with the regulations.[4]

depository institutions. And, most entities under the FTC's jurisdiction that offer open-end credit and EFT services are specialized regarding their plans and terms. Disclosures and recordkeeping for them would yield different, and lesser, burden than, for example, banks. Finally, regarding Regulation Z in particular, some entities no longer offer open-end credit directly (with banks now offering it instead).

[2] PRA ''burden'' does not include effort expended in the ordinary course of business, regardless of any regulatory requirement. 5 CFR 1320.3(b)(2).

[3] For example, large retailers may use computer-based and/or electronic means to provide required disclosures, including issuing some disclosures en masse, e.g., notices of changes in terms. Smaller retailers or other creditors may have less automated compliance systems but may nonetheless rely on electronic mechanisms for disclosures and recordkeeping. Regardless of size, some entities may utilize compliance systems that are fully integrated into their general business operational system; as such, they may have minimal additional burden. Other entities may have incorporated fewer of these approaches into their systems and may have a higher burden.

[4] Employee training for these regulations may and often does address far more than the particular notices and recordkeeping required by these regulations. Regulatory compliance is just one subset of employee business training, and the regulatory compliance facet, for that matter,

The following paragraphs discuss each of these rules, their particular PRA requirements, and staff's best estimates of the related hour and cost burdens.

1. Regulation B

The ECOA prohibits discrimination in the extension of credit. Regulation B, 12 CFR 202, promulgated by the Board of Governors of the Federal Reserve System, establishes both recordkeeping and disclosure requirements to assist consumers in understanding their rights under the ECOA and to assist in detecting unlawful discrimination. The FTC enforces the ECOA as to all creditors except those that are subject to the regulatory authority of another federal agency (such as federally chartered or insured depository institutions).

Estimated annual hours burden: 3,146,000 hours, rounded to the nearest thousand (1,153,500 recordkeeping hours + 1,992,832 disclosure hours).[5]

Recordkeeping: FTC staff estimates that Regulation B's general recordkeeping requirements affect 1,000,000 credit firms subject to the Commission's jurisdiction, at an average annual burden of one hour per firm, for a total of 1,000,000 hours. Staff also estimates that the requirement that mortgage creditors monitor information about race/national origin, sex, age, and marital status imposes a maximum burden of one minute each[6] for approximately nine million credit applications (based on industry data regarding the approximate number of mortgage purchase and refinance originations), for a total of 150,000 hours. Staff also estimates that recordkeeping of self-testing subject to the regulation would affect 2,500 firms, with an average annual burden of one hour per firm, for a total of 2,500 hours, and that recordkeeping of any corrective action for self-testing would affect 250 firms in a given year, with an average annual burden of four hours per firm, for a total of 1,000 hours. The total estimated recordkeeping burden is 1,153,500 hours.

Disclosure: Regulation B requires that creditors (*i.e.,* entities that regularly participate in the decision whether to extend credit under Regulation B) provide notices whenever they take adverse action. It also requires entities that extend various types of mortgage credit to provide a copy of the appraisal report to applicants or to notify them of their right to a copy of the report (and thereafter provide a copy of the report, upon the applicant's request). Finally, Regulation B also requires that for accounts which spouses may use or for which they are contractually liable, creditors who report credit history must do so in a manner reflecting both spouses' participation.

Regulation B applies to retailers, mortgage lenders, mortgage brokers, finance companies, Internet businesses, and others. Below is staff's best estimate of burden applicable to this highly broad spectrum of covered entities.[7]

Disclosure	Respondents	Setup/monitoring[1]		Transaction-related[2]			
		Average burden per respondent (hours)	Total Setup/ Monitoring burden (hours)	Number of transactions	Average burden per transaction (minutes)	Total Transaction burden (hours)	Total burden (hours)
Credit history reporting	250,000	.25	62,500	125,000,000	.25	520,833	583,333
Adverse action notices	1,000,000	.5	500,00	200,000,000	.25	833,333	1,333,333
Appraisal notices	22,000	.5	11,000	6,500,000	.25	27,083	38,083
Appraisal reports	22,000	.5	11,000	6,500,000	.25	27,083	38,083
Total							1,992,832

[1] With respect to appraisal notices and appraisal reports, the above figures assume that approximately half of applicable mortgage entities (.5 × 44,000, or 22,000 businesses) would not otherwise provide this information and thus would be affected. The figures also assume that all applicable entities would provide notices first and thereafter provide the reports upon request.

[2] The above figures assume that half of applicable mortgage transactions (.5 × 13,000,000 or 6,500,000) would not otherwise provide the appraisal notices and reports and thus would be affected.

Estimated annual cost burden: $59,905,000, rounded to the nearest thousand. Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below ($50 for managerial or professional time, $20 for skilled technical time, and $10 for clerical time) are averages.

Recordkeeping: Staff estimates that the general recordkeeping responsibility of one hour per creditor would involve approximately 90 percent clerical time and 10 percent skilled technical time. Keeping records of race/national origin, sex, age, and marital status requires an estimated on minute of skilled technical time. Keeping records of the self-test responsibility and of any corrective actions requires an estimated one hour and four hours, respectively, of skilled

commonly encompasses a wide variety of issues and topics extending widely beyond those posed by Regulations B, E, M, and Z (*e.g.,* privacy and security, tax, and contract issues). They also address state and local requirements, not merely those imposed or enforced by federal agencies. Moreover, this training commonly incorporates internal business issues as well (*e.g.,* accounting concerns and secondary market or other investors issues).

[5] Visa stated that burden estimates had not been included for credit history reporting; staff has now factored that into its burden estimates for disclosures. Visa also noted the absence of staff estimates for self-testing Staff has increased its burden estimates by including recordkeeping for self-testing. However, it is unclear to what extent entities subject to the Commission's jurisdiction are performing these tests, as defined by the Regulation. Unlike banks, for example, entities under FTC jurisdiction are not subject to regular audits for financial regulatory compliance with Regulations B, E, M, and Z. Rather they may be subject to investigations and enforcement actions that are fact- and issue-focused, rather than conducted in regular, periodic manner as are audits. This difference may account for relatively higher levels in self-testing, as defined under Regulation B, for depository entities under the jurisdiction of other federal agencies. As discussed further below, staff has retained certain other burden estimates.

[6] Regulation B contains model forms that creditors may use to gather and retain the required information.

[7] Visa asserted that burden estimates for adverse action were understated. However, staff believes that its adverse action notice estimates are a reasonable projection for those entities under the Commission's jurisdiction. Again, only incremental time and costs, beyond what would be incurred by an entity in its ordinary course of business apart from these FTC-enforced rules, are factored into staff's PRA burden estimates. Also, where multiple entities are involved in the adverse action decision (some within, and some outside, of Commission jurisdiction), it is only those entities under Commission jurisdiction—and only to the extent they are involved—that staff has attempted to account for in its PRA burden estimates.

technical time. As shown below, the total recordkeeping cost is $14,070,000.

Disclosure: For each notice or information item listed, staff estimates that the burden hours consist of 10 percent managerial time and 90 percent skilled technical time. As shown below, the total disclosure cost is $45,835,100.

Required Task	Managerial		Skilled Technical		Clerical		Total Cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
General recordkeeping	0	$0	100,000	$2,000,000	900,000	$9,000,000	$11,000,000
Other recordkeeping	0	0	150,000	3,000,000	0	0	3,000,000
Recordkeeping of test	0	0	2,500	50,000	0	0	50,000
Recordkeeping of corrective action	0	0	1,000	20,000	0	0	20,000
Total Recordkeeping							14,070,000
Credit history reporting	58,333	2,916,650	525,000	10,500,000	0	0	13,416,650
Adverse action notices	133,333	6,666,650	1,200,000	24,000,000	0	0	30,666,650
Appraisal notices	3,808	190,400	34,275	685,500	0	0	875,900
Appraisal reports	3,808	190,400	34,275	685,500	0	0	875,900
Total Disclosure							45,835,100
Total Recordkeeping and Disclosure							59,905,100

2. Regulation E

The EFTA requires accurate disclosure of the ocsts, terms, and rights relating to EFT services to consumers. Regulation E, 12 CFR 205, promulgated by the Board of Governors of the Federal Reserve System, establishes both recordkeeping and disclosure requirements applicable to entities providing EFT services to consumers. The FTC enforces the EFTA as to all entities providing EFT services except those that are subject to the regulatory authority of another federal agency (such as federally chartered or insured depository institutions).

Estimated annual hours burden: 3,580,000 hours (500,000 recordkeeping hours + approximately 3,080,000 disclosure hours).

Recordkeeping: Staff estimates that Regulation E's recordkeeping requirements affect 500,000 firms offering EFT services to consumers and subject to the Commission's jurisdiction, at an average annual burden of one hour per firm, for a total of 500,000 hours.

Disclosure: Regulation E applies to financial institutions (including certain retailers and electronic commerce entities), service providers, various federal and state agencies offering EFTs, and others. Below is staff's best estimate of burden applicable to this highly broad spectrum of covered entities.[8]

Disclosure	Respondents	Setup/monitoring		Transaction-related			
		average burden per respondent (hours)	Total setup/monitoring burden (hours)	Number of transactions	Average burden per transaction (minutes)	Total transaction burden (hours)	Total burden (hours)
Initial terms	100,000	.5	50,000	1,000,000	.02	333	50,333
Change in terms	25,000	.5	12,500	33,000,000	.02	11,000	23,500
Periodic statements	100,000	.5	50,000	1,200,000,000	.02	400,000	450,000

[8] Visa believes that staff's burden estimates were understated for the initial terms and periodic statements disclosures and for error resolution. Generally, however, under Regulation E, the Commission lacks jurisdiction over traditional depository-type entities, other than nonfederally-insured or noninsured credit unions and certain securities-type entities that may offer EFT services to consumers. While staff's analysis does not overlook the depository-type entities under the Commission's jurisdiction, their relative weighting is more than counterbalanced by the fact that many other entities under Commission jurisdiction subject to these requirements engage in limited types of EFTs, with more specialized terms and charges. The nature of entities subject to this jurisdiction impacts, among other things, initial and periodic disclosures. Moreover, regarding error resolution, staff notes that the procedural aspects that may be associated with investigation and account adjustments are not, per se PRA collected[s] of information.'' See note 2. Staff has retained its projected estimates in view of these considerations.

Disclosure	Respondents	Setup/monitoring		Transaction-related			
		average burden per respondent (hours)	Total setup/ monitoring burden (hours)	Number of transactions	Average burden per transaction (minutes)	Total transaction burden (hours)	Total burden (hours)
Error resolution	100,000	.5	50,000	1,000,000	5	83,333	133,333
Transaction receipts	100,000	.5	50.000	5,000,000	.02	1,666,667	1,716,667
Preauthorized transfers	500,000	.5	250,000	1,000,000	.25	4,167	254,167
Service provider notices	100,000	.25	25,000	1,000,000	.25	4,167	29,167
Govt. benefit notices	10,000	.5	5,000	100,000,000	.25	416,667	421,667
ATM notices [1]	500	.25	125	250,000	.25	1,041	1,166
Total							3,080,000

[1] Starting in 2001, ATM operators were required to provide certain notices to consumers regarding ATM fees. Generally, these notices must be provided on or at ATM machines and/or on paper before the consumer is committed to paying a fee.

Estimated annual cost burden: $76,240,000, rounded to the nearest thousand.

Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below ($50 for managerial or professional time, $20 for skilled technical time, and $10 for clerical time) are averages.

Recordkeeping: For the 500,000 recordkeeping hours, staff estimates that 10 percent of the burden hours require skilled technical time and 90 percent require clerical time. As shown below, the total recordkeeping cost is $5,500,000.

Disclosure: For each notice or information item listed, staff estimates that 10 percent of the burden hours require managerial time and 90 percent require skilled technical time. As shown below, the total disclosure cost is $70,740,000.

Required Task	Managerial		Skilled technical		Clerical		Total Cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
Recordkeeping	0	$0	50,000	$1,000,000	450,000	$4,500,000	$5,500,000
Disclosure:							
Initial terms	5,033	251,650	45,300	906,000	0	0	1,157,650
Change in terms	2,350	117,500	21,150	423,000	0	0	540,500
Periodic statements	45,000	2,250,000	405,000	8,100,000	0	0	10,350,000
Error resolution	13,333	666,650	120,000	2,400,000	0	0	3,066,650
Transaction receipts	171,667	8,583,350	1,540,000	30,800,000	0	0	39,383,350
Preauthorized transers	25,417	1,270,850	228,750	4,575,000	0	0	5,845,850
Service provider notices	2,917	145,850	26,250	525,000	0	0	670,850
Govt. benefit notices	42,167	2,108,350	379,500	7,590,000	0	0	9,698,350
ATM Notices	116	5,800	1,050	21,000	0	0	26,800
Total Disclosure	.....	.....	.....	.....	.....	.....	70,740,000
Total Record-keeping and Disclosures	.....	.....	.....	.....	.....	.....	76,240,000

3. Regulation M

The CLA requires accurate disclosure of the costs and terms of leases to consumers. Regulation M, 12 CFR 213, promulgated by the Board of Governors of the Federal Reserve System, establishes disclosure requirements that assist consumers in comparison shopping and in understanding the terms of leases and recordkeeping requirements that assist enforcement of the CLA. The FTC enforces the CLA as to all lessors and advertisers except those that are subject to the regulatory authority of another federal agency (such as federally chartered or insured depository institutions).

Estimated annual hours burden: 279,000 hours, rounded to the nearest thousand (150,000 recordkeeping hours + 129,167 disclosure hours).

Recordkeeping: Staff estimates that Regulation M's recordkeeping requirements affect approximately 150,000 firms leasing products to consumers and subject to the Commission's jurisdiction, at an average annual burden of one hour per firm, for a total of 150,000 hours.

Disclosure: Regulation M applies to automobile lessors (such as auto dealers, independent leasing companies, and manufacturers' captive finance companies), computer lessors (such as computer dealers and other retailers), furniture lessors, various electronic commerce lessors, and diverse types of lease advertisers, and others. Below is staff's best estimate of burden applicable to this highly broad spectrum of covered entities.

Disclosure	Setup/monitoring			Transaction-related			
	Respondents	Average Burden per Respondent (hours)	Total Setup/ Monitoring Burden (hours)	Number of Transactions	Average Burden per Transaction (minutes)	Total Transaction Burden (hours)	Total Burden (hours)
Auto Leases [1]	50,000	.75	37,500	2,500,000	.50	20,833	58,333
Other Leases [2]	100,000	.50	50,000	1,000,000	.25	4,167	54,167
Advertising	25,000	.50	12,500	1,000,000	.25	4,167	16,667
Total							129,167

[1] This category focuses on consumer vehicle leases. Vehicle leasing has decreased in the past two years. Vehicle leases are subject to more lease disclosure requirements (pertaining to computation of payment obligations) than other lease transactions. (Only consumer leases for more than four months are covered.) See 15 U.S.C. 1667(1); 12 CFR § 213.2(e)(1).

[2] This category focuses on all types of consumer leases other than vehicle leases. It includes leases for computers, other electronics, small appliances, furniture, and other transactions. (Only consumers leases for more than four months are covered.) See 15 U.S.C. 1667(1); 12 CFR 213.2(e)(1).

Estimated annual cost burden: $4,621,000, rounded to the nearest thousand.

Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below ($50 for managerial or professional time, $20 for skilled technical time, and $10 for clerical time) are averages.

Recordkeeping: For the 150,000 recordkeeping hours, staff estimates that 10 percent of the burden hours require skilled technical time and 90 percent require clerical time. As shown below, the total recordkeeping cost is $1,650,000.

Disclosure: For each notice or information item listed, staff estimates that 10 percent of the burden hours require managerial time and 90 percent require skilled technical time. As shown below, the total disclosure cost is $2,970,850.

Required Task	Managerial		Skilled Technical		Clerical		Total Cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
Recordkeeping	0	$0	15,000	$300,000	135,000	$1,350,000	$1,650,000
Disclosures:							
Auto Leases	5,833	291,650	52,500	1,050,000	0	0	1,341,650
Other Leases	5,417	270,850	48,750	975,000	0	0	1,245,850
Advertising	1,667	83,350	15,000	300,000	0	0	383,350
Total Disclosures							2,970,850
Total Recordkeeping and Disclosures							$4,620,850

4. Regulation Z

The TILA was enacted to foster comparison credit shopping and informed credit decision making by requiring accurate disclosure of the costs and terms of credit to consumers. Regulation Z, 12 CFR 226, promulgated by the Board of Governors of the Federal Reserve System, establishes both recordkeeping and disclosure requirements to assist consumers and the enforcement of the TILA. The FTC enforces the TILA as to all creditors and advertisers except those that are subject to the regulatory authority of another federal agency (such as federally chartered or insured depository institutions).

Estimated annual hours burden: 20,179,000 hours, rounded to the nearest thousand (1,000,000 recordkeeping hours + 19,178,749 disclosure hours).

Recordkeeping: FTC staff estimates that Regulation Z's recordkeeping requirements affect approximately 1,000,000 firms offering credit and subject to the Commission's jurisdiction, at an average annual burden of one hour per firm, for a total of 1,000,000 hours.

Disclosure: Regulation Z disclosure requirements pertain to open-end and closed-end credit. The Regulation applies to retailers (such as department stores, appliance stores, discount retailers, medical-dental service providers, home improvement sellers, and electronic commerce retail operators); mortgage companies; finance companies; credit advertisers; auto dealerships; student loan companies; home fuel or power services (for furnaces, stoves, microwaves, and other heating, cooling or residential power equipment); credit advertisers; and others. Below is staff's best estimate of burden applicable to this highly broad spectrum of covered entities.[9]

[9] Visa asserted that the burden estimates were understated for the initial terms and periodic statements disclosures and for billing error resolution. As noted above regarding these regulations, generally, the Commission lacks jurisdiction over traditional depository-type entities (including banks), other than nonfederally-insured or noninsured credit unions and certain securities-type entities that offer credit services to consumers. The Commission has jurisdiction over certain nondepository financial services entities that offer open-end credit, as well as certain health care providers, and other retailers that still issue credit under their own names. Staff has accounted for these entities in its estimates. However, although some entities under the Commission's jurisdiction offer varying forms of and terms within open-ended credit to consumers, many have a more limited offering, including some retailers, health care providers, and others. Moreover, some entities no longer offer open-end credit directly (with banks offering it instead), including, for example, many oil companies, department stores, and other retailers. The nature of entities subject to this jurisdiction impacts initial and periodic disclosures. In addition, regarding billing error resolution, staff notes that the time associated with investigation and account adjustments is not burden imposed by these regulations and is thus not covered by the PRA. Staff has retained its projected estimates in view of these considerations.

Disclosure [1]	Setup/Monitoring			Transaction-related			Total burden (hours)
	Respondents	Average burden per respondent (hours)	Total setup/monitoring burden (hours)	Number of transactions	Average burden per transaction (minutes)	Total transaction burden (hours)	
Open-end credit:							
Initial terms	100,000	.5	50,000	50,000,000	.25	208,333	258,333
Rescission notices	10,000	.5	5,000	100,000	.25	417	5,417
Change in terms	25,000	.5	12,500	136,000,000	.125	283,333	295,833
Periodic statements	100,000	.5	50,000	4,800,000,000	.0625	5,000,000	5,050,000
Error resolution	100,000	.5	50,000	10,000,000	5	833,333	883,333
Credit and charge card accounts	100,000	.5	50,000	50,000,000	.25	208,333	258,333
Home equity lines of credit	10,000	.5	5,000	5,000,000	.25	20,833	25,833
Advertising	250,000	.25	62,500	700,000	.5	5,833	68,333
Closed-end credit:							
Credit disclosures	800,000	.50	400,000	330,000,000	2	11,000,000	11,400,000
Rescission notices	100,000	.50	50,000	34,000,000	1	566,667	616,667
Variable rate mortgages	75,000	.50	37,500	1,800,000	2	60,000	97,500
High rate/high-fee mortgages	50,000	.50	25,000	750,000	2	25,000	50,000
Reserve mortgages	50,000	.50	25,000	150,000	1	2,500	27,500
Advertising	500,000	.25	125,000	1,000,000	1	16,667	141,667
Total open-end credit							6,845,415
Total closed-end credit							12,333,334
Total credit							19,178,749

[1] In some areas, e.g., home equity lines of credit, companies have merged, changed their business focus, and/or have shifted that focus into areas not under the FTC's jurisdiction. Accordingly, staff's estimates account for a reduced number of respondents in these areas. For high-rate, high-fee loans, some respondents in this area have merged and/or changed their business focus. However, revisions to these rules by the FRB became effective 10/1/02; as a result, certain additional mortgages may be covered by these rules.

Estimated annual cost burden: $452,111,000 rounded to the nearest thousand.

Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below ($50 for managerial or professional time, $20 for skilled technical time, and $10 for clerical time) are averages.

Recordkeeping: For the 1,000,000 recordkeeping hours, staff estimates that 10 percent of the burden hours require skilled technical time and 90 percent require clerical time. As shown below, the total recordkeeping cost is $11,000,000.

Disclosure: For each notice or information item listed, staff estimates that 10 percent of the burden hours require managerial time and 90 percent require skilled technical time. As shown below, the total disclosure cost is $441,111,200.

Required Task	Managerial		Skilled Technical		Clerical		Total Cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
Recordkeeping	0	$0	100,000	$2,000,000	900,000	$9,000,000	$11,000,000
Open-end Disclosure:							
Initial terms	25,833	1,291,650	232,500	4,650,000	0	0	5,941,650
Rescission notices	542	27,100	4,875	97,500	0	0	124,600
Change in terms	29,583	1,479,150	266,250	5,325,000	0	0	6,804,150
Periodic statements	505,000	25,250,000	4,545,000	90,900,000	0	0	116,150,000
Error resolution	88,333	4,416,650	795,000	15,900,000	0	0	20,316,650
Credit and charge card accounts	25,833	1,291,650	232,500	4,650,000	0	0	5,941,650
Home equity lines of credit	2,583	129,150	23,250	465,000	0	0	594,150
Advertising	6,833	341,650	61,500	1,230,000	0	0	1,571,650
Total open-end credit							157,444,500
Closed-end credit Disclosures:							
Credit disclosures	1,140,000	57,000,000	10,260,000	205,200,000	0	0	262,200,000
Rescission notices	61,667	3,083,350	555,000	11,100,000	0	0	14,183,350

Required Task	Managerial		Skilled Technical		Clerical		Total Cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
Variable rate mortgages	9,750	487,500	87,750	1,755,000	0	0	2,242,500
High-rate/high-fee mortgages	5,000	250,000	45,000	900,000	0	0	1,150,000
Reverse mortgages	2,750	137,500	24,750	495,000	0	0	632,500
Advertising	14,167	708,350	127,500	2,550,000	0	0	3,258,350
Total closed-end credit							283,666,700
Total Disclosures							441,111,200
Total Record-keeping and disclosures:							452,111,200

John D. Graubert,

Acting General Counsel.

[FR Doc. 02–29980 Filed 11–25–02; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Notice of Awards Consistent With Fiscal Year 2002 Appropriations Act Reports

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of awards made by the Administration on Aging in Fiscal Year 2002 consistent with Fiscal Year 2002 Appropriations Act reports.

SUMMARY: The Administration on Aging announces that it made twenty-nine (29) awards in FY 2002 consistent with the terms of Senate Report 107–84 and House Report 107–116 that accompany the Consolidated Appropriations Act for FY 2002 (Pub. L. 107–116), as follows: Adult Day Care of Northern Shenandoah Valley (VA), $148,050, September 1, 2002, to August 31, 2003; Allegheny County Homestead Apartments LIFE Center (PA), $296,100, September 30, 2002, to September 29, 2003; Alzheimer's Family Day Center (VA), $246,750, August 1, 2002, to December 31, 2003; Area Agency on Aging of Southeast Arkansas Inc. (AR) $493,500, September 1, 2002, to January 31, 2004; Area Agency on Aging of Southwest Arkansas (AR), $227,997, September 1, 2002, to August 31, 2003; Charlotte-Mecklenburg Department of Social Services (NC), $927,973, September 30, 2002, to February 28, 2004; Civic Ventures (CA), $789,600, September 1, 2002, to January 31, 2004; Coalition of Wisconsin Aging Groups (WI), $134,232, September 1, 2002, to August 31, 2003; Comprehensive Housing Assistance, Inc. (MD), $987,000, August 1, 2002, to July 31, 2003; Council of Senior Centers and Services NYC (NY), $74,025, July 1, 2002, to June 30, 2003; County of Wayne (MI), $781,229, September 1, 2002, to September 2003; DuPage County Human Services Department (IL), $98,700, September 1, 2002, to January 31, 2004; Garrett County Area Agency on Aging (MD), $24,675, August 1, 2002, to July 31, 2003; Guadelupe Community Center (CA), $434,119, September 30, 2002, to September 29, 2003; Institute for Music and Neurologic Function (NY), $493,500, August 1, 2002, to July 31, 2003; INTEGRIS (OK), $98,700, September 30, 2002, to September 29, 2003; Iowa Department of Elder Affairs (IA), $1,480,500, September 1, 2002, to August 31, 2003; Iowa State University, (IA), $197,400, September 30, 2002, to September 29, 2003; Jewish Association on Aging, (PA), $197,400, August 1, 2002, to July 31, 2003; Jewish Federation of Great Philadelphia (PA), $196,300, August 1, 2002, to July 31, 2003; Jewish Federation of St. Louis (MO), $1,263,360; August 1, 2002, to July 31, 2003; La Crosse Area Hmong Mutual Assistance Association, Inc. (WI), $125,349, September 30, 2002, to September 29, 2003; Promoting the National Family Caregiver Support Program (VA), $99,750, February 1, 2002, to January 31, 2003; Senior Community Centers of San Diego (CA), $88,830; September 30, 2002, to September 29, 2003; Senior Specialists Agency on Aging of West Central Arkansas (AR), $449,085; September 1, 2002, to August 31, 2003; The Jewish Community Federation of Cleveland (OH), $987,000; August 1, 2002, to July 31, 2003; The Motion Picture and Television Fund (CA), $98,700; September 1, 2002, to August 31, 2003; Tri-County Community Action Program (NH), $49,350; September 30, 2002, to September 29, 2003; Westchester County Department of Senior Programs and Services (NY), $19,740, August 1, 2002, to July 31, 2003.

Dated: November 21, 2002.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 02–29957 Filed 11–25–02; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03016]

Notice of Availability of Funds; Cooperative Agreement for a National Information Center on Physical Activity for Persons With Disabilities

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Section 301(a) and 317(C) of the Public Health Service Act, [42 U.S.C. Section 241 and 247b-4, as amended]. The Catalog of Federal Domestic Assistance number is 93.184.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program for operation of a National Information and Resource Center on Physical Activity for Persons with Disabilities. This program addresses the ''Healthy People 2010'' focus areas of Disability and Secondary Conditions and Physical Activity and Fitness.

The purpose of this program is to provide information, technical assistance, and consultation on physical activity, exercise, and health promotion practices targeting persons with

disabilities across all segments of the population. It includes addressing the prevention of secondary conditions in persons who have a disability by promoting and assessing the benefits of physical activity and exercise, reducing the risk for associated adverse health, promoting environmental access to physical activity and recreational facilities and services, and participation outcomes among persons who have a disabling condition.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center on Birth Defects and Developmental Disabilities (NCBDDD): monitor, characterize, and improve the health status of Americans with disabilities.

C. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; this includes, but is not limited to, universities, colleges, technical schools, research institutions, hospitals, community-based organizations, faith-based organizations, and State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of Palau, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds

Approximately $750,000 is available in FY 2003 to fund one award. It is expected that the award will begin on or about April 1, 2003, and will be made for a 12 month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Grant funds may be used to support personnel services, supplies, equipment, travel, subcontracts, and other services consistent with the approved scope of work.

Project funds may not be used to supplant other available applicant or collaborating agency funds, for construction, for purchase of facilities or space, or for patient care. Project funds may not be used for group, program, or individualized support such as wheelchairs, sport/ recreational and fitness equipment, assistive technology, and medical appliances unless specifically approved by the funding agency.

Recipient Financial Participation

Matching funds are not required for this program.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities

a. Collect and compile information regarding physical activity and exercise for persons with disabilities on a national, regional, and state/local basis. Provide this information to a broad range of requesters, including: Individuals, media, researchers, disability service organizations, community groups, service providers, legislative and governing bodies, and the public.

b. Serve as a leading national organization that sustains a capacity and competency to serve a nationwide constituency on physical activity, exercise, and fitness for persons with a wide range of disabilities and their support networks, including caregivers.

c. Identify, enumerate, and characterize the nature of requests and inquiries from persons with disabilities, caregivers, providers, and organizations seeking information on physical activity and exercise.

d. Provide guidance for initiating and maintaining physical activity among persons with disabilities. Impart information regarding the benefits and recommended amounts of physical activity to individuals and to those populations served by requesting organizations.

e. Provide technical assistance and consultation in the design, conduct, and evaluation of health promotion and community-directed physical activity and exercise programs in targeted populations of persons with disabilities.

f. Organize and conduct symposia and conferences to publicize and promote the benefits of physical activity and fitness for national organizations and constituent groups.

g. Provide information regarding innovative and acceptable physical activity facilities (*e.g.* buildings, parks, trails, equipment, new technology), best practices, and model programs that are fully accessible and available to persons with disabilities with attention to geographical proximity and cost issues.

h. Provide information regarding innovative and acceptable policies that promote physical activity among people with disabilities through accessible and suitable dissemination formats and instruments.

2. CDC Activities

a. Provide technical consultation on current available and emerging research, literature, epidemiological, and physical activity information in the United States.

b. Serve as a conduit for accessing other data sets and for referrals to information resources that would be of value to the information gathering/ dissemination and technical assistance activities of the recipient.

c. Assist in the planning and organizing of conferences and workshops related to project activities regarding physical activity, exercise, and fitness for persons with disabilities.

d. Assist in the development and dissemination of physical activity materials and information to other CDC grantees to maximize use among those populations served.

e. Assist in the transfer of information and methods already developed in the project to other disability-related entities and programs, including environmental measures that can serve to facilitate access to physical activity programs in the community setting.

f. Assist with the identification of physical activity policies, best practices, and model programs for people with disabilities.

F. Content

Letter of Intent

A letter of intent (LOI) is requested for this program. The LOI should identify the program announcement number and the proposed project director. It should describe the scope of the proposed project and denote those activities and collaborations already in place to fully meet the requirements of the announcement. The LOI will be used to determine the level of interest in the announcement, and to assist CDC in planning the application review process.

Applications

The Program Announcement title and number must appear in the application.

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 40 pages, double spaced, printed on one side, with one inch margins and unreduced 12-point font. Attachments are permitted, but should be consistent and compatible with the scope of the tasks described and descriptive of those operational systems that are to be the foundation for the project.

The narrative should consist of, at a minimum, a Plan, Objectives, Evaluation, and Budget.

Applicants must submit a separate typed abstract of their proposal consisting of no more than two single-spaced pages. Applicants should also include a table of contents for the project narrative and related attachments.

G. Submission and Deadline

LOI

On or before December 23, 2002, submit the LOI to the Senior Project Officer identified in Section ''J. Where to Obtain Additional Information'' of this announcement.

Application Forms

Submit the original and two copies of PHS–5161–1 (OMB Number 0920–0428). Forms can be found at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at 770–488–2700. Application forms can be mailed to you.

Application Submission Date, Time, and Address

The application must be received by 4 p.m. Eastern Time, January 16, 2003. Submit the application to: Technical Information Management Section—PA 03016, CDC Procurement and Grants Office, 2920 Brandywine Road, Room 3000, MS–E13, Atlanta, Georgia 30341–4146.

Forms may not be submitted electronically.

CDC Acknowledgment of Application Receipt

A postcard will be mailed by PGO-TIM, notifying you that CDC has received your application.

Deadline

Letters of intent and applications will be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be returned. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement.

Measures of effectiveness must relate to the performance goal stated in section ''B. Purpose'' of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC. It is suggested that applications be organized to be compatible with the evaluation scoring criteria, as that is the process by which the review committee will assess the quality of the applications.

1. Operational Approach (30 Points). This includes:

a. The methods to be employed to sustain an effective information resources system and communications network.

b. The approach to: continue to gather information on the determinants (facilitators and barriers) to physical activity and exercise; assess the perceptions and experiences of persons with disabilities and their families regarding physical activity; formulate a strategy to enable and motivate persons with disabilities to engage in physical activity, exercise, and recreational programs; and continue to promote and publish guidelines and recommendations for sustaining such activities over the long-term.

c. The methods by which the applicant has and will further develop and disseminate educational materials on facts, benefits, programs, policies, and motivational tools based on their value for promoting physical activity in persons with disabilities across the nation in all age ranges and literacy levels during medical treatment, rehabilitation, and in the home and community settings.

d. The approach in place and proposed to expand the construction of a centralized listing of programs, events, and service providers to be disseminated to requesters for personal, organizational, and constituency use.

e. The accounts of the expansion of resource development and communications capacity for employing information technology to reach key targeted groups including impairment-specific populations; children; adolescents; older citizens; women; minorities; lower socio-economic strata; professionals/clinicians, fitness/allied health providers and educators/trainers; persons with varying fitness levels; and changing levels (persons with improving or regressing physical conditioning) in order to best translate information into physical activity and exercise programs and protocols for persons with disabilities.

f. The description of how the applicant has and will continue to develop and implement appropriate readability levels, cultural sensitivity, and fully accessible formats in all communication and program activities.

g. The methods by which the applicant has and will provide technical assistance, information, and consultation to participants and supporting organizations across the nation regarding the design, conduct, and evaluation of programs to introduce and sustain physical activity and exercise in persons with disabilities.

h. The degree to which the applicant presents evidence of work to date in addressing issues related to the barriers and facilitators (*i.e.*, architectural, attitudinal, policies) to physical activity programs and facilities (*e.g.*, trails, parks, fitness facilities, buildings, recreational camps), and with key entities (*e.g.* parks and recreation officials, health care providers, fitness professionals, municipal/city planners, construction managers, school, and citizens groups).

i. The extent to which the applicant adequately addresses the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in

proposed research (as appropriate). This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

2. Capacity to Expand and Operate the Center (25 Points). This includes:

a. Documentation that the organizational mission includes providing resources and best practices in physical activity and health promotion to prevent secondary conditions to persons with disabilities, advocacy and disability service organizations, and entities providing physical activity programs in the community. This should be demonstrated by evidence of established and effective partnerships and information bases that complement this mission through constituencies across demographic groups of people with a wide range of disabling conditions.

b. Documentation that the applicant entity has in place recreational and physical activity or exercise modules that allow individuals with disabilities and practitioners to customize programs according to the individual's own disabling condition and unique needs. This should be demonstrated through presentation of evidence of the existence of such modules.

3. Project Goals and Objectives (20 Points). This includes:

a. The extent to which the management work plan for conducting the project is effective including the process (approach and methods) by which the applicant will meet established goals and objectives.

b. The quality of the presentation of specific goals, objectives and timelines, and how they will be accomplished (with detailed performance expectations for the first year by calendar month or quarter, and a work plan outline for the second and third years of the proposed five year project period).

c. The extent to which the applicant provides a clear vision and description of the achievements and technical innovations it will implement over time that will mark its resource capacity, national outreach, and impact by the close of the project period.

d. The description of the major tasks and responsibilities for key positions including the applicant organization and identified contractual/consultant personnel (include an organization chart and denote the relationship of this project within the applicant organization).

e. The methods by which the applicant has and will seek out, utilize, and benefit from input by persons with disabilities and their families, and from organizations representing the disability and physical activity communities in planning for project.

f. The description of remaining unmet needs and gaps (barriers and constraints) as they relate to advancing a coordinated and comprehensive information system on physical activity and exercise among persons with disabilities, and how this project would move toward elimination of those barriers through the proposed work plan.

4. Organizational Capacity (15 Points). This includes:

a. The capability of the applicant to conduct the project, taking into account its institutional experience, evidence of leadership, and current activities in the field for those activities required.

b. The ability of the applicant to ensure sustained timely access to necessary data and educational materials related to physical activity, denoting the sources for such data and materials.

c. The capacity of the applicant to document evidence of effective ongoing collaborations and linkages with the disability and physical activity fields, professional groups, service providers, fitness facilities, governmental agencies, and community organizations to meet all requirements of the project, including documented letters of support and commitment from those collaborating entities. These organizations include, but are not limited to: major disability advocacy and voluntary entities; organizations promoting use of parks, trails, and outdoor recreation; rehabilitation, fitness, and sports facilities and organizations; and other national information and resource centers such as the Christopher and Dana Reeve Paralysis Resource Center, the National Limb Loss Information Center, the Attention Deficit Hyperactivity Disorder Center, and the American Association on Health and Disability.

d. The capacity of the applicant to gather and assess necessary demographic and functional outcome information regarding sub-group patterns for engaging in physical activity and the benefits to be derived, including the kinds and sources of information to be accessed, analyzed, and publicized, the staff/organizations charged with its control, and how that data would be used.

5. Evaluation (10 points). The extent to which the applicant fully and adequately describes how it will demonstrate its effectiveness in meeting all objectives in the evaluation of its work plan; including staff performance, organizational outreach and collaborations; and all informational, referral, communications, and technical assistance activities.

6. Budget Justification—Not Scored. This criteria includes the adequacy of the budget justification and its relationship to program operations, collaborations, and services. Each line item of the budget must be justified in a narrative with special attention given to contractual requests including the responsibilities of consultants, percentage time equivalents, hourly or daily rates, etc. This section will also be evaluated on the adequacy of facilities to conduct the project. The budget narrative does not count against the maximum page limit for the full application.

7. Human Subjects—Not Scored.

This includes the extent to which the application adequately addresses the requirements of Title 45 CFR Part 46 for the protection of human subjects. If the proposed project involves research on human participants, assurance and evidence must be provided that the project will be subject to initial and continuous reviews by an appropriate institutional review board. Does the applicant adequately address the requirements of 45 CFR 46 for the protection of human subjects?

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Interim progress reports, no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application and must include the following elements:

a. Current budget period activities and objectives

b. Current budget period financial progress

c. New budget period proposed activities and objectives

d. Detailed line-item budget and justification

e. Report on estimated unobligated funds

f. Additional requested information

2. Financial status report, no more than 90 days after the end of the budget period

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in Section ''J. Where to Obtain Additional Information'' of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see attachment I of the announcement as posted on the CDC Web site.

AR–1 Human Subjects Requirements

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

Executive Order 12372 does not apply to this program.

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For general questions about this announcement, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management and budget assistance, contact: Sheryl Heard, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia, 30341–4146, Telephone (770) 488–272, E-mail address: *slh3@cdc.gov.*

For program technical assistance, contact: Joseph B. Smith, Senior Project Officer, National Center on Birth Defects and Developmental, Disabilities, Disability and Health Team, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway (Mailstop F–35), Atlanta, Georgia 30341, Telephone (770)488–7082, E-mail address: *jos4@cdc.gov.*

Dated: November 20, 2002.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–29953 Filed 11–25–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93581–2003]

Administration for Native Americans: Availability of Financial Assistance

AGENCY: Administration for Native Americans ACF, DHHS.

ACTION: Announcement of availability of competitive financial assistance for improving the capability of Indian Tribal governments to regulate environmental quality.

SUMMARY: The Administration for Native Americans (ANA) announces the anticipated availability of fiscal year 2003 funds for Environmental Regulatory Enhancement projects. Financial assistance provided by ANA is designed to assist applicants in planning, developing and implementing projects which will improve the capability of eligible applicants to regulate environmental quality pursuant to Federal and Tribal environmental laws.

The printed **Federal Register** notice is the only official program announcement. Although all reasonable efforts are taken to assure that the files on the ANA World Wide Web Page containing electronic copies of this program announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete. Copies of this program announcement and many of the required forms may be obtained by calling the toll free ANA Applicant Help Desk at 1–877–922–9262 or electronically at the ANA World Wide Web address, *http://www.acf.hhs.gov/programs/ana/*.

CLOSING DATE: The closing date for this announcement is February 28, 2003.

SUPPLEMENTARY INFORMATION:

Introduction and Purpose

This notice announces the anticipated availability of the fiscal year 2003 funds for the Environmental Regulatory Enhancement Program, authorized under Section 803(d) of the Native American Programs Act of 1974 (Act), 42 U.S.C. 2991b.

The availability of funds for this competitive area is contingent upon sufficient final Congressional appropriations. Proposed projects will be reviewed on a competitive basis against the specific evaluation criteria presented in this announcement.

Information regarding ANA's policy, goals, application requirements, review criteria and closing date for this competitive area are included in this announcement.

This program announcement consists of three parts.

Part I—ANA Policy and Goals

Provides general information about ANA's policies and goals for this competitive area. This section contains information pertaining to all applicants.

Part II—ANA Competitive Area

Describes the competitive area, Environmental Regulatory Enhancement, under which ANA is requesting applications. The following sections provide information to be used to develop an application:

A. Purpose and Availability of Funds
B. Background
C. Proposed Projects To Be Funded
D. Eligible Applicants
E. Grantee Share of the Project
F. Review Criteria
G. Application Due Date(s)
H. Program Information Contact

Part III—General Application Information and Guidance

Provides important information and guidance that applies to this competitive area and must be taken into account in developing an application.

A. Definitions
B. Activities That Cannot Be Funded
C. Project and Budget Periods
D. Intergovernmental Review of Federal Programs
E. The Application Process
F. The Review Process
G. General Guidance to Applicants
H. Paperwork Reduction Act of 1995
I. Postmarked by Deadline
J. Standard Forms, Certifications and Assurances

Part I—ANA Policy and Goals

The Administration for Native Americans believes that responsibility for achieving environmental regulatory enhancement rests with the governing bodies of Indian tribes, Alaska Native villages, and with the leadership of Native American groups.

Environmental regulatory enhancement includes but is not limited to: the planning, development, and application of laws; training; monitoring

and enforcement procedures; and associated regulatory activities to strengthen the tribal government's capacity to enhance the quality of reservation life as measured by the reduction of pollutants in the air, water, soil, food and materials encountered by inhabitants of tribes and villages.

Progress toward the goal of environmental regulatory enhancement would also include but is not limited to: the strengthening of tribal environmental laws, providing for the training and education of those employees responsible for ensuring compliance with and enforcement of these laws, environmental assessments, development and use of environmental laboratories and other facilities; and the development of tribal court systems and programs to conduct compliance and enforcement functions.

ANA supports these activities on a government-to-government basis in a way that recognizes tribal sovereignty and is consistent with tribal culture. Applicants must comply with the following administrative policies:

- A current Indian Environmental Regulatory Enhancement grantee whose grant project period extends beyond September 30, 2003 or which has requested an extension of the grant project beyond that date, will not be funded under this announcement.
- Applicants must describe a locally determined strategy to carry out a proposed project with fundable objectives and activities.
- Local long-range planning must consider the maximum use of all available resources, describe how the resources will be directed to development opportunities, and present a strategy for overcoming the local issues that hinder movement toward self-sufficiency in the community.
- An application from a federally recognized Tribe, Alaska Native Village or Native American organization must be from the governing body of the Tribe or organization.
- ANA will not accept applications from tribal components which are tribally-authorized divisions of a larger tribe, unless the application includes a Tribal resolution which clearly demonstrates the Tribe's support of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area both for the current competition and for the duration of the approved grant period, should the application be funded.
- If a federally recognized Tribe or Alaska Native village chooses not to apply, it may support another applicant's project (*e.g.*, a tribal organization) which serves or impacts their reservation. In this case, the applicant must include a Tribal resolution which clearly demonstrates the Tribe's approval of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area both for the current competition and for the duration of the approved project period, should the application be funded.
- ANA will only accept one application which serves or impacts a reservation, Tribe, or Native American community.
- Non-Profit Status: Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the Federally recognized Tribe or State in which the corporation or association is domiciled.
- If the applicant, other than a tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans or Alaska Natives, or both, it must provide assurance that the majority of its duly elected or appointed board of directors is representative of the community to be served.
- Matching/Cost Sharing: Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements though cash contributions. Therefore, a project requesting $100,000 in Federal fund (based on an award of $100,000 per budget period) must provide a match of at least $25,000 (20% total approved project cost). Grantees will be held accountable for commitments of non-Federal resources even if over the amount of the required match. Failure to provide the amount will result in disallowance of Federal match. An itemized budget detailing the applicant's non-Federal share, and its source(s), must be included in the application.
- A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations.

Part II—Competitive Area: Indian Environmental Regulatory Enhancement Projects

A. Purpose and Availability of Funds

This competitive area funds environmental regulatory enhancement projects. Approximately $3 million in financial assistance is anticipated to be available for these projects. ANA expects to award approximately 35 grants under this competitive area. The funding level for a budget period of 12 months will be up to $250,000. An applicant may propose project periods of between 12 and 36 months.

B. Background

Despite an increasing environmental responsibility and growing awareness of environmental issues on Indian lands, there has been a lack of resources available to tribes to develop tribal environmental programs that are responsive to tribal needs. In many cases, the lack of resources has resulted in a delay in action on the part of the tribes.

In 1990, Congress added Section 803(d) to the Native American Programs Act of 1974 to address critical issues identified by tribes before congressional committees, some of which included: The need for assistance to train professional staff to monitor and enforce tribal environmental programs; the lack of adequate data for tribes to develop environmental statutes and establish quality environmental standards; and the lack of resources to conduct studies to identify sources of pollution and determine the impact on existing environmental quality.

The Native American Program's Act of 1974 was amended to strengthen tribal governments through building capacity in order to identify, plan, develop, and implement environmental programs in a manner that is consistent with tribal culture. Ultimate success in this program will be realized when the applicant's desired level of environmental quality is acquired and maintained.

C. Proposed Projects To Be Funded

Financial assistance provided by ANA is available for developmental projects designed to assist tribes in advancing their capacity and capability to plan for and:

- Develop or enhance the tribal environmental regulatory infrastructure required to support a tribal environmental program, and to regulate

and enforce environmental activities on Indian lands pursuant to Federal and Indian law;

- Develop regulations, ordinances and laws to protect the environment;
- Develop the technical and program capacity to carry out a comprehensive tribal environmental program and perform essential environmental program functions;
- Promote environmental training and education of tribal employees;
- Develop technical and program capability to meet tribal and Federal regulatory requirements;
- Develop technical and program capability to monitor compliance and enforcement of tribal environmental regulations, ordinances, and laws; and
- Ensure that tribal court system enforcement requirements are developed in concert with and in support of the tribe's comprehensive environmental program.

D. Eligible Applicants

The following organizations are eligible to apply under this competitive area:

- Federally recognized Indian tribes;
- Incorporated non-federally and State recognized Indian tribes;
- Alaska Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;
- Nonprofit Alaska Native Regional Corporations/Associations with village specific projects;
- Other tribal or village organizations or consortia of Indian tribes; and
- Tribal governing bodies (IRA or traditional Councils) as recognized by the Bureau of Indian Affairs.

The following organizations are not eligible to apply under Section 803(d) of the Native Americans Programs Act of 1974 and the ANA regulations at 45 CFR 1336.33(a)(4). These organizations have been excluded from eligibility because they are neither Tribes nor Tribal organizations, which customarily act on the behalf of tribes in environmental matters.

- Urban Indian Centers;
- Incorporated nonprofit multi-purpose community-based Indian organizations;
- Public and nonprofit private agencies serving: Native Hawaiians, peoples from Guam, American Samoa, and the Commonwealth of Northern Mariana Islands;
- Incorporated nonprofit Alaska Native multi-purpose community based organizations; and
- National or regional incorporated nonprofit Native American organizations with Native American community-specific objectives.

E. Grantee Share of the Project

Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is defined as the sum of the Federal request and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. For example, a project requesting $100,000 in Federal funds must provide a non-federal share match of at least $25,000 (20 percent of the total approved project cost or 25 percent of the Federal request).

Failure to provide the non-federal share amount stated in the proposal will result in disallowance of an equivalent portion of the funds awarded to the grantee.

As per 45 CFR Part 74.2, in-kind contributions are defined as the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.(See 45 CFR Part 92)

In addition, an applicant may provide matching funds from other Federal funding sources where legislation authorizes use of funds for match and provided the source relates to the ANA project. Under 45 CFR 74.23(a)(5) use of funds under another Federal Program for non-Federal match must be authorized by statute.

F. Review Criteria

The evaluation criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to this competitive area and these criteria. Proposed projects will be reviewed on a competitive basis using the following evaluation criteria:

(1) Long-Range Goals and Available Resources (20 Points)

(a) The application describes the long-range goals and strategy, including:

- How specific environmental regulatory enhancement long-range goal(s) relate to the proposed project and strategy;
- How the community intends to achieve these goals;
- The applicant's specific environmental regulatory needs; and
- A clearly delineated strategy to improve the capability of the governing body of a tribe to regulate environmental quality through enhancing local capacity to perform necessary regulatory functions.

Description and documentation of the long-term goals and strategy may by met in several ways.

- The application identifies and documents pre-existing and planned involvement and support of the community in the planning process and implementation of the proposed project.
- The type of community you serve and nature of the proposal will influence the type of documentation necessary. For example, a Tribe may choose to address this requirement by submitting a resolution stating that community involvement has occurred in the project planning or may determine that additional community support work is necessary.
- Similarly, a tribal organization may submit resolutions supporting the project proposal from each of its member tribes, as well as a resolution from the applicant organization.
- Other examples of documentation include: Community surveys; minutes of community meetings; questionnaires; tribal presentations; and/or discussion/position papers.

Supporting documentation, including letters of support, if available, or other specific testimonies from concerned interests other than the applicant should be included to demonstrate support for the feasibility of the project.

In discussing the goals, strategy, and needs being addressed in the application, include sufficient background and/or history of the community concerning these issues and/or progress to date, as well as the size of the population to be served. This material will assist the reviewers in determining the appropriateness and potential benefits of the proposed project.

(b) Available resources (other than ANA and the non-Federal share) which will assist, and be coordinated with the project are described. Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community.

- These other available resources may be human, natural or financial, and may include other Federal and non-Federal resources. Applicant statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources.
- Project designs should explain how those parts of projects which ANA does not fund will be financed through other sources. For example, ANA does not fund construction. A commitment from another Federal agency or foundation

pledging $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment.

• Applicants must show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

• In the proposal, the applicant should describe any specific financial circumstances that may impact on the project, such as any monetary or land settlements made to the applicant, and any restrictions on the use of those settlements. When the applicant appears to have other resources to support the proposed project and chooses not to use them, the applicant should explain why it is seeking ANA funds and not using these resources for the project.

(2) Organizational Capabilities and Qualifications (15 Points)

(a) Organizational capabilities are described in the application.

• The management structure of the applicant is explained.

• Evidence of the applicant's ability to manage a project of the scope proposed is well documented. The application clearly shows the successful management of projects of similar scope by the organization, and/or by the individuals designated to manage or consult on the project. The tribe itself may not have experience to meet this requirement, but the proposed staff and consultants should have the required qualifications and experience.

• The application should clearly describe any previous or current activities of the applicant organization or proposed staff and/or consultants in support of environmental regulatory enhancement.

• The administrative structure of the applicant is explained. Where the proposed ANA project will fit within the current organization is described.

• A project-staffing pattern is presented.

(b) Position descriptions and/or resumes of project personnel, including those of consultants, are presented.

• The position descriptions and/or resumes relate specifically to the staff proposed in the Project Approach and in the proposed Budget of the application.

• Position descriptions very clearly describe each position, and the duties that clearly relate to the personnel staffing pattern required to achieve the project objectives.

• Resumes indicate that the proposed staff is qualified to carry out the project activities. Resumes must be included if individuals have been identified for positions in the application.

Either the position descriptions or the resumes contain the qualifications and/or specialized skills necessary for overall quality management of the project.

Note: Applicants are strongly encouraged to give preference to Native Americans in hiring staff and subcontracting services under an approved ANA grant.

(3) Project Approach: Objectives, Activities and Outcomes (50 Points)

The application provides a narrative describing the overall approach and operation of the proposed project throughout entire project period.

(a) Objective and Activities: The application proposes specific project Objective Work Plans (OWPs) with activities that relate to each specific objective. The OWP includes project objectives and activities for each budget period proposed.

The OWP demonstrates that each of the project objectives and its activities:

• Supports the community's strategy for environmental regulatory enhancement;

• Clearly relates to the community's long-range environmental goals;

• Can be accomplished with the available or expected resources during the proposed project period;

• Indicates when the objective, and major activities under each objective, will be accomplished;

• Specifies who will conduct the activities under each objective; and

• Supports a project that will be completed, self-sustaining, or financed by other than ANA funds at the end of the project period. All projects funded by ANA must be completed, self-sustaining, or supported with other than ANA funds at the end of the project period. ''Completed'' means that the project ANA funded is finished, and the desired result(s) have been attained. ''Self-sustaining'' means that a project will continue without outside resources. ''Supported by other than ANA funds'' means that the project will continue beyond the ANA project period, but will be supported by funds other than ANA's; and is measurable and/or quantifiable in terms of outcomes.

The OWP should be of sufficient detail to become a monthly staff guide for project responsibilities. Applicants are encouraged to follow the recommended ANA application kit format; however, it is not a requirement. The relevant information included in an Objective Work Plan should indicate what is to be achieved, how, by whom, when and with indicators of evaluation.

(b) Completion of the proposed objectives will result in specific, measurable outcomes.

• The application shows how the expected outcomes will help the community meet its long-range environmental goals.

• The specific information provided in the narrative and Objective Work Plans on expected outcomes for each objective is the standard upon which its achievement can be evaluated at the end of each budget year.

(4) Budget (15 Points)

Detailed Federal and non-federal share line item budgets and detailed budget justifications are provided for each budget period requested. The budget narrative provides information that:

• Aligns with the budget categories in Section B of the Budget Information on the Standard Form 424–A.

• Cites the source of the applicant's non-Federal share.

• Explains the coordination and organized delivery of any non-ANA resources proposed for the project.

• Includes and justifies sufficient cost and other necessary details to facilitate the determination of allowable costs and the relevance of these costs to the proposed project.

• Requests funds that are appropriate and necessary for the scope of the proposed project.

• Includes sufficient funds for principal representatives from the applicant organization to travel to one post-award grant training and technical assistance conference. This travel and training should occur as soon as practical.

• For business development projects, the proposal demonstrates that the expected return on the funds used to develop the project provides a reasonable operating income and return within a future specified period.

• Where implemented, includes an employee fringe benefit budget that provides grant-funded employees with a retirement plan in addition to Social Security. The applicant is encouraged to provide a retirement plan fringe benefit of up to five (5) percent of grant funded employees-salaries. ANA supports a retirement plan as a necessary, reasonable and allowable cost in accordance with OMB rules. Recommended features for an acceptable retirement fringe benefit plan are:

• The plan exists for the exclusive benefit of the participants; funds are to be used for retirement and certain other pre-retirement needs, not for the organization's needs.

• The plan must have a vesting schedule that does not exceed the initial budget period of the ANA grant.

Other retirement proposals may be submitted for review and approval during grant award negotiations. Alternate proposals may include the use of Individual Retirement Accounts, Money Purchase Pension Plans, Defined Benefit Pension Plans, Combination Plans, *etc.*

• If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Agreement must be included in the application.

G. Application Due Date

The closing date for submission of applications under this competitive area is February 28, 2003.

H. Program Information Contact

ANA Applicant Help Desk, Administration for Children and Families, Administration for Native Americans, Aerospace Center—901 D Street SW., Washington, DC 20447, (877) 922–9262 (toll free).

Part III—General Application Information and Guidance

A. Definitions

Funding areas in this program announcement are based on the following definitions:

• Multi-purpose Community-based Native American Organization: Is an association and/or corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several different areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, and the delivery of human services such as health care, daycare, counseling, education, and training.

• Multi-year Project: Is a project on a single theme that requires more than 12 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period.

• Budget Period: Is the interval of time (usually 12 months) into which the project period is divided for budgetary and funding purposes.

• Environmental Regulatory Enhancement: Includes (but is not limited to) the planning, development, and application of laws, training, monitoring, and enforcement procedures, tribal courts, environmental laboratories and other facilities, and associated regulatory activities to strengthen the tribal government's capacity to enhance the quality of reservation life as measured by the reduction of pollutants in the air, water, soil, food and materials encountered by inhabitants of tribes and villages.

• Real Property: Means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

• Construction: Is the term, which specifies a project, supported through a discretionary grant or a cooperative agreement, to support the initial building of a facility.

• Core Administration: Is funding for staff salaries for those functions which support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project. However, functions and activities that are clearly project related are eligible for grant funding. For example, the management and administrative functions necessary to carry out an ANA approved project are not considered core administration and are, therefore, eligible costs. Additionally, ANA will fund the salaries of approved staff for time actually and reasonably spent to implement a funded ANA project.

• Equipment: Is tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

• Renovation or Alteration: May not exceed the lesser of $150,000 or 25% of the total direct costs approved for the entire budget period. The work required to change the interior arrangements or other physical characteristics of an existing facility or installed equipment so that it may be more effectively used for the project. Alteration and renovation may include work referred to as improvements, conversion rehabilitation, remodeling or modernization, but is distinguished from construction and large-scale permanent improvements.

B. Activities That Cannot Be Funded

The Administration for Native Americans does not fund:

• Projects that operate indefinitely or require ANA funding on a recurring basis.

• Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations which are otherwise eligible to apply to ANA (third party T/TA). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable. In addition, T/TA is an allowable activity for environmental regulatory enhancement projects submitted under Competitive Area 3.

• ANA will not fund the purchase of real property.

• ANA will not fund construction.

• Objectives or activities for the support of core administration of an organization.

• Costs of fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under a grant award. However, even though these costs are unallowable for purposes of computing charges to Federal awards, they must be treated as direct costs for purposes of determining indirect cost rates and be allocated their share of the organization's indirect costs if they represent activities which (1) include the salaries of personnel, (2) occupy space, and (3) benefit from the organization's indirect costs.

• Projects or activities that generally will not meet the purposes of this announcement are discussed further in Part III, Section G, General Guidance to Applicants, below.

C. Project and Budget Periods

This announcement is inviting applications for project periods up to three years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the three year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the government.

Therefore, this program announcement does not apply to current ANA grantees with multi-year projects that apply for continuation funding for their second or third year budget periods.

D. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372 or 45 CFR part 100.

E. The Application Process

1. Application Submission

Applicants are strongly encouraged to request a legibly dated receipt from a commercial carrier or U.S. Postal Service as proof of timely mailing. ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of receipt. Videotapes and cassette tapes may not be included as part of a grant application for panel review.

No additional material will be accepted, or added to an application, unless it is postmarked by the deadline date.

Number of Copies: Each application should include one signed original and two additional copies of the grant application, including all attachments.

(a) By Mail. Applications must be mailed on or before the specific closing date of this ANA competitive area to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, 370 L'Enfant Promenade, SW., Mail Stop: Aerospace Center—8th Floor West, Washington, DC 20447–0002, Attention: Lois B. Hodge, ANA No. 93581–2003.

(b) By Hand Delivery. Applications may be hand delivered. Applications are accepted between the hours of 8 a.m. to 4:30 p.m., Monday through Friday. They are either received on or before the deadline date or postmarked on or before the established closing date at: Administration for Children and Families, Office of Grants Management, ACF Mail Room, Second Floor, Aerospace Center, 901 D Street, SW., Washington, DC 20024, Attention: Lois B. Hodge, ANA No. 93581–2003.

2. Application Consideration

The ANA Commissioner determines the final action to be taken on each grant application received under this program announcement. The Commissioner's funding decision is based on a review panel's analysis of the application, recommendation and comments of ANA staff, State and Federal agencies having grant performance related information, and other parties. The commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this program announcement, and the availability of funds. The Administration for Native Americans funds projects that demonstrate the strongest prospects for addressing the stated purposes of this program announcement.

(a) Incomplete applications and applications that do not conform to this announcement will not be accepted for review. ANA will notify applicants in writing of any such determination. An incomplete application is one that is:

- Missing the Application for Federal Assistance form (SF 424).
- Does not have an authorized signature on the SF 424. The application's SF 424 must be signed by a representative authorized (1) to act for the applicant tribe or organization, and (2) to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.
- Does not include proof of non-profit status, if applicable.

(b) Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process (discussed in section G below). Independent review panels consisting of reviewers familiar with American Indian Tribes and Native American communities and organizations, and environmental issues, as appropriate, evaluate each application using the published criteria in each funding competitive area. As a result of the review, a normalized numerical score will be assigned to each application. A normalized score reflects the average score from the reviewers, adjusted to reflect the average score from the panels.

Successful applicants are notified through an official Financial Assistance Award (FAA) document. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-ACF matching share requirement.

The Administration for Native Americans will accept only one application per competitive area from any one applicant. If an eligible applicant sends in two applications for the same competitive area, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

F. The Review Process

1. Initial Application Review

Eligible applications submitted by the closing date and verified by the postmark will undergo a pre-review screening to determine that:

- The applicant is eligible in accordance with the Eligible Applicants Section of this announcement; and
- The application is signed and submitted by the deadline explained in section G, Application Due Date.
- The application narrative, forms and materials submitted are adequate to allow the review panel to undertake an in depth evaluation and the project described is an allowable type. (All required materials and forms are listed in the Grant Application Checklist in the Application Kit).

Applicants whose applications are subjected to the pre-review described above and which are found ineligible for funding under the program will be notified of their appeal right under Section 810 of the Native American Programs Act of 1974, as amended. ANA will inform applicants whose applications are not submitted by the required date, unsigned, or in some other way incomplete that their applications are being rejected as incomplete or late.

2. Competitive Review of Accepted Applications

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the specific evaluation criteria listed in Part II. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success.

Applications will not be ranked based on general financial need.

ANA staff cannot respond to requests for information regarding funding decisions prior to the official notification to the applicants.

After the Commissioner has made decisions on all applications, unsuccessful applicants are notified in writing within 30 days. The notification will be accompanied by a critique including recommendations for improving the application.

3. Appeal of Ineligibility

Applicants who are initially excluded from competitive evaluation because of ineligibility may appeal an ANA decision of applicant ineligibility. Likewise, applicants may also appeal an ANA decision that an applicant has proposed activities are ineligible for funding consideration. The regulations governing the appeals process can be

found at 45 CFR 1336.33–35 or the **Federal Register** of August 19, 1996 (61 FR 42817).

G. General Guidance to Applicants

Application Kit (OMB# 0980–0204, expires April 30, 2003). The application kit contains the necessary forms and instructions to apply for a grant under this program announcement. Application kits may be obtained from ANA training and technical assistance providers. We strongly encourage that applicants follow the review criterion order and the Objective Work Plan format as outlined in the ANA application kit to develop an application. The Kit provides required forms, practical information and helpful suggestions and is an aid to help applicants prepare an ANA application.

Training and Technical Assistance (T/TA): ANA employs contractors to provide short-term training and technical assistance to eligible applicants. T/TA is available under these contracts for a wide range of needs; however, the contractors are not authorized to write applications. The T/TA is provided at no cost. To obtain an application kit and/or, training and technical assistance, applicants are encouraged to contact the appropriate T/TA provider within the appropriate service area. To locate the T/TA provider currently serving the region you are located in, you may call the ANA Applicant Help Desk at 1–877–922–9262 or visit the ANA website at: *http://www.acf.hhs.gov/programs/ana/.*

The following information is provided to assist applicants in developing a competitive application.

- Applications, which were not funded under a previous closing date and revised for resubmission, should make reference to the changes, or reasons for not making changes, in their current application.
- An application with an original signature and two additional copies are required.
- The Cover Page (included in the Kit) should be the first page of an application, followed by the one-page abstract.
- The applicant should specify the entire project period length on the first page of the SF424, Block 13, not the length of the first budget period. Should the application propose one length of project period and the SF 424 specify a conflicting length of project period, ANA will consider the project period specified on the Form 424 as the request. ANA may negotiate a reduction of the project period.
- Line 15a of the Standard Form 424 must specify the Federal funds requested for the first Budget Period only, not the entire project period.
- Applicants are encouraged to have someone other than the author apply the evaluation criteria in the program announcement and score the application prior to its submission, in order to gain a better sense of the application's quality and potential competitiveness in the ANA review process.
- For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.
- The Administration for Native Americans will not fund essentially identical projects serving the same constituency.
- If other Federal funding sources could support a project, the applicant should fully explain its reasons for not pursuing other Federal funds for the project.
- The Objective Work Plan proposed should be of sufficient detail to become a monthly staff guide for project responsibilities if the applicant is funded.
- If a profit-making venture is being proposed, profits must be reinvested in the business in order to decrease or eliminate ANA's future financial participation. Such revenue must be reported as general program income. A decision will be made at the time of grant award regarding appropriate use of program income. (*See* 45 CFR part 74 and part 92.)
- Applicants for multi-year projects must justify the entire timeframe of the project (*i.e.*, why the project needs funding for more than one year) and clearly describe the results to be achieved for each objective by the end of each budget period of the total project period. Separate Objective Work Plans (OWPs) must be presented for each project year and a separate itemized budget of the Federal and non-Federal costs of the project for each budget period must be included.
- The Administration for Native Americans will critically evaluate applications in which the acquisition of equipment is a major component of the Federal share of the budget. Equipment is tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. During negotiation, ANA may delete such expenditures from the budget of an otherwise approved application, if not fully justified by the applicant and deemed not appropriate to the needs of the project.
- Applicants are encouraged to request a legibly dated receipt from a commercial carrier or U.S. Postal Service as proof of a timely mailing.
- The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.
- The Administration for Native Americans recommends that the pages of the application be numbered sequentially and that a table of contents is provided. Simple tabbing of the sections of the application is also helpful.
- Applicants may propose a 17-month budget and project period. However, the budget period for the first year of a multi-year project may only be 12 months.

Projects or activities that generally will not meet the purposes of this announcement:

- Projects that request funds for feasibility studies, business plans, marketing plans or written materials, such as manuals, that are not an essential part of the applicant's long-range development plan. As an objective of a larger project, business plans are allowable. ANA expects written evidence of the solid investment of time and consideration on the part of the applicant with regard to the development of business plans. Business plans should be developed based on market analysis and feasibility studies regarding the potential success to the business prior to the submission of the application.
- Core administration functions, or other activities, which essentially support only the applicant's on-going administrative functions.
- Project goals, which are not responsive to this competitive area.
- Proposals from consortia of tribes that are not specific with regard to support from, and roles of, member tribes. ANA expects an application from a consortium to have goals and objectives that will create positive impacts and outcomes in the communities of its members.
- Proposals from consortia of tribes should have individual objectives, which are related to the larger goal of the proposed project. Project objectives may be tailored to each consortium member, but within the context of a common goal for the consortium. ANA will not fund duplicate activities proposed by a consortium and its member tribes.
- Projects that will not be completed, self-sustaining, or supported by other than ANA funds, at the end of the project period.

• ANA will not fund investment capital for purchase or takeover of an existing business, for purchase or acquisition of a franchise, or for purchase of stock or other similar investment instruments.

• Renovation or alteration of project facilities, unless it is essential for the project.

• Projects originated and designed by consultants whom provide a major role for themselves in the proposed project and are not members of the applicant organization, tribe or village.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record keeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ANA grant applications under the Program Narrative Statement by OMB approval number 0980–0204.

I. Postmarked by Deadline

The closing date for submission of applications is February 28, 2003. Mailed applications postmarked after the closing date will be classified as late.

1. Deadline: Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, 370 L'Enfant Promenade SW., Mail Stop: Aerospace Center 8th Floor West, Washington, DC 20447–0002, Attention: Lois B. Hodge.

Applicants must ensure that a legibly dated U.S. Postal Services postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as a proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company from the applicant. Private metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applicants handcarried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, ACF Mail Room, Second Floor, Aerospace Center, 901 D Street SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge, Grants Officer''. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time receipt. Applications and related materials postmarked after the closing date will be classified as late. No additional material will be accepted, or added to an application, unless it is postmarked by the deadline date.

2. Late Applications: Applications, which do not meet the Deadline criteria above, are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

3. Extension of Deadlines: The Administration for Children and Families may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is a widespread disruption of the mails. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer. J. Standard Language Concerning the Certifications, Assurances, and Disclosure Required for Non-Construction Programs.

Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs''. Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications. Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended, or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

(Catalog of Federal Domestic Assistance Program Numbers: 93.581 Improving the Capability of Indian Tribal Governments to Regulate Environmental Quality)

Dated: October 15, 2002.

Sharon G. McCully,

Acting Deputy Commissioner, Administration for Native Americans.

[FR Doc. 02–29932 Filed 11–25–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0159]

Agency Information Collection Activities; Announcement of OMB Approval; Focus Groups as Used by the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing that the proposed collection of information entitled ''Focus Groups as Used by the Food and Drug Administration'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Mark L. Pincus, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1471.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 30, 2002 (67 FR 55854), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to,

a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0497. The approval expires on May 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: November 20, 2002.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 02–29927 Filed 11–25–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 12, 2002, from 8 a.m. to 6 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–302), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3514, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 19516. Please call the Information Line for up-to-date information on this meeting.

Agenda: On December 12, 2002, the following committee updates are tentatively scheduled: (1) Summary of West Nile Virus workshop, November 4 and 5, 2002; (2) Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250), and (3) human immunodeficiency virus (HIV) rapid tests. In the morning, the committee will hear presentations, and discuss and provide recommendations on the topic of bacterial contamination. In the afternoon, the committee will hear presentations on human parvovirus B19 nucleic acid testing for whole blood and source plasma, and discuss and provide recommendations.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 22, 2002. Oral presentations from the public will be scheduled between approximately 11:15 a.m. and 12:15 p.m. and 4:30 p.m. and 5 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 22, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Linda A. Smallwood or Pearline K. Muckelvene at 301–827–1281 at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 20, 2002.

Linda Arey Skladany,

Associate Commissioner for External Relations.

[FR Doc. 02–29928 Filed 11–25–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94D–0147]

Guidance for Industry: Studies to Evaluate the Utility of Anti-*Salmonella* Chemical Food Additives in Feeds; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry (#80) entitled ''Guidance for Industry: Studies to Evaluate the Utility of Anti-*Salmonella* Chemical Food Additives in Feeds.'' The guidance explains the standards upon which studies to establish the utility of anti-*Salmonella* chemical food additives for maintaining feeds *Salmonella*-negative should be based. The intended effect of this guidance is to provide advice on study standards for the establishment of anti-*Salmonella* food additives that will maintain feeds *Salmonella*-negative.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the final guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the final guidance document.

FOR FURTHER INFORMATION CONTACT: Henry E. Ekperigin, Center for Veterinary Medicine (HFV–222), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0174, e-mail: hekperig@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In April 1991, FDA publicly discussed its intention to adopt a policy requiring feeds and feed ingredients to be *Salmonella*-free (meeting of FDA's Veterinary Medicine Advisory Committee, April 11, 1991, Bethesda, MD). The agency later adopted a policy requiring feeds and feed ingredients to be *Salmonella*-negative (see 59 FR 33975, July 1, 1994). This reflected concerns that *Salmonella* infections cause a significant portion of foodborne illnesses, and that animal feeds are a significant source of *Salmonella* infections in food animals and thus in humans. After the issuance of the *Salmonella*-negative policy, development began on several products designed to achieve and maintain *Salmonella*-negative levels in animal feeds. Sponsors of these products may file food additive petitions to establish the safety and utility of the additives. Because sponsors have used a variety of research methods to support their petitions, FDA has found it difficult to

evaluate the petitions in a uniform manner.

In an effort to achieve more consistency, FDA developed a draft guidance entitled ''Utility Studies for Anti-*Salmonella* Chemical Food Additives in Animal Feeds.'' The availability of this draft guidance was announced in the **Federal Register** of June 23, 1994 (59 FR 32442). A public workshop on this topic was held on August 8, 1994, in conjunction with the annual meeting of the Poultry Science Association in Starkville, MS. Comments at the public workshop and the written comments received on the draft guidance led FDA to revise the draft document. The agency clarified several statements that had caused confusion or had raised questions among the respondents. Further, following suggestions from the respondents, the agency made several changes in the testing methods.

The purpose of this final guidance is to support consistent evaluation of anti-*Salmonella* food additives and their ability to maintain a *Salmonella*-negative level in previously ''clean'' animal feeds through repeated exposure to various *Salmonella* serotypes. This guidance should help ensure that sponsors conduct appropriate studies to evaluate the utility of anti-*Salmonella* food additives, and that FDA accomplish uniform review and decisionmaking. In turn, this should facilitate the approval process for such food additives.

This final guidance explains the recommended experimental process in detail and references other FDA documents that pertain to general experimental practices and procedures recommended by FDA. The guidance provides details concerning recommended testing methods.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The final guidance represents the agency's current thinking on anti-*Salmonella* food additives for keeping feeds *Salmonella*-negative. 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.

III. Paperwork Reduction Act of 1995

There are nine or fewer respondents to the information collection described in this guidance and therefore no burden analysis is required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Title: Guidance for Industry: Studies to Evaluate the Utility of Anti-*Salmonella* Chemical Food Additives in Feeds.

Description: In 1990, FDA announced its goal of *Salmonella*-negative animal feed and feed ingredients (see 59 FR 33975, July 1, 1994). The policy responds to concerns that *Salmonella* infections cause a significant portion of foodborne illnesses, and that animal feeds serve as a significant source of *Salmonella* infections in food animals and consequently in humans. In response, sponsors have developed several products designed to achieve and maintain *Salmonella*-negative levels in animals feeds. The sponsors also have filed the requisite food additive petitions that prove both the safety and utility of the additive products. However, up to this point, it has been difficult for FDA to evaluate the petitions in a consistent manner, as the research methods supporting the petitions have varied to a significant degree.

This final guidance document describes standards upon which studies to establish the utility of anti-*Salmonella* chemical food additives for maintaining feeds *Salmonella*-negative should be based. Certain types of information should be collected in these studies, as described in the final guidance.

IV. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this final guidance at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public inspection in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cvm*.

Dated: November 15, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–29925 Filed 11–25–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2003 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability for Community Collaborations to Prevent Youth Violence and Promote Youth Development (short title: Youth Violence Prevention Grants).

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2003 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Request for Applications (RFA), including part I, Community Collaborations to Prevent Youth Violence and Promote Youth Development (SM 03–005) (short title: Youth Violence Prevention Grants), and part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2003	Est. number of awards	Project period (years)
Community Collaborations to Prevent Youth Violence and Promote Youth Development.	Jan. 22, 2002	$4,000,000	24	2

The actual amount available for the award may vary depending on unanticipated program requirements and actual SAMHSA appropriations. This program is being announced prior to the annual appropriation for FY 2003 for SAMHSA's programs. Applications are invited based on the assumption that sufficient funds will be appropriated for FY 2003 to permit funding of Community Collaborations to Prevent Youth Violence and Promote Youth

Development grants. This program is being announced in order to allow applicants sufficient time to plan and prepare applications. Solicitation of applications in advance of a final appropriation will also enable the award of appropriated grant funds in an expeditious manner and thus allow prompt implementation and evaluation of promising practices. All applicants are reminded, however, that we cannot guarantee sufficient funds will be appropriated to permit SAMHSA to fund the grants. This program is authorized under section 520A of the Public Health Service Act. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes standard form 424 (face page), and other documentation and forms. Application kits may be obtained from: SAMHSA's Mental Health Information Center, (800) 789–2647.

The PHS 5161–1 application form and the full text of the grant announcement are also available electronically via SAMHSA's World Wide Web home page: *http://www.samhsa.gov* (click on ''Grant Opportunities'').

When requesting an application kit, the applicant must specify the particular announcement number for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center Mental Health Services (CMHS) is accepting applications for a fiscal year (FY) 2003 grants to implement Youth Violence Prevention projects in three categories:

- *Group I:* Grants to organizations proposing youth violence prevention projects targeting geographically or socially defined youth populations;
- *Group II:* Grants that address violence towards, or by, females; and
- *Group III:* Grants to support mental health services for youth with justice system involvement.

Eligibility: Eligible applicants are domestic public and private non-profit entities such as public or private mental health systems, institutions, and agencies; State or local departments of juvenile/criminal justice; mental health courts; juvenile/criminal court systems; district attorney's offices; or public defender's offices; public or private educational systems, institutions, and agencies; tribal governments and tribal organizations; community-based and faith-based organizations, such as community-based advocacy, health, substance abuse, mental health, social service, consumer and family organizations; and service organizations serving ethnic, cultural, or social minority groups; or other public agencies or nonprofit organizations that can perform the requirements of this program.

Availability of Funds: It is expected that approximately $4 million will be available to award grants in the following categories:

- *Group I:* Approximately eight awards will be made;
- *Group II:* Approximately eight awards will be made; and
- *Group III:* Approximately eight awards will be made.

Grants in groups I and II will be funded at a maximum of $150,000 per year in total costs (direct and indirect) for 2 years; grants in group III will be funded at a maximum of $200,000 per year in total costs (direct and indirect) for 2 years. Applications with proposed budgets that request a level of SAMHSA funding support in excess of the amounts listed above will not be reviewed.

Period of Support: Awards may be requested for up to 2 years.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criterion. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions on substantive issues regarding the program, eligibility, and funding of reviewed applications, contact: Pat Shea, M.S.W., M.A., Special Programs Development Branch, CMHS/SAMHSA, Parklawn Building, Room 17C–26, 5600 Fishers Lane, Rockville, MD 20857. (301) 443–3655. E-mail: *pshea@samhsa.gov*.

For questions on budget, completion of items on forms, and administrative issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857. (301) 443–9666. E-Mail: *shudak@samhsa.gov.*

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2003 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2003 activity listed above are subject to the

intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials or on SAMHSA's website under ''Assistance with Grant Applications''. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857. The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: November 20, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–29960 Filed 11–25–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–48]

Notice of Proposed Information Collection: Comment Request Personal Financial and Credit Statement

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 27, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments for members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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; (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 the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Personal Financial and Credit Statement.

OMB Control Number, if applicable: 2502–0001.

Description of the need for the information and proposed use: Form HUD–92417, Personal Financial and Credit Statement, is used by HUD personnel and FHA approved lenders to determine if the sponsor, mortgagor, or the principals of the mortgagor have the financial capability to develop, build, and complete a multifamily project. Form HUD–92417 is a part of the credit investigation during the Site Appraisal and Marketing Analysis (SAMA)/feasibility and commitment stages of the mortgage insurance application. The financial capability, reputation, experience, and the ability of the project sponsor is analyzed to determine whether the sponsor will be able to develop a successful project, and have the financial resources to complete and maintain the property.

Agency form numbers, if applicable: HUD–92417.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total annual hours required to prepare the information collection is 64,000; the number of respondents is 8,000 generating 8,000 annual responses; the frequency of response is on occasion; and the estimated time needed to prepare the response is 8 hours. This form is submitted during the SAMA/feasibility or commitment stages of the mortgage insurance application.

Status of the proposed information collection: Extension of currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., chapter 35, as amended.

Dated: November 20, 2002.

John C. Weicher,

Assistant Secretary of Housing-Federal Housing Commissioner.

[FR Doc. 02–29965 Filed 11–25–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–71]

Notice of Submission of Proposed Information Collection to OMB: Master Appraisal Report (MAR) for Proposed Construction

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 26, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0493) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number

(202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Master Appraisal Report (MAR) for proposed construction.

OMB Approval Number: 2502–0493.

Form Numbers: HUD–91322, HUD–91322.1, HUD–91322.2, and HUD–91322.3.

Description of the Need for the Information and its Proposed Use: The Master Appraiser Reports, Forms HUD–93122 series, permits the listing of models covering types of individual homes proposed for construction. This eliminates the need for appraisal reports from each individual property in a development. The series also set forth the general and specific conditions, which must be met before a property can be endorsed.

Respondents: Business or other for-profits

Frequency of Submission: On occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	35,000		3,500		2.25		7,875

Total Estimated Burden Hours: 7,875.

Status: Reinstatement of a previously approved collection for which approval has expired.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 20, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–29937 Filed 11–25–02; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–27]

Revocation and Redelegation of Authority to the Deputy Assistant Secretary for Finance and Budget

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of revocation and redelegation of authority.

SUMMARY: In this notice, the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner advise the public that they have redelegated authority to the Deputy Assistant Secretary for Finance and Budget all responsibilities related to the sale of Secretary-held single family and multifamily mortgages.

EFFECTIVE DATE: August 20, 2002.

FOR FURTHER INFORMATION CONTACT: Sandy Allison, Associate Deputy Assistant Secretary for Finance and Budget, Office of Housing, Department of Housing and Urban Development, Room 9110, Washington, DC 20410, phone (202) 708–2601. Persons with hearing or speech impairments may call HUD's TTY number at (202) 708–1455 or the Federal Information Relay Service's TTY number at (800) 877–8339. Other than the ''800'' number, the telephone numbers listed are not toll-free.

SUPPLEMENTARY INFORMATION: In the past, the Assistant Secretary for Housing has redelegated asset sale related authority to Office of Housing Deputy Assistant Secretaries in several offices. Prior to August 20, 2002, authority to sell single-family housing mortgages was redelegated to the Deputy Assistant Secretary for Single Family Housing programs, and authority to sell Secretary-held multifamily mortgages was redelegated to the Office of Housing-FHA Comptroller.

Note: Authority to sell Secretary-held mortgages is distinguishable from authority to sell HUD-owned properties and does not include authority to execute mortgage workouts.

Recently, the Office of Finance and Budget (FAB) was established within the Office of Housing, and the Office of the Housing-FHA Comptroller was made a component office under FAB. FAB is charged with overseeing and administering all financial and budget programs for the Office of Housing. Accordingly, on August 20, 2002 the Assistant Secretary for Housing-Federal Housing Commissioner determined that responsibilities related to sales of Secretary-held mortgages appropriately belong within FAB and signed this redelegation to permit FAB to carry out this responsibility. All prior redelegations, to other offices, were revoked.

Accordingly, the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner redelegate and revoke authority as follows:

Section A.: Authority Redelegated: The Deputy Assistant Secretary for the Office of Finance and Budget is redelegated all authority necessary to sell Secretary-held mortgages. This authority includes, but is not limited to, determining the terms of and process for conducting any sale; executing all agreements necessary, on behalf of the Secretary, pursuant to which mortgages may be sold; and taking any actions necessary to consummate mortgage sales.

Section B.: Authority to Further Delegate: The Deputy Assistant Secretary for Finance and Budget may further redelegate the authority

redelegated in Section A. Any redelegation must be in writing, and a copy of the redelegation will be submitted to the Assistant Secretary for Housing-Federal Housing Commissioner.

Section C.: Limitation: The authority redelegated in Section A. does not include authority to waive regulations.

Section D.: Authority Revoked: All prior redelegations from the Assistant Secretary for Housing-Federal Housing Commissioner to sell Secretary-held mortgages, including the redelegations to sell Secretary-held mortgages at 47 FR 30653, July 14, 1982 (single family mortgages), and 62 FR 766, January 6, 1997 (multifamily mortgages), are hereby revoked.

Authority: Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 20, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–29938 Filed 11–25–02; 8:45 am]

BILLING CODE 4210–27–P

INTER-AMERICAN FOUNDATION

Sunshine Act Meeting

TIME AND DATE: December 2, 2002–11–15, 9 a.m.–12 noon.

PLACE: The Hotel Princess Zona Rosa Av. las Magnolias y Blvd del Hipodromo, San Salvador, El Salvador, Tel: (503) 298–4545.

STATUS: Open session.

MATTERS TO BE CONSIDERED:

- Approval of the Minutes of the June 3, 2002 Meeting of the Board of Directors and Advisory Council.
- President's Report.
- Presentation on Corporate Foundation Network.
- Advisory Council.
- Board Nominations and Confirmations.

CONTACT PERSON FOR MORE INFORMATION: Carolyn Karr, Senior Vice President and General Counsel, (703) 306–4350.

Dated: November 15, 2002.

Carolyn Karr,

Senior Vice President and General Counsel.

[FR Doc. 02–30115 Filed 11–22–02; 3:10 pm]

BILLING CODE 7025–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–986 and 987 (Final)]

Ferrovanadium From China and South Africa; Notice of Commission Determination Not To Conduct a Portion of the Hearing in Camera

AGENCY: U.S. International Trade Commission.

ACTION: Commission determination not to close any part of the hearing to the public.

SUMMARY: The Commission has determined to deny the request of respondents Glencore Ltd. and Xstrata South Africa (Proprietary) Limited (''G&X'') to conduct a portion of its hearing in the above-captioned investigation scheduled for November 22, 2002, *in camera.* See Commission rules 201.13 and 201.36(b)(4) (19 CFR 201.13 and 201.36(b)(4)).

FOR FURTHER INFORMATION CONTACT: Irene H. Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3112. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes it should conduct its business in public in all but the most unusual circumstances. The Commission has determined that, in light of the nature of this investigation, it will be able to assess adequately all arguments raised by G&X without resorting to the extraordinary measure of an in camera hearing. Accordingly, the Commission has determined that the public interest would be best served by a hearing that is entirely open to the public. See 19 CFR 201.36(c)(1).

Authority: This notice is provided pursuant to Commission Rule 201.35(b) (19 CFR 201.35(b)).

By order of the Commission.

Issued: November 20, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–29956 Filed 11–25–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. Nos. TA–131–23 and TA–2104–3]

U.S.-Southern African Customs Union Free Trade Agreement: Advice Concerning the Probable Economic Effect

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: November 20, 2002.

SUMMARY: Following receipt of a request on November 7, 2002, from the United States Trade Representative (USTR), the Commission instituted investigation Nos. TA–131–2 and TA–2104–3, U.S-Southern African Customs Union Free Trade Agreement: Advice Concerning the Probable Economic Effect, under section 131 of the Tariff Act of 1974 and section 2104(b)(2) of the Trade Act of 2002.

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from Joanna Bonarriva, Co-Project Leader (202–205–3312; *jbonarriva@usitc.gov*), Jonathan Coleman, Co-Project Leader (202–205–3465; *jcoleman@usitc.gov*), or Cathy Jabara, Chief, Agriculture & Forest Products Division (202–205–3309; *cjabara@usitc.gov*), Office of Industries, U.S. International Trade Commission, Washington, DC, 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202–205–3091; *wgearhart@usitc.gov*). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810.

Background

As requested by the USTR pursuant to section 131 of the Trade Act of 1974, in its report the Commission will provide advice of the probable economic effect of providing duty-free treatment for imports of products of SACU countries on (i) industries in the United States producing like or directly competitive products, and (ii) consumers. The import analysis will consider each article in chapters 1 through 97 of the Harmonized Tariff Schedule of the United States for which tariffs will remain after the United States fully implements its Uruguay Round tariff commitments. The import advice will be based on the 2002 Harmonized Tariff System nomenclature and 2001 trade data. The advice with respect to the removal of U.S. duties on imports from

SACU countries will assume that any known U.S. non-tariff barrier will not be applicable to such imports. The Commission will note in its report any instance in which the continued application of a U.S. non-tariff barrier to such imports would result in different advice with respect to the effect of the removal of the duty.

In addition, pursuant to section 2104(b)(2) of the Trade Act of 2002, the Commission will provide advice as to the probable economic effect of eliminating tariffs on imports of certain agricultural products of SACU countries (a list of products was provided by USTR) on (i) industries in the United States producing like or directly competitive products and (ii) the U.S. economy as a whole.

The Commission expects to provide its report to USTR by April 7, 2003.

Public Hearing

A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on January 28, 2003. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, no later than 5:15 p.m., January 14, 2003. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., January 16, 2003; the deadline for filing post-hearing briefs or statements is 5:15 p.m., February 4, 2003. In the event that, as of the close of business on January 14, 2003, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary of the Commission (202–205–1806) after January 14, 2003, for information concerning whether the hearing will be held.

Written Submissions

In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements (original and 14 copies) concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Commission may include such confidential business information in the report it sends to the USTR. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on February 4, 2003. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

List of Subjects

SACU, Africa, tariffs and imports.

Issued: November 21, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–29989 Filed 11–25–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–02–036]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: International Trade Commission.

TIME AND DATE: December 13, 2002, at 2 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436. Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification list.
4. Inv. No. 731–TA–1021 (Preliminary)(Malleable Cast Iron Pipe Fittings from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before December 16, 2002; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before December 23, 2002.)
5. Inv. No. 701–TA–431 (Preliminary)(DRAMs and DRAM Modules from Korea)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before December 16, 2002; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before December 23, 2002.)
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: November 21, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–30087 Filed 11–22–02; 10:49 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

Action: 60-day notice of information collection under review: extension of a currently approved collection; Denial of Federal Benefits for Drug Offenders.

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until January 27, 2003.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instruments or additional information, please contact Robert Watkins, (202) 514–3447, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the pubic 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 function 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:

(1) *Type of information collection:* Extension of currently approved collection.

(2) *The title of the form/collection:* Denial of Federal Benefits for Drug Offenders.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number if OJP Form 3500/2, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well left brief abstract:* Primary: State, Local, and Tribal Government. Other: None. Denial of Federal Benefits for Drug Offenders. Pub. L. 100–690, contains collection of information requirements to ensure that convicted drug offenders do not receive Federal benefits that have been denied by court action.

(5) *An estimate of the total number of respondents and the amount of times estimated for an average respondent to respond/reply:* It estimated that 252 respondents per year will take approximately 5 minutes to complete the denial of benefits from.

(6) *An estimate of the total public burden (in hours) associated with the collection.* There are an estimated 21 total hour burdens associated with this information collection.

If additional information is required contact: Mrs. Brenda E. Dryer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, 601 D Street, NW., Washington, DC. 20530, or via facsimile at (202) 514–1590.

Dated: November 20, 2002.

Brenda E. Dyer.

Department Deputy Clearance Office, Department of Justice.

[FR Doc. 02–29955 Filed 11–25–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30–day notice of information collection under review: extension of a currently approved collection; Equal Employment Opportunity Plan Certification and Short Form.

The Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 67, Number 156, page 52747 on August 13, 2002, allowing for a 60 day comment period. The purpose of this notice is to allow for an additional 30 days for public comment until December 26, 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 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, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments 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 a currently approved collection.

(2) *Title of the Form/Collection:* Equal Employment Opportunity Plan Certification and Short Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: OJP Form 7120/1. Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit institutions. Other: For-profit institutions. This form will be completed by applicants that are newly-formed firms or established forms with no previous grants awarded by the Office of Justice Programs. It is used as an aide to determine those applicants/grantees that may require special attention in matters relating to the accountability of Federal funds. This information is required for assessing the financial risk of a potential recipient in administrating federal funds in accordance with OMB Circular A–110 and 28 CFR part 70.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents in 8,250. It is estimated that 1,250 respondents receiving a grant of $500,000 or more will complete a 1-hour Equal Employment Opportunity Plan Short Form and submit it to the Office of Justice Programs. In addition, an estimated 7000 respondents seeking grants ranging from $25,000 up to $500,000 will be required to complete the ¼ hour certification stating that they are maintaining a current Equal Employment Opportunity Plan on file and submit the certification to the Office of Justice Programs.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the Equal Employment Opportunity Plan Short Form is 1250

hours. The total hour burden to complete the EEOP certification is 1750. The total annual burden hours is 3000.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: November 20, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–29954 Filed 11–25–02; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewal

The NSF management officials having responsibility for the Business and Operations Advisory Committee (#9556) have determined that renewing this group for another year is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

For more information contact Susanne Bolton at (703) 292–7488.

Dated: November 21, 2002.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02–29974 Filed 11–25–02; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–335 AND 50–389]

Florida Power and Light Company, et al. St. Lucie, Units 1 and 2; Exemption

1.0 Background

The Florida Power and Light Company, *et al.* (FPL, the applicant) is the holder of Facility Operating License Nos. DPR–67 and No. NPF–16, which authorize operation of St. Lucie, Units 1 and 2, respectively. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized water reactors located in St. Lucie County, Florida.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 54 addresses the various requirements for renewal of operating licenses for nuclear power plants. Section 54.21(b) of 10 CFR specifies:

> Each year following submittal of the license renewal application and at least 3 months before scheduled completion of the NRC review, an amendment to the renewal application must be submitted that identifies any change to the CLB [current licensing basis] of the facility that materially affects the contents of the license renewal application, including the FSAR [final safety analysis report] supplement.

In accordance with 10 CFR 54.15, which references 10 CFR 50.12, the NRC staff, upon its own initiative, developed an exemption to 10 CFR 54.21(b) for St. Lucie, Units 1 and 2. At the time that 10 CFR part 54 was issued, the staff expected that its review of a license renewal application (LRA) could take three or more years. The NRC staff completed its reviews of recent LRAs in less than 20 months. The exemption would allow FPL to submit one LRA amendment during the staff's review of the application, instead of two amendments.

The NRC staff anticipates completing its review of the St. Lucie, Units 1 and 2, LRA and issuing a safety evaluation report (SER) by July 3, 2003. This exemption would permit FPL to forgo submitting an annual LRA amendment provided it submits a single LRA amendment for St. Lucie, Units 1 and 2, at least three months before this scheduled completion date.

3.0 Discussion

Pursuant to 10 CFR 54.15, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 54, in accordance with the provisions of 10 CFR 50.12, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

The requirements for exemption are discussed below:

The Commission's basis for requiring applicants to submit amendments to LRAs is contained in section 54.21(b) and is discussed in the 1991 Statements of Consideration for part 54 (56 FR 64954). The Commission established the requirement to ensure that the effects of changes to the renewal applicant's CLB is evaluated during the review of its renewal application. The exemption is consistent with the Commission's intent for the NRC staff, during its review of the application, to evaluate changes to the CLB of the facility that materially affects the contents of the LRA, including the FSAR supplement.

The exemption seeks only schedular relief regarding the timing and number of amendment submittals, and not substantive relief from the requirements of parts 50, 51, or 54. FPL must still submit an LRA amendment for St. Lucie, Units 1 and 2, as required by 10 CFR part 54. Therefore, the NRC staff finds that granting this schedular exemption will not represent an undue risk to public health and safety and is consistent with the common defense and security.

3.1 Special Circumstances Supporting Issuance of the Exemption

An exemption will not be granted unless special circumstances are present as defined in 10 CFR 50.12(a)(2). Specifically, section 50.12(a)(2)(ii) states that a special circumstance exists when ''Application of the regulation in the particular circumstances * * * is not necessary to achieve the underlying purpose of the rule * * *'' In initially promulgating section 54.21(b) in 1991, the Commission stated that the purpose of submitting LRA amendments is ''To ensure that the effect of changes to a license renewal applicant's existing licensing basis is evaluated during the review of a renewal application, renewal applicants will be required to update the renewal application (including the integrated plant assessment) annually;'' (56 FR 64954). The Commission indicated that the changes to the CLB that could affect the results of the license renewal processes, such as, scoping, screening, and aging management reviews should be evaluated during the NRC review of the LRA. As set forth below, the applicant's submittal of a single LRA amendment would allow the NRC staff to review and document the licensing changes in its safety evaluation report (SER) for St. Lucie, Units 1 and 2. Accordingly, under the exemption, the NRC staff will have the opportunity to review the recent changes to the CLB that could affect the results of license renewal processes.

The applicant submitted its LRA for St. Lucie, Units 1 and 2, to the NRC on November 29, 2001. The NRC staff is scheduled to complete its review and the SER by July 3, 2003. In accordance with the requirements of 10 CFR 54.21(b), an applicant must submit a yearly LRA amendment by November 29, 2002, and a second amendment before April 3, 2003, which is three months before the NRC staff is

scheduled to complete its review and issue an SER. Consequently, the licensee is required to submit two amendments within four months.

The SER with open items, which is scheduled to be issued by February 7, 2003, will identify proposed licensee commitments that change the CLB and are acceptable to the NRC. The applicant will be able to include these changes in an amendment that is submitted after the SER with open items is issued. The NRC staff can then review these changes and revise the SER, accordingly. Hence, submittal of a single amendment after the SER with open items is issued would be beneficial to the NRC staff and the licensee.

Therefore, submittal of two LRA amendments to satisfy the intent of section 54.21(b) and the application of the regulation, in this case, is not necessary to achieve the underlying purpose of the rule. The NRC staff finds that the exemption meets the requirement in Section 50.12(a)(2)(ii) that special circumstances exist to grant the exemption.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 54.15 and 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The exemption allows the applicant to forgo submitting the annual LRA amendment provided it submits an LRA amendment at least three months before the scheduled completion of the NRC's review. Therefore, the Commission hereby grants FPL the proposed exemption from the requirements of 10 CFR 54.21(b) for St. Lucie, Units 1 and 2, based on the circumstances described herein.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 69254).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 19th day of November, 2002.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–29983 Filed 11–25–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Request for Candidates

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission seeks qualified candidates for the Advisory Committee on Nuclear Waste. Submit resumeès to: Ms. Sherry Meador, Administrative Assistant, ACRS/ACNW, Mail Stop T2E–26, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or e-mail address *SAM@NRC.gov.*

SUPPLEMENTARY INFORMATION: The Commission established the Advisory Committee on Nuclear Waste (ACNW) to provide independent technical review of and advice on matters related to the management of nuclear waste, including all aspects of nuclear waste disposal facilities, as directed by the Commission. The ACNW undertakes independent studies and reviews related to disposal, storage, and transportation of both high- and low-level radioactive waste including interim storage of spent nuclear fuel; materials safety; and facilities decommissioning. This encompasses activities related to rulemakings, associated regulatory guides, and technical positions developed to support and clarify NRC's nuclear materials and radioactive waste regulations. Committee members are selected from a variety of engineering and scientific disciplines, such as risk assessment, chemistry, mechanical engineering, civil engineering, materials sciences, and the earth sciences. At this time, candidates are being sought who have 15–20 years of experience, including graduate level education, in the management and disposal of radioactive waste. Committee members serve a 4-year term with the possibility of reappointment for a total service of 8 years.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear waste management matters, and the ability to solve complex technical problems. The Commission, in selecting its Committee members, considers the need for a specific expertise to accomplish the work expected to be before the ACNW. For this position, the expertise must be directly related to the area of radioactive waste disposal, site remediation and closure activities, nuclear fuel reprocessing, chemistry, chemical exchange processes, and nuclear fuel cycle. Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with diverse backgrounds, so that the membership on the Committee will be fairly balanced in terms of the points of view represented and functions to be performed by the Committee.

Candidates for ACNW appointments may be involved in or have financial interests related to NRC-regulated aspects of the nuclear industry. Because conflict-of-interest considerations may restrict the participation of a candidate in ACNW activities, the degree and nature of any such restriction on an individual's activities as a member will be considered in the selection process. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities or discontinuance of certain contracts or grants. Information regarding these restrictions will be provided upon request.

A resumé describing the educational and professional background of the candidate, including any special accomplishments and professional references should be provided. Candidates should provide their current address, telephone number, and e-mail address. All candidates will receive careful consideration. Appointment will be made without regard to such factors as race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States and be able to devote approximately 70–100 days per year to Committee business. Applications will be accepted until January 17, 2003.

Dated: November 20, 2002.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 02–29982 Filed 11–25–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

DATE: Weeks of November 25, December 2, 9, 16, 23, 30, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 25, 2002

Tuesday, November 26, 2002

9:30 a.m.—Discussion of Security Issues (Closed—Ex.1)

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.

Week of December 16, 2002—Tentative

Tuesday, December 17, 2002

9:30 a.m.—Briefing on policy options and recommendations for revising the NRC's process for handling discrimination issues (public meeting) (Contact: Ho Nieh, 301–415–1721)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Wednesday, December 18, 2002

9:30 a.m.—Meeting with advisory committee on nuclear waste (ACNW) (public meeting) (Contact: John Larkins, 301–415–7360)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of December 23, 2002—Tentative

There are no meetings scheduled for the Week of December 23, 2002.

Week of December 30, 2002—Tentative

There are no meetings scheduled for the Week of December 30, 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 November 20, 2002, the Commission determined pursuant to U.S.C. 552b(e) and 9.107(a) of the Commission's rules that ''Affirmation of (a) Final Rule on Decommissioning Trust Provisions, (b) Final Rule: Material Control and Accounting Amendments, (c) Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Unit No. 3; Facility Operating License NPF–49), and (d) Pacific Gas & Electric Co. (Diablo Canyon Power Plant Independent Spent Fuel Storage Installation); Petition to Suspend Proceeding Pending Comprehensive Review of Adequacy of Design and Operation Measures to Protect Against Terrorist Attack and Other Acts of Malice or Insanity'' be held on November 21, 2002, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://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: November 21, 2002.

R. Michelle Schroll,

Acting Technical Coordinator, Office of the Secretary.

[FR Doc. 02–30099 Filed 11–22–02; 12:06 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 1, 2002, through November 14, 2002. The last biweekly notice was published on November 12, 2002 (67 FR 68727).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By December 26, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to

the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714,[1] which is available at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 304–415–4737 or by e-mail to *pdr@nrc.gov.*

Arizona Public Service Company, et al., Docket No. STN 50–528, Palo Verde Nuclear Generating Station, Unit 1, Maricopa County, Arizona

Date of amendment request: September 26, 2002, as supplemented by letter dated October 23, 2002.

[1] The most recent version of Title 10 of the code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and paragraphs (d)(1) and (d)(2) regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714(d), please see 67 FR 20884; April 29, 2002.

Description of amendment request: The amendment would revise Technical Specification (TS) 5.5.9, ''Steam Generator (SG) Tube Surveillance Program,'' to clearly delineate the scope of the tube inspection required in the SG tubesheet region. TS 5.5.9 is in section 5, ''Administration Controls,'' of the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Arizona Public Service Company (APS) proposes to modify Palo Verde Nuclear Generating Station (PVNGS) Technical Specifications for Unit 1 to define the SG tube inspection scope. The PVNGS Unit 1 specific analysis takes into account the reinforcing effect the tubesheet has on the external surface of an expanded SG tube. Tube-bundle integrity will not be adversely affected by the implementation of the revised tube inspection scope. SG tube burst or collapse cannot occur within the confines of the tubesheet; therefore, the tube burst and collapse criteria of NRC Regulatory Guide (RG) 1.121 (Bases for Plugging Degraded PWR Steam Generator Tubes) are inherently met. Any degradation below the TEA (Tube Engagement Area) length is shown by analyses and test results to be acceptable, thereby precluding an event with consequences similar to a postulated tube rupture event.

Tube burst is precluded for cracks within the tubesheet by the constraint provided by the tubesheet. Thus, structural integrity is maintained by the tubesheet constraint. However, a 360-degree circumferential crack or many axially oriented cracks could permit severing of the tube and tube pullout from the tubesheet under the axial forces on the tube from primary to secondary pressure differentials. Testing was performed to define the length of non-degraded tubing that is sufficient to compensate for the axial forces on the tube and thus prevent pullout. This proposed amendment would encompass that length of non-degraded tubing for inspection.

In conclusion, incorporation of the revised inspection scope into PVNGS Unit 1 Technical Specifications maintains existing design limits and therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Tube-bundle integrity is expected to be maintained during all plant conditions upon implementation of the proposed tube inspection scope. Use of this scope does not introduce a new mechanism that would result in a different kind of accident from those previously analyzed. Even with the limiting circumstances of a complete circumferential separation of a tube occurring below the TEA length, SG tube pullout is precluded and leakage is predicted to be maintained within the Updated Final Safety Analysis Report limits during all plant conditions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Upon implementation of the revised inspection scope, operation with potential cracking below the Inspection Extent length in the explansion region of the SG tubing meets the margin of safety as defined by RG 1.121 and RG 1.83 (Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes) and the requirements of General Design Criteria 14, 15, 31, and 32 of 10 CFR (part) 50. Accordingly, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above evaluation, APS concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendment involves no significant hazards consideration.

The above amendment was previously noticed in the **Federal Register** on October 3, 2002 (67 FR 62079), as an exigent circumstances TS amendment, based on the preliminary determination that the TS amendment was needed on or about October 25, 2002, to allow Unit 1 to restart from its refueling outage. On further consideration, it has been determined that the proposed TS amendment does not have to be issued before the restart of Unit 1. This notice supersedes and replaces the exigent circumstances TS amendment notice of October 3, 2002.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Section Chief: Stephen Dembek.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: September 26, 2002.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.9.1, ''Refueling Equipment Interlocks,'' to allow fuel movement to continue if the refueling interlocks become inoperable, and add two new alternative Required Actions for the condition when the refueling equipment interlocks are inoperable. Specifically, the proposed amendment would add Required Actions 3.9.1.A.2.1 to immediately block control rod withdrawal and 3.9.1.A.2.2 to perform a verification that all of the control rods are fully inserted. The proposed changes are similar to the proposed generic change that was provided in Technical Specifications Task Force (TSTF) Traveler, TSTF–225, revision 1, ''Fuel Movement With Inoperable Refueling Equipment Interlocks,'' dated November 22, 2000, for the NRC staff's review.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment to the Technical Specifications does not result in the alteration of the design, material, or construction standards that were applicable prior to the change. The same Refueling Interlocks instrumentation is used, and the control rod removal error and fuel assembly insertion error assumptions in the Updated Final Safety Analysis Report (UFSAR) chapter 15 analysis remain unchanged. The proposed additional Required Actions provide an equivalent level of assurance that fuel will not be loaded into a core cell with a control rod withdrawn as does the current TS Required Action. The proposed change will not result in the modification of any system interface that would increase the likelihood of an accident since these events are independent of the proposed change. The proposed amendment will not change, degrade, or prevent actions, or alter any assumptions previously made in evaluating the radiological consequences of an accident described in the UFSAR. Therefore, the proposed amendment does not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This change in the TS requirements does not alter the performance of the Refueling Equipment Interlocks. The change does not involve a change in plant design or to the analyzed condition of the reactor core during

refueling. The proposed new Required Actions will ensure that control rods are not withdrawn and cannot be inappropriately withdrawn because a block to control rod withdrawal is in place. Implementation of the proposed amendment does not create the possibility of a new of different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Response: No.

As discussed in the Bases for the affected TS requirements, inadvertent criticality is prevented during the loading of fuel provided all control rods are fully inserted. The refueling interlocks function to support the refueling procedures by preventing control rod withdrawal during fuel movement, and the inadvertent loading of fuel when a control rod is withdrawn. The proposed change will allow the refueling interlocks to be inoperable and fuel movement to continue, only if a control rod withdrawal block is in effect and all control rods are verified to be fully inserted. These proposed Required Actions provide an equivalent level of protection as the refueling interlocks by preventing a configuration which could lead to an inadvertent criticality event. The refueling procedures will continue to be supported by the proposed Required Actions because control rods cannot be withdrawn and as a result, fuel cannot be inadvertently loaded when a control rod is withdrawn. Plant and system response to an initiating event will remain in compliance within the assumptions of the safety analyses, and therefore, the margin of safety is not affected. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter Marquardt, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Section Chief: L. Raghavan.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: September 26, 2002.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Surveillance Requirement (SR) 3.7.3.6 associated with the verification of the control room emergency filtration (CREF) system duct work unfiltered in-leakage. Specifically, the proposed amendment would add a note to SR 3.7.3.6 to allow crediting the performance of an integrated tracer gas test of the control room envelope while in the recirculation mode to satisfy the requirements of the surveillance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This license amendment proposes an alternative test for performing the CREF system surveillance associated with measuring the Control Room Envelope (CRE) unfiltered inleakage. The CREF system provides a configuration for mitigating radiological consequences of accidents; however, it does not involve the initiation of any previously analyzed accident. Therefore, the proposed change cannot increase the probability of any previously evaluated accident.

The CREF system provides a radiologically controlled environment from which the plant can be safely operated following a radiological accident. Design basis accident analyses conclude that radiological consequences are within the regulatory acceptance criteria. The current Technical Specifications (TS) surveillance (SR 3.7.3.6) measures inleakage from four sections of CREF system duct work outside the CRE that are at negative pressure during accident conditions. The proposed Tracer Gas test provides a measurement of CRE inleakage from all potential sources including the four sections of duct work. The use of Tracer Gas testing in accordance with the methods described in American Society of Testing and Materials (ASTM) standard E741 has been accepted by both the NRC and the industry. Measuring the CRE inleakage using Tracer Gas testing has no effect on the CREF system function. The results of Tracer Gas testing will be assessed in accordance with regulatory guidance and industry guidance and compliance with 10 CFR [part] 50, Appendix A, General Design Criterion (GDC)–19 will be demonstrated. Therefore, the proposed change does not significantly increase the radiological consequences of any previously evaluated accident. Based on the above, the proposed change does not significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter the design function or operation of the system involved. The CREF system will still provide protection to control room occupants in case of a significant radioactive release. The revised TS surveillance requirements provide an alternative test method that has been widely accepted for the measurement of CRE unfiltered inleakage. The proposed change does not introduce any new modes of plant or CREF system operation and does not involve physical modifications to the plant. Therefore, the proposed change does not create the potential for a new or different kind of accident from any accident previously evaluated.

3. The (proposed) change does not involve a significant reduction in the margin of safety.

The proposed change to the Fermi 2 TS surveillance requirements does not affect the radiological release from a design basis accident nor the postulated dose to the control room occupants as a result of the accident. The alternate surveillance test requirements provide an acceptable approach for the measurement of CRE inleakage. Safety margins and analytical conservatisms are included in the analyses to ensure that all postulated event scenarios are bounded. The proposed TS requirements continue to ensure that the radiological consequences at the control room are below the corresponding regulatory guidelines and that compliance with GDC–19 is not affected. Therefore, the proposed changes will not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter Marquardt, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Section Chief: L. Raghavan.

Duke Energy Corporation, et al., Docket No. 50–414, Catawba Nuclear Station, Unit 2, York County, South Carolina

Date of amendment request: October 10, 2002.

Description of amendment request: The amendment would allow Duke Energy Corporation to continue using the reactor coolant system cold leg elbow tap flow coefficient that was approved by Nuclear Regulatory Commission on an interim basis for Cycle 12 at Catawba Nuclear Station, Unit 2. No changes in Technical Specifications are necessary for this Amendment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The following discussion is a summary of the evaluation of the changes contained in this proposed amendment against the 10 CFR 50.92(c) requirements to demonstrate that all three standards are satisfied. A no significant hazards consideration is indicated if operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, or
2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or
3. Involve a significant reduction in a margin of safety.

First Standard

The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. No component modification, system realignment, or change in operating procedure will occur which could affect the probability of any accident or transient. The revised cold leg elbow tap flow coefficients will not change the probability of actuation of any Engineered Safeguards Feature or other device. The actual Unit 2 RCS [reactor coolant system] flow rate will not change. Therefore, the consequences of previously analyzed accidents will not change as a result of the revised flow coefficients.

Second Standard

The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. No component modification or system realignment will occur which could create the possibility of a new event not previously considered. No change to any methods of plant operation will be required. The elbow taps are already in place, and are presently being used to monitor flow for Reactor Protection System purposes. They will not initiate any new events.

Third Standard

The proposed amendment will not involve a significant reduction in a margin of safety. The removal of some of the excess flow margin, which was introduced by the hot leg streaming flow penalties in later calorimetrics, will allow additional operating margin between the indicated flow and the Technical Specification minimum measured flow limit. The proposed changes in the cold leg elbow tap flow coefficients will continue to be conservative with respect to the analytical model flow predictions, since the proposed coefficients will continue to contain some hot leg streaming penalties from the calorimetric determined coefficients used in the average.

An increase in the RCS flow indication of approximately 1.0% will increase the margin to a reactor trip on low flow but will not adversely affect the plant response to low flow transients. Current UFSAR [updated final safety analysis report] chapter 15 transients that would be expected to cause a reactor trip on the RCS low flow trip setpoint are Partial Loss of Reactor Coolant Flow, Reactor Coolant Pump Shaft Seizure and [RCP] Reactor Coolant Pump Shaft break transients. Three reactor trip functions provide protection for these transients, RCS low flow reactor trip, RCP undervoltage reactor trip and RCP underfrequency reactor trip. The transient analyses of these events assume the reactor is tripped on the low flow reactor trip setpoint. This is conservative and produces a more severe transient response since a reactor trip on undervoltage or underfrequency would normally be expected to trip the reactor sooner and therefore reduce the severity of these transients.

The RCS low flow reactor trip is currently set at 91% of the Technical Specification minimum measured flow of 390,000 gpm. The setpoint will not be revised as a result of this change, which means the transients relying on this function will behave in the same manner with the reactor trips occurring at essentially the same conditions as previously analyzed. Therefore, any small increase in the reactor trip margin gained by the small increase in the indicated RCS flow will not adversely affect the plant response during these low flow events.

Based upon the preceding discussion, Duke Energy has concluded that the proposed amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: John A. Nakoski.

FPL Energy Seabrook, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 11, 2002.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.9.4, Containment Building Penetrations, to permit the equipment hatch to be open during core alterations and/or during movement of irradiated fuel assemblies within containment. The appropriate TS Bases would also be changed to reflect the proposed changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to the Seabrook Station Technical Specifications (TS) 3.9.4.a, and TS 3.9.4.b do not involve a significant increase in the probability or consequences of an accident previously analyzed. The proposed changes will modify the conditions of containment closure during core alterations or during the movement of irradiated fuel within the containment. Specifically, the proposed changes will permit the new containment outage door to stay open during core alterations or during the movement of irradiated fuel within the containment.

Postulated accidents that could result in a release of radioactive material through the open hatch include a fuel handling accident that results in breaching of the fuel rod cladding, and a loss of residual heat removal (RHR) cooling event that leads to core boiling. The radiological consequences of a design basis fuel handling accident in containment have been evaluated assuming that the containment is open to the outside atmosphere. The calculated offsite and control room doses resulting from a fuel handling accident are less than the criteria specified in USNRC [U.S. Nuclear Regulatory Commission] NUREG–0800, ''Standard Review Plan,'' section 15.7.4 ''Radiological Consequence of Fuel Handling Accident,'' and 10 CFR 50, Appendix A, ''General Design Criteria for Nuclear Power Plants,'' GDC [General Design Criteria]-19, ''Control Room.''

The consequence of a loss of Residual Heat Removal (RHR) is the potential for release of radioactivity outside of containment. Closing containment penetrations is the mitigating action for that consequence. TS 3.9.8.1 and 3.9.8.2 require that corrective actions be taken immediately to restore the RHR cooling as soon as possible if RHR loop requirements are not met (by having one RHR loop operable and in operation). In addition, plant operators are required by the TS to close all containment penetrations providing direct access from the containment atmosphere to the outside environment within 4 hours. Since the most limiting time to boil in this condition (during core alterations or movement of irradiated fuel with at least 23 feet of water above the vessel flange) is approximately 8.3 hours, the risk associated with the potential for the coolant to boil and subsequently cause a release of radioactive gas to the containment atmosphere (if RHR cooling was not restored) is minimal.

The proposed changes to TS 3.9.4.b will add a note pertaining to the personnel hatch airlock within the equipment hatch. The purpose of this note is to provide

clarification that the requirements of TS 3.9.4.b do not apply to the subject personnel hatch airlock when the outage equipment hatch is installed.

Therefore, it is concluded that these proposed [changes] to TS 3.9.4.a and TS 3.9.4.b do not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the Seabrook Station Technical Specifications (TS) 3.9.4.a and 3.9.4.b do not create the possibility of a new or different kind of accident from any previously evaluated. The proposed changes will permit the equipment hatch to be open during core alterations and movement of irradiated fuel within the containment building when the containment outage door is installed. The installation of the door does involve a minor change in the present method used to isolate containment penetrations for containment closure. However, the present fuel handling analysis, which is the most limiting event, assumes that the containment is open to the outside atmosphere and the entire airborne radioactivity is instantaneously released to the outside environment. This analysis results in [offsite] doses that are within the guideline values specified in USNRC NUREG–0800, ''Standard Review Plan,'' section 15.7.4 ''Radiological Consequence of Fuel Handling Accident,'' and 10 CFR 50, Appendix A, ''General Design Criteria for Nuclear Power Plants,'' GDC–19, ''Control Room.'' Therefore, the proposed changes to the TS do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in [a] margin of safety.

The proposed changes do not involve a significant reduction in [a] margin of safety. The proposed change to TS 3.9.4.a will permit the equipment hatch to be open during core alterations and/or during the movement of irradiated fuel assemblies within containment when the containment outage door is installed and closed or capable of being closed. During movement of irradiated fuel assemblies within containment, the most severe radiological consequences result from a fuel handling accident. The calculated offsite and control room operator calculated doses are within the acceptance criteria of USNRC NUREG–0800, ''Standard Review Plan,'' section 15.7.4 ''Radiological Consequence of Fuel Handling Accident,'' and 10 CFR 50, Appendix A, ''General Design Criteria for Nuclear Power Plants,'' GDC–19, ''Control Room.'' Therefore, the proposed changes to TS 3.9.4 do not result in a reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. S. Ross, Attorney, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Section Chief (Acting): James W. Andersen.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 11, 2002.

Description of amendment request: The proposed amendment would change Technical Specification (TS) 3/4.9.3, ''Refueling Operations—Decay Time,'' to revise the time associated with the movement of irradiated fuel in the reactor vessel from 100 hours to 80 hours. The proposed change is based on reanalysis of the radiological consequences of a limiting design basis fuel handling accident using an 80-hour decay time.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to TS 3/4.9.3 does not result in a condition where the design, material, and construction standards that were applicable prior to the proposed change are altered. The probability of occurrence of an accident previously evaluated for Seabrook Station is not altered by the proposed amendment to the technical specifications (TSs). The accidents remain the same as currently analyzed in the Updated Final Safety Analysis Report (UFSAR) as a result of the proposed change to the decay time. The accidents impacted by the new decay time have been reanalyzed and the applicable design limits have not been exceeded. The control room and offsite dose consequences for fuel handling accidents have been reevaluated and continue to meet acceptance limits.

Therefore based on the above discussion, it is concluded that the proposed revision to TS 3/4.9.3 does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change to the decay time will not create a new accident scenario. The analyses impacted by the revised decay time have been evaluated. The new analysis of the fuel handling accident and spent fuel pool cooling system performance demonstrates that the applicable acceptance criteria continues to be met. The proposed change will not alter the way any structure, system or component functions, and will not significantly alter the manner in which the plant is operated. There will be no significant adverse effect on plant operation or accident mitigation equipment.

Since no new failure modes are created by the proposed revision to TS 3/4.9.3 the proposed change does not create the possibility of a new or different kind of accident from any that was previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The fuel handling accident in the fuel building and containment has been reanalyzed for a decay time of 80 hours. The spent fuel pool cooling performance has also been evaluated for the revised decay time. These analyses demonstrate that acceptance criteria are still met for the revised decay time as described herein. The results of the revised analysis show that the resulting offsite doses (based on a decay time period of 80 hours are comparable to the original doses (100-hour decay time period) and well within (< 25%) the limiting values of 10 CFR part 100. Control room doses are also well within the limit of General Design Criteria 19 to 10 CFR part 50, Appendix A. Therefore it is concluded that the proposed decay time still provides sufficient margin to dose consequences from fuel handling and to spent fuel pool temperature limits.

Thus, it is concluded that the proposed revision to TS 3/4.9.3 does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Section Chief (Acting): James W. Andersen.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 11, 2002.

Description of amendment request: The proposed amendment would eliminate the Power Range Neutron Flux High Negative Rate Reactor Trip function from Technical Specification (TS) 3/4.3.1, ''Reactor Trip System Instrumentation,'' TS 2.2.1, ''Reactor Trip System Instrumentation Setpoints,'' and their associated Bases. The proposed changes associated with elimination of the Power Range Neutron Flux High Negative Rate Trip function are based on the NRC-approved analysis provided in Westinghouse WCAP–11394–P–A, ''Methodology for the Analysis of the Dropped Rod Event.'' The proposed amendment would also change TS 3/4.10.3, ''Physics Tests,'' TS

3/4.10.4, ''Reactor Coolant Loops,'' and TS Table 4.3–1, ''Reactor Trip System Instrumentation Surveillance Requirements,'' that are associated with certain testing activities required during STARTUP operations. The proposed changes to TS 3/4.10.3 are to clarify that only the reactor trip Low Setpoint associated with OPERABLE Power Range Neutron Flux instrumentation channels is required to be set at 25% of RATED THERMAL POWER and to reword the time interval for the Analog Channel Operational Test (ACOT) in surveillance requirement (SR) 4.10.3.2 from ''within 12 hours'' to the referenced time interval specified in TS Table 4.3–1, Functional Unit 2.b. In correlation with the proposed change to extend the ACOT interval in SR 4.10.3.2, Table 4.3–1 Note 1, would be changed from ''if not performed in previous 31 days'' to ''if not performed in previous 92 days.'' The proposed change would also extend the ACOT interval for those Functional Units that reference TS Table 4.3–1 Note 1. The proposed change to TS 3/4.10.4 will delete TS 3/4.10.4 in its entirety since the condition allowed by TS 3/4.10.4 (*i.e.*, natural circulation/low flow conditions) was to support the initial startup test program prior to commercial operation. Additionally, as a result of deleting TS 3/4.10.4, the footnote which references TS 3/4.10.4 in TS 3/4.4.1.1 is deleted as well.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes (1) to eliminate the Power Range Neutron Flux High Negative Rate Trip Function, (2) not lowering the Power Range Neutron Flux High Setpoint to the same setpoints as that of the Power Range Neutron Flux Low Setpoint and Intermediate Range reactor trip setpoint prior to conducting Physics Testing, (3) extension of the surveillance interval for performing the ACOT and TADOT [Trip Actuating Device Operational Test] for the above described Reactor Trip System (RTS) Functional Units, (4) elimination of the Special Test Exception allowing performance of Physics Testing under no flow conditions, and (5) the other editorial and Bases changes to support the aforementioned changes do not increase the probability or consequences of reactor core damage accidents resulting from events previously analyzed. The safety functions of other safety related systems and components, which are related to mitigation of these events, have not been altered. All other RTS and Engineered Safety Features Actuation Systems (ESFAS) protection functions are not affected by the proposed changes. Favorable plant-specific historical data as well as industry practice support the proposed change to extend the surveillance intervals for performance of the applicable ACOT or TADOT on the aforementioned instrumentation channels. The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, configuration of the facility, or the manner in which it is operated. The proposed changes do not adversely alter or prevent the ability of structures, systems, or components to perform their intended function to mitigate the consequences of an initiating event within the acceptance limits assumed in the Seabrook Station Updated Final Safety Analysis Report (UFSAR).

Removal of the negative rate trip does not change the probability of a rod drop accident since it does not alter the physical function or characteristic of the rod control system. Changing surveillance intervals for calibrations does not change the probability of an initiating event since historical performance demonstrates that the instrumentation settings will be within the assumed tolerance at the longer interval. Since the effects of the negative rate trip are not considered in the rod drop accident analysis, therefore removal of the trip will not result in an increase in the consequences of the rod drop accident. Changes in surveillance frequencies do not change the essential character of accident progression, thus there is no increase in the consequences.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. [The proposed changes do not] create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not adversely alter the design assumptions, conditions, or configuration of the facility or the manner in which the plant is operated. No credit is taken in Seabrook Station's safety analyses that is reliant on the Power Range Neutron Flux High Negative Rate Trip Function. Extending the aforementioned surveillance intervals and not lowering the Power Range Neutron Flux High Setpoint prior to physics testing do not create the possibility of a new or different kind of accident from any accident previously evaluated. There are no changes to the source term or radiological release assumptions used in evaluating the radiological consequences in the Seabrook Station UFSAR. The proposed changes have no adverse impact on component or system interactions. The proposed changes will not adversely degrade the ability of systems, structures and components important to safety to perform their safety function nor change the response of any system, structure or component important to safety as described in the UFSAR. The proposed changes do not change the level of programmatic and procedural details of assuring operation of the facility in a safe manner. Since there are no changes to the design assumptions, conditions, configuration of the facility, or the manner in which the plant is operated and surveilled, the proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed.

3. [The proposed changes do not] involve a significant reduction in a margin of safety.

There is no adverse impact on equipment design or operation and there are no changes being made to the Technical Specification required safety limits or safety system settings that would adversely affect plant safety. Elimination of the Power Range Neutron Flux High Negative Rate Trip Function will not cause DNB [Departure from Nucleate Boiling] limits to be exceeded since this function is not credited in Seabrook Station's safety analysis. Eliminating the practice of lowering the Power Range Neutron Flux High Setpoint prior to physics testing does not involve a significant reduction in the margin of safety since there is adequate redundancy of nuclear instrumentation channels to prevent core damage from a positive reactivity excursion. The proposed changes to extend certain surveillance intervals do not reduce the reliability of the aforementioned trip functions to operate as designed nor reduce the level of programmatic or procedural controls associated with the aforementioned surveillance requirements. The negative rate trip function could, and has, caused an inadvertent reactor trip. Removal of this function will not reduce any perceived ''defense-in-depth'' since the design of the core limits rod worth such that DNB is acceptable during a rod drop event. Additionally, since WCAP–11394–P–A has demonstrated that the negative rate trip is not considered in the safety analysis margin, removal of the NFRT is not considered a ''significant reduction in margin[.] '' The other changes are editorial/administrative in nature which support the key changes as mentioned above and by their nature do not involve a significant reduction in a margin of safety.

Therefore, the proposed changes as described in this License Amendment Request do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Section Chief (Acting): James W. Andersen.

South Carolina Electric & Gas Company (SCE&G), South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: September 24, 2002.

Description of amendment request: The proposed change will revise Technical Specification (TS) Surveillance Requirement (SR) 4.0.3, to incorporate the approved Consolidated Line Item Improvement Program change associated with the TS Task Force traveler TSTF–358, revision 6, SR 3.0.3, ''Missed Surveillance Requirements.'' Additionally, a change to the Administrative Controls Section, section 6.8, is included in this request to include a new TS requirement for a Bases Control Program, consistent with the Bases Control Program presented in chapter 5, ''Administrative Controls,'' section 5.5, ''Programs and Manuals,'' of the Improved Technical Specifications (ITS) for Westinghouse plants, NUREG 1431, revision 2. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the model NSHC determination in its application dated September 24, 2002, with the exception of the addition of the incorporation of a Bases Control Program in chapter 5, ''Administrative Control,'' section 5.5, ''Programs and Manuals,'' of the ITS for Westinghouse plants, NUREG 1431, revision 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration for the changes associated with extending the delay period for a missed surveillance is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function. Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for the proposed administrative changes, which is presented below:

SCE&G has reviewed the proposed no significant hazards consideration determination (NSHCD) published in the **Federal Register** as part of the CLIIP [Consolidated Line Item Improvement]. SCE&G has concluded that the proposed NSHCD presented in the **Federal Register** notice is applicable to VCSNS with one exception. The proposed NSHCD is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

The exception is that the published NSHCD does not specifically address the incorporation of a Bases Control Program, as one is already incorporated into the ITS NUREGs. Therefore, a NSHCD is presented for the proposed inclusion of a Bases Control Program into the VCSNS TS.

In accordance with the criteria set forth in 10 CFR 50.92, SCE&G has evaluated these proposed Technical Specification changes and determined they do not represent a significant hazards consideration. The following is provided to support this conclusion.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change provides an addition to the Administrative Section of TS to comply with the requirements of the **Federal Register** published notice of availability for TSTF–358, revision 6. This change adds a Bases Control Program to section 6.8 that is consistent with the Bases Control Program in NUREG 1431, revision 2.

A bases control program will not provide for a significant increase in probability or consequences of an accident previously evaluated as there are no changes in hardware or software for the plant and no changes in any operating procedure. The incorporation of a Bases control program into the Administrative Section of TS will help to assure that all assumptions in the plant accident analysis for initial conditions, redundancy, and independence are maintained. This change will assure that any and all future revisions to the Bases section of TS will be consistently controlled in a manner acceptable to both the industry and the NRC.

Therefore, this change provides for no significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change has no impact on the operation of the plant or changes to plant configuration. Only the manner in which VCSNS processes and distributes a TS Bases change will be revised and the controls will be similar to the majority of the industry. The NRC has approved the methodology used in the Bases control program, located in section 5.5 of the Westinghouse Standardized Technical Specifications, NUREG 1431, revision 2.

Therefore, there is no possibility of this change creating a new or different kind of accident from any previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

This change provided for a standardized methodology, acceptable to the NRC, to assure consistent guidance for Bases changes is provided and the process is controlled under a TS administrative program. No impact to any plant hardware or safety analysis will occur from this proposed change. Therefore, there is no significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas G. Eppink, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Section Chief: John A. Nakoski.

Tennessee Valley Authority, Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of amendment request: November 6, 2002.

Description of amendment request: The proposed amendment would revise the Browns Ferry Nuclear Plant (BFN), Units 2 and 3, Reactor Pressure Vessel (RPV) material surveillance program required by 10 CFR 50, Appendix H. This program incorporates the Boiling Water Reactor Vessel and Internals Project (BWRVIP) Integrated Surveillance Program (ISP) into the BFN Units 2 and 3 licensing basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change implements a [an] integrated surveillance program that has been evaluated by the NRC staff as meeting the requirements of paragraph III.C of Appendix H to 10 CFR 50. Consequently, the change does not significantly increase the probability of any accident previously evaluated. The change provides the same assurance of RPV integrity. The change will not cause the reactor pressure vessel or interfacing systems to be operated outside their design or testing limits. Also, the change will not alter any assumptions previously made in evaluating the radiological consequences of accidents. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change revises the BFN Units 2 and 3 licensing basis to reflect participation in the BWRVIP ISP. The proposed change does not involve a modification of the design of plant structures, systems, or components. The change will not impact the manner in which the plant is operated as plant operating and testing procedures will not be affected by the change. The change will not degrade the reliability of structures, systems, or components important to safety as equipment protection features will not be deleted or modified, equipment redundancy or independence will not be reduced, supporting system performance will not be increased, and increased or more severe testing of equipment will not be imposed. No new accident types or failure modes will be introduced as a result of this proposed change. Therefore, the proposed change does not create the possibility of a new or different kind of accident from that previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change has been evaluated as providing an acceptable alternative to the plant specific RPV material surveillance program and meets the requirements of 10 CFR 50 Appendix H for RPV material surveillance.

Appendix G to 10 CFR 50 describes the conditions that require pressure temperature (P/T) limits and provides the general bases for these limits. Until the results from the Integrated Surveillance Program become available, RG [Regulatory Guide] 1.99, revision 2 will be used to predict the amount of neutron irradiation damage. The use of operating limits based on these criteria, as defined by applicable regulations, codes, and standards, provide reasonable assurance that nonductile or rapidly propagating failure will not occur. The P/T limits are not derived from Design Basis Accident (DBA) analyses. They are prescribed during normal operation to avoid encountering pressure, temperature, and temperature rate of change conditions that might cause undetected flaws to propagate and cause nonductile failure of the reactor coolant pressure boundary (RCPB). Since the P/T limits are not derived from any DBA, there are no acceptance limits related to the P/T limits. Rather, the P/T limits are acceptance limits themselves since they preclude operation in an unanalyzed condition.

The proposed change will not affect any safety limits, limiting safety system settings, or limiting conditions of operation. The proposed change does not represent a change in initial conditions, or in a system response time, or in any other parameter affecting the course of an accident analysis supporting the Bases of any Technical Specification. Further, the proposed change does not involve a revision to P/T limits but rather a revision to the surveillance capsule withdrawal schedule for the second surveillance capsule. The current P/T limits were established based on adjusted reference temperatures for RPV beltline materials calculated in accordance with RG 1.99, revision 2. P/T limits will continue to be revised, as necessary, for changes in adjusted reference temperature due to changes in fluence when two or more credible surveillance data sets become available. When two or more credible surveillance data sets become available, P/T limits will be revised as prescribed by RG 1.99, revision 2 or other NRC approved guidance. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Section Chief: Allen G. Howe.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application request: October 3, 2002.

Description of amendment request: The amendment would revise Tables 3.3.1–1 (Reactor Trip System (RTS) Instrumentation) and 3.3.2–1 (Engineered Safety Feature Actuation System (ESFAS) Instrumentation) of Limiting Conditions for Operation (LCO) 3.3.1, ''RTS Instrumentation,'' and 3.3.2, ''ESFAS Instrumentation,'' of the Technical Specifications. The proposed changes are to the steam generator (SG) water level low-low (adverse and normal containment environment) functions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall protection system performance [for the proposed changes] will remain within the bounds of the previously performed accident analyses since there are no hardware changes. The design of the SG water level sensing equipment and the coincidence logic in the Solid State Protection System will be unaffected. The only physical change to the RTS and ESFAS instrumentation is the increased actuation setpoints in the NAL

bistable comparator cards in the 7300 Process Protection System. These changes have already been implemented in the field and are in the conservative direction, *i.e.*, a trip actuation signal will be generated sooner for an event that challenges the ability of the steam generators to provide a heat sink. In all other regards, the design of the RTS and ESFAS instrumentation will be unaffected. These protection systems will continue to function in a manner consistent with the plant design basis. All design, material, and construction standards that were applicable prior to this amendment request are maintained.

The probability and consequences of accidents previously evaluated in the FSAR [Callaway Final Safety Analysis Report] are not adversely affected because the changes to the RTS and ESFAS trip setpoints assure the conservative response of the affected trip functions, consistent with the safety analysis and licensing basis.

The proposed changes will not affect the probability of any event initiators. There will be no degradation in the performance of, or an increase in the number of challenges imposed on, safety-related equipment assumed to function during an accident situation. There will be no change to normal plant operating parameters or accident mitigation performance.

The proposed changes will not alter any assumptions or change any mitigation actions in the radiological consequence evaluations in the FSAR.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no hardware changes, other than increased bistable setpoints in the adjustable bistable comparator cards that have already been implemented, nor are there any changes in the method by which any safety-related plant system performs its safety function. This amendment will not affect the normal method of plant operation or change any operating parameters. The LCO Applicability exception for the SG Water Level Low-Low (Normal Containment Environment) channels recognizes the functional design of the system that enables the SG Water Level Low-Low (Adverse Containment Environment) channels with a higher water level trip setpoint whenever the Containment Pressure—Environmental Allowance Modifier channels in the same protection sets are tripped. No performance requirements or response time limits will be affected.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

This amendment does not alter the performance of the 7300 Process Protection System, Nuclear Instrumentation System, or Solid State Protection System used in the plant protection systems.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed changes do not eliminate any RTS surveillance or alter the frequency of surveillances required by the Technical Specifications. The nominal Trip Setpoints specified in the Technical Specification Bases have already been increased in the conservative direction. The safety analysis limits assumed in the transient and accident analyses are unchanged. None of the acceptance criteria for any accident analysis are changed.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, heat flux hot channel factor (F_Q), nuclear enthalpy rise hot channel factor ($F\Delta H$), loss of coolant accident peak cladding temperature (LOCA PCT), peak local power density, or any other margin of safety. The radiological dose consequence acceptance criteria listed in the Standard Review Plan will continue to be met.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application request: October 3, 2002.

Description of amendment request: The amendment would add a phrase to Limiting Condition for Operation (LCO) 3.1.8, ''Physics Tests Exceptions—Mode 2,'' of the Technical Specifications. The phrase to be added is that the number of required channels for certain functions in Table 3.3.1–1 of LCO 3.3.1, ''RTS Instrumentation,'' may be reduced from four to three required channels. LCO 3.1.8 applies to reactor Mode 2 during physics tests.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall protection system performance [for the proposed change] will remain within the bounds of the previously performed accident analyses since there are no permanent hardware changes. The design of the RTS [reactor trip system] instrumentation will be unaffected; only the manner in which the system is connected for short duration physics testing is being changed to allow the temporary bypass of one power range channel. The reactor protection system will continue to function in a manner consistent with the plant design basis since a sufficient number of power range channels will remain OPERABLE to assure the capability of protective functions, even with a postulated single failure. [The number of required channels for certain functions in Table 3.3.1–1 is only being reduced from 4 to 3 channels.] All design, material, and construction standards that were applicable prior to the request are maintained.

The proposed change will allow the temporary bypass of one power range neutron flux channel during the performance of low power physics testing in MODE 2. This results in a temporary change to the coincidence logic from one-out-of-three under the current TS (with a trip imposed on the channel used for physics testing) to two-out-of-three under the proposed TS (the channel used for physics testing would be in a bypassed state). However, this two-out-of-three coincidence logic still supports [the] required protection and control system applications, while reducing plant susceptibility to a spurious reactor trip.

The proposed change will not affect the probability of any event initiators. There will be no change to normal plant operating parameters or accident mitigation performance.

The proposed change will not alter any assumptions or change any mitigation actions in the radiological consequence evaluations in the FSAR [Callaway Final Safety Analysis Report].

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no permanent hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. This change will not affect the normal method of power operation or change any operating parameters. No performance requirements will be affected.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

The proposed amendment does not alter the design or performance of the 7300 Process Protection System, Nuclear

Instrumentation System (other than as discussed above), or Solid State Protection System used in the plant protection systems. [The number of the required channels is not an initiator of an accident.]

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, heat flux hot channel factor (F_Q), nuclear enthalpy rise hot channel factor (FΔH), loss of coolant accident peak cladding temperature (LOCA PCT), peak local power density, or any other margin of safety. The radiological dose consequence acceptance criteria listed in the Standard Review Plan will continue to be met.

The proposed change does not eliminate any RTS surveillance or alter the Frequency of surveillances required by the Technical Specifications. The nominal RTS and Engineered Safety Features Actuation System (ESFAS) trip setpoints (TS Bases Tables B 3.3.1–1 and B 3.3.2–1), RTS and ESFAS allowable values (TS Tables 3.3.1–1 and 3.3.2–1), and the safety analysis limits assumed in the transient and accident analyses [(FSAR Table 15.0–4)] are unchanged. None of the acceptance criteria for any accident analysis is changed. The potential reduction in the frequency of spurious reactor trips would effectively increase the margin of safety or, at a minium, be risk-neutral.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: October 3, 2002.

Brief description of amendment request: The proposed amendment would revise the definition of steam generator (SG) tube inspection in Technical Specification 5.5.9, ''Steam Generator Tube Surveillance Program.'' The amendment would add a requirement for using the rotating pancake coil (RPC) to the H* depth in the tubesheet. The proposed amendment is based on the Westinghouse Topical Report WCAP–15932–P, ''Improved Justification of Partial-Length RPC Inspection of Tube Joints of Model F Steam Generators of Ameren-UE Callaway Plant,'' revision 0, dated September 2002.

Date of publication of individual notice in ***Federal Register:*** October 18, 2002 (67 FR 64422).

Expiration date of individual notice: November 18, 2002.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of consideration of issuance of amendment to facility operating license, proposed no significant hazards consideration determination, and opportunity for a Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP2), Darlington County, South Carolina

Date of application for amendment: May 6, 2002, as supplemented July 25, August 12, September 6, October 15, and October 31, 2002.

Brief description of amendment: This amendment increases the HBRSEP2 maximum steady-state core power level from 2300 megawatts thermal (MWt) to 2339 MWt, an increase of approximately 1.7 percent.

Date of issuance: November 5, 2002.

Effective date: November 5, 2002.

Amendment No.: 196.

Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 3, 2002 (67 FR 56319). The July 25, August 12, September 6, October 15, and October 31, 2002, supplements contained clarifying information only and did not change the initial no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 5, 2002.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: May 14, 2002, as supplemented by letter dated September 9, 2002.

Brief description of amendment: The amendment revised Surveillance Requirement (SR) 4.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period was extended from the current limit of ''* * * up to 24 hours to permit the completion of the surveillance when the allowable outage time limits of the ACTION requirements are less than 24 hours'' to ''* * * up to 24 hours or up to the limit of the specified interval, whichever is greater.'' In addition, the following requirement was added to SR 4.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.'' Also, a Bases Control Program was added as Technical Specification 6.5.14, clarifications were made to SR 4.0.1, and other minor changes were made to SR 4.0.3, consistent with NUREG–1432, revision 2, ''Standard Technical Specifications, Combustion Engineering Plants.''

Date of issuance: November 1, 2002.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 246.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 23, 2002 (67 FR 48216). The application was renoticed on October 1, 2002 (67 FR 61680).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 2002.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: July 9, 2002.

Brief description of amendment: The amendment revised Technical Specification Sections 3.10.4, ''Rod Insertion Limits,'' 3.10.5, ''Rod Misalignment Limitations,'' and 3.10.6, ''Inoperable Rod Position Indicator Channels,'' to remove the cycle-specific allowances on (1) rod insertion limits during individual rod position indicator channel calibrations and (2) rod position indicator channel accuracy for operation at or below 50 percent power. The amendment also revises the control rod indicated misalignment limits.

Date of issuance: November 7, 2002.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 234.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 7, 2002 (67 FR 62500).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 7, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: July 8, 2002.

Brief description of amendments: The proposed amendments would change Appendix A, Technical Specifications (TS), of Facility Operating License Nos. NPF–11 and NPF–18. Specifically, the proposed change adds two footnotes to TS Table 3.3.8.1–1, ''Loss of Power Instrumentation,'' Functions 1.e and 2.e, ''Degraded Voltage—Time Delay, LOCA,'' and makes an editorial change to the heading of TS Table 3.3.8.1–1. The Degraded Voltage—Time Delay, LOCA, function is currently required to be OPERABLE during plant configurations when the ECCS instrumentation that generates the Loss of Coolant Accident (LOCA) signal is not required to be OPERABLE. The proposed changes correct this inconsistency by adding two new footnotes to TS Table 3.3.8.1-i that modify the required OPERABILITY of the Degraded Voltage—Time Delay, LOCA, function.

Date of issuance: November 12, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 155 & 141.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 20, 2002 (67 FR 53986).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 12, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: October 1, 2002, as supplemented October 23, 2002.

Brief description of amendments: The amendments revise the licensing basis as described in the Updated Final Safety Analysis Report to allow lifting heavier loads with the reactor building crane during the Unit 1 refueling outage beginning in November 2002.

Date of issuance: November 4, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 209 & 204.

Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the UFSAR.

Date of initial notice in ***Federal Register:*** October 4, 2002 (67 FR 62270)

The supplement dated October 23, 2002, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 4, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–254, Quad Cities Nuclear Power Station, Unit 1, Rock Island County, Illinois

Date of application for amendment: May 30, 2002, as supplemented August 15 and October 18, 2002.

Brief description of amendment: The amendment revises the safety limit minimum critical power ratio for two-loop and single-loop operation for Unit 1 for Cycle 18.

Date of issuance: November 14, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 210.

Facility Operating License No. DPR–29: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 9, 2002 (67 FR 45569).

The supplements dated August 15 and October 18, 2002, provided additional information that clarified the application, did not change the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards

consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 14, 2002.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: November 21, 2001, as supplemented January 25, 2002, and August 15, 2002.

Brief description of amendments: The amendments revised the Technical Specifications (TS) Surveillance Requirement (SR) 4.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period is extended from ''* * * up to 24 hours to permit completion of the surveillance when the allowable outage time limits of the ACTION requirements are less than 24 hours' to ''* * * up to 24 hours or up to the limit of the specified frequency, whichever is greater.'' In addition, the following requirement was added to SR 4.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.'' Lastly, an editorial change moved two sentences dealing with operability requirements from SR 4.0.3 to SR 4.0.1 to make the revised TS consistent with the Standard TS for Combustion Engineering plants.

Date of Issuance: November 4, 2002.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 186 and 129.

Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 17, 2002 (67 FR 58645).

The January 25, 2002, and August 15, 2002, Supplements did not affect the original proposed no significant hazards determination, or expand the scope of the request as noticed in the ***Federal Register***.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 4, 2002.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit 1, Oswego County, New York

Date of application for amendment: June 28, 2002.

Brief description of amendment: The amendment revised the Technical Specifications. Specifically, it revised item 9, Shutdown Cooling System Isolation High Area Temperature, of Table 4.6.2b, ''Instrumentation that Initiates Primary Coolant System or Containment Isolation,'' changing the frequency of instrument channel test and instrument channel calibration from ''once during each major refueling outage'' to ''once per operating cycle.''

Date of issuance: November 13, 2002.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 177.

Facility Operating License No. DPR–63: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 6, 2002 (67 FR 50956).

The staff's related evaluation of the amendment is contained in a Safety Evaluation dated November 13, 2002.

No significant hazards consideration comments received: No.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: May 17, 2002, as supplemented on June 28, July 1, August 29, and October 11, 2002.

Description of amendment request: The amendment revises the license to reflect changes related to the transfer of the license for Seabrook Station, Unit No. 1, previously held by North Atlantic Energy Service Corporation (NAESCO), as the licensed operator of the facility, and certain co-owners of the facility, on whose behalf NAESCO is also acting, to FPL Energy Seabrook, LLC.

Date of issuance: November 1, 2002.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 86.

Facility Operating License No. NPF–86: Amendment revised the License.

Date of initial notice in ***Federal Register:*** June 14, 2002 (67 FR 40972).

The letters dated June 28, July 1, July 24, August 29, and October 11, 2002, provided clarifying information and did not expand the application beyond the scope of the notice or affect the applicability of the Commission's generic no significant hazards consideration determination pursuant to 10 CFR 2.1315.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 25, 2002.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: July 12, 2002.

Brief description of amendment: The amendment revised the Kewaunee Nuclear Power Plant Technical Specification (TS) 3.1.a.3, ''Pressurizer Safety Valves'' to make it consistent with the Improved Standard TS to improve clarity. The amendment allows both pressurizer safety valves to be inoperable or removed while the reactor vessel head is on, provided the reactor coolant system (RCS) cold legs temperature is below 200 degrees F, which is in MODE 5 configuration. During MODE 5 configuration, the low temperature over pressure protection system is available and operable to protect the RCS from overpressure.

Date of issuance: November 7, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 164.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 6, 2002 (67 FR 50957).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 7, 2002.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: August 27, 2001, as supplemented by letter dated August 12, 2002.

Brief description of amendments: The amendments delete Section 6.8.4.e, ''Post-Accident Sampling,'' from the Salem Nuclear Generating Station, Unit Nos. 1 and 2, Technical Specifications, and License Condition 2.C.25, ''Post-Accident Sampling,'' for Unit 2, thereby eliminating the requirements to have and maintain the post-accident sampling program.

Date of issuance: November 5, 2002.

Effective date: As the date of issuance, and shall be implemented within 90 days.

Amendment Nos.: 254 and 235.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55022).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 5, 2002.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: May 8, 2002.

Brief description of amendment: This amendment changes TS 3.7.6 to exclude the control room normal and emergency air handling system from having to include TS 3.0.4 requirements when applying the action requirements of Limiting Condition for Operation 3.7.6 in Modes 5 and 6. Specifically, the change will allow operation in a manner that is already permitted by TS 3.7.6.

Date of issuance: November 7, 2002.

Effective date: November 7, 2002.

Amendment No.: 161.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 25, 2002 (67 FR 42829).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 7, 2002.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 25, 2002, as supplemented by letter dated August 30, 2002.

Brief description of amendment: The amendment revises paragraphs in Section 5.0, ''Administrative Controls,'' of the Technical Specifications to allow the use of generic personnel titles in place of plant-specific personnel titles.

Date of issuance: November 6, 2002.

Effective date: November 6, 2002, and shall be implemented within 30 days of the date of issuance including the approval of the Updated Safety Analysis Report (USAR) change request that incorporates the relationships between the titles in ANSI/ANS–3.1–1978 and the plant-specific personnel titles in the USAR, as described in the licensee's letters of July 25 and August 30, 2002.

Amendment No.: 149.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 20, 2002 (67 FR 53993).

The August 30, 2002, supplemental letter provided additional information that clarified the application, did not change the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 6, 2002.

No significant hazards consideration comments received: No.

Dated in Rockville, Maryland, this 18th day of November 2002.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–29737 Filed 11–25–02; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Notice of Failure To Make Required Contributions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of the collection of information under Part 4043 of its regulations relating to Notice of Failure to Make Required Contributions (OMB control number 1212–0041; expires January 31, 2003). This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by December 26, 2002.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503.

Copies of the request for extension (including the collection of information) may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, or by visiting that office or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The regulations, forms, and instructions relating to the notice of failure to make required contributions may be accessed on the PBGC's Web site at *http://www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: James L. Beller, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 302(f) of the Employee Retirement Income Security Act of 1974 (''ERISA'') and section 412(n) of the Internal Revenue Code of 1986 (''Code'') impose a lien in favor of an underfunded single-employer plan that is covered by the termination insurance program if (1) any person fails to make a required payment when due, and (2) the unpaid balance of that payment (including interest), when added to the aggregate unpaid balance of all preceding payments for which payment was not made when due (including interest), exceeds $1 million. (For this purpose, a plan is underfunded if its funded current liability percentage is less than 100 percent.) The lien is upon all property and rights to property belonging to the person or persons who are liable for required contributions (*i.e.*, a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member).

Only the PBGC (or, at its direction, the plan's contributing sponsor or a member of the same controlled group) may perfect and enforce this lien. Therefore, ERISA and the Code require persons committing payment failures to notify the PBGC within 10 days of the due date whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds $1 million.

PBGC Form 200, Notice of Failure to Make Required Contributions, and related filing instructions, implement the statutory notification requirement. Submission of Form 200 is required by 29 CFR § 4043.81.

The collection of information under the regulation has been approved through January 31, 2003, by OMB under control number 1212–0041. The PBGC is requesting that OMB extend approval for another three years. An agency may not conduct or sponsor, and

a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that it will receive 30 Form 200 filings per year under this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 64.5 hours and $12,900.

Issued in Washington, DC, this 20th day of November, 2002.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 02–29959 Filed 11–25–02; 8:45 am]

BILLING CODE 7708–01–P

OFFICE OF PERSONNEL MANAGEMENT

Department of Agriculture; Alternative Personnel System; Demonstration Project

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice of amendment of the Department of Agriculture demonstration project plan.

SUMMARY: The Department of Agriculture, with the approval of OPM, is requesting to modify its demonstration project coverage. This action provides for changes in the final project plan published March 9, 1990, to include temporary appointments along with its current coverage of permanent and term appointments. By amending the project plan to include temporary appointments, the need to have two separate examining systems will be eliminated, thus avoiding administrative inefficiencies and ineffectiveness as well as meeting the President's Management Agenda of being more citizen-centered by reducing confusion among applicants.

EFFECTIVE DATE: This modification is effective upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: *Agriculture:* Mary Ann Jenkins, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250, (202–720–0515); *OPM:* Rhonda L. Taylor, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, (202) 606–1526.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 1990, the Office of Personnel Management published a notice to demonstrate an alternative personnel management system at the Department of Agriculture. The project was originally conceived to test an alternative to the traditional recruiting and hiring system in an anticipated tight labor market. On March 8, 1996, a **Federal Register** notice was published to modify the list of experimental sites to include comparison sites. On September 18, 1996, a **Federal Register** notice was published to expand the demonstration project coverage to include term appointments. On October 21, 1998, the Department of Agriculture demonstration project was made permanent through Public Law 105–277. The proposed modification will not be a part of the permanent demonstration project authority, since it was not part of the demonstration project that Congress continued indefinitely. Rather this modification adheres to the regulations under 5 CFR part 470 and will have a time limit of 5 years.

One of the project innovations is to test a candidate assessment method which uses categorical groupings instead of numeric scores. The demonstration authority replaces the traditional system of examining applicants and ranking candidates. Instead, the candidates will be assigned to one of two groups—quality or eligible—based on job-related evaluation criteria. To be placed in the quality group, a candidate's background must show: Above average educational achievement; or, quality experience which is defined as experience clearly above and beyond the qualification standard requirements, and which is directly related to the work of the position to be filled; or, evidence of having ability to do the work of the position. Candidates who do not meet the quality group criteria but who meet basic qualification requirements will be assigned to the eligible group. Within each group, preference eligibles will be listed ahead of nonpreference eligibles. In addition, for positions other than scientific and professional at GS–9 and above, preference eligibles with a compensable service-connected disability of 10 percent or more who meet basic eligibility requirements will be listed at the top of the quality group.

Selection will be made from among candidates in the quality group. When there is an inadequate number of candidates in the quality group all qualified candidates will be listed as a single group.

Office of Personnel Management.

Kay Coles James,

Director.

Project Plan Modification

This project plan which appeared in the **Federal Register** on March 9, 1990 (55 FR 9062) is hereby modified to include using the candidate assessment method for temporary appointments for the Agricultural Research Service and Forest Service.

[FR Doc. 02–29929 Filed 11–25–02; 8:45 am]

BILLING CODE 6325–43–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

Times and Dates: 12:30 p.m., Monday, December 9, 2002; 8:30 a.m., Tuesday, December 10, 2002.

Place: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

Status: December 9–12:30 p.m. (Closed); December 10–8:30 a.m. (Open)

Matters to be Considered:

Monday, December 9–12:30 p.m. (Closed)

1. Audit and Finance Committee Report and Review of Year-End Financial Statements.
2. Financial Performance.
3. Proposed Filing with Postal Rate Commission for Parcel Return Service.
4. Capital Investment for Ventilation and Filtration System for Mail Processing Equipment.
5. Strategic Planning.
6. Personnel Matters and Compensation Issues.

Tuesday, December 10–8:30 a.m. (Open)

1. Minutes of the Previous Meeting, November 4–5, 2002.
2. Remarks of the Postmaster General and CEO.
3. Fiscal Year 2002 Audited Financial Statements.
4. Postal Service Fiscal Year 2002 Annual Report.
5. Final Fiscal Year 2004 Appropriation Request.
6. Capital Investments.
   a. Flats Recognition Improvement Program.
   b. Flats Feeder Enhancement Program.
   c. Rockefeller Center Station, New York, Lease Renewal.
7. Click-N-Ship.
8. Tentative Agenda for the January 6–7, 2003, meeting in Washington, DC.

FOR FURTHER INFORMATION CONTACT: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 02–30168 Filed 11–22–02; 3:43 pm]

BILLING CODE 2210–12–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–28638]

Application and Opportunity for Hearing: Algoma Steel Inc.

November 20, 2002.

The Securities and Exchange Commission gives notice that Algoma Steel Inc. has filed an application under Section 304(d) of the Trust Indenture Act of 1939. Algoma Steel asks the Commission to exempt from the certificate or opinion delivery requirements of Section 314(d) of the 1939 Act certain provisions of an indenture dated January 29, 2002, as supplemented by indentures dated January 29, 2002 and September 9, 2002, between Algoma Steel and Wilmington Trust Company. The indentures relate to 11% Secured Notes due 2009 and 1% Convertible Secured Notes due 2030.

Section 304(d) of the 1939 Act, in part, authorizes the Commission to exempt conditionally or unconditionally any indenture from one or more provisions of the 1939 Act. The Commission may provide an exemption under section 304(d) if it finds that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the 1939 Act.

Section 314(d) requires the obligor to furnish to the indenture trustee certificates or opinions of fair value upon any release of collateral from the lien of the indenture. The application requests an exemption from section 314(d) for specified dispositions of collateral that are made in Algoma Steel's ordinary course of business.

In its application, Algoma Steel alleges that:

1. The indenture permits Algoma Steel to dispose of collateral in the ordinary course of its business;

2. Algoma Steel will deliver to the trustee annual audited financial statements; and

3. Algoma Steel will deliver to the trustee a semi-annual certificate stating that all dispositions of collateral during the relevant six-month period occurred in Algoma Steel's ordinary course of business and that all the proceeds were used as permitted by the indenture.

Any interested persons should look to the application for a more detailed statement of the asserted matters of fact and law. The application is on file in the Commission's Public Reference Section, File Number 22–28638, 450 Fifth Street, NW., Washington, DC 20549.

The Commission also gives notice that any interested persons may request in writing that a hearing be held on this matter. Interested persons must submit those requests to the Commission no later than December 19, 2002. Interested persons must include the following in their request for a hearing on this matter:

—The nature of that person's interest;
—The reasons for the request; and
—The issues of law or fact raised by the application that the interested person desires to refute or request a hearing on.

The interested person should address this request for a hearing to: Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. At any time after December 19, 2002, the Commission may issue an order granting the application, unless the Commission orders a hearing.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29979 Filed 11–25–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27605]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

November 19, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 13, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 13, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70–9343)

Northeast Utilities (''NU''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010, a registered holding company, NU's wholly-owned nonutility subsidiary, NU Enterprises, Inc. (''NUEI''), and Northeast Utilities Service Company, both located at 107 Selden Street, Berlin, Connecticut 06037, (collectively, the ''Applicants'') have filed a post effective amendment to their application-declaration under section 12(b) and rules 45 and 54 under the Act.

By order dated November 12, 1998 (HCAR No. 26939) (''Prior Order''), the Commission authorized NU and NUEI to, among other things, issue guarantees or provide similar forms of credit support or enhancements (collectively, ''Guarantees'') to, or for the benefit of NUEI, NUEI's nonutility subsidiaries, or NU's other to-be-formed direct or indirect energy-related companies, as defined in rule 58 of the Act. The Commission, through subsequent orders in this file, authorized an increase in this Guarantee authority to $500 million and the extension of the date through which Guarantees may be provided through December 31, 2002, under the terms and conditions of the Prior Order. Applicants request in this filing to maintain the Guarantee authority at $500 million and to extend the date through which the Guarantees may be provided through September 30, 2003, under the terms and conditions of the Prior Order.

American Electric Power Company, et al. (70–10088)

American Electric Power Company Inc. (''AEP''), Central and South West Corporation (''CSW''), both registered holding companies under the Act, 1

Riverside Plaza, Columbus, Ohio 43215, and the following direct and indirect subsidiaries of AEP (collectively ''Subsidiaries'' and with AEP and CSW ''Applicants''), which include:

(a) *Public utility subsidiaries:* AEP Generating Company (''Generating''), Appalachian Power Company (''Appalachian''), Central Power and Light Company (''CPL''), Columbus Southern Power Company (''Columbus''), Indiana Michigan Power Company (''Indiana''), Kentucky Power Company (''Kentucky''), Kingsport Power Company (''Kingsport''), Ohio Power Company (''Ohio''), Public Service Company of Oklahoma (''PSO''), Southwestern Electric Power Company (''SWEPCO''), West Texas Utilities Company (''West Texas''), and Wheeling Power Company (''Wheeling''), all located at 1 Riverside Plaza, Columbus, Ohio 43215 (collectively, ''Utility Subsidiaries'');

(b) *Nonutility subsidiaries that participate in the AEP utility money pool:* Cedar Coal Company, Central Appalachian Coal Company, Central Coal Company, Colomet Inc., Simco Inc., Southern Appalachian Coal Company, Blackhawk Coal Company, Conesville Coal Preparation Company, Franklin Real Estate Company, Indiana Franklin Realty Company, all located at 1 Riverside Plaza, Columbus, Ohio 43215 (collectively ''Nonutility Participants In The Utility Money Pool''); and

(c) *Nonutility subsidiaries that wish to participate in the AEP nonutility money pool:* Universal Supercapacitators LLC, AEP Coal Inc., AEP Power Marketing Inc., AEP Pro Serv Inc., AEP Retail Energy LLC, AEP T&D Services LLC, AEP Credit Inc., Industry and Energy Associates LLC, AEP C&I Company LLC, AEP Gas Power System GP LLC, AEP Gas Power GP LLC, AEP Retail Energy, AEP Texas Commercial & Industrial Retail CP LLC, AEP Communications Inc., AEP Communications LLC, C3 Networks GP LLC, C3 Networks Limited Partnership, C3 Networks & Comm LP, AEP Fiber Venture LLC, C3 Communications Inc., AEP Energy Services Inc., AEP EmTech LLC, AEP Investments Inc., Ventures Lease Co. LLC, AEP Resource Services LLC, AEP Resources Inc., AEP Delaware Investment Company, AEP MEMCO LLC, AEP Elmwood LLC, United Sciences Testing Inc., AEP Energy Services Gas Holding Company, Mid-Texas Pipeline Company, Jefferson Island Storage & Hub LLC, AEP Acquisition LLC, AEP Energy Services Investments Inc., LIG Inc., LIG Pipeline Company, Tuscaloosa Pipeline Company, LIG Liquids Company LLC, Louisiana Intrastate Gas Company LLC, LIG Chemical Company, Houston Pipe Line Company, AEP Gas Marketing LP, HPL Holdings Inc., AEP Resources International Limited, AEP Resources Project Management Company Ltd., AEP Pushan Power LDC, CSW International Inc., AEP Delaware Investment Company II, AEP Delaware Investment Company III, AEP Holdings I, AEP Holdings II, AEP Energy Services UK Gen Ltd., AEP Energy Services Limited, CSW Energy Inc., CSW Power Marketing Inc., CSWE/Ft. Lupton Inc., Newgulf Power Venture, CSW Development I Inc., Eastex Cogeneration LP, CSW Eastex LP I Inc., CSW Energy Services Inc., EnerShop Inc., Mutual Energy SWEPCO LP, REP Holdco Inc., Mutual Energy CPL LP, REP General Partner LLC, Mutual Energy WTU LP, Mutual Energy Service Company LLC, AEP Ohio Commercial & Industrial Retail Company LLC, AEP Ohio Retail Energy LLC, Mutual Energy LLC, AEP Texas Retail GP LLC, POLR Power LP, Dolet Hills Lignite Company LLC, AEP Desert Sky GP LLC, AEP Desert Sky LP LLC, all located at 1 Riverside Plaza, Columbus, Ohio (collectively, ''Nonutility Money Pool Participants'') have filed an application-declaration (''Application'') under sections 6(a), 7, 9(a), 10, 12(b) and 12(c) of the Act and rules 43, 45, 46 and 54 under the Act.

Subsidiaries may also include direct or indirect subsidiaries that AEP may form under sections 32, 33 or 34 of the Act or rule 58 under the Act. All of AEP's direct and indirect Subsidiaries, other than Public Utility Subsidiaries, are referred to as nonutility subsidiaries (''Nonutility Subsidiaries''). All subsidiaries and AEP and CSW are sometimes referred to collectively as the ''Companies.''

The Application seeks authority for various financing transactions (''Financing Plan'') as described below. In summary, the Application seeks the following authorizations and approvals of the Commission for the period ending March 31, 2006 (''Authorization Period''):

(i) SWEPCO and Wheeling request authorization to issue long-term debt in amounts not to exceed $350 million and $40 million, respectively;

(ii) AEP and its Public Utility Subsidiaries request aggregate short-term financing in the amount of $7.2 billion outstanding;

(iii) CPL, Columbus, Ohio and West Texas seek interim authority until restructuring is implemented to issue short- and long-term debt in an amount not to exceed $3.9 billion;

(iv) Subsidiaries seek authorization to organize financing entities for certain types of financings described more fully below;

(v) Applicants seek authority to make tender offers for their securities and to repurchase their own securities from affiliates;

(vi) AEP and certain Subsidiaries that are participants in the system utility money pool request the continuation of the money pool through the Authorization Period;

(vii) AEP and certain Nonutility Subsidiaries request authority to form and continue a nonutility money pool on substantially the same terms and conditions as the utility money pool;

(viii) AEP and its Subsidiaries request authority to issue guarantees and other forms of credit support in an aggregate amount not to exceed $900 million outstanding at any one time as more fully described below; and

(ix) AEP and its Nonutility Subsidiaries request authorization for the Nonutility Subsidiaries to pay dividends out of capital or unearned surplus to the fullest extent allowed by law.

By order dated December 30, 1997 (HCAR No. 35–26811), CSW and its electric public utility subsidiary companies, CPL, PSO, SWEPCO, WTU and Central and South West Services Inc., were authorized to engage in various financing and related transactions through December 31, 2002. By order dated June 14, 2000 (HCAR No. 35–27186), AEP was authorized to acquire by merger all of the outstanding common stock of CSW; and AEP, its operating subsidiaries and certain other subsidiaries were added to the CSW money pool. By order dated October 26, 2001 (HCAR No. 35–27457), the money pool authority was extended to December 31, 2002, and certain sublimits related to restructuring of the AEP system were established.

AEP, American Electric Power Services Company (''AEPSC''), CSW, CPL, Columbus, Ohio, SWEPCO and West Texas have pending before this Commission an application (''Restructuring Application''), for which the Commission issued a notice on June 14, 2002 (HCAR No. 27450). The application seeks authority to restructure their operations to comply with deregulation statutes in Texas and Ohio that will result in the separation of the generation and energy delivery functions of CPL, Columbus, Ohio, and West Texas. The authority sought in the Restructuring Application includes the issuance of short- and long-term debt by the new generation, distribution and transmission entities and guarantees relating to these new entities. It is possible that an order in this matter will

not be issued until after December 31, 2002. Interim financing authority for these companies is requested pending issuance of the restructuring order.

The Applicants request authority to engage in financing transactions without further Commission approval for which the specific terms and conditions are not currently known but will engage in these transactions subject to the following conditions concerning the financial condition of the Applicants: (a) The effective cost of money on long-term debt borrowings issued will not exceed the greater of (i) 450 basis points over comparable term U.S. Treasury securities or (ii) a gross spread over U.S. Treasury securities which is consistent with similar securities of comparable credit quality and maturities issued by other companies, (b) the maturity of indebtedness will not exceed 50 years, (c) the underwriting fees, commissions, or other similar expenses paid in connection with the issue, sale or distribution of a security will not exceed 5% of the principal or total amount of the financing, (d) all debt issued by AEP will be unsecured, (e) except in accordance with a further order of the Commission, the Applicants will not publicly issue any long-term debt unless the securities are rated at the time of issuance at the investment grade level as established by at least one ''nationally recognized statistical rating organization,'' as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3–1 under the Securities Exchange Act of 1934.

AEP states that it will maintain during the authorization period for itself and for all Public Utility Subsidiaries common equity of 30% of consolidated capital (including short-term debt); however, CPL requests that it be permitted to maintain a common equity ratio of 25% for so long as securitization bonds are outstanding.

The proceeds from the sale of securities in external financing transactions by the Applicants will be added to their respective treasuries and subsequently used principally for general corporate purposes including: (i) The financing, in part, of capital expenditures; (ii) the financing of working capital requirements; (iii) the acquisition, retirement or redemption of securities previously issued by AEP or its Subsidiaries without the need for prior Commission approval; and (iv) other lawful purposes, including direct or indirect investment in energy related companies as defined in rule 58 (''Rule 58 Companies''), other subsidiaries approved by the Commission, exempt wholesale generators (''EWGs''), and foreign utility companies (''FUCOs'').

Applicants request approval for the following aggregate amounts of outstanding external financing during the Authorization Period (not including refinancing of outstanding securities):

(i) Long-term debt limits: SWEPCO, $350,000,000; Wheeling, $40,000,000.

(ii) Short-term borrowing limits through the Money Pool or external borrowings, or borrowings from AEP, as follows: Appalachian, $600,000,000; Indiana, $500,000,000; Kentucky, $200,000,000; Generating, $125,000,000; Kingsport, $40,000,000; PSO, $300,000,000; SWEPCO, $350,000,000; Wheeling, $40,000,000. In addition, AEP requests authority for short-term borrowings sufficient to fund the Utility Money Pool and the Nonutility Money Pool as well as its own requirements in an amount not to exceed $7,200,000,000.

(iii) Interim limits: If the Restructuring Order referred to above is not obtained by December 31, 2002, the companies affected by restructuring will need interim authority to issue debt, including both long and short-term debt, both on the external market or from the Utility Money Pool, until restructuring is implemented as described in SEC File 70–9785. The companies involved in the restructuring request the following authority to issue debt if the Restructuring Order is not issued by the end of 2002: CPL, $1,400,000,000; Columbus, $800,000,000; Ohio, $1,200,000,000; West Texas, $500,000,000.

External Financing

All external financing will be at rates or prices and under conditions based upon, or otherwise determined, by competitive capital markets. The Applicants request authority to sell securities covered by this Application in any of the following ways: (i) Through underwriters or dealers; (ii) directly to a limited number of purchasers or to a single purchaser, or (iii) through agents or dealers. If underwriters are used in the sale of the securities, the securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The securities may be offered to the public either through underwriting syndicates (which may be represented by managing underwriters) or directly by one or more underwriters acting alone. The securities may be sold directly by AEP or a Subsidiary or through agents designated from time to time. If dealers are used in the sale of any securities, the securities will be sold to the dealers as principal. Any dealer may then resell such securities to the public at varying prices to be determined by the dealer at the time of resale.

If debt securities are being sold, they may be sold in connection with ''delayed delivery contracts'' which permit the underwriters to locate buyers who will agree to buy the debt at the same price but at a later date than the date of the closing of the sale to the underwriters. Debt securities may also be sold through the use of medium-term notes and similar programs, including transactions covered by rule 144A under the Securities Act of 1933. Pollution control revenue bonds may be sold either currently or in forward refundings where the price of the securities is established currently for delivery at a future date.

Long-Term Debt: Under current law, the public utility commissions in the states of Indiana, Virginia, Tennessee, Ohio, Oklahoma and Kentucky approve the issuance of long-term securities by public utility companies. Therefore, rule 52(a) under the Act provides an exemption from the Commission for the issuances of long term debt securities by all of AEP's Public Utility Subsidiaries except CPL, SWEPCO, West Texas and Wheeling. Financing authorization is being sought for CPL and West Texas in the Restructuring Application and in the request for interim limits above. SWEPCO and Wheeling seek long-term debt authority in amounts not to exceed $350 million and $40 million, respectively. Any long-term debt or other security would have such designations, aggregate principal amount, maturity, interest rate(s) or methods of determining these amounts, maturities or rates, interest payment terms, redemption provisions, non-refunding provisions, sinking fund terms, conversion or put terms and other terms and conditions as the Applicants may determine at the time of issuance.

Short-Term Debt: The Public Utility Subsidiaries are members of the AEP utility money pool (''Money Pool'') and make short-term borrowings from the Money Pool. The Money Pool is funded by AEP currently through a commercial paper program. No participant in the Money Pool (''Participants'') may borrow from the Money Pool if the borrowing company could borrow more cheaply directly from banks or through the issuance of its own commercial paper. In the event funds are not available from the Money Pool, AEP and the Public Utility Subsidiaries seek authorization for the issuance of short-term debt in the form of bank loans,

commercial paper programs and other products in the amount set forth in above, as well as direct issuance from AEP. Commercial paper would be sold in established domestic or European commercial paper markets. Short-term borrowings will have maturities of less than one year from the date of issuance. The Public Utility Subsidiaries may engage in other types of short-term financing generally available to borrowers with comparable credit ratings as it may deem appropriate in light of its needs and market conditions at the time of issuance.

AEP requests flexibility in the types of short-term debt by which it borrows externally to take advantage of new products being offered in the market for short-term securities, including but not limited to, the extendible commercial notes program currently being offered by certain commercial paper dealers and new products to provide alternate backup liquidity for commercial paper and short-term notes.

Credit Enhancements: Applicants seek authority to obtain credit enhancement for securities to be offered as proposed in this Application. Credit enhancements could include insurance, a letter of credit or a liquidity facility. Applicants anticipate that even though they would be required to pay a premium or fee to obtain the credit enhancement, they would realize a net benefit through a reduced interest rate on new securities. Applicants would obtain credit enhancement only if it is economically beneficial to do so.

Financing Entities: The Subsidiaries seek authority to organize new corporations, trusts, partnerships or other entities that would facilitate certain types of financings, such as the issuance of tax advantaged preferred securities. Request is also made for these financing entities to issue these types of securities to third parties. Additionally, request is made for authorization with respect to (i) the issuance of debentures or other evidences of indebtedness by the Subsidiaries to a financing entity in return for the proceeds of the financing and (ii) the acquisition by a Subsidiary of voting interests or equity securities issued by the financing entity to establish the Subsidiary's ownership of the financing entity (the equity portion of the entity generally being created through a capital contribution or the purchase of equity securities, such as shares of stock or partnership interests, involving an amount usually ranging from one to twenty-five percent of the capitalization of the financing entity). The Subsidiaries also request authorization to enter into expense agreements with their respective financing entities through which they would agree to pay all expenses of a financing entity. The Subsidiaries may also guarantee (i) payment of interest, dividends or distributions on the securities issued by their subsidiary financing entities if and to the extent such financing entities declare dividends or distributions or pay interest out of funds legally available for that purpose; (ii) payments to the holders of the securities issued by financing entities of amounts due upon liquidation of these entities or redemption of the securities of these entities; and (iii) certain additional amounts that may be payable in respect of these securities.

Tender Offers and Repurchase of Securities: AEP and the Subsidiaries may determine to acquire outstanding securities (''Outstanding Securities'') through tender offers to the holders of Outstanding Securities. Tender offers may be conditioned upon receipt of a certain percentage of the Outstanding Securities. The tender offer price would be based on a number of factors, including the coupon rate of the Outstanding Securities, the date of expiration of the refunding protection of the Outstanding Securities, the redemption price on such expiration date and the then current market rates for similar securities, all of which are relevant to the decision of an informed holder as to whether to hold or sell Outstanding Securities. Holders of Outstanding Securities may be offered a fixed price for their Outstanding Securities, or the tender offer may be a ''fixed spread'' offer pursuant to which the Applicants will offer a price based upon a fixed spread over comparable U.S. Treasury securities. Any tender offer will be conducted in accordance with standard market practice, *i.e.*, the length of time the offer will be held open, the method of solicitation, etc., at the time of the tender offer.

AEP and the Subsidiaries would, in connection with any tender offer, retain one or more investment banking firms experienced in such matters to act as tender agent and dealer-manager. The dealer-manager will act as the agent in disseminating the tender offer and receiving responses to it. As a dealer-manager, the investment banking firm will not itself become obligated to purchase or sell any of the Outstanding Securities. The dealer-manager's fee will be determined following negotiation and investigation of fees in similar transactions and will include reasonable out-of-pocket expenses and attorney's fees. It is expected that the Applicants will be required, as is customary, to indemnify the dealer-manager for certain liabilities. The Applicants may also retain a depositary to hold the tendered Outstanding Securities pending the purchase of them or an information agent to assist in the tender offer. AEP and the Public Utility Subsidiaries also seek authority to repurchase their own securities issued to affiliates.

Hedging Transactions

Interest rate hedging transactions with respect to existing indebtedness (''Interest Rate Hedges''), subject to certain limitations and restrictions, would be entered into in order to reduce or manage interest rate cost or risk. Interest Rate Hedges would only be entered into with counterparties (''Approved Counterparties'') whose senior debt ratings, or whose parent companies' senior debt ratings, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB, or an equivalent rating from Moody's Investors' Service or Fitch Investor Service. Interest Rate Hedges will involve the use of financial instruments and derivatives commonly used in today's capital markets, such as interest rate swaps, options, caps, collars, floors, and structured notes (*i.e.*, a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations. The transactions would be for fixed periods and stated notional amounts. In no case will the notional principal amount of any interest rate swap exceed that of the underlying debt instrument and related interest rate exposure. Applicants will not engage in speculative transactions. Fees, commissions and other amounts payable to the counterparty or exchange (excluding the swap or option payments) in connection with an Interest Rate Hedge will not exceed those generally obtainable in competitive markets for parties of comparable credit quality.

Interest rate hedging transactions with respect to anticipated debt offerings (the ''Anticipatory Hedges'') and subject to certain limitations and restrictions would only be entered into with Approved Counterparties, and would be utilized to fix and/or limit the interest rate risk associated with any new issuance through (i) a forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury obligations and/or a forward swap (each a ''Forward Sale''); (ii) the purchase of put options on U.S. Treasury obligations (a ''Put

Options Purchase''); (iii) a Put Options Purchase in combination with the sale of call options on U.S. Treasury obligations (a ''Zero Cost Collar''); (iv) transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations; or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, options, caps and collars, appropriate for the Anticipatory Hedges. Anticipatory Hedges may be executed on-exchange (''On-Exchange Trades'') with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade or the Chicago Mercantile Exchange, the opening of over-the-counter positions with one or more counterparties (''Off-Exchange Trades''), or a combination of On-Exchange Trades and Off-Exchange Trades. Each Applicant will determine the optimal structure of each Anticipatory Hedge transaction at the time of execution. Applicants may decide to lock in interest rates and/or limit its exposure to interest rate increases. Applicants represent that each Interest Rate Hedge and Anticipatory Hedge will be treated for accounting purposes under generally accepted accounting principles. Applicants will comply with the then existing financial disclosure requirements of the Financial Accounting Standards Board associated with hedging transactions.

Extension of Authority for Utility Money Pool

By order dated December 30, 1976 (HCAR No. 19829), and in subsequent orders (HCAR No. 26697 (March 28, 1997), HCAR No. 24855 (April 5, 1989), HCAR No. 26254 (March 21, 1995), and HCAR No. 26854 (April 3, 1998)), the Commission authorized Central and South West Corporation (''CSW''), a Delaware corporation and a registered holding company under the Act and a wholly owned subsidiary of AEP, to establish and utilize a system Money Pool to coordinate short-term borrowings for CSW, its electric subsidiary companies and Central and South West Services Inc. By order dated June 14, 2000 (HCAR No. 27186), the Commission authorized AEP to continue the Money Pool and to add its Utility Subsidiaries as well as Nonutility Participants In the Utility Money Pool as Participants in the AEP System Money Pool and established borrowing limits for all Participants. By Order dated October 26, 2001 (HCAR No. 35–27457), AEP was authorized to increase its external borrowing from $5 billion to $6.910 billion through December 31, 2002, through the issuance and sale of short-term notes and commercial paper.

All short-term borrowing needs of the Participants may be met by funds in the Money Pool to the extent funds are available. Each Participant shall have the right to borrow from the Money Pool from time to time, subject to the availability of funds and the limitations and conditions set forth in orders of this Commission; provided, however, that the aggregate amount of all loans requested by any Participant shall not exceed the applicable borrowing limits set forth in orders of the Commission and other regulatory authorities and agreements binding upon a Participant. No Participant shall be obligated to borrow from the Money Pool if lower cost funds can be obtained from its own external borrowing. AEP will not borrow funds from the Money Pool or any Participant.

AEPSC, a subsidiary service company, acts as administrative agent of the Money Pool. Each Participant and AEP determine the amount of funds it has available for contribution to the Money Pool. The determination of whether a Participant or AEP at any time has surplus funds, or shall lend surplus funds to the Money Pool, will be made by a Participant's treasurer or by a designee of the Participant in his or her sole discretion on the basis of cash flow projections and other relevant factors. Each Participant may withdraw any of its funds at any time upon notice to AEPSC. Each Participant may borrow from the Money Pool to the extent of its Borrowing Limits for short-term debt.

The Money Pool is composed from time to time of funds from the following sources: (i) Surplus funds of AEP; (ii) surplus funds of any of the Participants; or (iii) short-term borrowings by AEP. AEPSC administers the Money Pool by matching up, to the extent possible, short-term cash surpluses and loan requirements of AEP and the various Participants. Participants' requests for short-term loans are met first from surplus funds of other Participants which are available to the Money Pool and then from AEP corporate funds to the extent available. To the extent that Participant contributions of surplus funds to the Money Pool are insufficient to meet Participant requests for short-term loans, borrowings are made from outside the system. Funds which are loaned from Participants into the Money Pool which are not required to satisfy borrowing needs of other Participants will be invested by AEP on behalf of the lending Participants in one or more short-term instruments.

The Money Pool makes funds available to Participants for the interim financing of their capital expenditure programs and their other working capital needs, to AEP to loan and to make capital contributions to any of the Participants, and in both instances to repay previous borrowings incurred. External borrowings by AEP will not be made unless there are no surplus funds in the treasuries of the Participants sufficient to meet borrowing needs. However, no loan will be made by AEP or any Participant if the borrowing company could borrow more cheaply directly from banks or through the sale of its own commercial paper. When more than one Participant is borrowing, each borrowing Participant will borrow *pro rata* from each fund source in the same proportion that the amount of funds provided by that fund source bears to the total amount of short-term funds available to the Money Pool.

The interest rate applicable on any day to then outstanding loans through the Money Pool will be the composite weighted average daily effective cost incurred by AEP for short-term borrowings from external sources. If there are no borrowings outstanding then the rate would be the certificate of deposit yield equivalent of the 30-day Federal Reserve ''A2/P2'' Non Financial Commercial Paper Composite Rate (''Composite''), or if no composite is established for that day then the applicable rate will be the Composite for the next preceding day for which the Composite is established. If the Composite shall cease to exist, then the rate would be the composite which then most closely resembles the Composite and/or most closely mirrors the pricing AEP would expect if it had external borrowings.

Interest income related to external investments will be calculated daily and allocated back to lending parties on the basis of their relative contribution to the investment pool funds on that date. Each Participant receiving a loan shall repay the principal amount of the loan, together with all accrued interest, on demand and in any event not later than the expiration date of the Commission's authorization for the operation of the Money Pool. All loans made through the Money Pool may be prepaid by the borrower without premium or penalty.

Nonutility Money Pool

AEP and the Nonutility Money Pool Participants propose to form and participate in a separate system of intercorporate borrowings (''Nonutility Money Pool''). The Nonutility Money Pool would be established and administered in the same manner and

subject to the same conditions as the Utility Money Pool described above.

Applicants state that participation by a Nonutility Money Pool Participant in the Nonutility Money Pool would permit their available cash and/or short-term borrowing requirements to be matched on a daily basis with other Nonutility Money Pool Participants to minimize the need of the AEP system for external short-term borrowing. If the Nonutility Money Pool Participants are authorized to participate in the Nonutility Money Pool, funds will be loaned from the Nonutility Money Pool in the form of open account advances under the same terms and limitations as currently authorized for the Utility Money Pool. Participants in the Nonutility Money Pool will not engage in lending and borrowing transactions with Participants in the Utility Money Pool.

Guarantee of Indebtedness and Obligations

AEP requests authorization to enter into guarantees, obtain letters of credit, enter into support or expense agreements or otherwise provide credit support from time to time through March 31, 2006, on behalf of any of its direct or indirect Subsidiaries in amounts up to $900,000,000. AEP also requests authority to guarantee the obligations of its direct or indirect Subsidiaries as may be appropriate or necessary to enable the subsidiaries to carry on the ordinary course of their businesses. Each of the Public Utility Subsidiaries seeks authorization to enter into guarantees and other credit support with respect to obligations of each of its subsidiaries. Nonutility Subsidiaries also request authority for each Nonutility Subsidiary to provide guarantees and other forms of credit support to other Nonutility Subsidiaries. Certain of the guarantees referred to above may be in support of the obligations of Subsidiaries that are not capable of exact quantification. In such cases, AEP will determine the exposure of the instrument for purposes of measuring compliance with the total guarantee limit. The aggregate amount of the guarantees will not exceed $900 million (excluding obligations exempt under rule 45 and authorized under other Commission orders).

Payments of Dividends Out of Capital or Unearned Surplus

Section 12(c) of the Act and rule 46 under the Act generally prohibit the payment of dividends out of capital or unearned surplus, except according to an order of the Commission. AEP and the Nonutility Subsidiaries hereby request authority for the direct and indirect Nonutility Subsidiaries to pay dividends out of capital or unearned surplus to the fullest extent of the law.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29943 Filed 11–25–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25808; 812–12902]

Alternative Investment Partners, LLC and Trust Advisors, LLC; Notice of Application

November 20, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order and notice of application under section 9(c) of the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to a securities-related preliminary injunction entered on November 13, 2002, until the Commission takes final action on an application for a permanent order. Applicants also have requested a permanent order.

APPLICANTS: Alternative Investment Partners, LLC (''AIP'') and Trust Advisors, LLC (''TA'').

FILING DATE: The application was filed on November 19, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 17, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: AIP, 142 Hardscrabble Lake Drive, Chappaqua, NY 10514; TA, 1375 Kings Highway East, Ste. 400, Fairfield, CT 07663.

FOR FURTHER INFORMATION CONTACT: John L. Sullivan, Senior Counsel, at (202) 942–0681, or Michael W. Mundt, Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. AIP is a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). AIP serves as the investment adviser to Alpha Strategies I Fund (''Fund''), which is a series of AIP Alternative Strategies Funds, an open-end management investment company registered under the Act. TA, a Delaware limited liability company, is registered as an investment adviser under the Advisers Act and serves as a research consultant to AIP and the Fund with respect to the selection and ongoing review of subadvisers for the Fund. Because the services provided by TA may be characterized as investment advisory services, applicants state that TA may be considered an investment adviser to the Fund under section 2(a)(20) of the Act. Asset Alliance Corporation (''AAC''), a Delaware corporation, states that it is a holding company primarily engaged in the business of owning significant interests in investment managers. AAC directly owns 50% of AIP and indirectly owns 50% of TA. AAC also indirectly owns 50% of Beacon Hill Asset Management LLC (''BHAM'').

2. On November 13, 2002, the U.S. District Court for the Southern District of New York entered an order of Preliminary Injunction and Other Relief Against BHAM (''Preliminary Injunction'') in a matter brought by the Commission (the ''Action'').[1] The transactions that are the subject of the Action involved the alleged improper valuations of certain unregistered investment funds managed by BHAM, resulting in BHAM's alleged violation of section 206(2) of the Advisers Act. The

[1] *Securities and Exchange Commission* v. *Beacon Hill Asset Management, LLC,* Stipulation of Order Granting Preliminary Injunction and Other Relief Against Beacon Hill Asset Management, Case No. 02cv8855 (S.D.N.Y., Nov. 13, 2002).

Preliminary Injunction enjoined BHAM, directly or through its officers, directors, agents and employees, from violating section 206(2).

Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security from acting, among other things, as an investment adviser or depositor of any registered investment company or a principal underwriter for any registered open-end investment company, registered unit investment trust, or registered face-amount certificate company. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly controlling, controlled by, or under common control, with the other person. Applicants state that BHAM is an affiliated person of the applicants because BHAM and the applicants are under the common control of AAC. Applicants state that, as a result of the Preliminary Injunction, applicants may be subject to the prohibitions of section 9(a).

2. Section 9(c) of the Act provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to the applicants, are unduly or disproportionately severe or that the applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the application. Applicants have filed an application pursuant to section 9(c) of the Act seeking temporary and permanent orders exempting them from the provisions of section 9(a) of the Act that might otherwise be operative with respect to their provision of investment advisory services to the Fund as a result of the Preliminary Injunction.

3. Applicants state that the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe and that the conduct of applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a). Applicants state that none of the current or former officers or employees of either of the applicants participated in or had any knowledge of the conduct alleged to have constituted the violations that resulted in the Action. In addition, neither applicant has been the subject of any federal or state enforcement or other administrative or judicial disciplinary proceeding, nor has either been named as a defendant in any other action relating to the securities laws. Applicants state that neither has ever previously applied for an exemption pursuant to section 9(c) of the Act.

4. Applicants state that their inability to continue providing advisory services to the Fund would result in the Fund and its shareholders facing potentially severe hardships. Additionally, applicants assert that if they were barred from providing investment advisory services to the Fund, the effect on their businesses and employees would be severe.

5. AIP and TA will distribute written materials, including an offer to meet in person to discuss the materials, to the board of directors of the Fund regarding the Action and the reasons they believe relief pursuant to section 9(c) is appropriate. AIP and TA will provide the Fund with all information concerning the Action and the exemptive application necessary for the Fund to fulfill its disclosure and other obligations under the federal securities laws.

Applicants' Condition

Applicants agree that the order granting the requested relief will be subject to the following condition:

1. Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, applicants or their affiliated persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

Temporary Order

The Commission has considered the matter and finds that applicants have made the necessary showing to justify granting of a temporary exemption.

Accordingly, *it is hereby ordered,* pursuant to section 9(c) of the Act, on the basis of the representations contained in the application, that applicants be and hereby are temporarily exempted from the provisions of section 9(a) of the Act with respect to their investment advisory services to the Fund to the extent the provisions are operative solely as a result of the Preliminary Injunction, subject to the condition in the application, until the Commission takes final action on an application for a permanent order.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29944 Filed 11–25–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25805 /812–12562]

AB Funds Trust and SBC Financial Services, Inc.; Notice of Application

November 19, 2002.

AGENCY: Securities and Exchange Commission (the ''Commission'')

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

APPLICANTS: AB Funds Trust (the ''Trust'') and SBC Financial Services, Inc. (the ''Adviser'').

SUMMARY OF APPLICATION: Applicants request an order that would permit applicants to enter into and materially amend sub-advisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

FILING DATES: The application was filed on June 22, 2001, and amended on November, 8, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 16, 2002, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Rodney R. Miller, Esq.,

AB Funds Trust, 2401 Cedar Springs Road, Dallas, Texas 75201–1407.

FOR FURTHER INFORMATION CONTACT: Karen L. Goldstein, Senior Counsel, at (202) 942–0646, or Janet M. Grossnickle, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Trust is a Delaware business trust registered under the Act as an open-end management investment company. The Trust is organized as a series investment company and has thirteen series (each a ''Fund'' and collectively, the ''Funds''). Each Fund has its own investment objective, policies and restrictions. Four of the Funds will operate as funds of funds pursuant to section 12(d)(1)(G) under the Act (the ''Blended Funds'') and will allocate their investments among the nine other series of the Trust (the ''Select Funds''). Investors may also purchase shares of the Select Funds directly. The Adviser, a Texas non-profit, non-stock corporation, serves as investment adviser to the Trust, and is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'').[1]

2. The Trust, on behalf of each Fund, has entered into an investment advisory agreement with the Adviser (''Advisory Agreement''). The Advisory Agreement has been approved by the Trust's board of trustees (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust (''Disinterested Trustees''), as well as by each Fund's initial shareholder. Under the terms of the Advisory Agreement, the Adviser manages the investment of assets of each Fund and, subject to oversight by the Board, may delegate its investment advisory responsibilities to one or more subadvisers (''Subadvisers''). The Trust and the Adviser have entered into investment subadvisory agreements (''Subadvisory Agreements'') with Subadvisers for all but two of the Select Funds. Under the Subadvisory Agreements, each Subadviser has discretionary authority to invest a portion of a Select Fund's assets subject to supervision by the Adviser, the Fund's investment objectives, policies and restrictions, and instructions of the Board. Each of the Subadvisers is, or will be, an investment adviser registered or exempt from registration under the Advisers Act. The Trust pays the Adviser a fee computed separately for each Select Fund based on the Fund's net asset value.

3. The Adviser monitors the Funds and the Subadvisers and makes recommendations to the Board regarding allocation of assets between Subadvisers and is responsible for recommending the hiring, termination and replacement of Subadvisers. The Adviser recommends Subadvisers based on a number of factors listed in the application used to evaluate their skills in managing assets pursuant to particular investment objectives. Each Subadviser will be paid by the Select Fund at a rate that has been negotiated with each Subadviser by the Adviser and approved by the Board.

4. Applicants request an order to permit the Adviser, subject to the oversight of the Board, to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to a Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or the Adviser, other than by reason of serving as a Subadviser to one or more of the Funds (''Affiliated Subadviser'').

5. Applicants also request an exemption from the various disclosure provisions described below that may require each Fund to disclose fees paid to the Subadvisers. The Trust will disclose for each Fund (both as a dollar amount and as a percentage of a Select Fund's net assets): (i) The aggregate fees paid to the Adviser and Affiliated Subadvisers; and (ii) aggregate fees paid to Subadvisers other than Affiliated Subadvisers (''Aggregate Fee Disclosure''). For any Fund that employs an Affiliated Subadviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Subadviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by the vote of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 15(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''Exchange Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Subadvisers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets

[1] The Applicants request that any relief granted pursuant to the application also apply to any future series of the Trust and any other registered open-end management investment companies and their series that: (1) Are advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser; (ii) use the multi-manager structure described in the application, and (iii) comply with the terms and conditions in the application (together ''Future Funds,'' included in the term ''Funds''). The Trust is the only existing investment company that currently intends to rely on the order. The Blended Funds do not currently intend to rely on the requested relief. If the name of any Fund should, at any time, contain the name of a Subadviser, it will also contain the name of the Adviser, which will appear before the name of the Subadviser.

this standard for the reasons discussed below.

7. Applicants assert that the shareholders will rely on the Adviser's expertise to select one or more Subadvisers best suited to achieve a Fund's investment objectives. Applicants assert that, from the perspective of the shareholder, the role of the Subadvisers is comparable to that of individual portfolio managers employed by traditional investment advisory firms. Applicants contend that requiring shareholder approval of each Subadvisory Agreement would impose costs and unnecessary delays on the Select Funds, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreement will remain fully subject to section 15(a) of the Act and rule 18f–2 under the Act.

8. Applicants assert that some Subadvisers use a ''posted'' rate schedule to set their fees. Applicants state that the Adviser may not be able to negotiate below the ''posted'' fee rates with Subadvisers if each Subadviser's fees are required to be disclosed. Applicants submit that the nondisclosure of the individual Subadvisers' fees is in the best interest of the Select Funds and their shareholders, where the disclosure of such fees would increase costs to shareholders without an offsetting benefit to the Select Funds and their shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before any Fund may rely on the requested order, the operation of the Fund in the manner described in the application will be approved by a majority of the outstanding voting securities of the Fund, as defined in the Act, or, in the case of a Fund whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering shares of the Fund to the public.

2. The Trust will disclose in its prospectus(es) the existence, substance and effect of any order granted pursuant to the application. In addition, each Fund relying on the requested order will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has the ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and to recommend their hiring, termination, and replacement.

3. At all times, a majority of the Board will be Disinterested Trustees, and the nomination of new or additional Disinterested Trustees will be at the discretion of the then existing Disinterested Trustees.

4. The Adviser and the Funds will not enter into a Subadvisory Agreement with any Affiliated Subadviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Disinterested Trustees, will make a separate finding, reflected in the Board minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any new Subadviser, shareholders will be furnished all information about the new Subadviser that would be contained in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of the new Subadviser. The Trust or the Adviser will meet this condition by providing shareholders, within 90 days of the hiring of a Subadviser, an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act, except as modified to permit Aggregate Fee Disclosure.

7. The Adviser will provide general investment advisory services to the Funds, including overall supervisory responsibility for the general management and investment of each Funds' assets, and, subject to review and approval by the Board, will: (i) Set each Fund's overall investment strategies, (ii) evaluate, select and recommend Subadvisers to manage all or a part of each Fund's assets, (iii) when appropriate, allocate and reallocate each Fund's assets among multiple Subadvisers; (iv) monitor and evaluate the performance of the Subadvisers, and (v) ensure that the Subadvisers comply with each Fund's investment objectives, policies and restrictions by, among other things, implementing procedures reasonably designed to ensure compliance.

8. No Trustee or officer of the Trust, or director or officer of the Adviser will own, directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Subadviser, except for: (i) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

9. The Trust will include in its registration statement the Aggregate Fee Disclosure.

10. Independent counsel knowledgable about the Act and the duties of Disinterested Trustees will be engaged to represent the Disinterested Trustees of the Trust. The selection of such counsel will remain within the discretion of the Disinterested Trustees.

11. Shareholders of a Fund will approve any change to a Subadvisory Agreement if such change would result in an increase in the overall management and advisory fees payable by the Fund that have been approved by the shareholders of the Fund.

12. The Adviser will provide the Board, no less frequently than quarterly, with information about the Adviser's profitability on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

13. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the Adviser's profitability.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29948 Filed 11–25–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25807; File No. 812–12788]

Kemper Investors Life Insurance Company, et al.; Notice of Application

November 20, 2002.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940 (''1940 Act'') approving certain substitutions of securities.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered unit investment trusts to substitute securities issued by the Scudder Variable Series II's Scudder Growth Portfolio and Scudder Blue Chip Portfolio (the ''Scudder Portfolios') for securities issued by the Janus Aspen Series' Janus Growth Portfolio and Janus Growth and Income Portfolio, respectively (the ''Janus Portfolios''), currently held by those unit investment trusts.

APPLICANTS: Kemper Investors Life Insurance Company (''KILICO'') and KILICO Variable Annuity Separate Account (the ''KILICO Separate Account''). KILICO is referred to as the ''Insurance Company.'' The KILICO Separate Account is referred to as the ''Separate Account.''

FILING DATE: The Application was filed on February 27, 2002 and an amended Application was filed on November 13, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 20, 2002, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Applicants: c/o Debra P. Rezabek, Esq., Zurich Life, 1600 McConnor Parkway, Schaumburg, Illinois 60196. Copies to: Joseph R. Fleming, Esq., Dechert, Ten Post Office Square, South, Boston, Massachusetts 02109–4603 and Joan E. Boros, Esq., Jorden Burt LLP, Suite 400 East, 1025 Thomas Jefferson St. NW, Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Alison Toledo, Senior Counsel, or Lorna MacLeod, Branch Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 5th Street, NW, Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. KILICO is an Illinois stock life insurance company. KILICO is the depositor and sponsor of the KILICO Separate Account, a separate investment account established under Illinois law.

2. KILICO is a wholly-owned subsidiary of Kemper Corporation, a non-operating holding company. Kemper Corporation is a wholly-owned subsidiary of Zurich Group Holding, which is a wholly-owned subsidiary of Zurich Financial Services.

3. The KILICO Separate Account is registered with the Commission under the 1940 Act as a unit investment trust. The assets of the KILICO Separate Account support certain variable annuity contracts (collectively, ''Contracts''). The variable annuity contracts issued by KILICO consist of flexible premium deferred variable annuity contracts and certificates. Two sub-accounts of the KILICO Separate Account each invests exclusively in shares representing an interest in a separate corresponding portfolio (each, a ''Portfolio'') of Janus Aspen Series (the ''Janus Trust'').

4. The variable annuity contracts issued by the Insurance Company are collectively referred to as the ''Contracts.'' All of the Contracts expressly reserve the right of the Insurance Company, subject to compliance with applicable law, to substitute shares of another open-end management investment company for shares of an open-end management investment company held by a sub-account. The prospectuses describing the Contracts contain appropriate disclosure of this right.

5. Applicants propose to substitute Shares of each Scudder Portfolio for Shares of the corresponding Janus Portfolio (the ''Substitution''). Applicants assert that the Substitution will benefit Contract owners by: (a) Consolidating the assets attributable to the Scudder Portfolio and the Janus Portfolio in a single portfolio, which may simplify the Contracts and allow the Insurance Company to more efficiently oversee the functioning of the underlying Portfolios; and (b) providing Contract owners who have their Contract values currently allocated to the Janus Portfolios with a similar Portfolio that has a lower total expense ratio than the Janus Portfolio. The Insurance Company ceased offering the Janus Portfolios as investment options for the Contracts issued after April 30, 2000.

6. As demonstrated in the chart below, each Scudder Portfolio has, and will continue to have, investment objectives, investment strategies and anticipated risks that are similar in all material respects to those of the corresponding Janus Portfolio:

Current portfolio	Investment objective	New portfolio	Investment objective
Janus Growth Portfolio	Seeks long-term growth of capital in a manner consistent with the preservation of capital.	Scudder Growth Portfolio	Seeks maximum appreciation of capital.
Janus Growth and Income Portfolio.	Seeks long-term capital growth and current income.	Scudder Blue Chip Portfolio	Seeks growth of capital and of income.

7. As demonstrated in the chart below, it is also expected that: (a) The investment management fees with respect to each Scudder Portfolio will be equal to or less than the investment management fees with respect to the each corresponding Janus Portfolio; and (b) the total expense ratio of each Scudder Portfolio will be less than the total expense ratio of the corresponding Janus Portfolio. The first chart below shows the investment management fees and total expenses of Shares of each Janus Portfolio and the corresponding Scudder Portfolio, on an audited basis, as of December 31, 2001. The second chart below shows the investment management fees and total expenses of Shares of each Janus Portfolio and the corresponding Scudder Portfolio, on an unaudited basis, as of June 30, 2002.

Portfolio	Advisory fees (as percentage of average daily net assets)	Other expenses (in percent)	Total expenses (as percentage of average daily net assets)
Janus Growth Portfolio	0.65	0.01	0.66
Scudder Growth Portfolio	0.60	0.03	0.63
Janus Growth and Income Portfolio	0.65	0.05	0.70
Scudder Blue Chip Portfolio	0.65	0.04	0.69

Portfolio	Advisory fees (as percentage of average daily net assets)	Other expenses (in percent)	Total expenses (as percentage of average daily net assets)
Janus Growth Portfolio	0.65	0.02	0.67
Scudder Growth Portfolio	0.60	0.05	0.65
Janus Growth and Income Portfolio	0.65	0.09	0.74
Scudder Blue Chip Portfolio	0.65	0.04	0.69

8. On or about the date of the initial filing of the Application, a supplement to the prospectus for each of the Contracts was filed with the Commission. The supplement describes the Substitution and the proposed timeframe for its completion as well as advises the Contract holders that they may transfer assets from each Janus Portfolio to another investment option available under their Contract without the imposition of any fee, charge, or other penalty that might otherwise be imposed through a date at least thirty (30) days following the date the Substitution is effected (the ''Substitution Date''). The supplement was forwarded to those Contract owners who became such prior to May 1, 2000 and have either allocated Contract values to a Janus Portfolio or who maintain the ability to do so (the ''Affected Contract Owners''). On or about the time the Commission approves of the amended Application, Affected Contract Owners will be sent a supplement to the relevant Contract prospectus that discloses to such Contract owners that the amended Application has been approved. Together with this disclosure, such Affected Contract Owners who have not previously received a prospectus for the Scudder Portfolios will be sent a prospectus for such Portfolios.

9. Affected Contract Owners will be sent a notice of the Substitution in the form of a Contract prospectus supplement. Confirmation of the Substitution will be mailed to Affected Contract Owners within five (5) days after the Substitution Date.

10. The significant terms of the Substitution described above include:

a. Each Scudder Portfolio will have investment objectives, investment strategies, and anticipated risks that are similar in all material respects to those of the corresponding Janus Portfolio.

b. The total expenses of each Scudder Portfolio will be the same as or less than those of the corresponding Janus Portfolio, assuming that the assets of each Scudder Portfolio do not decrease significantly from its present asset level.

c. Contract owners may transfer assets from each Scudder Portfolio or Janus Portfolio to another investment option available under their Contract without the imposition of any fee, charge, or other penalty that might otherwise be imposed from the date the initial prospectus supplement relating to the Substitution is filed with the Commission through a date at least thirty (30) days following the Substitution Date.

d. The Substitution will be effected at the net asset value of the respective shares of each Janus Portfolio and the corresponding Scudder Portfolio in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder, without the imposition of any transfer or similar charge by Applicants, and with no change in the amount of any Contract owner's Contract value or in the dollar value of his or her investment in such Contract.

e. Contract owners will not incur any fees or charges as a result of the Substitution, nor will their rights or KILICO's obligations under the Contracts be altered in any way. KILICO will pay or cause to be paid all costs incurred in connection with the Substitution and related filings and notices, including legal, accounting, brokerage and other fees and expenses. The Substitution will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the Substitution than before the Substitution.

f. Because the Contract owners will, before and after the Substitution transaction, still be invested in the same Separate Account, the Substitution will not be counted as a new investment selection or free transfer in determining the limit, if any, on the total number of Portfolios that Contract owners can select or transfer into during the life of a Contract.

g. The Substitution will not alter in any way the annuity or life benefits, tax benefits or any contractual obligations of Applicants under the Contracts.

h. The Substitution will not result in any tax liability for Contract owners.

i. KILICO will not receive, for three years from the date of the Substitution, any direct or indirect benefits from the Scudder Portfolios, their adviser or underwriter, or from affiliates of the Scudder Portfolios, their adviser or underwriter, in connection with assets attributable to the Contracts affected by the Substitution, at a higher rate than it received from the Janus Portfolios, their adviser or underwriter, or from affiliates of the Janus Portfolios, their adviser or underwriter, including without limitation Rule 12b–1 fees, shareholder service or administrative or other service fees, revenue-sharing or other arrangements. KILICO represents that the Substitution it carries out and its selection of the Scudder Portfolios were not motivated by any financial consideration paid or to be paid to it or to any of its affiliates by either of the Scudder Portfolios, their adviser or underwriter, or by the affiliates of the Scudder Portfolios, their adviser or underwriter.

j. Contract owners may withdraw amounts under the Contracts or terminate their interest in a Contract, under the conditions that currently exist, including payment of any

applicable withdrawal or surrender charge.

k. Contract owners affected by the Substitution will be sent written confirmation of the Substitution that identify the substitutions made on behalf of that Contract owner within five (5) days following the Substitution Date.

Applicants' Legal Analysis

1. Section 26(c) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution; and the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act. Section 26(c) protects the expectation of investors that the unit investment trust will accumulate shares of a particular issuer and is intended to insure that unnecessary or burdensome sales loads, additional reinvestment costs or other charges will not be incurred due to unapproved substitutions of securities.

2. Applicants request an order pursuant to Section 26(c) of the 1940 Act approving the Substitution. Applicants represent that the purposes, terms, and conditions of the Substitution are consistent with the protections for which Section 26(c) was designed. Applicants believe the Substitution will benefit Contract owners by: (1) Providing an underlying investment option for subaccounts invested in a Janus Portfolio that is substantially similar in all material aspects to that Janus Portfolio; and (2) providing such Contract owners with and investment option with the same or lower investment management fee and a lower expense ratio than the current investment option.

3. Contract owners who do not want their assets allocated to the Scudder Portfolios would be able to transfer assets to any one of the other sub-accounts available under their Contract without charge until thirty days after the Substitution have elapsed.

4. The Insurance Company, on behalf of itself and its Separate Account, represent that the Substitution will not result in any change in the amount of any Contract owner's Contract value or in the dollar value of his or her investment in such Contract, or the annuity or life benefits, tax benefits or any contractual obligation of the Applicants under the Contracts. Contract owners will not incur any fees, expenses or charges as a result of the proposed transactions. Furthermore, the proposed transactions will not result in any change to the Contract fees and charges currently being paid by existing Contract owners.

5. Applicants will not complete the Substitution as described in the amended Application unless all of the following conditions are met:

a. The Commission will have issued an order approving the Substitution under Section 26(c) of the 1940 Act.

b. Each Affected Contract Owner will have been mailed initial disclosure of the Substitution following the initial filing of this Application (in the form of a supplement to the applicable Contract prospectus) that will describe the terms of the Substitution Contract owners' rights in connection with them and will have been mailed a prospectus with respect to the Scudder Portfolios.

c. Applicants will have satisfied themselves, based on advice of counsel familiar with insurance laws, that the Contracts allow the substitution of Portfolios as described in this amended Application, and that the transactions can be consummated as described herein under applicable insurance laws and under the various Contracts.

d. Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Contracts are qualified for sale.

Conclusion

Applicants assert that, for the reasons summarized above, the requested approval meets the standards set out in Section 26(c) and, therefore, the requested order approving the Substitution should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29978 Filed 11–25–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Concentrax, Inc.; Order of Suspension of Trading

November 22, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Concentrax, Inc. (''Concentrax''), because of questions regarding: the accuracy and adequacy of assertions in press releases by Concentrax, concerning, among other things, the existence, status, and description of agreements announced by Concentrax in its press releases of October 9, 2002, October 23, 2002, and October 31, 2002.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EST, on Friday, November 22, 2002 through 11:59 p.m. EST, on Friday, December 6, 2002.

By the Commission.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–30097 Filed 11–22–02; 12:50 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46849; File No. SR-Amex-2001–85]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 by the American Stock Exchange LLC, Relating to the Amex's Front-Running Rule

November 19, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 15, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex.[3] The Commission is publishing this notice to solicit comments on the proposed rule, as amended, change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On February 4, 2002, the Amex filed Amendment No. 1 to the proposal. Amendment No. 1 clarifies the proposal by indicating that the proposal does not change either paragraph (d) of Commentary .03 to Amex Rule 111, ''Restrictions on Registered Traders,'' or Commentary .05 to Amex Rule 950(d). On November 7, 2002, the Amex filed Amendment No. 2 to the proposal. Amendment No. 2 includes an Amex Notice that provides examples and interpretations of the operation of the proposed rule.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Amex Rules 24, ''Block Transactions,'' 111, ''Restrictions on Registered Traders,'' 175, ''Specialist Prohibitions,'' and 950, ''Rules of General Applicability,'' to develop a single comprehensive rule with respect to front-running. The Amex has submitted a Notice (''Amex Notice''), attached hereto as Exhibit A, that provides examples and interpretations of the operation of the proposed rule.

The text of the proposed rule change appears below. Proposed new language is in italics; proposed deletions are in brackets.

Block Transactions

Rule 24. *Rescinded* [(a) After learning in any way about any trade in any security executed or about to be executed on the Floor of the Exchange involving 10,000 shares or more, no member or employee of a member or member organization may initiate or transmit or cause to be transmitted to the Floor, for a period of two minutes following the print of such trade on the ticker tape, an order in the same security for an account in which any member or member organization or employee thereof has an interest. This does not preclude the supplying from the Floor of quotations and size of the market in a particular security or securities when such information has been requested, or when such information is furnished in the normal course of business in servicing public customers. The period during which the order may not be entered or transmitted to the Floor will be measured from the time of learning of the trade or proposed trade until the expiration of two minutes following the print of such trade on the tape, or until the expiration of two minutes following the print of the first of any series of transactions of 10,000 shares or more at the same price as the initial block.

(b) The restrictions of paragraph (a) shall not apply to:

(i) An order entered for the purpose of participating in the purchase or sale of the particular block about which the member or employee has learned;

(ii) A situation where a Floor Official expressly invites a member to participate in a difficult market situation;

(iii) An order to reduce or liquidate a position acquired pursuant to subparagraph (i) or (ii);

(iv) A bona fide arbitrage transaction or a transaction which is part of a purchase and sale or sale and purchase of securities of companies involved in a publicly announced merger, acquisition, tender offer, etc.;

(v) A transaction to offset a transaction made in error.]

* * * * *

Restrictions on Registered Traders

Rule 111(a) through (h) No change.

* * * Commentary

.01 and .02 No change.

.03(a) and (b) No change.

(c) [No member or member organization shall execute or cause to be executed, on the Exchange, any order for any account in which such member, member organization, or any member, allied member, or approved person in such organization or officer or employee thereof, is interested or for any discretionary account serviced by the member or member organization, in contravention of any Exchange policy against front-running of transactions that the Exchange may from time to time adopt and make known to its members.] *Front-Running Policy. If a member or person associated with a member or member organization executes or causes to be executed for an account in which such member, member organization or person has a direct or indirect interest or for an account with respect to which such member or person exercises investment discretion, any transaction to take advantage of material, non-public information which can reasonably be expected to have an immediate, material and favorable impact in relation to any such transaction, such member, member organization or person may be in violation of just and equitable principles of trade (Article V, Section 4(h)). Such transactions include, but are not limited to:*

(i) A transaction in the same security when such member or person has acquired knowledge of the imminent execution of an order expected to have an immediate, material and favorable impact in relation to the member's or person's transaction;

(ii) A transaction in any security-future product or option on a stock or stock index when such member or person has acquired knowledge of the imminent execution of a stock or stock program transaction expected to have an immediate, material and favorable impact in relation to the member's or person's transaction;

(iii) A transaction in any option on a stock or stock index or in a stock or stock program, when such member or person has acquired knowledge of the imminent execution of a transaction in any futures, stock index futures, or security-futures product expected to have an immediate, material and favorable impact in relation to the member's or person's transaction;

(iv) A transaction in any security-future product or in a stock or stock program, when such member or person has acquired knowledge of the imminent execution of a transaction in any option on a stock, index, or futures expected to have an immediate, material and favorable impact in relation to the member's or person's transaction.

Notwithstanding the foregoing, a member, member organization or person associated with a member organization who implements a proprietary market strategy involving, for example, a stock program and a related stock index options transaction by executing the stock index options trade(s) prior to the execution of the stock program will not be deemed to be in violation of this policy. The Front-Running Policy, however, does not create a ''safe harbor'' with respect to other possible violations of the Exchange's rules or federal securities laws. For example, if the member, member organization or person executes or causes to be executed a transaction in one market to take advantage of such member's, member organization's or person's imminent transaction in a related market, that member, member organization or person may be engaging in manipulative activity in violation of Exchange rules and federal securities laws.

In determining whether a member, member organization or person has taken advantage of material, non'public information, it is not necessary for the Exchange to demonstrate that another person has been disadvantaged. Further, such member, member organization or person may be in violation of just and equitable principles of trade regardless of whether any person who may have been disadvantaged has given permission for such trading. The information, however, will only be considered non-public until either (i) all the information and any changes thereto of which that member or associated person has knowledge are disclosed to the trading crowd or (ii) the information can no longer reasonably be expected to have an immediate, material and favorable impact in view of the passage of time since the information was received.

For the purposes of this Rule, a person may be deemed to have caused a trade to be executed on the basis of material non-public information if such person transmits information regarding trade negotiation on the Floor so that a

transaction may be effected in another market center to take advantage of the immediate, material and favorable impact reasonably expected to result from such trade negotiation. Further, this could be the case even if the trade negotiations do not result in a transaction.

This Rule shall apply to any agency or proprietary transaction effected on the Exchange. This is the case if: (i) such transaction (''Exchange transaction'') is part of a group of related transactions that together have the effects prohibited by the Rule regardless of whether one or more of the other related transactions were effected on other market centers; or (ii) the Exchange transaction by itself had such effects. Further, a member who issues a commitment or obligation to trade from the Exchange through ITS or any other Application of the System shall, as a consequence thereof, be deemed to be initiating a purchase or sale of a security on the Exchange as referred to in this Rule.

(d) No change.

.04 through end. No change.

* * * * *

Specialist Prohibitions

Rule 175. (a) through (c) No change.

Guidelines for Specialists' Specialty Stock Option Transactions Pursuant to Rule 175 (a) through (f) No change.

(g) Prohibition Against Front-Running of Blocks

[In Information Circulars No. 82–37, No. 85–115 and No. 99–147 (dated July 6, 1982, November 29, 1985 and September 14, 1990 respectively), the Exchange advised members and member organizations that they should not trade in options or in underlying securities by taking advantage of their possession of material, non-public information concerning block transactions in these securities. The Exchange noted that it would be improper for a member or person associated with a member who has knowledge of a block transaction in any security underlying an option or of a block transaction in the option covering that security, before information concerning the block transaction has been made publicly available, to take advantage of the non-public information in his possession and execute or cause to be executed an order (1) to buy or sell an option, while in possession of non-public information concerning a block transaction in the underlying stock, or (2) to buy or sell an underlying security, while in possession of non-public information concerning a block transaction in an option covering that security, for an account in which such member or associated person has an interest or for an account with respect to which such member or associated person exercises investment discretion.] The prohibitions against front-running stated in [such Information Circulars] *Rule 111, Comm. .03(c)* shall take precedence over any requirements stated in these Guidelines. Thus, a specialist may not establish an offsetting option position in a specialty stock if he is in possession of material, non-public information *in any way* concerning [a block transaction in] such stock.

(h) through (l) No change.

* * * * *

Rules of General Applicability

Rule 950 (a) through (c) No change.

(d) No change.

* * * Commentary

.01 through .03 No change.

.04 *Rescinded* [It may be considered conduct inconsistent with just and equitable principles of trade for any member or person associated with a member, who has knowledge of all material terms and conditions of (i) an originating order and a solicited order, (ii) an order being facilitated, or (iii) orders being crossed, the execution of which are imminent, to enter, based on such knowledge, an order to buy or sell an option of the same class as any option that is the subject of the order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument until either (i) all the terms of the originating order and any changes in the terms and conditions of the order of which that member or associated person has knowledge are disclosed to the trading crowd or (ii) the trade can no longer reasonably be considered imminent in view of the passage of time since the order was received. For purposes of this Commentary .04, an order to buy or sell a ''related instrument,'' means, in reference to an index option, an order to buy or sell securities comprising ten percent or more of the component securities in the index or an order to buy or sell a futures contract on any economically equivalent index.]

.05 No change.

(e) through end. No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex 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

In the past, the Amex has adopted three rules and one guideline and issued no fewer than five Information Circulars expressing the prohibition against using non-public market information (''front-running'').

With some exceptions, Amex Rule 24 prohibits proprietary trades on the Amex floor in equities for two minutes after the tape print of a 10,000-share block on the Amex floor in the same equity. When the Amex adopted Amex Rule 24 in 1971, the Amex only traded equities, and Amex Rule 5, ''Over-the-Counter Execution of Equity Securities Transactions,'' (limiting off-Board trades) was in place. Accordingly, Amex Rule 24 is limited to trades in equity securities occurring on the Amex.

Subsequently, the Amex adopted Amex Rule 111, Commentary .03(c), which prohibits proprietary or discretionary transactions in violation of the Exchange's policies against front-running. The Exchange issued five Information Circulars to express the policy against front-running.[4]

Paragraph (g) of the ''Guidelines for Specialists' Specialty Stock Option Transactions Pursuant to Rule 175'' applies the front-running prohibitions to equities specialists in connection with their option trades.

In June 2000, the Amex adopted Rule 950(d), Commentary .04, which prohibits proprietary front-running of solicited, facilitated, and/or crossed options transactions with an order to buy or sell an option of the same class, an order to buy or sell the underlying

[4] Specifically, Information Circular 79–12 prohibited proprietary options transactions front-running block transactions in the underlying security. Information Circular 80–36 prohibited proprietary and agency options transactions front-running block transactions in the underlying security as well as equity transactions front-running option blocks. Information Circular 82–37 alerted the membership to disciplinary action taken for options transactions front-running block facilitations in the underlying securities. Information Circular 85–115 prohibited transactions in index options front-running block transactions in the underlying component securities. Information Circular 90–147 prohibited transactions in index warrants front-running block transactions in the underlying component securities.

security of such class, or an order to buy or sell any related instrument.

According to the Amex, these rules and policies developed over time in response to specific needs and are not comprehensive in that they only address certain types of information, specified markets, and/or particular products. For example, Amex Rule 24 prohibits only an equity trade on the Amex that is effected with knowledge of an impending equity block trade also effected on the Amex.

In the course of preparing proposed rules to accommodate the introduction of single stock futures, the Amex realized that its current rules relating to front-running did not cover this new product, and that this served as an occasion to review more generally the Amex's rules governing front-running and related activity. As a result of this review, the Exchange determined that the Amex, its members, and the public would be better served by a front-running rule that was more comprehensive and broader conceptually than the several separate rules and interpretations that the Exchange had adopted and issued over the years.

Accordingly, the proposal has been drafted to clarify that front-running in any ''securities'' product in any transaction by Amex members or member organizations involving the Amex's market in any way is prohibited. The Exchange also has prepared an ''Amex Notice,'' attached as Exhibit A, that the Amex intends to issue to members and member organizations following Commission approval of the proposed rule change.

(2) *Basis*

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change and Amendment Nos. 1 and 2 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR–Amex–2001–85 and should be submitted by December 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jill M. Peterson,

Assistant Secretary.

Exhibit A

Member Firm Regulation

Amex Notice

Date:
To: Members and Member Organizations
From:
Subject: Revised Front-Running Rule

The Exchange recently received SEC approval to consolidate and update our front-running rules and policies. The text of the revised rule, Rule 111, Commentary .03(c), is attached. The revised rule (the ''Rule'') is designed to cover all types of front-running. Accordingly, Rules 24 and 950(d), Commentary .04, which also dealt with front-running, have been rescinded. The Rule prohibits any front-running involving a trade executed or attempted on the Amex or executed or attempted in any other market based on market information obtained on the Amex or advanced knowledge of other material non-public information. The foundation of the Exchange's front-running prohibition is that it is a violation of just and equitable principles of trade for a person with material non-public information of the pending release of news or an imminent transaction in a security to take advantage of that information by effecting trades in that security or related securities. In the past, it has been most common to think of front-running in terms of options trades executed in front of a block trade in the underlying stock. And we expect questions about front-running will continue to arise most often in that context. However, the revised Rule encompasses the possibility that any imminent, significant transaction in a security (*e.g.*, common stock, options, security futures product, or stock index product) or in stock index futures could have an impact on the price of that security and related securities. Front-running occurs when a person takes advantage of non-public information about such a transaction. Front-running can also arise when a person takes advantage of advanced knowledge of research reports, corporate news or other material non-public information. The purpose of this notice is to provide interpretations and examples to clarify these and other aspects of the Rule.

Terms

Any Transaction

Typically, only a block (*e.g.*, 10,000 shares or more) or equivalent-sized transaction in an equity, option or security futures product will trigger application of the Rule. A sequence of transactions that aggregate to block size for the same or related accounts can also trigger the Rule. The trades that take advantage of the triggering transaction need not be of block size. Front-running can also arise from advanced knowledge of research

[5] 17 CFR 200.30–3(a)(12).

reports, corporate news or other material non-public information.

Transactions that take advantage of such information must be ''purposeful''. For example, in the case of research reports, trading activity establishing, increasing, decreasing, or liquidating a position in a security in anticipation of the issuance of a research report in that security is inconsistent with just and equitable principles of trade to the extent that the trading is for the purpose of profiting (or avoiding losses) from the report's anticipated impact on the market. Trading activity is ''purposeful'' if it is undertaken with the intent of altering a firm's position in a security to take advantage of the investor interest that is anticipated on publication of the research report. Hence, trading activity generally would not violate the Rule if it was conducted while effective information barriers (*i.e.*, ''Chinese Walls'') were in place between trading and research, it was done in response to unsolicited customer orders or the trading was based on research done solely for in-house use and was not in any way intended for external publication. (This interpretation is derived from language in NASD IM–2110–4.)

Non-Public Information

Market information will be considered non-public until either (i) the information and any changes thereto are disclosed to the trading crowd or (ii) the information can no longer reasonably be expected to have an immediate, material and favorable impact in view of the passage of time since the information was received. Corporate information and research reports will be considered non-public until either (i) the information and any changes thereto have been disclosed to the public (via a news service or similarly widespread method of information dissemination) and a reasonable period of time has elapsed for the information to be comprehended or (ii) the information can no longer reasonably be expected to have an immediate, material and favorable impact in view of the passage of time since the information was received.

Immediate, Material and Favorable Impact

Immediate impact means that, as soon as it is released, the information (corporate news, research report, order to be executed, etc.) itself would, upon release, be expected by a reasonable market professional to have an impact on the price of any security in which a front-running transaction was effected.

Material means that the information would be considered important by a reasonable market professional in relation to the security in which a front-running transaction was effected.

Favorable means that the information will cause a price movement in the direction needed to profit from (or avoid a loss through) the front-running transaction.

Acquired Knowledge

For purposes of this Rule, ''acquired knowledge'' means both obtaining information and understanding its importance. Violation of the Rule requires the purposeful use of the information obtained by the member or associated person for personal gain, to benefit a firm account, or to ''tip'' another person. A member or associated person will not be presumed to have acquired knowledge of non-public information if the information is possessed by an affiliate on the other side of an effective information barrier (*i.e.*, ''Chinese Wall'').

''Related'' Security

The following are examples of groups of securities which are related to each other:

1. The underlying stock(s)

Listed options on that stock

Single-stock future on that stock

Any index in which the stock comprises 10% or more of the index value

Any equity-linked term notes (derivative products based on performance of the underlying stocks) such as STRIDES℠ or SPARQS℠

Any index-linked notes (such as MITTS®) in which the underlying stock comprises 10% or more of the index value

2. An Exchange Traded Fund (''ETF'': *e.g.*, Portfolio Depositary Receipts and Index Fund Shares) or a similar equity-traded derivative or Trust Issued Receipts (''TIR'': *e.g.*, a HOLDRS℠ or similar product)

Component stocks comprising, at least, 10% of the NAV of the ETF or TIR

Listed option on the ETF or TIR

Listed option on component stock(s) comprising, at least, 10% of the NAV of the ETF or TIR

Futures contracts on the ETF or TIR, or single stock futures on component stock(s) comprising, at least, 10% of the NAV of the ETF or TIR

Any related index, ETF or TIR (which share, to any degree, underlying component stocks) plus all securities related to that related index, ETF or TIR

A Proprietary Market Strategy (so-called ''self Front-Running'')

Example: Believing a stock to be undervalued, a trading desk buys the stock, its call options, and its single stock futures. The trader on the desk knows that purchases in one market can be expected to raise the price in the related products. Regardless of the timing or sequence of transactions in these various products, these purchases, to take advantage of the perceived under-valuation of the security, could constitute an acceptable market strategy. The presence of other factors, however, might cause this conduct to be violative activity.

Does Not Create a ''Safe Harbor''

Even though ''self front-running'' is not a violation of the front-running Rule, that doesn't mean trades done in anticipation of additional activity in a stock or related security may not constitute manipulation or other violative activity.

Example: A trading desk determines to buy 100,000 shares of a stock, knowing that the purchase can be expected to raise the stock's price. Accordingly, and immediately before buying the stock, the desk buys 500 calls and sells 500 puts. After the stock purchase causes the stock price to rise, the desk liquidates the options positions at a profit. While this activity would not violate the front-running prohibition, it would raise manipulation concerns.

Customer May Not Give Permission

Example: An institutional customer asks its broker where it can buy 100,000 shares of XYZ. The brokerage house says it can supply the stock up $1 from the last sale, but, if the customer allows the house to buy calls or sell puts first, it can supply the stock to the customer up only 50¢. The customer agrees, and the house buys 1,000 calls or sells 1,000 puts on the Amex before crossing 100,000 shares up 50 ¢. This is prohibited front-running. Customer permission does not excuse the violation.

Transactions

In the Same Security

After learning in any way about an imminent trade in a security about to take place on the Amex Floor that is expected to have an immediate, material and favorable impact, no member or employee of a member or member organization (''member'') may initiate or transmit or cause to be transmitted to the Floor or to any other market place an order in the same security for an account in which any member or member organization or employee thereof has a direct or indirect interest or for an account with respect to which such member or person exercises investment discretion (collectively, a ''member account'') until such time as the information concerning the trade is no longer non-public. Similarly, after learning in any way about such an imminent trade in another market, no member may initiate or transmit or cause to be transmitted to the Amex Floor an order in the same security for a member account until information concerning the trade is no longer non-public. This would not, of course, preclude a legitimate, proprietary market activity (such as block facilitation) or a legitimate, proprietary market strategy.

Example: An Amex floor broker overhears a second floor broker at an adjacent booth accept an order to execute a facilitation of 100,000 shares of an inactive stock up $2 from the current offer. Before the facilitation trade is executed, the first floor broker places orders to buy the stock at the current offer price on two ECNs and one regional exchange. These orders are prohibited front-running.

In any Security Future Product or Option on a Stock or Stock Index Related to the Imminent Execution of a Stock or Stock Program Transaction

Same concept as that described above in the section titled ''In the Same Security'' except this section deals with a combination of related securities.

Example: After receiving an institutional order to buy a basket of the components of an index expected to have an immediate, material and favorable impact on the prices of the component stocks, but before executing the program order, a brokerage house buys an equivalent amount of the calls or sells an equivalent amount of puts overlying that index on the Amex. This is prohibited front-running.

A Transaction in any Option on a Stock or Stock Index or in a Stock or Stock Program Related to the Imminent Execution of a Transaction in any Futures, Stock Index Futures, or Security Futures Product (Including Single Stock Futures)

Same concept as that described above in the section titled ''In the Same Security'' except this section deals with a combination of related securities.

Example: After receiving an institutional order to sell 1,000 futures contracts on a stock expected to have an immediate, material and ''favorable'' impact on the price of the futures and related securities, but before representing the order in the pit, a brokerage house buys put or sells call options on the stock on the Amex. This is prohibited front-running.

A Transaction in any Security Futures Product or in a Stock or Stock Program Related to the Imminent Execution of a Transaction in any Option on a Stock, Index, or Futures

Same concept as that described above in the section titled ''In the Same Security'' except this section deals with a combination of related securities.

Example: After being solicited to participate as seller in a 1,000-contract transaction in near-term, at-the-money calls of XYZ expected to have an immediate, material and ''favorable'' impact on the price of XYZ stock, but before the options trade is presented to the Amex crowd, the solicited broker/dealer buys an equivalent number of XYZ single-stock futures and/or XYZ shares in the ''cash'' market. (This is sometimes known as ''run fronting'' and violates our rules.)

Example: After being solicited to participate as buyer in a 5,000-contract transaction in puts of ZYX expected to have an immediate, material and ''favorable'' impact on the price of ZYX stock, but before the options trade is presented to the CBOE crowd, the solicited broker/dealer sells an equivalent number of ZYX shares on the Amex. (This is also known as ''run fronting'' and violates our rules.)

Example: A member executes a 2,500 contract futures transaction on XYZ stock on a futures market at a price $1 above the current market. Before that trade is printed, the member takes an offer to buy non-fungible futures on XYZ traded on the Amex. This is prohibited front-running.

Transactions Covered But Not Expressly Enumerated in the Rule

Example: After receiving an institutional order to buy on the Amex 100,000 shares of a HOLDRS, which order is expected to have an immediate, material and favorable impact on the price of the HOLDRS and related securities, but before representing the order in the crowd, a brokerage house buys on the offers on another exchange shares in (10) component stocks which comprise 50% of the HOLDRS. This is prohibited front-running.

[FR Doc. 02–29947 Filed 11–25–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46848; File No. SR–CSE–2002–16]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Cincinnati Stock Exchange, Inc., To Establish a Pilot Liquidity Provider Fee and Rebate for Intra-CSE Trading in Nasdaq Securities

November 19, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2002, The Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. On November 13, 2002 the CSE amended the proposed rule change.[3] The Exchange filed this proposal pursuant to Section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2)[5] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE proposes to amend its schedule of transaction fees to establish an incentive for providing liquidity on the CSE. The text of the proposed rule change is below. Proposed additions are in italics. Proposed deletions are in brackets.

Chapter XI

Trading Rules

Rule 11.10 National Securities Trading System Fees

A. Trading Fees

(a)–(f) No change to text

(g) Proprietary (principal) Transactions

(1)*(A)* All Designated Dealers *in securities other than Nasdaq securities,* except those acting as Preferencing Dealers or Contributing Dealers, will be charged $0.0025 per share ($0.25/100 shares) for principal transactions [including ITS transactions].

(1)(B) For a pilot period commencing October 1, 2002 and lasting until March 31, 2003, CSE members that execute orders in Nasdaq securities against previously displayed quotes/orders of other CSE members shall pay $0.004 per share for such execution. The Exchange shall pass on to the CSE member displaying the quote/order executed against $0.003 per share and the Exchange shall retain $0.001 per share.

(2)–(4) No change to text

(h)–(r) No change to text

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CSE proposes to establish a pilot transaction credit for liquidity providers that is paid by liquidity takers on each intra-CSE execution in Nasdaq securities. By ''intra-CSE execution'' the CSE means any transaction that is executed on the CSE for which the executing member on the buy-side of the transaction differs from the executing member on the sell-side of the transaction. The CSE believes that the proposed rule accomplishes two strategic objectives: (1) It resolves the issue of member-to-member access fees; and (2) it provides an incentive for members to display orders in the CSE, thereby increasing the liquidity available to investors.

The CSE currently does not permit members to charge other members for intra-CSE trades executed through CSE systems. Unlike the Nasdaq

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* November 12, 2002 letter from Jennifer M. Lamie, Esquire, CSE, to Katherine England, Assistant Director, Divison of Market Regulation, Commission (''Amendment No. 1''). In Amendment No. 1, the CSE changed the expiration date of the pilot program from October 31, 2003 to March 31, 2003. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on November 13, 2002, the date the CSE filed Amendment No. 1.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

environment, the CSE does not permit some members to charge for access to their liquidity while restricting others from doing so. Recognizing, however, that new CSE members may wish to continue being compensated for providing liquidity, *i.e.*, displaying orders on the CSE, the CSE proposes a mechanism whereby all CSE members active in the trading of Nasdaq securities, whether alternative trading systems or traditional market makers, will benefit by displaying orders on the CSE. In this manner, the CSE will provide equal regulation of its members, while promoting the growth of liquidity on the CSE.

Specifically, the CSE proposes to amend CSE Rule 11.10(g)(1) to establish a Liquidity Provider Fee for intra-CSE executions of Nasdaq securities. Currently, CSE Rule 11.10(g)(1) provides that Designated Dealers, except those acting as Preferencing Dealers or Contributing Dealers, will be charged $0.0025 per share for principal transactions, including Intermarket Trading System transactions. The $0.0025 per share charge is applied to both sides of the Dealer-to-Dealer transaction, thereby generating $0.005 per share for the CSE. The Exchange is amending this provision by adding subparagraph (B) to charge the liquidity taker, *i.e.*, the party executing through CSE systems against a previously displayed quote/order, $0.004 per share. The Exchange will then pass on to the liquidity provider, *i.e.*, the party providing the displayed quote/order, $0.003 per share with the Exchange retaining $0.001 per share.

By adding CSE Rule 11.10(g)(1)(B), the Exchange is limiting the Liquidity Provider Fee to Nasdaq securities traded on the CSE, *i.e.*, Tape C securities, as defined under CSE Rules. While the Liquidity Provider Fee represents a reduction in the revenues received by the Exchange per intra-CSE transaction in Nasdaq securities, the CSE believes that the fee will provide an incentive for CSE members to provide liquidity, and therefore, will generate increased volume for the CSE. The pilot program commenced on October 1, 2002, and will expire on March 31, 2003, if not renewed.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5)[7] in particular, in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, generally, in that it protects investors and the public interest. The CSE believes the proposed rule change is also consistent with Section 6(b)(4) of the Act,[8] in that it is designed to provide for the equitable allocation of reasonable, dues, fees, and other charges among CSE members by crediting members on a pro rata basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received in connection with the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and subparagraph (f)(2) of Rule 19b–4 thereunder,[10] because it involves a member due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–CSE–2002–16 and should be submitted by December 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29946 Filed 11–25–02; 8:45 am]

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[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(6).

[9] 15 U.S.C. 78s(b)(3(A)(ii).

[10] 17 C.F.R. 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46851; File No. SR–NASD–2002–159]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc., to Extend a Pilot Amendment to NASD Rule 4120 Regarding Nasdaq's Authority To Initiate and Continue Trading Halts

November 19, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal as a ''non-controversial'' rule change 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.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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).

[5] Nasdaq asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to extend a pilot amendment to NASD Rule 4120, which clarified Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq. The purpose of this filing is to extend the pilot until May 15, 2003. Accordingly, there is no new proposed rule language. Nasdaq will implement the proposed rule change immediately.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 11, 2001, Nasdaq filed with the Commission a proposed rule change to clarify Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq.[6] On July 27, 2001, Nasdaq filed Amendment No. 1 to the proposed rule change, which requested that the Commission approve the proposed rule change on a three-month pilot basis expiring on October 27, 2001.[7] Also on July 27, 2001, the Commission approved the proposed rule change and Amendment No. 1[8] after finding that the proposed rule change was consistent with the requirements of the Act, including Section 15A of the Act.[9] Since that time, the pilot period for the rule has been extended on several occasions.[10]

According to Nasdaq, as a result of the decentralized and electronic nature of the market operated by Nasdaq, the price and volume of transactions in a Nasdaq-listed security may be affected by the misuse or malfunction of electronic systems, including systems that are linked to, but not operated by, Nasdaq. In circumstances where misuse or malfunction results in extraordinary market activity, Nasdaq believes that it may be appropriate to halt trading in an affected security until the system problem can be rectified. In the period during which the rule change has been in effect, Nasdaq has not had occasion to initiate a trading halt under the rule. Nevertheless, Nasdaq believes that the rule is an important component of its authority to maintain the fairness and orderly structure of the Nasdaq market. Accordingly, Nasdaq believes that the rule should remain in effect on an uninterrupted basis.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[11] including Section 15A(b)(6) of the Act,[12] which requires, among other things, that a registered national securities association's rules must 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. Nasdaq believes that the proposed rule change provides Nasdaq with clearer authority to respond to and alleviate market disruptions and thereby protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

In a letter dated July 27, 2001, Instinet Corporation (''Instinet'') commented on the proposed rule change as originally proposed and currently in effect. Nasdaq has filed a proposed rule change—SR–NASD–2001–75—to modify the rule in certain respects and to make the rule permanent.[13] Nasdaq believes that the amendments to the rule proposed in SR–NASD–2001–75 respond to the concerns expressed by Instinet without impairing the flexibility that the rule must retain in order for the rule to assist Nasdaq in meeting its overarching responsibility to maintain the fairness and orderly structure of the Nasdaq market. On October 2, 2002, the American Stock Exchange (''Amex'') submitted a letter commenting on SR–NASD–2001–75. Nasdaq plans to file an amendment to SR–NASD–2001–75 that will respond to Amex's comments. Pending the filing of this amendment and final Commission action on SR–NASD–2001–75, however, Nasdaq believes that the pilot period of the current rule should be extended to allow the rule to remain in effect on an uninterrupted basis.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] 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.[16]

Nasdaq has requested that the Commission waive the pre-filing notice requirement of at least five business

[6] Securities Exchange Act Release No. 44307 (May 15, 2001), 66 FR 28209 (May 22, 2001) (SR–NASD–2001–37).

[7] Letter from Thomas P. Moran, Associate General Counsel, Nasdaq, to Alton Harvey, Division of Market Regulation, Commission (July 27, 2001).

[8] Securities Exchange Act Release No. 44609 (July 27, 2001), 66 FR 40761 (August 3, 2001) (SR–NASD–2001–37).

[9] 15 U.S.C. 78o–3.

[10] Securities Exchange Act Release No. 44870 (September 28, 2001), 66 FR 50701 (October 4, 2001) (SR–NASD–2001–60); Securities Exchange Act Release No. 45344 (January 28, 2002), 67 FR 5022 (February 3, 2002) (SR–NASD–2002–14); Securities Exchange Act Release No. 45851 (April 30, 2002), 67 FR 31858 (May 10, 2002) (SR–NASD–2002–57); Securities Exchange Act Release No. 46559 (September 26, 2002), 67 FR 63003 (Ocobter 9, 2002) (SR–NASD–2002–125).

[11] 15 U.S.C. 78o–3.

[12] 15 U.S.C. 78o–3(b)(6).

[13] Securities Exchange Act Release No. 45355 (January 29, 2002), 67 FR 5351 (February 5, 2002) (SR–NASD–2001–75).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

days and the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii).[17] The Commission believes waiving the five-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the pilot to operate continuously through May 15, 2003, while the Commission considers Nasdaq's request for permanent approval. For these reasons, the Commission waives both the five-day pre-filing requirement and the 30-day operative waiting period.[18]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2002–159 and should be submitted by December 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29941 Filed 11–25–02; 8:45 am]

BILLING CODE 8010–01–P

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46852; File No. SR–NYSE–2002–39]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Proposed Amendment to Exchange Rule 123D: Openings and Halts in Trading

November 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 29, 2002, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of an amendment to NYSE Rule 123D [3] with respect to openings, reopenings and halts in trading for stocks traded on the Exchange. Specific changes to shorten the minimum time period between tape indications and reopenings in stocks that are subject to a trading halt during the trading day are proposed to be made.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

Rule 123D: Openings and Halts in Trading

(1) Delayed Openings/Halts in Trading—It is the responsibility of each specialist to ensure that registered stocks open as close to the opening bell as possible, while at the same time not unduly hasty, particularly when at a price disparity from the prior close. Openings and reopenings should be timely, as well as fair and orderly, reflecting a professional assessment of market conditions at the time, and appropriate consideration of the balance of supply and demand as reflected by orders represented in the market. Specialists should, to the best of their ability, provide timely and impartial information at all phases of the opening process. Specialists should ensure adequate personnel are assigned and call upon additional clerical and relief specialist resources to assist in order management and Crowd communication, when appropriate. It is also incumbent upon specialists to seek the advice of Floor Officials when openings are delayed or when a halt in trading may be appropriate due to unusual market conditions.

Brokers should recognize the difficulty in providing accurate information in a constantly changing situation, and that significant changes are often occasioned by single orders or substantial interests delivered via DOT. Brokers should make every effort to ascertain the client's interest as early as possible and to inform the specialist so that such interest can be factored into the opening process. Brokers should communicate to clients the problems caused by delaying their interest until the last minute. Brokers should expect to have time to communicate the essential facts to their clients and to react to the changing picture. They should not expect, however, to be able to delay the opening for every last fragment of this change, and should recognize their obligation to a timely opening. Once a relatively narrow range of opening possibilities is given, the broker and his or her client should have sufficient information to enter a final order. In this regard, brokers should advise their clients against limits which are not firm, or are based solely on where the opening looked at the time the information was given. Brokers should not expect to be given endless opportunities to adjust those limits. Whenever possible the broker should have discretion within a range of the client's interest, and have the power to react to last minute changes without having to go back to the phone. This is particularly true for orders in amounts that represent a small fraction of the total opening volume, but applies to all orders. Brokers must recognize that orders or cancellations merely dropped on the counter can be lost or misplaced, and should hand the order directly to the specialist or his or her assistant and orally state the terms. Failure to do so could result in a monetary error to the broker as well as the specialist.

Floor Officials participate in the regulatory process by providing an impartial professional assessment of unusual situations, as well as advice with respect to pricing when a significant disparity in supply and demand exists. The specialist, however,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See SR-NYSE–2002–31 (August 12, 2002) (codifying the Exchange's policy on trading halts and delayed openings in NYSE Rule 123D).

has ultimate responsibility in this regard, and while a Floor Official's approval may be a mitigating factor, it will not exonerate a specialist when performance has been deemed not satisfactory.

A specialist should consider the following areas of specialist performance when involved in an unusual market situation:

• An opening price change that is not in proportion to the size of an imbalance;

• Absence of an indication before a large opening price change;

• Inadequate support after a large opening price change, *i.e.*, lack of sufficient continuity and depth in the aftermarket;

• Absence of trading without good cause or Floor Official approval (or an unjustified or unreasonably delayed opening or halt in trading);

• Not obtaining appropriate Floor Official approvals for opening delays, trading halts, and wide price variations.

In addition, a Floor Official should be consulted as soon as it becomes apparent that an unusual situation exists, and a Floor Governor should be consulted if it is anticipated that the opening price may be at a significant disparity from the prior close. If an unusual situation exists, such as a large order imbalance, tape indications should be disseminated, including multiple indications if appropriate with the supervision of a Floor Official. A second Floor Official's opinion in a delayed opening is required if there is difficulty in arriving at a decision; if the size of the price change from the previous NYSE close is three points or more or represents a 10% change in price; or if the stock has not opened within 50 minutes after the opening of business or 20 minutes after an extended delayed opening time frame. All tape indications require Floor Official approval. (See Appendix—Floor Official Approval Form #3)

Exchange policy requires the dissemination of an indication in connection with any delayed opening—involving any stock which has not opened (or been quoted) by 10 a.m. In addition, the dissemination of an indication is mandatory for an opening which will result in a significant price change from the previous close:

Previous NYSE closing price.*	Price change (equal or greater than)
Under $10	1 point.
$10–$99.99	The lesser of 10% or 3 points.
$100 and over	5 points

*The above guidelines are applicable to Initial Public Officerings based on the offering price.

All indications require the supervision and approval of a Floor Official. If it involves a bank or brokerage stock, a Floor Director's approval is required. If a Floor Director is unavailable, a Floor Governor's or Senior Floor Official's approval must be obtained. In addition to the mandatory criteria, specialists should use their judgment as to when it is appropriate to seek Floor Official approval for disseminating a price indication.

Mandatory indication policy applies to a foreign-listed security only if the opening price will be at a significant price change (see chart above) from its closing price in the foreign market or the current price in the foreign market.

Mandatory indications for convertible preferred stocks are only required if an indication was disseminated in the underlying common stock.

In this regard the following procedures should be followed for delayed opening and trading halt indications:

• The length of time for the dissemination of indications should be in proportion to the anticipated disparity of the opening or reopening price from the prior sale.

• The number of indications should increase in proportion to the anticipated disparity in the opening or reopening price, with increasingly definitive, ''telescoped'' indications when an initial narrow indication spread is impractical.

• An indication should be published immediately when trading is halted for a non-regulatory order imbalance. Such indications should be broad enough to allow flexibility, but narrow enough to convey as accurate a picture of supply and demand as possible at the time. In most cases, a final indication with a one point spread would be appropriate. Further telescoping to one-half point could result in unnecessary delay due to a change in the terms of a pivotal order. Even if an indication is not disseminated, specialists should endeavor to provide brokers with an approximate range within which they believe a stock will open.

• Tape indications before the opening should be disseminated at 9:15 a.m., if possible, but any tape indications disseminated prior to 9:30 a.m. require the approval of a Floor Director or Floor Governor, or the approval of a Floor Official if it relates to a spin-off or if trading had been halted and not resumed the prior day.

ITS Pre-Opening Applications must be followed when necessary based upon the anticipated opening price. For example, a Pre-Opening Notification must be issued if a stock is going to open more than .10 of a point from a composite last sale under $15 or more than .25 of a point from a composite last sale of $15 or higher. The spread in the Pre-Opening Application may not exceed .50 of a point if the consolidated close is under $50 or one point if the consolidated close is $50 or higher with limited exception. If a Pre-Opening Application is required on an opening or any reopening and a tape indication is also issued, the indication satisfies the Pre-Opening Application requirement if it is also sent to the ITS participants by the specialist in the form of Pre-Opening Notification. In that case, the maximum ITS spread would not apply. Three minutes must elapse from the time a Pre-Opening Application is issued, and an additional one minute if subsequent notifications are required, before a stock should open.

As with other openings, tape indications are discretionary for IPO's with the approval of a Floor Director or Floor Governor except that it is mandatory if the opening price change as measured from the offering price meets the requirements for a mandatory indication.

If an indication is disseminated after the opening bell, it must be considered a delayed opening. In addition, any stock that is not opened with a trade or reasonable quotation within 30 minutes after the opening of business must be considered a delayed opening (except for IPO's) and requires Floor Official supervision, as well as an indication. That 30-minute time frame may only be extended by a Floor Director on a Floor-wide basis.

More than one indication should be disseminated if an opening will be outside the first indication or if the first indication had a wide spread, especially if the time frame for delayed openings has been extended by the Floor Director. A reduction in time between indications can be used when multiple indications are disseminated. Generally, a minimum of 10 minutes must elapse between the first indication and a stock's opening as measured by the time the indication appears on the PDU. However, when more than one indication is disseminated, a stock may open five minutes after the last indication provided that at least 10 minutes must have elapsed from the dissemination of the first indication.

With respect to a post-opening trading halt, a minimum of five minutes must elapse between the first indication and a stock's reopening. However, where more than one indication is disseminated, a stock may re-open three minutes after the last indication, provided that at least five minutes must have elapsed from the dissemination of the first indication.

Tape indications must be disseminated with the approval of a Floor Official prior to the opening or reopening in a stock subject to a regulatory or nonregulatory halt in trading or a delayed opening. A Floor Governor should be consulted if a significant price change is anticipated.

A Floor Director or Floor Governor should be consulted in any case where there is not complete agreement among the Floor Officials participating in the discussion.

Floor Governors should keep apprised of developments when consulted, and should seek the assistance of Floor Directors, when appropriate, as soon as possible. Floor Governors should be prepared to balance the opportunity for brokers to participate in the opening with the need for timeliness, and should assist in identifying opportunities for opening the security, based upon the shifting supply and demand in conjunction with appropriate specialist participation.

Specialists should make every effort to balance timeliness with the opportunity for customer reaction and participation. Although the correct price based on information available at the time is always the goal, specialists and supervising Floor Governors should recognize customers' desires for a timely opening. When the specialist and Floor Governor agree that all participants have had a reasonable opportunity to participate, the specialist should open the stock.

Once trading has commenced, trading may only be halted with the approval of a Floor Governor or two Floor Officials. A Floor Director, or in their absence a Senior Floor Governor, should be consulted if it is felt that trading should be halted in a bank or brokerage stock due to a potential misperception regarding the company's financial viability.

Sometimes the Client Service Division is notified by a listed company in advance of publication concerning news which might have a substantial market impact. That Division will immediately notify the Floor Operations Division, which will advise a Floor Director or Floor Governor, or in their absence a Floor Official.

If Client Service Division makes a recommendation that trading should be halted in a stock pending a public announcement by the company and the Floor Director or Floor Governor disagrees, he or she should seek the opinion of another Floor Director or Floor Governor. If the Floor Directors or Floor Governors are in agreement that trading should not be halted, trading should continue. If one of the two is in agreement with the recommendation to halt trading, then trading should be halted. While the time period may vary from case-to-case as a result of the particular circumstances involved, normally if the announcement is not made within approximately 30 minutes after the delay or halt is implemented, the Exchange may commence the opening or reopening of trading in the stock. Special care is taken to ensure that material non-public information is not disclosed, even inadvertently, as a result of someone overhearing details relating to trading halts or delayed opening situations.

Stopped stock prior to a halt should be printed as ''sold'' with the specialist as contra and adjusted if the reopening is at a more advantageous price.

It is important that all appropriate Floor Official forms are completed.

(2) Equipment Changeover—The Exchange has established a non-regulatory trading halt condition designated as ''Equipment Changeover''.

This condition may be used when trading in a particular security is temporarily inhibited due to a systems, equipment or communications facility problem or for other technical reasons.

In making a determination on whether to halt trading in a security because of an ''Equipment Changeover'' condition, it is important to keep in mind that once halted, trading cannot be resumed for at least 5 minutes even though, in many cases, the systems or equipment problem may be corrected in a much shorter period of time. Further, if, during the ''Equipment Changeover'' trading halt, a significant order imbalance (one which would result in a price change from the last sale of one point or more for stocks under $10, the lesser of 10% or three points for $10–$99.99 and five points if $100 or more—unless a Floor Governor deems circumstances warrant a lower parameter) develops or a regulatory condition occurs, the nature of the halt will be changed, notice must be disseminated and trading cannot resume until 10 minutes after the first indication after the new halt condition. This factor should be taken into consideration along with market condition factors in making a determination on whether to declare an official trading halt.

As with any other halt, an ''Equipment Changeover'' trading halt requires the approval of a Floor Governor or two Floor Officials. All other policies relating to non-regulatory halts would apply including price indications.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The current policy on reopening trading after a stock has been halted during the trading day requires a minimum of 10 minutes to elapse between the first price indication and the reopening of a stock, and a minimum of 5 minutes to elapse after the last indication, when it does not overlap the prior indication, or a minimum of 5 minutes to elapse after the last indication when it overlaps the prior indication, provided in all cases that the minimum 10 minutes has elapsed since the first indication. It is proposed that these minimum time periods before reopening a stock be compressed from 10 to 5 minutes after the first indication, and to 3 minutes after the last indication, provided that the minimum 5 minutes has elapsed since the first price indication.

Over the years, in developing procedures for openings and reopenings, the Exchange has focused on providing a balance between timeliness and appropriateness of price discovery, *i.e.*, achieving a price that reflects market conditions at the time. As the speed of communications has increased, the Exchange believes it is desirable to provide the flexibility to react more quickly if circumstances are such so as to permit a reopening of trading in a shorter period of time. The Exchange believes that the revised

procedures for reopening after a trading halt strike an appropriate balance between preserving the price discovery process while providing timely opportunities for investors to participate in the market. It should be noted, however, that it is not mandatory that a stock reopen at the end of the new, shorter time period. If at the end of the 5 minute period, an equilibrium has been established, there would be no purpose served by extending the halt for a longer period. It may be however, that more time will be needed to bring supply and demand into balance. Trading halts are overseen by Floor Officials who will use their judgment to see that the stock reopens at an appropriate time.

2. Statutory Basis

The NYSE believes that the basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[4] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of section 11A(a)(1)[5] of the Act in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR–NYSE–2002–39 and should be submitted by December 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority[6].

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29942 Filed 11–25–02; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78k–1(a)(1).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46847; File No. SR–NYSE–2002–61]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Establishing Fees for the NYSE Broker Volume Service

November 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on November 12, 2002, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II and III below, which items have been prepared by the Exchange. The Exchange 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

The Exchange proposes to establish fees for the NYSE Broker Volume service (''Service''), a new information service that the Exchange plans to make available. The text of the proposed rule change is available at the NYSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE proposes to establish fees for the Service, which provides access to the NYSE Broker Volume Database (''Database''), and permits vendors to provide subscribers with NYSE Broker Volume Reports. The Database is an electronic database of share volume information relating to trades that each participating Exchange member has entered into on the Exchange in each

[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). The NYSE provided the Commission with at least five business days' written notice of its intention to file this proposed rule change.

Exchange traded issue.[5] The Database will be updated on both a daily and monthly basis. The Database will have information only from Exchange members who have specifically agreed that their trades may be included in the Database, and members may elect whether to have their information included on a daily only basis, a monthly only basis, or on a both daily and monthly basis. Users of the Database will be able to sort and recall information either based on the traded security or based on the participating Exchange member.

NYSE Broker Volume Reports will consist of the controlled displays of data reports that a vendor will create from the information contained in the Database. While these Reports will be provided by various vendors and will be subject to each vendor's display preferences or styles, the NYSE anticipates that these Reports would provide a ranking of executed NYSE volume by participating Exchange member for each NYSE-traded issue, with total volume per issue indicated for each participating member. Of course, in these Reports, vendors will be free to also present the NYSE Broker Volume data in such manner as they may consider useful to their subscribers, such as sortable by industry, sector, *etc.*

The Exchange proposes to charge $3,000 per month for access to the Database. The fee will entitle a recipient to use the information included in the database in any manner within its organization. It will also entitle a recipient to create NYSE Broker Volume Reports for distribution to subscribers. The Exchange will require each Database recipient to enter into an appropriate database-access agreement with the NYSE. That agreement will specify that a recipient that creates NYSE Broker Volume Reports for distribution to subscribers must identify distributed NYSE Broker Volume Reports as being based entirely on NYSE information. Note that there will be no restrictions on a vendor's separately displaying other markets' broker volume activity. A report that combines broker volume information from a variety of sources will also be permitted as long as the NYSE Broker Volume that is a component thereof is separately identified as such in the same display.

The Exchange proposes to charge vendors $100 per month for each subscriber device to which the vendor provides NYSE Broker Volume Reports. The Exchange will require each subscriber to execute a suitable subscriber agreement with the Exchange. The Exchange proposes to cap that monthly device charge at a maximum monthly amount of $2,500 per subscriber.

The Exchange notes that the Service directly responds to requests from professional NYSE market participants to increase the availability of NYSE broker volume information. Sell-side representatives use currently available share volume information to display their trading activity in specific Exchange-listed issues, while buy-side representatives use the data to determine which sell-side representative to select for execution of their orders. The Service will supplement existing services with a secure, controlled mechanism that will enhance the ability of these representatives to use such data and to demonstrate or observe trading patterns.

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with the provisions of section 6(b)(4) of the Act,[6] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change.

The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[7] and rule 19b–4(f)(6) thereunder.[8] 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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR–NYSE–2002–61 and should be submitted by December 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29945 Filed 11–25–02; 8:45 am]

BILLING CODE 8010–01–P

[5] Note that the database will not contain information on bonds traded through the NYSE Automated Bond System.

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying

the public that the agency has made such a submission.

DATES: Submit comments on or before December 26, 2002. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Economic Impact Survey.

No's: 2214.

Frequency: On occasion.

Description of Respondents: Small business clients owners & employees, prospective entrepreneurs.

Responses: 1,700.

Annual Burden: 284.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 02–29930 Filed 11–25–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3468]

State of Indiana

Blackford County and the contiguous counties of Delaware, Grant, Jay and Wells in the State of Indiana constitute a disaster area due to damages caused by severe thunderstorms, high straight-line winds and tornadoes that occurred on November 10, 2002. Applications for loans for physical damage may be filed until the close of business on January 21, 2003 and for economic injury until the close of business on August 20, 2003 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.875
Homeowners without credit available elsewhere	2.937
Businesses with credit available elsewhere	6.648
Businesses and non-profit organizations without credit available elsewhere	3.324
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.324

The number assigned to this disaster for physical damage is 346811 and for economic injury is 9S6500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 20, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–29995 Filed 11–25–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region IV Regulatory Fairness Board

The Small Business Administration Region IV Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Tuesday, December 3, 2002 at 9 a.m. at the Miami-Dade Community College, Wolfson Campus, ETCOTA Auditorium, Room 7128 (1st Floor), 500 NE 2nd Avenue, Miami, FL 33132, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Maritza Perez in writing or by fax, in order to be put on the agenda. Maritza Perez, U.S. Small Business Administration, South Florida District Office, 100 South Biscayne Blvd. 7th Floor, Miami, FL 33131, phone (305) 536–5521 x103, fax (305) 536–5058, e-mail *maritza.perez@sba.gov.*

For more information, see our Web site at *http://www.sba.gov/ombudsman.*

Dated: November 19, 2002.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 02–29996 Filed 11–25–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4210]

Culturally Significant Objects Imported for Exhibition Determinations: ''The First Europeans: Treasures From the Hills of Atapuerca''

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''The First Europeans: Treasures from the Hills of Atapuerca,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at American Museum of Natural History, New York, NY, from on or about January 11, 2003, to on or about April 13, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit object, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: November 20, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–29988 Filed 11–25–02; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 194: Air Traffic Management (ATM) Data Link Implementation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 194 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 194: Air Traffic Management (ATM) Data Link Implementation.

DATES: The meeting will be held December 10–12, 2002, starting at 12 p.m. on December 10, and at 1 p.m. on December 12.

ADDRESSES: This meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 194 meeting. The agenda will include:

- December 10:
  - Opening Plenary Session (Welcome and Introductory Remarks, Review Agenda, Review/Approve Minutes of Previous Meeting, Working Group Reports)
  - Review and Update revised Controller-Pilot Data Link Communication (CPDLC) Program
  - Approve required changes to the SC–194 Terms of Reference
  - Consider and approve the WG–1, Plans and Principles document for final review and comment (FRAC)
  - Determine near and mid-term SC–194 activities
  - Other Business
- December 11:
  - Working Group Meetings as scheduled by WG Leaders
- December 12:
  - Working Group Meetings Continued
  - Closing Plenary Session (Review Agenda, Working Group Reports, Other Business, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 19, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–30053 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: The FMCSA announces that 534 individuals were denied exemptions from the Federal vision standard applicable to interstate truck drivers and the reasons for their denials.

FOR FURTHER INFORMATION CONTACT: Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (MC-PSD), 202–366–2987, Department of Transportation, FMCSA, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the Federal vision standard for a renewable 2-year period if it finds such an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption. (49 CFR 391.41(b)(10))

Accordingly, FMCSA evaluated 534 individual exemption requests on their merits and made a determination that these applicants do not satisfy the criteria established to demonstrate that granting an exemption is likely to achieve an equal or greater level of safety that exists without the exemption. Each applicant has, prior to this notice, received a letter of final disposition on his/her individual exemption request. Those decision letters fully outlined the basis for the denial and constitute final agency action. The list published today summarizes the agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reason for denials.

The following 213 applicants lacked sufficient recent driving experience over three years:

Adair, Merle
Anaya, John
Angell, Michael
Babcock, Joel
Banks, Prentice
Beaton, Gary
Beebe, Morris
Bell, Demitra
Bender, Fred
Bickers, Harvie
Black, Paul
Blackwelder, Rickey
Bodiford, Jr., Cecil
Boger, Ronnie
Bonney, Stephen
Boone, Travis
Boyles, Richard
Brandano, Anthony
Brigstock, Jon
Brooks, William
Brown, John
Brown, Rodney
Browning, Paul
Burkett, Joshua
Burrell, Donald
Butts, Kenneth
Camp, Michael
Cannon, Dwayne
Carlin, Robert
Cassatt, Darryl
Casteel, William
Catillo, Jr., Ramon
Chestnut, Kevin
Chopp, Alvin
Clayton, Andrew
Cleary, Dennis
Cope, Daniel
Cornell, Chaney
Crook, Greg
Cutright, Orin
Dahmer, Jr., Herman
Davis, Stanley
Davison, Tommy
DeGross, Kevin
Denson, Leroy
Diehl, Paul
Dowell, Danny
Dreager, Donald
Durham, James
Edmonds, Michael
Edwards, Clint
Ellington, John
Ervin, Vernon
Estes, Tomie
Eubanks, Mack
Forgey, Richard
Franklin, Michael
Freeman, David
Freeman, Gina
Fuson, Patrick
Goodrum III, Horace
Gordy, James
Gorman, Michael
Green, Lorenzo
Grijalba, William
Gutierrez, Ramon
Hall, Joe
Hamaker, Mark
Hamrick, Donald
Hanson, Larry
Hardy, Roger
Harris, Melvin
Heller, Dennis
Henderson, Charles
Higgs, Cynthia
Hill, Clifford
Hill, Roderic
Hinshaw, Howard
Hogue, Larry

Holmes, Earl
Holmes, Gary
Hudson, David
Hustead, Dennis
Inge, Jr., William
Inman, David
Jackson, William
James, Larry
Janus, Frederick
Jessop, Charles
Johnson, Donald
Johnson, Jimmy
Judd, Jr., Paul
Johnson, Michael
Jones, Terry
Keenum, Gary
Kilduff, James
King, Colon
King, John
Klimek, Chuck
Knerr, Donald
Kolberg, Perry
Koonce, Jackie
Kuhn, Gregory
Lajoie, Mark
Lapha, David
Larivee, Sr., Robert
Lindsay, Stuart
Lowrey, Patrick
Maggard, John
March, Steven
Marshall, Barry
Martin, Frankie
Martin, John
Mayrose, Craig
McClure, Eric
McClure, Jr., Robert
McCurdy, Mark
McDaniel II, Otis
McEntyre, William
McIntosh, Nathan
Meeks, Jerry
Miles, Harry
Miles, Larry
Miller, Mark
Miller, Paul
Minton, Scotty
Miranda, Jr., Joseph
Moore, Edward
Moos, Douglas
Mueller, Louis
Murdoff, Elroy
Myre, John
Newlin, Ronald
Oathout, Kirby
O'Rourke, Scott
Paarlberg, Ralph
Parra, Saul
Pawlak, Robert
Payne, Kenneth
Peltier, Walter
Pepper, Martin
Pete, Freddy
Petre, James
Phillis, Kenneth
Phipps, Roy
Pieplow, Larry
Piersall, Woodrow
Pool, Justin
Prewitt, Jr., James
Prezzia, Ronald
Pribanic, John
Pullins, David
Purvis, James
Quenzer, Steve
Rains Jeffrey
Ray, Billy
Reilley, James
Reinsberg, David
Reszynski, Edward
Rhodes, Jr., John
Riley, Jr., James
Ritchie, James
Robel, Robert
Rodriguez, Amando
Rogers, Doyle
Rotondo, Mark
Royer, Raymond
Rubio, Hall
Ruffin, William
Russ II, John
St. John, Gary
Schaaf, James
Scott, Michael
Shepherd, Bruce
Shoemaker, Timothy
Shrewsbury, William
Simonye, Carl
Slagowski, Stanley
Slee, Donald
Snider, Delbert
Spaich, Timothy
Sparks, Wayne
Stewart, Troy
Stoddard, Paul
Summers, Donald
Sutter, John
Swartz, Jr., Arthur
Taylor, Richard B.
Taylor, Richard E.
Taylor, William
Tetreault, Dennis
Thomas, Jefferson
Tyler, Keith
Victoriano, Sr., Dennis
Wade, Wayne
Ward, Larry
Warfield, Richard
Weber, Kevin
Weekly, Wesley
Weller, Craig
West, Frank
West, Harvey
Whatley, Timothy
Wilgis, Foard
Wilkerson, Chad
Wilkinson, Charley
Williams, Edward
Wimberly, Hillard
Witt, Kenneth
Wood, Michael
Wurtele, Jon

The following 57 applicants had no experience operating a commercial motor vehicle (CMV) and therefore presented no evidence from which FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption:

Abrams, James
Baker, Joseph
Barber, Loyd
Barrett, Jr., Gregory
Biega, Mark
Blumle, James
Bonilla, William
Burr, Danny
Burr, Michael
Butero, Paula
Callahan, Sean
Collins, Eric
Conner, Glenn
Critchley, Jr., Philip
Currier, Thomas
Daniel, Jerry
Dean, Joseph
DeMario, Frank
DiPasqua III, Louis
Fry, Derwin
Gay, Gerald
Hamilton, Don
Hayes, Scott
Hopkins, John
Johnson, Larry
Jones, Abram
Martin, Jerome
Martinez, Jorge
Mays, Jerry
Miniex, Charles
Mitchell, Alex
Natola, Eric
Neely, Larry
Norton, Edwin
Paul, James
Quick, Robert
Rama, Alfred
Richards, Randall
Richardson, Valerie
Roberts, William
Romary, Frances
Simpkins, Raymond
Sylte, Monte
Talbert, Jeffrey
Tilley, Charles
Van Blaricom, Abelardo
Vieth, Kenneth
Vines, Michael
Vujicic, Steven
Waldron, Scott
Warren, Richard
Watkins, Kenneth
West, Brandon
Willis, Elva
Wilson, Kenneth
Withrow, Jr., Edgar
Yarbrough, Karry

The following 101 applicants do not have 3 years of experience driving a CMV on public highways with the vision deficiency:

Adams, Paul
Anderson, Peter
Armstrong, Lewis
Arsenault, Paul

Bents, Ronnie
Borton, Duane
Braun, Douglas
Bryant, Emmit
Burton, Joseph
Clegg, Jr., Henry
Courtney, Mark
Holloway, Shawn
Kelly, Timothy
Kilian, Mark
Kling, James
Land, Reginald
Light, Jason
Lovelace, Rafe
Lucero, Michael
Maestas, Jacob
Mallette, Joseph
Martin, Lloyd
Mason, Daniel
McFadden, Thomas
McGrath, Daniel
McGuire, Dennis
McKnight, Tommy
Melchert, Richard
Melssen, Jeffrey
Milan, Jesus
Milner, Robert
Mirles, Eulogio
Monti, Joseph
Morphey, Gerald
Cranford, Kelvin
Campbell, Charles
Caylor, Dwight
Davis, Audley
Daming, Paul
Dean, Joseph
Derner, Raymond
Devonshire, Joseph
Dooley, Jr., Rex
Doster, Calvin
Dreyer, John
Morrical, Jade
Moseley, Susan
Murphy, Jr., Patrick
Myhre, Dexter
Naroznik, Marian
Nielsen, James
O'Brien, William
Owen, Charles
Patrick, John
Pedroza, Joaquin
Pegg, Rodney
Quick, Robert
Rapp, Kevin
Reyna, Leodan
Rhodes, Charles
Robinson II, Chester
Roberts, James
Rogers, Michael
Rohloff, Ryan
Runde, Faber
Salmon, Danny
Sandruck, Nathan
Schmidt, Brendon
Enamorado, Gilberto
Fore, Kenneth
Geer, Steven
Gentry, Steven
Gilbert, Kevin
Glisson, William
Hale, Bobby
Henderson, Antonio
Herendeen, Vern
Hickman, Richard
Hollins, Daniel
Schmitz, Cletus
Selix, Daniel
Shaull, Bruce
Skinner, Orville
Smith, Loran
Spicer, Manuel
Steepleton, Calvin
Stewart, Debbie
Stewart, Keith
Storm, Stacey
Trice, Demetris
Turman, Marvin
Turner, Emerson
Tyrpien, Janusz
Uchytil, Lori
Van Horn, Joseph
Warriner, Jonathon
Werner, Jeremy
Wesley, Loyal
West, Jr., Lewis
Wilson, Danny
Yachetta, Charles

The following 40 applicants do not have 3 years recent experience driving a CMV with the vision deficiency:

Azlin, Danny
Baxter, N. Keith
Bazzell, Claude
Bennett, Greggory
Berry, Patrick
Breakiron, Benjamin
Britt, Jr., William
Burnett, Jr., Walter
Buttacavoli, Philip
Clason, Lee
Clayton, Jr., Arthur
Cooper, Timothy
Dambroukas, Michael
Dishman, Bradley
Fryar, Sheldon
Hicks, Larry
Kibler, Gary
Kleinschmit, Francis
Kuykendall, Roscoe
Langford, Robert
Mack, Furnice
May, Charles
McFarlane, Sr., Larry
Metcalf, Jeffrey
Meyers, Mona
Miller, Mark
Newell, John
Pounds, Jerry
Safford, Winston
Salter, Johnny
Scace, Wayne
Shadley, Marcy
Sittler, Karl
Springier, Wolfgang
Stidams, Brad
Sundberg, Terry
Taylor, Jessie
Thompson, Larry
Tichota, Jeffrey
Townson, Grady

The following 3 applicants, Guy Manning, Percy Martin, and Christopher Watson, do not need the exemption because they already meet the vision standard at 49 CFR 391.41(b)(10).

The following 13 applicants do not qualify because they were charged with moving violation(s) in conjunction with CMV accident(s), which is a disqualifying offense under the exemption criteria:

Anders, Rodger
Borum, Frankie
Brooks, Arthur
Clark, Sandy
Engstad, John
Martinez, Jose
Miller, Abe
Moises, Pastrana
Patten, Charles
Schlabach, John
Schnell, Charles
Webster, Jr., Howard
White, Winston

The following 3 applicants, Clarence Downing, Clifford Foster, and Steven Marshall, had more than two CMV moving violations during a 3-year period or while the applications were pending. Each applicant is only allowed two moving citations.

One applicant, Mr. Charles Grant, does not have sufficient peripheral vision in the better eye to qualify for an exemption.

One applicant, Mr. Kent Richards, does not qualify for the exemption because he had other medical conditions making him otherwise unqualified under the Federal Motor Carrier Safety Regulations (FMCSRs).

The following 25 applicants' licenses were suspended during the 3-year period because of a moving violation. Applicants do not qualify for an exemption with a suspension during the 3-year period.

Abraham, James
Adkins, Jesse
Baxley, Thomas
Blanchard, Stephen
Brooks, Jay
Brown, Pearlie
Closson, Jr., John
Conn, John
Craig, David
Esmay, Jr., Eldon
Evans, Frank
Fretz, Richard
Froy, Jr., Kenneth
Huebner, Lonny
Kennedy, Don
Leader, Randy
Leonard, Richard
Palmer, Derek

Pugh, Timothy
Rieck, James
Shell, Juan
Tolle II, Donald
Walters, Stephen
Weng, Yu
Westbrook, John

The following 6 applicants do not have verifiable proof of commercial driving experience during a 3-year period under normal highway operating conditions that would serve as an adequate predictor of future safety performance:

Adams, Paul
Ferguson, Dennie
Hamilton, Franklin
Mcalhaney, Leland
Todd, George
Wilson, Tracy

The following 30 applicants were involved in CMV accidents in which they contributed to the accident:

Abernathy, Kevin
Adams, Gene
Barenberg, Stanley
Bedford, Benjamin
Brockman, Jr., Thomas
Clark, Sandy
Cook, Freddy
Cotton, Erick
Cummins, William
Davis, John
Embry, Roger
Finger, Ronald
Freeman, Bobby
Good, Leslie
Gowens, Eddie
Green, Eugene
Holden, John
Jennings, Allen
Jones, Harold
Keller, Clarence
Mullins, Norman
Paschal, Eddie
Petersen, Lester
Sheets, Earl
Snitzer, Jeffrey
Stockton, Phinous
Swann, Jr., Clarence
Tomlinson, Calvin
Wagenmann, Dean
Wood, Bernard

The following 8 applicants do not demonstrate the level of safety required for interstate driving based on information received on state-issued driving reports due to excessive moving/non-moving violations during the 3-year period:

Andersen, Gary
Askin, James
Daniels, Randall
Grundy, Warren
Hahn, George
Hallman, Jerry
Hickenbottom, Walter
Kallhoff, Chad

The following 7 applicants do not hold licenses which allow operation of a CMV over 10,000 pounds gross vehicle weight rating (GVWR) for all or part of the 3-year period:

Berry, Jimmy
Cain III, Fitzhugh
Conn, John
Hartzog, Jay
Martin, Frankie
Mears, Ronnie
Thacker, Emory

The following 14 applicants were placed in the ''other'' category for having multiple reasons for denial:

Benedict, James
Berglund, Todd
Bosanek, Theodore
Craft, Gilbert
Hills, Jacob
Kowalsky, Richard
Lopez, Jose
O'Dell, George
Peebles, David
Peterson, James
Roseman, Dwight
Pryor, Sam
Smith, Terry
Woodruff, Bill

One applicant, Mr. Sheldon Fryar, does not qualify for an exemption because he submitted unverifiable documentation during the application process.

The following 5 applicants were disqualified because their vision had not been stable within the three-year period:

Baldwin, Sr., James
Coates, James
Malley, Albert
Wadley, Jimmie
Wren, Robert

One applicant, Mr. Roy Via, was disqualified because he held two CDLs simultaneously. Mr. Via was reported to the Department of Motor Vehicles in the two States where he obtained the CDLs. Mr. Via no longer holds two CDLs.

One applicant, Mr. William Hicks, Jr., was not qualified because he did not meet the vision standard in the better eye.

Finally, 4 Canadian drivers applied for an exemption. The reciprocity agreement between the United States and Canada does not permit Canadian drivers who do not meet the medical provisions in the National Safety Code of Canada but may have a waiver issued by one of the Canadian provinces or territories to drive CMVs in the United States.

Anderson, Wayne
Letkeman, Issac
Nott, Chad
Townson, David

Issued on: November 19, 2002.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 02–29973 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9663]

Notice of Public Workshop

AGENCY: National Highway Traffic Safety Administration, Transportation.

ACTION: Notice of public workshop.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) will conduct a public workshop to allow interested parties to learn details about NHTSA's current techniques for data acquisition in dynamic rollover and handling testing. Information will be provided about instrumentation, outriggers, and other procedures. Two fully instrumented vehicles will be made available for inspection.

DATE AND TIME: The public workshop will be held on December 3, 2002, from 10 a.m. to 2 p.m.

ADDRESSES: The public workshop will be held at NHTSA's Vehicle Research and Test Center, Building 60, Transportation Research Center, 10820 State Route 347, East Liberty, Ohio 43319.

SUPPLEMENTARY INFORMATION: This meeting will not discuss NHTSA's October 7, 2002, proposal to establish a dynamic rollover test procedure and to incorporate information obtained from that testing in consumer information on rollover (67 FR 62528). Any comments on that notice should be submitted to Docket No. NHTSA–2001–9663; Notice 2, by November 21, 2002. This meeting is intended to be a technical meeting to allow interested parties to observe in person and hear details about NHTSA's current techniques for data acquisition in dynamic rollover and handling testing. Information will be provided about instrumentation, outriggers, and other procedures. Two fully instrumented vehicles will be made available for inspection. No information will be provided about the status, projected timetable or NHTSA's tentative conclusions for the final rule on dynamic rollover testing and the presentation of rollover information to the public in the New Car Assessment Program (NCAP).

For security reasons, attendees must register in advance. To register, obtain directions to the Vehicle Research and Test Center, or request additional information, contact Jan Cooper at telephone (937) 666–4511 extension 208. If Ms. Cooper is not available, you may register by contacting Fred Seeberg at telephone (937) 666–4511 or Susan Weiser at telephone (937) 666–4511 extension 209.

The handouts and other information presented at the workshop will be available for public inspection in the DOT Docket in Washington, DC, within two weeks after the meeting. Copies of the materials will be available at ten cents a page upon request to DOT Docket, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The DOT Docket is open to the public from 10 a.m. to 5 p.m. The material may also be accessed electronically at *http://dms.dot.gov*, at Docket No. NHTSA–2001–9663.

The handouts and other information presented at the workshop will also be available on NHTSA's Web site at URL *http://www-nrd.nhtsa.dot.gov/departments/nrd-01/presentations/presentations.html.*

Should it be necessary to cancel the meeting due to inclement weather or any other emergencies, a decision to cancel will be made as soon as possible and posted immediately on NHTSA's Web site at URL *http://www.nhtsa.dot.gov/nhtsa.announce/meetings/.* If you do not have access to the Web site, you may call for information at the contacts listed below and leave your telephone or telefax number. You will be contacted only if the meeting is postponed or canceled.

FOR FURTHER INFORMATION CONTACT: Jan Cooper at telephone (937) 666–4511 extension 208. If Ms. Cooper is not available, you may contact Fred Seeberg at telephone (937) 666–4511 or Susan Weiser at telephone (937) 666–4511 extension 209.

Issued on: November 20, 2002.

Joseph N. Kanianthra,

Associate Administrator for Applied Research.

[FR Doc. 02–30054 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Notification of the Susceptibility To Premature Brittle-Like Cracking of Older Plastic Pipe

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

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: RSPA is issuing this follow-up advisory bulletin to owners and operators of natural gas distribution systems to inform them of the susceptibility to premature brittle-like cracking of older plastic pipe and the voluntary efforts to collect and analyze data on plastic pipe performance. A Special Investigation Report issued by the National Transportation Safety Board (NTSB) described how plastic pipe installed in natural gas distribution systems from the 1960s through the early 1980s may be vulnerable to brittle-like cracking resulting in gas leakage and potential hazards to the public and property. On March 11, 1999, RSPA issued two advisory bulletins on this issue. The first bulletin reminded natural gas distribution system operators of the potential poor resistance to brittle-like cracking of certain polyethylene pipe manufactured by Century Utility Products, Inc. The second bulletin advised natural gas distribution system operators of the potential vulnerability of older plastic pipe to brittle-like cracking.

ADDRESSES: This document can be viewed on the Office of Pipeline Safety (OPS) home page at: *http://ops.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Gopala K. Vinjamuri, (202) 366–4503, or by e-mail at *gopala.vinjamuri@rspa.dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 23, 1998, NTSB issued a Special Investigation Report (NTSB/SIR–98/01), *Brittle-like Cracking in Plastic Pipe for Gas Service,* that describes how plastic pipe installed in natural gas distribution systems from the 1960s through the early 1980s may be vulnerable to brittle-like cracking resulting in gas leakage and potential hazards to the public and property. An NTSB survey of the accident history of plastic pipe suggested that the material may be susceptible to premature brittle-like cracking under conditions of local stress intensification because of improper joining or installation procedures. Hundreds of thousands of miles of plastic pipe have been installed, with a significant amount installed prior to the early-1980s. NTSB believes any vulnerability of this material to premature cracking could represent a potentially serious hazard to public safety. Copies of this report may be obtained by calling NTSB's Public Inquiry Office at 202–314–6551.

RSPA has already issued two advisory bulletins on this issue. The first advisory bulletin, ADB–99–01, which was published in the **Federal Register** on March 11, 1999 (47 FR 12211), reminded natural gas distribution system operators of the potential poor resistance to brittle-like cracking of certain polyethylene pipe manufactured by Century Utility Products, Inc. The second advisory bulletin, ADB–99–02, also published in the **Federal Register** on March 11, 1999 (47 FR 12212), advised natural gas distribution system operators of the potential brittle-like cracking vulnerability of plastic pipe installed between the 1960s and early 1980s.

The phenomenon of brittle-like cracking in plastic pipe as described in the NTSB report and generally understood within the plastic pipeline industry relates to a part-through crack initiation in the pipe wall followed by stable crack growth at stress levels much lower than the stress required for yielding, resulting in a very tight slit-like openings and gas leaks. Although significant cracking may occur at points of stress concentration and near improperly designed or installed fittings, small brittle-like cracks may be difficult to detect until a significant amount of gas leaks out of the pipe, and potentially migrates into an enclosed space such as a basement. Premature brittle-like cracking requires relatively high localized stress intensification that may be a result from geometrical discontinuities, excessive bending, improper installation of fittings, and dents and gouges. Because this failure mode exhibits no evidence of gross yielding at the failure location, the term brittle-like cracking is used. This phenomenon is different from brittle fracture, in which the pipe failure causes fragmentation of the pipe.

The NTSB report suggests that the combination of more durable plastic pipe materials and more realistic strength testing has improved the reliability of estimates of the long-term hydrostatic strength of modern plastic pipe and fittings. The report also documents that older polyethylene pipe, manufactured from the 1960s through the early 1980s, may fail at lower stresses and after less time than was originally projected. NTSB alleges that

past standards used to rate the long-term strength of plastic pipe may have overrated the strength and resistance to brittle-like cracking of much of the plastic pipe manufactured and used for gas service from the 1960s through the early 1980s.

In 1998, NTSB made several recommendations to trade organizations and to RSPA on the need for a better understanding of the susceptibility of plastic pipe to brittle-like cracking. This advisory bulletin responds to one of the NTSB recommendations. It is that RSPA ''[d]etermine the extent of the susceptibility to premature brittle-like cracking of older plastic piping (beyond that marketed by Century Utilities Products Inc.) that remains in use for gas service nationwide. Inform gas system operators of the findings and require them to closely monitor the performance of the older plastic piping and to identify and replace, in a timely manner, any of the piping that indicates poor performance based on such evaluation factors as installation, operating, and environmental conditions; piping failure characteristics; and leak history.''

In order to obtain the most complete information on the extent of the susceptibility to premature brittle-like cracking of older plastic pipe, a meeting was convened in May 1999 with all the stakeholders to determine how information on older plastic pipe could be assembled. The meeting included representatives of the American Gas Association (AGA), the American Public Gas Association (APGA), the Gas Research Institute (GRI) (now the Gas Technology Institute), the Midwest Energy Association (MEA), and the Plastic Pipe Institute (PPI).

As a result of the May 1999 meeting, the Joint Government-Industry Plastic Pipe Study Committee was formed to address the recommendations of the NTSB Special Investigation Report. The committee held three separate meetings to prepare a draft response to the NTSB recommendations and a draft industry notification of brittle-like cracking problems, the subject of this advisory bulletin. The committee membership consisted of a representative from OPS, a gas distribution operator from AGA, and the Transportation Safety Institute. Meetings were facilitated by General Physics Corporation, Columbia, MD. One of the committee findings was that there is a lack of data available from the industry to completely identify older plastic pipe that is still in service and may be susceptible to brittle-like cracking.

This finding led to the formation of the Plastic Pipe Database Committee (PPDC) to develop a process for gathering data on future plastic pipe failures with involvement from the states, which have assumed the authority from OPS over gas distribution systems, where most of the plastic pipe is installed. The PPDC is comprised of representatives from Federal and State regulatory agencies and from the natural gas and plastic pipe industries. Members include AGA, APGA, PPI, the National Association of Regulatory Utility Commissioners (NARUC), the National Association of Pipeline Safety Representatives (NAPSR), and OPS.

The PPDC database is expected to improve the knowledge base of gas utility operators and regulators and is intended to help reveal any failure trends associated with older plastic piping materials. The PPDC's mission is ''to develop and maintain a voluntary data collection process that supports the analysis of the frequency and causes of in-service plastic piping material failures.'' It provides an opportunity for government and industry to work together to evaluate the extent of plastic pipe performance problems and to mitigate any risks to safety. The PPDC started gathering data in January 2001 from OPS and State pipeline safety agencies. For more information on the PPDC, go to the AGA Web page (*http://www.aga.org*), and enter ''PPDC'' in the keyword search.

II. Advisory Bulletin (ADB–02–7)

To: Owners and Operators of Natural Gas Distribution Pipeline Systems.

Subject: Notification of the Susceptibility to Premature Brittle-like Cracking of Older Plastic Pipe.

Advisory: In recent years, brittle-like cracking has been observed in some polyethylene pipes installed in gas service through the early 1980s. This brittle-like cracking (also known as slow crack growth) can substantially reduce the service life of polyethylene piping systems.

The susceptibility of some polyethylene pipes to brittle-like cracking is dependent on the resin, pipe processing, and service conditions. A number of studies have been conducted on older polyethylene pipe. These studies have shown that some of these older polyethylene pipes are more susceptible to brittle-like cracking than current materials. These older polyethylene pipe materials include the following:

- Century Utility Products, Inc. products.
- Low-ductile inner wall ''Aldyl A'' piping manufactured by Dupont Company before 1973.
- Polyethylene gas pipe designated PE 3306. (As a result of poor performance this designation was removed from ASTM D–2513.)

The environmental, installation, and service conditions under which the piping is used are factors that could lead to premature brittle-like cracking of these older materials. These conditions include, but are not limited to:

- Inadequate support and backfill during installation.
- Rock impingement.
- Shear/bending stresses due to differential settlement resulting from factors such as:

—Excavation in close proximity to polyethylene piping
—Directional drilling in close proximity to polyethylene piping
—Frost heave

- Bending stresses due to pipe installations with bends exceeding recommended practices.
- Damaging squeeze-off practices.

Service temperatures and service pressures also influence the service life of polyethylene piping. Piping installed in areas with higher ground temperatures or operated under higher operating pressures will have a shorter life.

Gas system operators may experience an increase in failure rates with a susceptible material. A susceptible material may have leak-free performance for a number of years before brittle-like cracks occur. An increase in the occurrence of leaks will typically be the first indication of a brittle-like cracking problem. It is the responsibility of each pipeline operator to monitor the performance of their gas system. RSPA issues the following recommendations to aid operators in identifying and managing brittle-like cracking problems in polyethylene piping involving taking appropriate action, including replacement, to mitigate any risks to public safety.

Because systems without known susceptible materials may also experience brittle-like cracking problems, RSPA recommends that all operators implement the following practices for all polyethylene piping systems:

1. Review system records to determine if any known susceptible materials have been installed in the system. Both engineering and purchasing records should be reviewed. Based on the available records, identify the location of the susceptible materials. More frequent inspection and leak surveys should be performed on systems that have exhibited brittle-like cracking failures of known susceptible materials.

2. Establish a process to identify brittle-like cracking failures. Identification of failure types and site installation conditions can yield valuable information that can be used in predicting the performance of the system.

3. Use a consistent record format to collect data on system failures. The AGA Plastic Failure Report form (Appendix F of the AGA Plastic Pipe Manual) provides an example of a report for the collection of failure data.

4. Collect failure samples of polyethylene piping exhibiting brittle-like cracking. Evidence of brittle-like cracking may warrant laboratory testing. Although every failure may not warrant testing, collecting samples at the time of failure would provide the opportunity to conduct future testing should it be deemed necessary.

5. Whenever possible record the print line from any piping that has been involved in a failure. The print line information can be used to identify the resin, manufacturer and year of manufacture for plastic piping.

6. For systems where there is no record of the piping material, consider recording print line data when piping is excavated for other reasons. Recording the print line data can aid in establishing the type and extent of polyethylene piping used in the system.

(49 U.S.C. chapter 601; 49 CFR 1.53)

Issued in Washington, DC, on November 21, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 02–30055 Filed 11–25–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34276]

Massachusetts Port Authority-Acquisition Exemption-Certain Assets of Boston and Maine Corporation

The Massachusetts Port Authority (Massport), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire from the Boston and Maine Corporation (B&M) certain railroad rights-of-way and related improvements, totaling approximately 1.45 miles, in Charlestown, Suffolk County, MA. Massport proposes to acquire B&M's right, title and interest in the rail line, known as the Mystic Wharf Branch line, between milepost 0.00 and milepost 1.45.[1]

Massport indicates that it does not intend to conduct rail operations over the line, but is acquiring it to preserve the rail right-of-way and availability of rail service to the Port. Massport further indicates that it may develop an adjacent haul road on the property at a later date. According to Massport, B&M will retain an exclusive permanent easement on the line for rail operations, and its affiliate Springfield Terminal Railway Company will continue to be responsible for providing rail operations over the line. Massport will not obtain the right or obligation to provide rail freight service on the line. Massport certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

The parties reported that they intended to consummate the transaction on November 13, 2002.

If the notice contains false or misleading information, the exemption is void *ab initio*.[2] Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34276, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Keith G. O'Brien, REA, CROSS & AUCHINCLOSS, 1707 L Street NW., Suite 570, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 19, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–29876 Filed 11–25–02; 8:45 am]

BILLING CODE 4915–00–P

[1] B&M received Board authorization to abandon the above-described line pursuant to a decision in *Boston and Maine Corporation-Abandonment-in Suffolk County, MA,* STB Docket No. AB–32 (Sub-No. 92) (STB served Dec. 21, 2001).

[2] Massport simultaneously filed a motion to dismiss this proceeding, maintaining that the Board should not exercise jurisdiction over this transaction. The motion will be addressed by the Board in a separate decision.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 15, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 26, 2002 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0019.

Form Number: FinCEN Form 101.

Type of Review: Revision.

Title: Suspicious Activity Report by the Securities and Futures Industry.

Description: Treasury is requiring certain securities broker-dealers to file suspicious activity Reports.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 8,300.

Estimated Burden Hours Per Respondent/Recordkeeper: 4 hours, 40 minutes.

Estimated recordkeeping/filing per response: 4 hours.

Estimated record (SAR) completion time: 40 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 9,334 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 02–29990 Filed 11–25–02; 8:45 am]

BILLING CODE 4810–02–P

Corrections

Federal Register

Vol. 67, No. 228

Tuesday, November 26, 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.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 010521133–1307–02; I.D. No. 050101B]

Endangered and Threatened Species; Final Rule Governing Take of Four Threatened Evolutionarily Significant Units (ESUs) of West Coast Salmonids

Correction

In the issue of Tuesday, November 12, 2002, on page 68725, in the second column, in the correction of rule document 02–440, in the first line, the heading ''**Appendix A to §227.203 [Corrected]**'' should read, ''**Appendix A to §223.203 [Corrected]**'',

[FR Doc. C2–440 Filed 11–25–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–1999–6411; Amendment No. 21–82]

2120–AH85

Equivalent Safety Provisions for Fuel Tank System Fault Tolerance Evaluations (SFAR 88)

Correction

In rule document 02–22622 beginning on page 57490 in the issue of Tuesday, September 10, 2002, make the following corrections:

1. On page 57490, in the first column, under the **ADDRESSES** heading, in the second paragraph, in the first line, ''must'' should read, ''may''.

2. On the same page, in the third column, under the **Background** heading, the subheading ''*Amendment 25–102 and SRAF 88*'' should read, ''*Amendment 25–102 and SFAR 88*''.

3. On page 57491, in the second column, in the first paragraph, in the last line ''require'' should read, ''required''.

4. On page 57492, in the first column, in the second line, after ''must'' should read, ''must be''.

5. On the same page, in the third column, under the **Unfunded Mandates Assessment** heading, in the tenth line, ''as'' should read, ''a''.

6. On page 57493, in the first column, under the **Energy Impact** heading, in the seventh line, ''under'' should read, ''under the''.

PART 21—CORRECTED

7. On the same page, in the third column, in paragraph (d), in the seventh line, ''of'' should read, ''if''.

8. On the same page, in the same column, in the same paragraph, in the eighth line, ''compiled'' should read, ''complied''.

[FR Doc. C2–22622 Filed 11–25–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 219, 225, and 240

[Docket No. FRA–2002–13221, Notice No. 1]

RIN 2130–AB51

Conforming the Federal Railroad Administration's Accident/Incident Reporting Requirements to the Occupational Safety and Health Administration's Revised Reporting Requirements; Other Amendments

Correction

In proposed rule document 02–24393 beginning on page 63022 in the issue of Wednesday, October 9, 2002, make the following corrections:

1. On page 63023, in the first column, in the first paragraph, in the 16th line, ''at Appendix A of this NRPM.'' should read, ''at *http://safetydata.fra.dot.gov/OSHA-materials*.''.

2. On the same page, in the same column, in the **note** following the second paragraph, in the sixth line, ''104'' should read, ''1904''.

3. On page 63037, in the third column, in the last paragraph, in the eighth line from the bottom, ''(a trend)'' should read, ''(a ~ trend)''.

4. On the same page, in the same column, in the same paragraph, in the seventh line from the bottom, ''(there was the'' should read, ''(there was ~ the''.

[FR Doc. C2–24393 Filed 11–25–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
November 26, 2002

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 1, 25, and 97

1-g Stall Speed as the Basis for Compliance With Part 25 of the Federal Aviation Regulations; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 25, and 97

[Docket No. 28404; Amendment Nos. 1–49, 25–108, 97–1333]

RIN 2120–AD40

1-g Stall Speed as the Basis for Compliance With Part 25 of the Federal Aviation Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the airworthiness standards for transport category airplanes to redefine the reference stall speed for transport category airplanes as a speed not less than the 1-g stall speed instead of the minimum speed obtained in a stalling maneuver. The FAA is taking this action to provide for a consistent, repeatable reference stall speed; ensure consistent and dependable maneuvering margins; provide for adjusted multiplying factors to maintain approximately the current requirements in areas where use of the minimum speed in the stalling maneuver has proven adequate; and harmonize the applicable regulations with those currently adopted in Change 15 to the European Joint Aviation Requirements-25 (JAR–25). These changes will provide a higher level of safety for those cases in which the current methods result in artificially low operating speeds.

EFFECTIVE DATE: December 26, 2002.

FOR FURTHER INFORMATION CONTACT: Don Stimson, Airplane and Flightcrew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–1129; facsimile (425) 227–1320, e-mail *Don.Stimson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at *http://www.faa.gov/avr/armhome.htm* or the **Federal Register**'s Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC, 20591, or by calling (202) 257–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, *http://www.faa.gov/avr/arm/sbrefa.htm.* For more information on SBREFA, e-mail us at *9–AWA–SBREFA@faa.gov.*

Background

These amendments are based on notice of proposed rulemaking (NPRM) Notice No. 95–17, which was published in the **Federal Register** on January 18, 1996 (61 FR 1260). In that notice, the FAA proposed amendments to 14 CFR parts 1, 25, 36, and 97 to redefine the reference stall speed (V_{SR}) for transport category airplanes as the 1-g stall speed instead of the minimum speed obtained in the stalling maneuver. The FAA received nearly 40 comments from 12 different commenters on the proposals contained in Notice No. 95–17. As a result of these comments, this final rule differs in some aspects from the original proposals.

As explained in Notice No. 95–17, the stalling speed (V_S) is defined as the minimum speed demonstrated in the performance stall maneuver described in § 25.103 of 14 CFR part 25 (part 25). V_S has historically served as a reference speed for determining the minimum operating speeds required under part 25 for transport category airplanes. Examples of minimum operating speeds that are based on V_S include the takeoff safety speed (V_2), the final takeoff climb speed, and the landing approach speed. For example, under part 25, V_2 must be at least 1.2 times V_S, the final takeoff climb speed must be at least 1.25 times V_S, and the landing approach speed must be at least 1.3 times V_S.

The speed margin, or difference in speed, between V_S and each minimum operating speed provides a safety ''cushion'' to ensure that normal operating speeds are sufficiently higher than the speed at which the airplane stalls. Using multiplying factors applied to V_S to provide this speed margin, however, assumes that V_S provides a proper reference stall speed. Since V_S is the minimum speed obtained in the stalling maneuver, it can be less than the lowest speed at which the airplane's weight is still supported entirely by aerodynamic lift. If V_S is significantly less than this speed, applying multiplying factors to V_S to determine the minimum operating speeds may not provide as large a speed margin as intended.

A proper reference stall speed should provide a reasonably consistent approximation of the wing's maximum usable lift. Maximum usable lift occurs at the minimum speed for which the lift provided by the wing is capable of supporting the weight of the airplane. This speed is known as the 1-g stall speed because the load factor (the ratio of airplane lift to weight) at this speed is equal to 1.0 ''g'' (where ''g'' is the acceleration caused by the force of gravity) in the direction perpendicular to the flight path of the airplane. Speeds lower than the 1-g stall speed during the stalling maneuver represent a transient flight condition that, if used as a reference for the deriving minimum operating speeds, may not provide the desired speed margin to protect against inadvertently stalling the airplane.

For transport category airplanes, the minimum speed obtained in the stall maneuver of § 25.103 usually occurs near the point in the maneuver where the airplane spontaneously pitches nose-down or where the pilot initiates recovery after reaching a deterrent level of buffet, *i.e.*, a vibration of a magnitude and severity that is a strong and effective deterrent to further speed reduction. Early generation transport category airplanes, which had fairly straight wings and non-advanced airfoils, typically pitched nose-down near the 1-g stall speed. The minimum speed in the maneuver was easy to note and record, and served as an adequate approximation of the speed for maximum lift.

For the recent generation of high speed transport category airplanes with swept wings and highly advanced airfoils, however, the minimum speed

obtained in the stalling maneuver can be substantially lower than the speed for maximum lift. Furthermore, the point at which the airplane pitches nose down or exhibits a deterrent level of buffet is more difficult to distinguish and can vary with piloting technique. As a result, the minimum speed in the stalling maneuver has become an inappropriate reference for most modern high speed transport category airplanes for establishing minimum operating speeds since it may: (1) Be inconsistently determined, and (2) represent a flight condition in which the load factor perpendicular to the flight path is substantially less than 1.0 g.

In recent years, advanced technology transport category airplanes have been developed that employ novel flight control systems. These flight control systems incorporate unique protection features that are intended to prevent the airplane from stalling. They also prevent the airplane from maintaining speeds that are slower than a small percentage above the 1-g stall speed. Because of their unique design features, the traditional method of establishing V_S as the minimum speed obtained in the stalling maneuver was inappropriate for these airplanes. The FAA issued special conditions for these airplanes to define the reference stall speed as not less than the 1-g stall speed for the flight requirements contained in subpart B of part 25.

In these special conditions, the multiplying factors used to determine the minimum operating speeds were reduced in order to maintain equivalency with acceptable operating speeds used by previous transport category airplanes. Since the 1-g stall speed is generally higher than the minimum speed obtained in the stalling maneuver, retaining the current multiplying factors would have resulted in higher minimum operating speeds for airplanes using the 1-g stall speed as a basis for the reference stall speed. However, increasing the minimum operating speeds could impose costs on operators because payloads might have to be reduced to comply with the regulations at the higher operating speeds under some performance-limited conditions. Based on the service experience of the current fleet of transport category airplanes, the costs imposed would not be offset by a commensurate increase in safety.

Several airplane types with conventional flight control systems have also been certificated using the 1-g stall speed as a lower limit to the reference stall speed. Because of the potential deficiencies in using the minimum speed demonstrated in the stalling maneuver, the FAA has been encouraging applicants to use the 1-g stall speed methodology in lieu of the minimum speed obtained in the stalling maneuver. Applicants generally desire to use 1-g stall speeds because the 1-g stall speeds are less dependent on pilot technique and other subjective evaluations. Hence, 1-g stall speeds are easier to predict and provide a higher level of confidence for developing predictions of overall airplane performance. Again, reduced multiplying factors are applied to the 1-g stall speeds to obtain minimum operating speeds equivalent to the speeds that have been found acceptable in operational service. Using 1-g stall speeds ensures that the airplane's minimum operating speeds will not be unreasonably low.

Discussion of the Proposals

In Notice No. 95–17, the FAA proposed to define the reference stall speed in § 25.103 as a speed not less than the 1-g stall speed, rather than the minimum speed obtained in the stalling maneuver. This proposal was made to provide a consistent basis for use in all type design certification requirements for transport category airplanes. The FAA proposed to introduce the symbol V_{SR} to represent this speed and to indicate that it is different than the minimum speed obtained in the stalling maneuver, V_S.

In addition, the FAA proposed to reduce the multiplying factors that are used in combination with the reference stall speed to determine the minimum operating speeds by approximately 6 percent. This change would result in minimum operating speeds equivalent to those for most current transport category airplanes since the 1-g stall speed for these airplanes is approximately 6 percent higher than the minimum speed obtained in the stalling maneuver. Demonstrating a minimum stalling speed more than 6 percent slower than the 1-g stall speed, which is possible under the current standards, would provide an unacceptable basis for determining the minimum operating speeds. The proposed standards would prevent this situation from occurring. In this respect, the proposed standards would provide a higher level of safety than the existing standards.

However, the proposed reduced factors would allow lower minimum operating speeds to be established for those airplanes that have a minimum speed in the stalling maneuver approximately equal to the 1-g stall speed. One particular class of airplanes for which this applies is airplanes equipped with devices that abruptly push the nose down (*e.g.*, stick pushers) near the angle of attack for maximum lift. These devices are typically installed on airplanes with unacceptable natural stalling characteristics. The abrupt nose down push provides an artificial stall indication and acceptable stall characteristics, and prevents the airplane from reaching a potentially hazardous natural aerodynamic stall. Typically, the minimum speed obtained in this maneuver is approximately equal to the 1-g stall speed.

Traditionally, the existing multiplying factors have been applied to these airplanes. The proposal to define the reference stall speed as the 1-g stall speed would generally have no impact for these airplanes, but reducing the multiplying factors would allow lower minimum operating speeds to be established. Therefore, this proposal would allow these airplanes to be operated at speeds and angles of attack closer to the pusher activation point than has been experienced in operational service.

The FAA considered this reduction in operating speeds for pusher-equipped airplanes to be acceptable, provided the pusher reliably performs its intended function and that unwanted operation is minimized. The FAA has addressed the majority of these concerns in a revision to Advisory Circular (AC) 25–7, the ''Flight Test Guide for Certification of Transport Category Airplanes.'' This revision, AC 25–7A, dated March 31, 1998, provides criteria for the design and function of stall indication systems, including arming and disarming, indicating and warning devices, system reliability and safety, and system functional requirements. The FAA plans to address other concerns, such as system design and manufacturing tolerances, and system design features like filtering and phase advancing, in a future revision to AC 25–7A.

In addition to proposing to define the reference stall speed as a speed not less than the 1-g stall speed and to reduce the multiplying factors for establishing the minimum operating speeds, the FAA also proposed to require applicants to demonstrate adequate maneuvering capability during the takeoff climb, en route climb, and landing approach phases of flight. During a banked turn, a portion of the lift generated by the wing provides a force to help turn the airplane. To remain at the same altitude, the airplane must produce additional lift. Therefore, banking the airplane (at a constant speed and altitude) reduces the stall margin, which is the difference between the lift required for the maneuver and the maximum lift capability of the wing. As the bank

angle increases, the stall margin is reduced proportionately. This bank angle effect on the stall margin can be determined analytically, and the multiplying factors applied to V_{SR} to determine the minimum operating speeds are intended to ensure that an adequate stall margin is maintained.

In addition to the basic effect of bank angle, however, modern wing designs also typically exhibit a significant reduction in maximum lift capability with increasing Mach number. The magnitude of this Mach number effect depends on the design characteristics of the particular wing. For wing designs with a large Mach number effect, the maximum bank angle that can be achieved while retaining an acceptable stall margin can be significantly reduced. Because the effect of Mach number can be significant, and because it can also vary greatly for different wing designs, the multiplying factors applied toV_{SR} are insufficient to ensure that adequate maneuvering capability exists at the minimum operating speeds.

To address this issue, the FAA proposed to require a minimum bank angle capability in a coordinated turn without encountering stall warning or any other characteristic that might interfere with normal maneuvering. This requirement would be added to § 25.143 as a new paragraph (g). The proposed minimum bank angles were derived by adding a 15 degree allowance for wind gusts and inadvertent overshoot to a maneuvering capability the FAA considers necessary for the specific cases identified in the proposed new paragraph. These proposed maneuver margin requirements would increase the level of safety in maneuvering flight.

Consistent with the proposed maneuver margin requirements, the FAA proposed adding §§ 25.107(c)(3), 25.107(g)(2), and 25.125(a)(2)(iii) to reference § 25.143(g) in the list of constraints applicants must consider when selecting the minimum takeoff safety speed, final takeoff speed, and reference landing speeds, respectively. The normal all-engines-operating takeoff climb speed selected by the applicant would also have to provide the minimum bank angle capability specified in the proposed § 25.143(g).

Section 25.145(a) requires that there be adequate longitudinal control available to promptly pitch the airplane's nose down from at or near the stall in order to return to the original trim speed. The intent of this requirement is to ensure sufficient pitch control for a prompt recovery if the airplane is inadvertently slowed to the point of stall. The FAA proposed to change the wording of this requirement to replace ''V_S'' with ''the stall,'' ''§ 25.103(b)(1)'' with ''§ 25.103(a)(6),'' and ''at any speed'' with ''at any point.'' These changes would be consistent with the proposed change to the definition of the reference stall speed and the proposed reformatting of § 25.103.

Although compliance with § 25.145(a) must be demonstrated both with power off and with maximum continuous power, there is no intention to require flight test demonstrations of full stalls at engine powers above that specified in § 25.201(a)(2). Instead of performing a full stall at maximum continuous power, compliance will be assessed by demonstrating sufficient static longitudinal stability and nose down control margin when the deceleration is ended at least one second past stall warning during a one knot per second deceleration. The static longitudinal stability during the maneuver and the nose down control power remaining at the end of the maneuver must be sufficient to assure compliance with the requirement.

Section 25.207 requires that a warning of an impending stall must be provided in order to prevent the pilot from inadvertently stalling the airplane. The warning must occur at a speed sufficiently higher than the stall speed to allow the pilot time to take action to avoid a stall. The speed difference between the stall speed and the speed at which the stall warning occurs is known as the stall warning margin. The FAA proposed amending the size of the stall warning margin required by § 25.207(c) because of the change in definition of the reference stall speed.

Currently, the stall warning must begin at a speed exceeding V_S by seven knots, or a lesser margin if the stall warning has enough clarity, duration, distinctiveness, or other similar properties. Requiring the same seven knot warning margin to be provided relative to V_{SR} would result in an increase to the minimum operating speeds. This increase in the minimum operating speeds would be necessary to meet the maneuvering margin requirements proposed in § 25.143(g), which are defined relative to the stall warning speed. However, as discussed previously, requiring an increase to the minimum operating speeds would impose costs to airplane operators that cannot be justified by service experience.

On the other hand, if the stall warning margin were reduced to retain approximately the same stall warning speed, the warning would occur only one or two knots prior to reaching the 1-g stall speed. Although reaching the 1-g stall speed is not likely to be a catastrophic occurrence, the FAA considers such a small stall warning margin to be unacceptable. The FAA proposed requiring a stall warning margin of at least 3 knots or 3 percent, whichever is greater, relative to V_{SR}. The FAA's proposal was made on the basis that this margin represents a reasonable balance between providing the pilot with enough warning to avert an impending stall, and providing adequate maneuvering capability at the minimum operating speeds. This proposal would retain the existing level of safety.

The FAA proposed to require a larger stall warning margin for airplanes equipped with devices that abruptly push the nose down at a selected angle of attack (*e.g.*, stick pushers). Inadvertent operation of such a device, especially close to the ground, can have more serious consequences than a comparable situation in which the pilot of an airplane without the device inadvertently slows to V_{SR}. Therefore, the FAA proposed adding § 25.207(d) to require the stall warning, for airplanes equipped with one of these devices, to occur at least 5 knots or 5 percent, whichever is greater, above the speed at which the device activates. This proposal was made on the basis of retaining the existing level of safety for airplanes equipped with such devices.

The FAA proposed to add a new paragraph, § 25.207(e), to require that, in a slow-down turn with load factors up to 1.5 g and deceleration rates up to 3 knots per second, sufficient stall warning must exist to prevent stalling when recovery is initiated not less than one second after stall warning occurs. The FAA considered this proposed requirement necessary to provide adequate stall warning during a dynamic maneuver, such as a collision avoidance maneuver. In addition, this new paragraph would provide a quantitative requirement with which to assess whether ''sufficient margin to prevent inadvertent stalling * * * in turning flight'' has been provided as required by § 25.207(a). This proposal would increase the level of safety during maneuvering flight.

The FAA proposed to add a new paragraph, § 25.207(f), to require that stall warning be provided for abnormal airplane configurations likely to be used following system failures. This proposal would add a requirement currently contained in JAR–25 and is consistent with current transport category airplane designs. There would be no impact on the existing level of safety.

On modern transport category airplanes, the natural buffet or vibration

caused by the airflow separating and reattaching itself to the wing as the airplane approaches the stall speed is usually not strong enough by itself to provide an effective stall warning. Therefore, stall warning on modern transport category airplanes is usually provided through an artificial means, such as a stick shaker that shakes the pilot's control column. Production tolerances associated with these systems can result in variations in the size of the stall warning margin for different airplanes manufactured under the same approved type design.

The FAA considers the stall warning margins proposed in §§ 25.207(c) and (d) to be the minimum acceptable warning margins, and that these margins should not be reduced by production tolerances associated with a system added to the airplane to provide an artificial stall warning. The FAA intends for the proposed stall warning margins to be available at the most critical tolerance expected in production. Applicants would be expected to demonstrate compliance with the proposed stall warning margin either by flight testing with the stall warning system set to its critical tolerance setting, or by adjusting flight test data obtained at some other setting.

The tolerances associated with the stall warning system must also be considered in relation to the proposed minimum maneuvering requirements of § 25.143(g). As proposed, § 25.143(g) would require that the airplane be capable of reaching a minimum bank angle during a coordinated turn without encountering stall warning. Because the proposed requirements already provide the capability to overshoot the intended bank angle by 15 degrees, the small differences in the speed at which the stall warning system operates due to system tolerances are not as critical. Therefore, the FAA intends for the minimum bank angles in the proposed § 25.143(g) to apply at the designed nominal setting of the stall warning system. To ensure that large production tolerances do not adversely impact the airplane's maneuvering capability free of stall warning, the bank angle capability specified in the proposed § 25.143(g) should not be reduced by more than two degrees with the stall warning system operating at its most critical tolerance. Applicants would be expected to demonstrate this capability either by flight test with the system set to its critical tolerance, or by analytically adjusting flight test data obtained at some other setting.

To be consistent with the proposed revision of the definition of the reference stall speed, the FAA proposed to incorporate reduced multiplying factors throughout part 25, where appropriate, in requirements that use speeds based on a multiple of the reference stall speed. The FAA also proposed numerous minor wording and structural changes to various sections to improve editorial clarity and to harmonize with the wording and structure proposed for JAR–25. Note that the proposed change to the term ''1.3 V_{S0}'' in § 25.175(d) reflects not only the change in multiplying factor, but also corrects a typographical error. (''1.3 V_{S0}'' should have been ''1.8 V_{S0}.'')

The FAA proposed to add the nomenclature ''final takeoff speed'' and ''reference landing speed'' and the abbreviations ''V_{FTO}'' and ''V_{REF}'' to denote these speeds, respectively, to part 1 of the FAR. These terms and abbreviations, which are commonly used in the aviation industry, would be referenced throughout the proposed amendments to part 25. The reference landing speed would be defined as the speed of the airplane, in a specified landing configuration, at the point where it descends through the landing screen height in the determination of the landing distance for manual landings. The term ''landing screen height'' refers to the height of the airplane at the beginning of the defined landing distance. This height is normally 50 feet above the landing surface (see § 25.125(a)), but approvals have been granted for steep approaches that use a landing screen height of 35 feet. The final takeoff speed would be defined as the speed of the airplane that exists at the end of the takeoff path in the en route configuration with one engine inoperative.

The FAA also proposed to add the abbreviations V_{SR}, V_{SR0}, and V_{SRI} to part 1, and use them in part 25 to denote the reference stall speed corresponding to different airplane configurations. In addition, the FAA proposed adding the abbreviation V_{SW} to part 1 to refer to the speed at which the onset of stall warning occurs.

The FAA proposed to amend § C36.9(e)(1) of Appendix C to part 36 by replacing ''1.3 V_S + 10 knots'' with ''V_{REF} + 10 knots'' and by removing the words ''or the speed used in establishing the approved landing distance under the airworthiness regulations constituting the type certification basis of the airplane, whichever speed is greatest.'' The words proposed for deletion would no longer be necessary because V_{REF} would denote the speed used in establishing the approved landing distance under the airworthiness regulations constituting the type certification basis of the airplane. Also, V_{REF} would refer to the speed at the landing screen height, regardless of whether that speed for a particular airplane is 1.3 V_S, 1.23 V_{SR}, or some higher speed.

In the same manner, the FAA proposed to amend § 97.3(b) by replacing ''1.3 V_{S0}'' with ''V_{REF}.'' As noted above, V_{REF} would refer to the speed at the landing screen height used in establishing the approved landing distance under the airworthiness regulations constituting the type certification basis of the airplane, regardless of whether that speed for a particular airplane is 1.3 V_S, 1.23 V_{SR}, or some higher speed.

These proposals were discussed extensively with the European Joint Aviation Authorities (JAA) with the intent of harmonizing the certification requirements related to stall speed for transport category airplanes. The Joint Aviation Requirements (JAR) 25 prescribes the airworthiness standards for transport category airplanes that are accepted by the aviation regulatory authorities of a number of European states. The JAA introduced an equivalent proposal to the FAA's NPRM 95–17, called Notice of Proposed Amendment (NPA) 25B–215, to amend JAR–25 accordingly. The JAA's final 1-g stall requirements, which are equivalent to those adopted by the FAA in this rulemaking, were adopted by the JAA as part of Change 15 to JAR–25, dated October 1, 2000.

Discussion of the Comments

The FAA received nearly 40 comments from 12 different commenters on the proposals contained in Notice No. 95–17. The commenters include airplane pilots, manufacturers, operators, and the associations representing them, foreign airworthiness authorities, an organization specializing in flight testing, and private citizens. In general, the proposal to redefine the reference stall speed for transport category airplanes as the 1-g stall speed instead of the minimum speed obtained in a stalling maneuver was supported, although there were comments critical of specific details, and some commenters were supportive only if the current minimum speed method would be retained as an option that would be available for the certification of small transport category airplanes.

Those commenters who recommend retaining the minimum stall speed methodology for small transport category airplanes—small airplane manufacturers and the association representing them—believe that the proposed changes introduce additional cost and complexity into applicants'

type certification programs with no increase in safety for this class of airplanes.

One manufacturer of small transport category airplanes notes that when 1-g stall speeds were determined for one of their airplanes, the resulting operating speeds were virtually the same as those determined using the current requirements. This commenter also states that variation in piloting technique remains an issue even if the stall speeds are defined as a 1-g condition, and a more expensive flight test data system is needed to determine where the 1-g stall break occurs. The commenter points out that straight (*i.e.*, non-swept) winged airplanes, for which the discussion in Notice No. 95–17 implied the current minimum speed method is adequate, will continue to be designed and produced in the future. On airplanes with swept wings, due to different stiffness characteristics between large and small airplanes, which result in different responses to aerodynamic influences, the minimum speed in the stalling maneuver is not difficult to obtain on small transport category airplanes. The commenter concludes that the current methods should be retained for airplanes weighing less than 75,000 pounds because of the costs involved in changing to the 1-g stall speed methodology for no apparent increase in safety. (100,000 pounds is suggested as an appropriate cutoff by another commenter.)

The FAA disagrees that the proposed rule changes significantly increases cost and does not increase safety. Cost data supplied by one commenter substantially overstates the incremental cost of the test instrumentation and other items needed to support a 1-g stall speed evaluation. This commenter allocates the entire cost of a new data collection system, including purchase, installation, and calibration, to the proposed rule change, stating that this new system would be needed to determine the ''g-break'' denoting the 1-g stall speed.

The only additional instrumentation the FAA considers necessary to determine the 1-g stall speed instead of the minimum speed in the stalling maneuver would be accelerometers capable of resolving the load factor normal to the flight path. At the minimum, one accelerometer aligned along the expected 1-g stall pitch angle may provide acceptable data. Determining the point at which the 1-g stall condition is reached is most readily accomplished by a continuous calculation of the load factor-corrected lift coefficient and noting the point at which this parameter is first a maximum. Experience to date with applicants voluntarily complying with the proposed requirements has not highlighted any significant difficulties in determining the 1-g stall speed using typically existing data recording equipment. These applicants have included manufacturers of both large and small transport category airplanes.

The FAA is not surprised that for one of the commenter's airplane types, the current requirements and the 1-g stall proposal yielded virtually the same minimum operating speeds. As noted in Notice No. 95–17 and repeated in the background discussion above, the proposed change to the multiplying factors that are applied to the reference stall speed to obtain the minimum operating speeds was intentionally chosen to yield equivalent operating speeds, on average, for current transport category airplanes. However, the proposed standards would prevent the reference stall speed from being more than six percent slower than the 1-g stall speed, which the current standards do not prohibit. In this respect, the proposed standards would provide a higher level of safety than the existing standards by ensuring that unreasonably low minimum operating speeds will not be obtained.

The FAA agrees that the use of a 1-g stall speed may not entirely remove the effect of pilot technique from being a factor during the flight tests to determine the reference stall speed. However, the use of a 1-g stall speed would significantly mitigate this effect. Subjective assessments of airplane behavior for identifying the stalled condition (using the criteria specified in § 25.201(d)) would no longer be used to determine the reference stall speed. (These criteria will continue to be used, however, for evaluating the airplane handling characteristics during the stalling maneuver.) Test pilot techniques that take advantage of these subjective assessments and allow unreasonably low load factors, and hence unreasonably low stall speeds, to be achieved would no longer be permitted.

In addition, it is usually much easier to measure airspeed accurately at the 1-g stall condition than at the minimum speed reached in the stalling maneuver. Based on the experience gained from the many type certification programs that have already used the 1-g stall speed methodology, the FAA has determined that this methodology provides a more consistent, repeatable reference stall speed than the existing method.

One commenter notes that the International Civil Aviation Organization's (ICAO) Airworthiness Technical Manual (Document 9051, 1987) uses the abbreviation V_{S1g} to denote the 1-g stall speed, which is the reference speed for determining the minimum operating speeds for transport category airplanes with a certified takeoff mass of over 5,700 kg. The commenter suggests that the FAA could further international standardization by adopting ICAO's V_{S1g} abbreviation to denote the reference stall speed as a part of the rulemaking to redefine the reference stall speed as a 1-g stall speed.

The FAA actively promotes international standardization and has been working closely with the regulatory authorities of Europe and Canada during this rulemaking. The FAA considered using the abbreviation V_{S1g} to denote the reference stall speed; however, the reference stall speed may not always be equal to the 1-g stall speed. It is only required to be no less than the 1-g stall speed. Other design constraints may dictate using a reference stall speed that is higher than the 1-g stall speed. Since the reference stall speed may be different than the 1-g stall speed, the abbreviation V_{SR} was proposed and has been adopted in § 1.2 to denote the reference stall speed. This abbreviation has also been adopted by the JAA of Europe and is expected to be adopted by the Canadian regulatory authority. There were no comments on the other proposed abbreviations nor on the proposed definitions for final takeoff speed and reference landing speed. Therefore, these abbreviations and definitions are adopted as proposed.

One commenter questions the reason for the new wording in § 25.103(a)(1) to describe the option of idle or zero thrust. The commenter does not see the new wording as an improvement in clarity. The current rule states that zero thrust must be used in determining the stalling speed, except that idle thrust may be used when it does not appreciably affect the stalling speed. Stated in this manner, the rule permits the use of zero thrust when idle thrust causes an increase in the stalling speed. On some turboprop airplanes, where flight idle thrust may be negative, a lower stall speed may be demonstrated using zero thrust than would occur with idle thrust.

The FAA considers such a loss of stall speed margin in a normal flight condition to be unacceptable. In Notice No. 95–17, the FAA proposed a change such that the reference stall speed must be determined with idle thrust, except in cases where that thrust level causes an appreciable decrease in the stall speed. For such cases, not more than zero thrust must be used. There were no

comments regarding the substance of the proposed change; therefore, this section is adopted as proposed.

One commenter notes that while the proposal to the reference stall speed in terms of a 1-g stall speed would reduce the amount of scatter in the flight test data used to determine the stall speed, a significant amount of scatter would remain. To further limit the amount of experimental error inherent in the data analysis process, the commenter suggests defining the reference stall speed in terms of the maximum normal force coefficient instead of the maximum lift coefficient. Using the normal force coefficient would yield slightly higher reference stall speeds, which could penalize an airplane's load carrying capability due to the resulting increase in minimum takeoff and landing speeds, but certification costs might be reduced because the data reduction process would be simplified.

The FAA agrees that defining the reference stall speed in terms of the maximum normal force coefficient instead of the maximum lift coefficient may further reduce flight test data scatter and simplify data acquisition and analysis. However, these slight benefits are outweighed by the potentially significant economic penalties associated with the resulting higher reference stall speed. Many recent airplane types have been certified using 1-g stall criteria similar to those contained in Notice No. 95–17 and this experience does not indicate any significant problems in data quality or in the acquisition and analysis process. Data scatter using the proposed 1-g stall criteria is inconsequential compared to the data uncertainty inherent in the current stall speed definition. Therefore, the commenter's suggested change is not being adopted. However, the FAA would find it acceptable if an applicant proposed using the higher reference stall speeds derived from the maximum normal coefficient in order to simplify the data acquisition and analysis process. The proposed amendment need not be changed to allow this option.

A commenter suggests that it is technically more accurate in § 25.103(c) to refer to the lift coefficient in the definition of V_{CLMAX} as the load factor-corrected lift coefficient. The commenter also considers the proposed definition of V_{CLMAX} to be ambiguous and lacking in guidance material that would provide clarification. Other commenters made various editorial and formatting suggestions to further improve the clarity of § 25.103. The FAA agrees with these suggestions and has modified the proposal accordingly. In addition, the FAA proposes to revise Advisory Circular (AC) 25–7A, ''Flight Test Guide for Certification of Transport Category Airplanes,'' to add clarifying guidance material. A notice of proposed advisory circular revisions was published in the **Federal Register** on November 21, 2002.

Detailed comments were received from one commenter regarding the effect of the proposed rules on airplanes equipped with devices that abruptly push the nose down (*e.g.*, stick pushers) to define the point of stall. As noted in Notice No. 95–17, this proposal would allow airplanes equipped with such devices that have a trigger point set close to or before $C_{L_{MAX}}$ to achieve lower minimum operating speeds than under the existing requirements, and hence, operate at speeds and angles-of-attack closer to the device activation point than has been experienced in operational service. The FAA considered this aspect of the proposal to be acceptable provided the device performs its intended function and unwanted operation is minimized.

The commenter points out that ensuring operation when desired and preventing unwanted operation are contradictory goals that result in design tradeoffs. Regardless of the design choice, however, allowing operation closer to the device activation point increases both the probability of reaching the activation point, where the device may fail to operate, and the probability of unwanted operation. Considering these aspects, the commenter contends that the proposed standards would reduce the level of safety relative to the current standards.

The commenter suggests adding the stipulation, for airplanes equipped with a device that abruptly pushes the nose down at a selected angle-of-attack, that V_{SR} must not be less than the greater of 2 knots or 2 percent above the speed at which the device activates. The commenter further suggests that this additional requirement need not apply to turbopropeller powered airplanes that demonstrate a significant reduction in stall speed in the one-engine-inoperative power-on condition. The commenter points out that this additional requirement is very similar in scope and intent to the Notice No. 95–17 proposed requirements for stall warning, where, in addition to the requirement applying to all transport category airplanes that stall warning be 3 knots or 3 percent above V_{SR}, the stall warning for airplanes equipped with devices that abruptly push the nose down at a selected angle-of-attack would be 5 knots or 5 percent above the speed at which the device operates. The commenter believes that the proposed stall warning requirements represent an acknowledgment that the class of airplanes cannot be treated the same as conventionally stalling airplanes with respect to minimum operating speeds and associated margins.

The FAA agrees with the commenter's analysis and fundamental principle that in terms of the protection from stall provided by such a device, the characteristics resulting from its operation, and its reliability and safety, there are significant differences from a conventionally stalling airplane. Also, the difference between the 1-g stall speed and the minimum speed obtained in the stalling maneuver for this class of airplanes is closer to 0 to 3 percent, rather than the 6 percent average for conventionally stalling airplanes upon which the reduction in operating speed factors was based. Permitting a reduction in the operating speeds for this class of airplanes could potentially result in a reduction in safety that is not justified by existing operational experience.

The commenter's suggested additional constraint on V_{SR} represents a reasonable means to retain approximately equivalent safety without penalizing airplanes for which the device trigger point is at an angle-of-attack well beyond $C_{L_{MAX}}$. Therefore, § 25.103(d) is revised accordingly to require, for airplanes equipped with a device that abruptly pushes the nose down at a selected angle-of-attack, that V_{SR} not be less than 2 percent or 2 knots, whichever is greater, above the speed at which the device operates. The suggested exception for turbopropeller powered airplanes that demonstrate a significant reduction in stall speed in the one-engine-inoperative power-on condition is not included, however, because the applicable minimum operating speeds already allow for a significant effect of power on stall speeds.

The effect of this provision is to increase the minimum operating speeds, relative to the Notice No. 95–17 proposals, for airplanes equipped with devices that abruptly push the nose down at a selected angle-of-attack, but only if the device activates at a speed higher than $V_{CL_{MAX}}$ (at a load factor of one) minus 2 knots or 2 percent. This requirement for a supplementary speed margin, in combination with criteria added to AC 25–7A, dated March 31, 1998, for system arming and disarming, indicating and warning devices, system reliability and safety, and system functional requirements are intended to provide an equivalent level of safety to the requirements existing prior to the adoption of this amendment. Other

considerations, such as the effect of system design and manufacturing tolerances, and system design features like filtering and phase advancing are also relevant, and should be considered when showing compliance with the applicable requirements. The FAA is currently trying to harmonize its policy in these areas with those of Transport Canada and the JAA, and intends to add guidance in these areas in a future revision to AC 25–7A.

The FAA received several comments regarding the proposed addition of specific maneuvering requirements as a new § 25.143(g). One commenter suggests that the FAA should perform a rigorous study before including a specific gust margin in airplane maneuvering requirements. The commenter points out that the same atmospheric gust would have different effects at different airspeeds, and that using the same gust margin throughout causes the proposed after takeoff maneuvering requirement at V_2 speed to be unduly restrictive. Similarly, another commenter states that the need for a 15-degree overshoot capability should first be justified by the FAA. This commenter suggests that a 5-degree overshoot, as specified as an objective for accomplishing steep turns in the ''Airplane Transport Pilot and Type Rating Practical Test Standards,'' would be more reasonable.

Several commenters claim that the proposed maneuvering requirements, particularly the one associated with the final takeoff speed (V_{FTO}), are excessive and would be difficult to meet without increasing the operating speeds. One commenter notes that for an airplane equipped with a stick pusher that activates near $C_{L_{MAX}}$, due to design tolerances for the stick pusher and stall warning systems, V_2 and V_{FTO} would most likely be set by the proposed maneuvering requirements rather than the 1.13 and 1.18 factors applied to V_{SR}, respectively. Another commenter notes that the maneuvering requirement associated with V_{FTO} relates to a one-engine-inoperative condition of short duration, after which the airplane is accelerated to the en route climb speed. This commenter suggests that a maneuvering bank angle of 30 degrees, the same as specified for the takeoff safety speed (V_2) one-engine-inoperative condition, would be more appropriate for this condition.

This commenter further states that for many existing large transport category airplanes, an early onset of natural stall warning results in a larger stall warning margin than the minimum margin required by the regulations. At V_{FTO}, these airplanes would have a maneuvering capability to stall warning of less than the proposed 40 degrees of bank, possibly as low as 27 degrees. Requiring 40 degrees of bank capability would necessitate an increase in V_{FTO}, which could affect the net takeoff flight path used for clearance of distant obstacles. Either a different departure path may be necessary in the event of an engine failure, or takeoff weight may have to be reduced. The commenter considers the existing rule to be adequate, and the potential penalties associated with the FAA's proposal to be unjustifiable.

This commenter also questions whether the proposed 40 degree bank angle requirement at V_{FTO} was based on a 25 degree bank angle limit used by many current flight guidance systems. If so, this commenter considers such reasoning to be flawed in that not all flight guidance systems use 25 degrees as their bank angle limit. In some cases, flight guidance systems are limited to a 15 degree bank angle at the final takeoff speed.

As a final comment on this section, this commenter suggests that if the FAA believes that increased bank angles are appropriate for the en route flight paths, which are of longer time duration, this need should be addressed separately from the takeoff flight path requirements. However, the commenter does not consider it necessary to do so as this commenter is unaware of any associated safety issues.

The FAA disagrees that the maneuvering requirements specified in the proposed § 25.143(g) are excessive, including the proposed 40 degree bank angle requirement at V_{FTO}. These maneuvering requirements are comparable to the maneuvering capability implied by the current regulations assuming the stall warning margin is near the regulatory minimum. Safety records and operating practices indicate that low speed maneuvering capability is a genuine concern. Some airports necessitate close-in maneuvering on a regular or contingency basis. Accidents and incidents have occurred due to windshear, icing, and high-lift device anomalies. The ability to tolerate such operational conditions can depend on the maneuvering capability at the designated minimum operating speeds.

The proposed maneuvering requirements consist of the minimum bank angle capability the FAA deems adequate for the specified regimes of flight combined with a further 15 degrees of bank angle to provide a safety margin for various operational factors. These operational factors include both potential environmental conditions (*e.g.*, turbulence, wind gusts) and an allowance for piloting imprecision (*e.g.*, inadvertent overshoots). Because this safety margin does not represent either a specific gust margin or expected piloting precision alone, the FAA does not consider it necessary to either perform a rigorous study of the effect of atmospheric gusts nor to restrict the size of the margin to a piloting test standards objective as suggested by the commenters. The allowance and magnitude of the proposed bank angle margin is also consistent with typical industry practice.

The maneuvering requirement at V_2 speed with one engine inoperative is derived from the 15 degree bank angle allowed under § 121.189(f) after takeoff plus the specified 15 degree safety margin. At the higher speed of V_{FTO}, after the airplane has transitioned to the en route configuration and is farther along in the flight path, it is reasonable to require additional maneuvering capability appropriate to that phase of flight. The FAA considers an additional 10 degrees of maneuvering capability to be a reasonable expectation for a minimum capability after transitioning to the en route configuration and accelerating to the final takeoff climb speed. This same level of maneuvering capability exists on most transport category airplanes currently in service, and the FAA has determined that there is not a compelling reason to set a lower minimum standard. The FAA considers this same maneuvering capability (25 degrees of bank plus a 15 degree safety margin) to also be appropriate for the normal all-engines-operating takeoff case as well as for the landing approach.

For those airplane types for which the proposed maneuvering requirements would lead to an increase in V_{FTO}, any resulting penalty is expected to be small. An increase in V_{FTO} would only cause a penalty (in terms of a reduced payload capability) when the takeoff weight is restricted due to an obstacle that must be cleared in the final takeoff climb segment and cannot be avoided by turning or using an alternative flight path procedure (*e.g.*, retracting the flaps at the maximum level-off height or extending the second segment to the takeoff thrust time limit). Recent FAA acceptance of proposals to increase the time limit for using takeoff thrust from five minutes to ten minutes should further reduce the potential for economic penalties resulting from an increase in V_{FTO}.

In addition to receiving comments on the minimum bank angles proposed for the new § 25.143(g), the FAA received comments on the footnotes accompanying the table of conditions to

be demonstrated. A commenter notes that because the trigger point of an artificial stall warning device may vary with thrust or power setting, the proposed wording of footnote 1 may not cover the most critical condition for determining the airplane's maneuver margin. This commenter suggests adding the phrase ''or any greater thrust or power if more critical'' to the thrust/power setting references in footnotes 1 and 3 to the table in § 25.143(g).

Although the FAA agrees with the intent of this comment, the FAA believes that the comment may stem from a misinterpretation of the proposed requirement. The condition specified in the proposed footnote 1 to § 25.143(g) represents the highest thrust or power setting for the applicable conditions of weight, altitude, and temperature. If system design features or other relevant characteristics result in any condition of weight, altitude, or temperature being more critical than another, compliance with this requirement must be demonstrated for the most critical condition of weight, altitude, and temperature. This point is addressed further in guidance material being proposed for inclusion into AC 25–7A (a notice of proposed advisory circular revisions will be published in the **Federal Register** shortly after publication of this final rule).

The commenter further suggests simplifying the text of footnote 3 by replacing the FAA proposed text with, ''The critical thrust or power for all engines operating should be that which in the event of an engine failure would result in the minimum climb gradient specified in § 25.121, or any greater thrust or power if more critical.'' Although the FAA agrees with the intent of simplifying this footnote, the wording proposed in Notice No. 95–17 is needed to address all-engines-operating climb procedures, such as those used for noise abatement, that may use a thrust or power setting less than that used during the takeoff. Therefore, the FAA does not concur with the commenter's suggestion.

Section 25.143(g) is adopted as proposed.

One commenter suggests that the Notice No. 95–17 proposal to replace ''V_S'' with ''the stall'' in § 25.145(a) is misleading and inaccurate relative to the Notice No. 95–17 supporting discussion. The commenter believes that changing ''V_S'' to ''the stall'' is unsatisfactory for two reasons: (1) ''The stall'' is a vague terminology that might generally be defined by § 25.201(d), but without defining the configuration (*i.e.*, flaps, center-of-gravity position, power, *etc.*); and (2) The Notice No. 95–17 preamble discussion states that the demonstration should only have to be conducted down to stall warning speed plus one second, which is less demanding than the proposed new § 25.145(a). Therefore, the commenter suggests adding the words ''In a deceleration'' at the beginning of § 25.145(a) and replacing the proposed reference to ''the stall'' with ''one second after stall warning.'' Guidance could then be provided in AC 25–7 to clarify that there must be sufficient longitudinal control in this maneuver to provide confidence that pushout from an actual stall could still be accomplished.

The FAA does not intend for the change in the reference stall speed to alter the basic requirement of § 25.145(a), namely that the capability exists on transport category airplanes, at the specified configurations and power settings, to pitch the nose down from any point in the stalling maneuver and regain the trim speed. The commenter's suggested change would reduce the stringency of the regulatory requirement, while depending on non-regulatory guidance material to provided assurances that equivalent capability is retained.

Because the FAA cannot rely on non-regulatory material to establish a capability required of the airplane, the FAA has not adopted the commenter's suggested change. However, to improve clarity, the words ''the stall,'' proposed in Notice No. 95–17, have been replaced by ''stall identification (as defined in § 25.201(d))'' in the adopted § 25.145(a). In addition, techniques to show compliance with this requirement without performing a stall at maximum continuous power/thrust were included in the recent issuance of AC 25–7A. Consistent with the preamble discussion of Notice No. 95–17, compliance at maximum continuous power may be assessed by demonstrating sufficient static longitudinal stability and nose down control margin when the deceleration is ended at least one second past stall warning during a one knot per second deceleration. The static longitudinal stability during the maneuver and the nose down control power remaining at the end of the maneuver must be sufficient to assure compliance with the requirement.

Two comments were received regarding the flight test demonstrations to show compliance with § 25.177. Both comments were relative to the safety aspects of conducting full rudder sideslips at low airspeeds, as required by the current rule, although both commenters also noted that this situation may be exacerbated by the lower speeds that can result from the proposed change. The proposed changes were not intended to result in overall lower speeds. Because these comments raise issues with not only speed, but also rudder deflection, they are considered beyond the scope of the Notice No. 95–17 proposals, and § 25.177 has been adopted as proposed. These comments will be retained for consideration of potential future rulemaking to address the concerns expressed by the commenters.

There were many comments on the proposed changes to the stall warning requirements of § 25.207. One commenter requests explicit criteria to address whether or not a stick shaker is required to provide stall warning, or if a visual or aural warning is sufficient. This same commenter also asked whether production tolerances affecting the stall warning margin will be addressed in AC 25–7.

The issue of what constitutes an acceptable artificial stall warning is beyond the scope of this rulemaking. However, as stated in the current § 25.207(b) (and unchanged by this rulemaking), ''a visual stall warning device that requires the attention of the crew within the cockpit is not acceptable by itself.'' The FAA is considering future rulemaking to further address the issue of what constitutes an acceptable stall warning. Regarding stall warning tolerances, the FAA has proposed the inclusion of material addressing stall warning system tolerances into a proposed revision to AC 25–7A (a notice of proposed advisory circular revisions will be published in the **Federal Register** shortly after publication of this final rule). This material is consistent with the FAA positions expressed in the preamble of Notice No. 95–17.

Several commenters took issue with the proposed three percent or three knots stall warning margin of § 25.207(c). One commenter believes that the proposal represents an unjustified increase in the severity of this requirement relative to the current rules. This commenter notes that a requirement for stall warning to begin one percent above the 1-g stall speed would be equivalent to the current requirement of a seven percent margin from the minimum speed obtained in the stalling maneuver. As a compromise, this commenter suggests a two percent or two knot stall warning margin relative to the redefined reference stall speed. Another commenter has a concern over possible difficulties in showing compliance with the proposed arbitrary numerical margin for airplanes with a gradual loss of lift

as the angle-of-attack for maximum lift is exceeded. Both of these commenters request that any increase in the severity of this requirement: (1) Be tempered such that inappropriate design changes are not imposed for small shortfalls in meeting the strict numerical criteria; and (2) be taken into account in the Aviation Rulemaking Advisory Committee (ARAC) discussions of stall warning margin when operating in icing conditions.

Another commenter has concerns that the change in stall warning margin requirements will reduce the margin that is currently required and therefore would not retain the existing level of safety. This commenter believes that the proposed margin would not represent a reasonable balance between providing the pilot with enough warning to avert an impending stall and providing adequate maneuvering capability at the minimum operating speeds. This commenter suggests retaining the current seven knot stall warning margin from the reference stall speed, even though the reference stall speed would be redefined as the 1-g stall speed, in order to retain the existing level of safety.

Another commenter considers the proposed § 25.207(c) to represent an unjustified increase in the currently required minimum stall warning margin that would inhibit use of part of the airplane flight envelope within which the airplane is controllable without risk of structural damage. The commenter remarks that in windshear avoidance maneuvers, the likelihood of escape is maximized by flying at the minimum controllable airspeed. The commenter also disagrees with the statement made in Notice No. 95–17 that a speed lower than the 1-g stall speed represents a transient flight condition. The commenter notes that in steady climbing flight, the lift force needed to sustain steady flight is less than the airplane weight, and for larger climb angles, steady flight is sustainable at speeds lower than the 1-g stall speed. This commenter suggests revising the proposed § 25.207(c) to require the stall warning to begin at the greater of: (1) A speed higher than either one knot or one percent higher than the reference stall speed; or (2) seven knots or seven percent higher than the speed at the occurrence of a stall (as defined in § 25.201(d)).

Other comments were received on the proposed § 25.207(c) relative to the engine thrust or power setting associated with the proposed three percent or three knot stall warning margin. Two commenters support removing the reference to ''engines idling and throttles closed'' so that the same stall warning margin would apply to all power and thrust settings. One commenter suggests that to be consistent with the proposed § 25.103(a)(1) it is unnecessary to refer to throttles. This commenter also questions why the proposal states that ''§ 25.103(a)(5) does not apply'' when defining the reference stall speed to be used in connection with this requirement.

In combination with adopting the 1-g stall speed as the appropriate benchmark for the low speed end of an airplane's limit flight envelope, the FAA considers a warning three knots or three percent prior to reaching this speed to be the minimum margin needed to prevent the crew from inadvertently slowing beyond this speed. A categorical statement regarding the severity of this requirement relative to the current requirement cannot be made since the effect of the change in the reference stall speed will vary with airplane type (and with the high lift device configuration on a given type). It would, however, be inappropriate to couple the existing seven percent margin requirement relative to the minimum speed reached in the stalling maneuver with the redefined reference stall speed as one commenter suggests.

The FAA does not consider the proposed stall warning margin to unduly restrict access to useable parts of the airplane flight envelope. Relative to windshear escape, the dynamic nature of windshear warrants, if anything, a larger speed margin to the stalled condition. Using current windshear escape procedures, frequent and irregular penetrations of the stall warning margin are more likely to occur. This type of trained maneuver was not envisioned when the current stall warning requirements were promulgated. Regarding the comment that for climbing flight the lift force will be less than the airplane's weight, this condition is irrelevant for establishing the reference stall speed or defining a reasonable stall warning margin. The FAA has determined that the intent of the proposal is sufficiently clear in this respect.

The FAA agrees that the stall warning margin for other than idle thrust or power settings should be addressed. The FAA did not intend to restrict consideration of the adequacy of the stall warning margin to only the idle thrust or power condition. The general requirement for a stall warning with sufficient margin to prevent inadvertently stalling prescribed by § 25.207(a) applies to all normal configurations and flight conditions. The three knot or three percent warning margin reference in the proposed § 25.207(c) would specifically quantify this requirement for the conditions under which V_{SR} is determined. At other conditions, the FAA would have expected an equivalent margin to that prescribed by § 25.207(c). However, there is an inherent difficulty in either specifying an appropriate warning margin or determining an equivalent warning margin to that specified in the proposed § 25.207(c) for conditions other than idle thrust or power, straight flight, and the center-of-gravity position defined in the proposed § 25.103(a)(5), because VSR is undefined for those other conditions.

In response to the comments, and to clarify the situation regarding the acceptable stall warning margin for conditions other than those under which VSR is defined, the FAA has revised the proposed § 25.207(c) by specifying that stall warning must begin at least five knots or five percent, whichever is greater, prior to the speed at which the airplane is considered stalled (as defined in § 25.201(d)). This is also the stall warning margin required by JAR–25 prior to the adoption of Change 15, and is considered to neither increase nor decrease the current level of safety. By referencing the speed at which the stall is identified for determining the adequacy of the stall warning margin, and not limiting this requirement to specific conditions of thrust or power, bank angle, or center-of-gravity position, the adopted rule requires that the five knot or five percent margin must be available at all thrust/power settings, bank angles, and center-of-gravity positions.

The FAA expects this stall warning margin to be demonstrated for the conditions of bank angle, power, and center-of-gravity position prescribed for the stall demonstration tests by § 25.201(a). If, however, the stall warning margin may be affected by the system design (*e.g.*, a stall warning or stall identification system that modifies the stall warning or stall identification system as a function of thrust, bank angle, angle-of-attack rate, etc.), compliance with the adopted § 25.207(c) should be demonstrated at the most critical conditions in terms of stall warning margin.

The proposed three knot or three percent (whichever is greater) stall warning margin requirement relative to V_{SR} is retained in § 25.207(d) as an additional criterion applicable to that specific flight condition. The reference to throttles has been removed, as has the statement that the proposed § 25.103(a)(5) should not apply when

defining the reference stall speed to be used in connection with this requirement. In response to the commenter's question, the reference to § 25.103(a)(5) had been proposed because the proposed definition of the reference stall speed would have required that the center-of-gravity position for determining the reference stall speed would be that which results in the highest value of the reference stall speed. Since the center-of-gravity position at which the proposed three knot or three percent stall warning requirement would apply was not specified, it presumably would apply to all center-of-gravity positions. Therefore, without the proposed statement, a literal interpretation of the proposed requirement would have required the stall warning speed at any center-of-gravity position to be three knots or three percent above the stall speed evaluated at the most adverse center-of-gravity position. This was not the intention. Any evaluation of the effect of center-of-gravity position on the stall warning margin should be based on the same center-of-gravity position for both the stall speed and the stall warning speed.

The proposed wording, along with additional explanatory material that would have been proposed for addition to AC 25–7A, was intended to clarify that for center-of-gravity positions other than that specified in the proposed § 25.103(a)(5), the same center-of-gravity position should be used for both the stall speed and the stall warning speed. However, due to the potential for confusion over the proposed wording, and because the explicit stall warning speed margin prescribed by the proposed § 25.207(c) only applies to the conditions under which VSR is determined, the proposed wording regarding center-of-gravity position has been removed. Instead, the center-of-gravity position specified in § 25.103(b)(5) (re-numbered from the proposed § 25.103(a)(5)) has been included in the list of conditions for which the specific three knot or three percent stall warning margin of the adopted § 25.207(d) applies. For other center-of-gravity positions, the acceptable stall warning margin is now addressed in the adopted § 25.207(c).

Because of the differences between naturally stalling airplanes and those that employ a device to abruptly push the nose down at a selected angle of attack to identify the stall, the FAA proposed that the stall warning margin for airplanes that employ these devices would be required to be five knots or five percent prior to the speed at which the device activates. The application of § 25.207(d), as adopted, in combination with the adopted new requirement of § 25.103(d) will ensure that there must be a 5 knot or 5 percent stall warning margin relative to VSR for these airplanes. Therefore, the proposed § 25.207(d) is removed.

The stall speed margins required by the adopted §§ 25.207(c) and (d) must be available in terms of calibrated airspeed. Normally, test demonstrations at the conditions specified in § 25.201 (Stall demonstration) will be sufficient to show compliance with these requirements. However, if the stall warning margin for a particular airplane type varies significantly with power or thrust, center-of-gravity position, bank angle, of some other characteristic, additional test conditions may be necessary.

As with other part 25 requirements, shortfalls in demonstrating compliance with the literal terms of the stall warning margin requirements would necessitate either a design change, an exemption (per § 11.25), or features that would provide equivalent safety using an alternate means of compliance (per § 21.21(b)(1)). Other rulemaking projects in which the stall warning margin is an issue (*e.g.*, discussions of flight in icing conditions by the ARAC) will be considered on their own merits.

Several commenters object to the accelerated stall warning margin requirement proposed as a new § 25.207(e). Some of the commenters claim that, in some cases, attempts to demonstrate compliance with this proposed requirement during flight testing resulted in maneuvers that the commenters consider inappropriate for a transport category airplane. These commenters provide several examples of the maneuvers they described as inappropriate. Other commenters note that the phrase ''to prevent stalling'' needs further clarification. One commenter questions the lack of a bank angle stipulation in the proposed requirement and provided an analysis indicating that bank angles of about 45 degrees have the greatest effect on aerodynamics. This commenter also claims that a prescribed load factor and deceleration rate are not simultaneously achievable at C_{LMAX}. The commenter suggests revising the proposed § 25.207(e) to specify 30 degree banked turns (for consistency with the turning flight stall characteristics demonstration required by § 25.201(a)) with accelerated rates of entry into the stall, up to the greater of 1.5g load factor and 3 knots per second speed reduction. This suggestion was made by other commenters as well.

The FAA concurs that detailed guidance material may be helpful to ensure an appropriate and consistent demonstration of compliance with the proposed accelerated stall warning requirement. This material will be presented in the proposed revisions to AC 25–7A, which will be published in the **Federal Register** shortly after publication of this final rule.

The purpose of the proposed requirement is to ensure that adequate stall warning exists to prevent an inadvertent stall under the most demanding conditions likely to occur in normal flight. The proposed conditions of 1.5g and a three knots per second entry rate (*i.e.*, airspeed deceleration rate) correspond to the steep turn maneuver prescribed in part 121, Appendices E and F for pilot initial and proficiency training, respectively, plus some margin for error (three degrees more bank and a decreasing airspeed). The elevated load factor will emphasize any adverse stall characteristics, such as wing drop or asymmetric wing flow breakdown, while also investigating Mach and potential aeroelastic effects on available lift. The proposed three knots per second deceleration rate is intended to result in a reasonable penetration beyond the onset of stall warning. A 30-degree banked turn maneuver, as proposed by several of the commenters, produces a load factor of only 1.15g, which the FAA does not consider high enough to evaluate the effect of elevated load factor on the capability to prevent an inadvertent stall.

As noted by one of the commenters, the bank angle used during the maneuver to demonstrate compliance with this proposed requirement may affect the airplane's stall characteristics. However, this aspect is considered secondary to the primary effect of an elevated load factor on the stall warning margin. For this reason, § 25.207(e) is revised from the version published in the NPRM to prescribe a load factor rather than a bank angle. An acceptable means of producing this load factor would be a 48-degree banked turn in level flight.

As adopted, § 25.207(e) requires an airspeed deceleration rate of greater than two knots per second instead of rates up to three knots per second. This change clarifies the intent of achieving a reasonable deceleration rate rather than one specific value, and will result in the intended penetration beyond the onset of stall warning. The FAA anticipates that with typical test techniques, requiring a deceleration rate of greater than two knots per second will result in deceleration rates close to

three knots per second. The power and trim conditions are now specified in the rule in order to ensure consistent application of this requirement.

To clarify the meaning of the phrase ''to prevent stalling,'' the parenthetical expression, ''(as defined in § 25.201(d)),'' has been added in the adopted § 25.207(e). Therefore, any of the acceptable indications of a stall applicable to stall demonstration testing is also considered an indication that the airplane has stalled during the accelerated stall warning demonstration. If any of these indications of a stall occur during the accelerated stall warning demonstration, compliance with § 25.207(e) will not have been demonstrated.

Two commenters offered comments relative to subpart C (Structure) of part 25. One of these commenters suggests that the interpretation of the stall speed used in subpart C be undertaken urgently as part of the Harmonization Work Program. The other commenter suggests that either subpart C should be reworked to reflect the introduction of V_{SR} or § 25.103 should introduce definitions of V_{S0} and V_{S1} in terms of V_{SR}.

These comments regarding subpart C of part 25 are beyond the scope of this rulemaking, which is confined to the definition of the stall speed used for airplane performance determination and handling characteristics. This amendment does not affect the stall speeds used in subpart C for structural analysis.

Further consideration by the FAA regarding the proposed revisions to §§ 1.1 (Definition of reference landing speed) and 97.3(b) (Definition of aircraft approach category) has resulted in minor changes in the adopted rule relative to the original proposals. The proposed definition of reference landing speed had used the term ''landing screen height'' to identify the point in the approach at which the reference landing speed is determined. Although this term is defined in the preamble discussion of the rule proposal, it is not defined or used elsewhere within the regulations. The landing distance requirements of § 25.125 specify this height as the 50 foot height, and the adopted definition of reference landing speed in § 1.1 has been changed to be consistent with this requirement.

The preamble discussion references approvals of steep approach operations that use a ''landing screen height'' of less than the 50 foot height prescribed by the § 25.125 landing distance requirements. These types of approvals are not the norm, however, and should be processed as equivalent safety findings, special conditions, or exemptions, whichever is appropriate for the specific case.

In addition to replacing ''landing screen height'' with ''50 foot height,'' the words ''for manual landings'' have been removed from the definition of ''reference landing speed'' since the applicable § 25.125 landing distance requirements make no such distinction. Approval of automatic landing systems, including consideration of associated landing speeds and distances, is addressed in FAA ACs 20–57A, 120–28D, and 120–29.

Further review of the proposed change to § 97.3(b) indicated a potential for confusion with respect to its application to aircraft certificated using V_S, the minimum speed in the stalling maneuver, rather than V_{SR}. There is some concern that the proposed replacement of 1.3 V_{S0} with V_{REF} may introduce terminology which is not well understood by all potential users of the airspace system, and that information provided in some Airplane Flight Manuals may not be consistent with the new terminology. Therefore, as adopted, § 97.3(b) will continue to reference 1.3 V_{S0} for use in those cases where V_{REF} is not specified.

One adverse comment was received on the proposed change to § C36.9(e)(1) of Appendix C to part 36. The commenter notes that the proposed change could result in increasing the speed used to show compliance with the approach noise requirements for those cases where V_{REF} is greater than 1.23 V_{SR0} (or 1.3 V_S for airplanes certificated under the existing stall speed requirements). The commenter states that this increased speed can result in higher certificated noise levels. The commenter objects to the increased stringency and believes it to be an inappropriate consequence of changing to the 1-g stall speed reference. The commenter also notes the importance of arriving at harmonized criteria with the JAA for the approach speed used for noise certifications.

The FAA disagrees with the commenter. The proposed amendment would have replaced the words ''1.3 V_S + 10 knots'' with ''V_{REF} + 10 knots'' and removed the words ''or the speed used in establishing the approved landing distance under the airworthiness regulations constituting the type certification basis of the airplane, whichever speed is greatest.'' The effect of the proposal would have been to require a steady approach speed of V_{REF} + 10 knots over the approach noise measuring point during the flight test measurement of approach noise levels.

The reference to 1.3 V_S in the current § C36.9(e)(1) had been derived from the § 25.125 landing requirements, *i.e.*, 1.3 V_S was interpreted to be the speed at the 50 foot height. Further away from the runway, at the point at which the approach noise is measured (6,562 feet from the runway threshold), the airplane is likely to be at a somewhat higher speed. Higher speeds are used during the approach to provide greater stall and controllability margins, especially in the presence of winds and gusts, with the additional speed being bled off by the time the airplane is at the 50 foot height. As stated in the preamble to the amendment that added part 36 to the FAR, ''The intent of this proposal was to require an airspeed that is highly typical of normal approach airspeeds, so that a realistic approach speed is generated. The speed 1.3 V_S + 10 knots is such an airspeed and is therefore specified * * *'' The ten knot increment applied to 1.3 V_S represents the typical approach speed at the approach noise measuring point.

In a later amendment to part 36 (Amendment 36–5), the FAA recognized that, for various reasons, a speed higher than 1.3 V_S may be used in establishing the landing distance under § 25.125. Amendment 36–5 added the words ''or the speed used in establishing the approved landing distance under the airworthiness regulations constituting the type certification basis of the airplane, whichever speed is greatest'' to the ''1.3 V_S + 10 knots'' speed requirement over the approach noise measuring point.

The additional 10 knot speed increment added to 1.3 V_S was not added to ''the speed used in establishing the approved landing distance under the airworthiness regulations constituting the type certification basis of the airplane.'' The FAA has since determined, however, that the ten knot speed increment should be applied to the speed used to determine the landing distance under § 25.125, regardless of whether that speed is 1.3 V_S or some higher speed. The flightcrew does not know whether the approach speed provided in their manuals is based on 1.3 V_S or some higher speed and will use the same procedures and speed increments in either case.

The FAA's proposal would have set the speed over the approach noise measuring point at V_{REF} +10 knots. Since V_{REF} is the speed used to determine the landing distance, a consistent speed increment would be applied to the speed applicable to the 50 foot height, regardless of whether V_{REF} is determined by stall speed,

controllability requirements, or some other parameter.

Subsequent to the publication of Notice 95–17, Working Group 1 (WG1) of the International Civil Aviation Organization (ICAO) Committee on Aviation Environmental Protection (CAEP) recommended to the ICAO CAEP that the noise certification approach reference speed contained in Volume I of Annex 16 to the Convention on International Civil Aviation (the ICAO International Standard and Recommended Practice for Aircraft Noise Certification) be changed to V_{REF} + 10 knots. The WG1 was established by the CAEP to provide technical guidance regarding revisions to Annex 16, Volume 1. The United States is a member of both the ICAO CAEP and WG1. The WG1 did not view the adoption of V_{REF} + 10 knots as having a significant effect on stringency. At its 5th meeting, which was held in January 2001, the ICAO CAEP accepted the WG1 recommendation regarding adoption of V_{REF} + 10 knots. This recommendation was subsequently included in Amendment 7 of Annex 16, Volume 1, which was adopted by the ICAO Council on June 29, 2001.

As a member of the ICAO Council, CAEP and WG1, the FAA supported the conclusion to use V_{REF} + 10 knots. The commenter has provided no support for the expressed effect on stringency. The concern expressed by the commenter regarding the use of harmonized criteria between the FAA and JAA would be eliminated by FAA adoption of the Annex 16, Amendment 7 requirement, considering that Annex 16 is the basis for the JAA noise certification requirements. Accordingly, the FAA adopted the Annex 16, Amendment 7 requirement as part of Amendment 24 to part 36, which was published in the **Federal Register** on July 8, 2002 (67 FR 45193).

Other than the changes noted above, the proposed changes to part 25 are adopted as proposed in Notice No. 95–17.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), there are no requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practical. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and the Joint Aviation Authorities regulations, where they exist, and has identified no differences in these amendments and the foreign regulations.

Regulatory Evaluation Summary

Economic Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only if the agency makes a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards. Where appropriate, agencies are directed to use those international standards as the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules. This requirement applies only to rules that include a Federal mandate on State, local or tribal governments or the private sector, likely to result in a total expenditure of $100 million or more in any one year (adjusted for inflation.)

In conducting these analyses, the FAA has determined that this final rule: (1) Has benefits that do justify its costs; (2) is not a ''significant rulemaking'' either as defined in the Executive Order or in DOT's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will lessen restraints on international trade; and (5) will not contain a significant intergovernmental or private sector mandate.

These analyses, available in the docket, are summarized as follows.

Economic Evaluation

The Benefits Estimate

This rule supports the existing level of safety because type certification for part 25 airplanes based on 1-g criteria is common practice, the FAA having accepted 1-g stall criteria since the mid-80s for most part 25 type certifications, in many cases through the Issue Paper process. This rule establishes the codification of this practice, and thus adds the safety benefit of preventing deviation from this practice. The FAA has not attempted to quantify this benefit.

The FAA also expects this rule will result in added benefits in the form of cost savings to those affected manufacturers that carry out type certification to both FAR and JAR requirements. Historically, U.S. manufacturers that certificate part 25 airplanes to both FAA and JAA requirements using 1-g stall speed criteria have done so by working out separate arrangements with both authorities. The FAA expects compliance with a single harmonized FAA/JAA regulatory standard will be simpler and more direct than compliance through separate arrangements, and that cost savings will result. The FAA has not attempted to quantify this benefit.

The Estimate of Costs and Its Evolution

As noted, the FAA has accepted 1-g stall speed criteria for most part 25 type certification projects since the mid-1980s. The FAA expects this rule will not change the substance of accepted certification practices. Thus, no more than minimal additional certification costs will be associated with this new rule.

However, as certification practices and aviation technology have evolved since the mid-1980s, the costs of certification at 1-g have changed. As these costs have changed, manufacturers' estimates of comparative certification costs have changed; and FAA's estimates of the costs associated with this rule have changed.

This final rule evaluation was begun in 1999. It completes the regulatory evaluation process that began with research pursuant to a 1996 NPRM. Comments to the docket in response to that NPRM were received in 1996. Pursuant to this final rule evaluation, providers of previously received information were asked to review, clarify and update their information as necessary. Their clarifications and updates, together with the previous research and analysis are the basis for the conclusions developed in this final rule evaluation.

While the costs provided in the 1996 comments were much higher than those of the 1996 NPRM, the 1999 clarifications and updates brought the costs developed in this final rule evaluation more into line with those of the NPRM. Cost estimates for typical

type certification projects that use 1-g stall speed as the reference datum have evolved as follow:

• In 1996, the NPRM concluded that the costs of 1-g compliance differed depending upon the size of the airplane certified. In then-current dollars, the NPRM estimated compliance costs of $195,000 for a type certification for large part 25 airplanes. For small part 25 airplanes, the NPRM estimate included a one-time cost of $70,000 for each manufacturer and subsequent type certification costs of $250,000. This final rule evaluation concludes that neither regulatory nor practical distinctions between small and large airplanes allow the unambiguous grouping by size category needed to support the level of economic analysis characteristic of final rules.

• In 1996, comments received in response to the NPRM gave additional compliance costs per type certification in then-current dollars that ranged from $331,412 for instrumentation costs plus $35,029 for testing and analysis, to an undifferentiated $1,000,000 per type certification project.

• For this final rule evaluation, the baseline for cost comparisons is the estimate of the current cost of type certification using minimum stall speed as the reference datum for a typical part 25 airplane. Building on the NPRM, the comments to the Docket, and the clarifications and updates, this final rule evaluation estimates typical additional compliance costs of about $130,000 for a type certification program conducted at 1-g for a part 25 airplane, expressed in 1999 dollars.

• During the time the FAA has been accepting certification at 1-g, additional costs of instrumentation have become small to negligible. Falling instrumentation costs and rising instrumentation capability have resulted in acceptable test data being achieved by adding as little additional instrumentation as one accelerometer to the test equipment required for certification at minimum stall speed. (The estimated uninstalled cost of an accelerometer appropriate to this use is the minimal cost of $500 to $2,000, in 1999 dollars. Further, accelerometer and gyroscopic components already present in the inertial navigation systems incorporated on modern transport category airplanes are the fundamental starting point for instrumentation sufficient to measure a 1-g stall speed.)

In summary, for a typical part 25 airplane, the current industry practice of type certification using 1-g stall as the reference datum adds a minor cost ($130,000) for flight-testing and analysis to the costs of the baseline alternative of type certification using minimum speed stall. This practice also is expected to add very minor or no cost for additional instrumentation beyond that required for the type certification baseline.

This final evaluation notes the possibility, also raised in the NPRM and in the 1999 clarifications and updates, that codification of this ongoing practice, and its consequent extension to all U.S. manufacturers and to all part 25 airplanes they will certificate in the future, could have an adverse impact on marketing efforts by manufacturers. (In general, this rule reduces the multiplying factors used to convert reference speed to minimum operational speeds by about 6 percent. When the reduced multiplying factors are applied to the 1-g stall speed, which is generally about 6 percent higher than minimum speed stall, the resulting minimum operating speeds generally will result in the same values produced by using minimum stall speed as the reference datum. However, variation is possible. This possible variation is at the heart of assertions of marketing impact. No such impact is considered in this evaluation, for the reasons that follow:

—The possible differences in operational speeds between type certification using 1-g stall speed and type certification using minimum stall speed are in the low single digits when expressed as speeds

—The very large number of possible combinations of airplane types, operational conditions, operators' services and airport characteristics forestalls practical quantitative consideration of the possible small consequences noted above

—Any operational consequence of certification at 1-g already results from ongoing industry practice and cannot also be considered to result from this rule

—The possible differences in operational speeds between type certification using 1-g stall speed and type certification using minimum stall speed are in the low single digits when expressed as speeds

Benefits/Costs Comparison

The FAA finds that this rule improves the codification of current industry practices that have evolved over a period of about 15 years. These practices already result in the benefits of the current level of safety. With one exception, this rule will add little or nothing to these benefits. The exception is the elimination of the possibility that a future part 25 airplane might not be certificated based on 1-g stall speed criteria. Removing this possibility ensures that the benefits being received cannot be reduced, thus diminishing the current level of safety. The agency has not attempted to quantify either this added benefit or the benefits already being received.

Another additional benefit of improved codification is that type certification to both FAR and JAR requirements will be simpler, more direct and consequently less costly. The agency has not attempted to quantify this harmonization benefit.

Because it is an improvement of the codification of voluntary industry practices, the FAA concludes that this rule will add little or no cost to the industry. The agency estimates that affected manufacturers already voluntarily incur costs of about $130,000 (in 1999 dollars) for each type certification project they base on 1-g stall speed criteria, beyond the costs they would incur in type certification based on minimum stall speed criteria.

The FAA concludes that while this final rule will add little or nothing to the safety benefits and the certification costs that already result from voluntary industry practices, it does add safety and harmonization benefits. Thus, the FAA believes this rule is cost effective.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should

be clear. For aircraft manufacturers, a small entity is one with 1,500 or fewer employees.

Evaluation of this final rule in terms of this standard shows that no current manufacturer of transport category airplanes is a small manufacturer. Although the future entry of a small manufacturer into the business of manufacturing transport category airplanes is possible, such an unusual single entrant could not be construed to equate to a ''substantial number.''

Finally, no regulatory flexibility analysis is required for this rule because it adds little or nothing to the costs that otherwise would be required for type certification of a transport category airplane by a manufacturer of any size. Therefore the impact of this rule would not be significant whether it fell on a large or on a small manufacturer.

In light of these arguments, the FAA certifies that the rule change will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

International Trade Impact Analysis

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

Because this rule is a part of a harmonization process that will result in a single FAA/JAA regulatory standard, it reduces a barrier to international trade. Thus, in accordance with the above statute, the FAA has assessed the potential effect of this final rule and has determined that it will support the Act.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' This final rule does not contain such a mandate. Therefore, the assessment requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 3132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the State, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Regulations Affecting Interstate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting interstate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect interstate aviation in Alaska.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from presentation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of this amendment has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 97

Air traffic control, Airports, Navigation (air), Weather.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration (FAA) amends Chapter I of Title 14 Code of Federal Regulations (CFR) parts 1, 25, and 97 as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

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

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

2. Section 1.1 is amended by adding new definitions in alphabetical order to read as follows:

§ 1.1 General definitions.

* * * * *

Final takeoff speed means the speed of the airplane that exists at the end of the takeoff path in the en route configuration with one engine inoperative.

* * * * *

Reference landing speed means the speed of the airplane, in a specified landing configuration, at the point where it descends through the 50 foot height in the determination of the landing distance.

* * * * *

3. Section 1.2 is amended by adding new abbreviations in alphabetical order to read as follows:

§ 1.2 Abbreviations and symbols.

* * * * *

V_{FTO} means final takeoff speed.

* * * * *

V_{REF} means reference landing speed.

* * * * *

V_{SR} means reference stall speed.

V_{SR0} means reference stall speed in the landing configuration.

V_{SR1} means reference stall speed in a specific configuration.

V_{SW} means speed at which onset of natural or artificial stall warning occurs.

* * * * *

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

4. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

5. Section 25.103 is revised to read as follows:

§ 25.103 Stall speed.

(a) The reference stall speed, $V_{SR,}$ is a calibrated airspeed defined by the

applicant. V_{SR} may not be less than a 1-g stall speed. V_{SR} is expressed as:

$$V_{SR} \geq \frac{V_{CL_{MAX}}}{\sqrt{n_{ZW}}}$$

where:

$V_{CL_{MAX}}$ = Calibrated airspeed obtained when the load factor-corrected lift coefficient

$$\left(\frac{n_{ZW}W}{qS}\right)$$

is first a maximum during the maneuver prescribed in paragraph (c) of this section. In addition, when the maneuver is limited by a device that abruptly pushes the nose down at a selected angle of attack (*e.g.*, a stick pusher), $V_{CL_{MAX}}$ may not be less than the speed existing at the instant the device operates;

n_{ZW} = Load factor normal to the flight path at $V_{CL_{MAX}}$

W = Airplane gross weight;

S = Aerodynamic reference wing area; and

q = Dynamic pressure.

(b) V_{CLMAX} is determined with:

(1) Engines idling, or, if that resultant thrust causes an appreciable decrease in stall speed, not more than zero thrust at the stall speed;

(2) Propeller pitch controls (if applicable) in the takeoff position;

(3) The airplane in other respects (such as flaps and landing gear) in the condition existing in the test or performance standard in which V_{SR} is being used;

(4) The weight used when V_{SR} is being used as a factor to determine compliance with a required performance standard;

(5) The center of gravity position that results in the highest value of reference stall speed; and

(6) The airplane trimmed for straight flight at a speed selected by the applicant, but not less than $1.13V_{SR}$ and not greater than $1.3V_{SR}$.

(c) Starting from the stabilized trim condition, apply the longitudinal control to decelerate the airplane so that the speed reduction does not exceed one knot per second.

(d) In addition to the requirements of paragraph (a) of this section, when a device that abruptly pushes the nose down at a selected angle of attack (*e.g.*, a stick pusher) is installed, the reference stall speed, V_{SR}, may not be less than 2 knots or 2 percent, whichever is greater, above the speed at which the device operates.

6. Section 25.107 is amended by revising paragraphs (b)(1) introductory text, b(1)(ii), (b)(2) introductory text, b(2)(ii), (c)(1) and (c)(2), and by adding new paragraphs (c)(3) and (g) to read as follows:

§ 25.107 Takeoff speeds.

* * * * *

(b) * * *

(1) $1.13V_{SR}$ for—

* * * * *

(ii) Turbojet powered airplanes without provisions for obtaining a significant reduction in the one-engine-inoperative power-on stall speed;

(2) $1.08V_{SR}$ for—

* * * * *

(ii) Turbojet powered airplanes with provisions for obtaining a significant reduction in the one-engine-inoperative power-on stall speed; and

* * * * *

(c)* * *

(1) V_{2MIN};

(2) V_R plus the speed increment attained (in accordance with § 25.111(c)(2)) before reaching a height of 35 feet above the takeoff surface; and

(3) A speed that provides the maneuvering capability specified in § 25.143(g).

* * * * *

(g) V_{FTO}, in terms of calibrated airspeed, must be selected by the applicant to provide at least the gradient of climb required by § 25.121(c), but may not be less than—

(1) 1.18 V_{SR}; and

(2) A speed that provides the maneuvering capability specified in § 25.143(g).

7. Section 25.111 is amended by revising paragraph (a) introductory text to read as follows:

§ 25.111 Takeoff path.

(a) The takeoff path extends from a standing start to a point in the takeoff at which the airplane is 1,500 feet above the takeoff surface, or at which the transition from the takeoff to the en route configuration is completed and V_{FTO} is reached, whichever point is higher. In addition—

* * * * *

8. Section 25.119 is amended by revising paragraph (b) to read as follows:

§ 25.119 Landing climb: All-engines-operating.

* * * * *

(b) A climb speed of not more than V_{REF}.

9. Section 25.121 is amended by revising paragraphs (c) introductory text, (d) introductory text, (d)(2) and (d)(3), and by adding paragraph (d)(4) to read as follows:

§ 25.121 Climb: One-engine-inoperative.

* * * * *

(c) *Final takeoff.* In the en route configuration at the end of the takeoff path determined in accordance with § 25.111, the steady gradient of climb may not be less than 1.2 percent for two-engine airplanes, 1.5 percent for three-engine airplanes and 1.7 percent for four-engine airplanes, at V_{FTO} and with

* * * * *

(d) *Approach.* In a configuration corresponding to the normal all-engines-operating procedure in which V_{SR} for this configuration does not exceed 110 percent of the V_{SR} for the related all-engines-operating landing configuration, the steady gradient of climb may not be less than 2.1 percent for two-engine airplanes, 2.4 percent for three-engine airplanes, and 2.7 percent for four engine airplanes, with

* * * * *

(2) The maximum landing weight;

(3) A climb speed established in connection with normal landing procedures, but not more than 1.4 V_{SR}; and

(4) Landing gear retracted.

10. Section 25.125 is amended by revising paragraph (a)(2) to read as follows:

§ 25.125 Landing.

(a) * * *

(2) A stabilized approach, with a calibrated airspeed of V_{REF}, must be maintained down to the 50 foot height. V_{REF} may not be less than

(i) 1.23 V_{SR0};

(ii) V_{MCL} established under § 25.149(f); and

(iii) A speed that provides the maneuvering capability specified in § 25.143(g).

* * * * *

11. Section 25.143 is amended by adding a new paragraph (g) to read as follows:

§ 25.143 General.

* * * * *

(g) The maneuvering capabilities in a constant speed coordinated turn at forward center of gravity, as specified in the following table, must be free of stall warning or other characteristics that might interfere with normal maneuvering:

Configuration	Speed	Maneuvering bank angle in a coordinated turn	Thrust power setting
Takeoff	V_2	30°	Asymmetric WAT-Limited.[1]
Takeoff	$^2V_2$ + XX	40°	All-engines-operating climb.[3]
En route	V_{FTO}	40°	Asymmetric WAT-Limited.[1]
Landing	V_{REF}	40°	Symmetric for −3° flight path angle.

[1] A combination of weight, altitude, and temperature (WAT) such that the thrust or power setting produces the minimum climb gradient specified in § 25.121 for the flight condition.
[2] Airspeed approved for all-engines-operating initial climb.
[3] That thrust or power setting which, in the event of failure of the critical engine and without any crew action to adjust the thrust or power of the remaining engines, would result in the thrust or power specified for the takeoff condition at V_2, or any lesser thrust or power setting that is used for all-engines-operating initial climb procedures.

12. Section 25.145 is amended by revising paragraphs (a) introductory text, (a)(1), (b)(1), (b)(4), (b)(6), and (c) introductory text to read as follows:

§ 25.145 Longitudinal control.

(a) It must be possible, at any point between the trim speed prescribed in § 25.103(b)(6) and stall identification (as defined in § 25.201(d)), to pitch the nose downward so that the acceleration to this selected trim speed is prompt with

(1) The airplane trimmed at the trim speed prescribed in § 25.103(b)(6);

* * * * *

(b) * * *

(1) With power off, flaps retracted, and the airplane trimmed at 1.3 V_{SR1}, extend the flaps as rapidly as possible while maintaining the airspeed at approximately 30 percent above the reference stall speed existing at each instant throughout the maneuver.

* * * * *

(4) With power off, flaps retracted, and the airplane trimmed at 1.3 V_{SR1}, rapidly set go-around power or thrust while maintaining the same airspeed.

* * * * *

(6) With power off, flaps extended, and the airplane trimmed at 1.3 V_{SR1}, obtain and maintain airspeeds between V_{SW} and either 1.6 V_{SR1} or V_{FE}, whichever is lower.

(c) It must be possible, without exceptional piloting skill, to prevent loss of altitude when complete retraction of the high lift devices from any position is begun during steady, straight, level flight at 1.08 V_{SR1} for propeller powered airplanes, or 1.13 V_{SR1} for turbojet powered airplanes, with—

* * * * *

§ 25.147 [Amended]

13. Section 25.147 is amended in paragraphs (a) introductory text, (a)(2), (c) introductory text, and (d) by revising the expression ''1.4 V_{S1}'' to read ''1.3 V_SR1.''

§ 25.149 [Amended]

14. Section 25.149 is amended in paragraph (c) introductory text by revising the expression ''1.2 V_S'' to read ''1.13 V_{SR}.''

§ 25.161 [Amended]

15. Section 25.161 is amended in paragraphs (b), (c)(1), (c)(2), (c)(3) and (d) introductory text by revising the expression ''1.4 V_{S1}'' to read ''1.3 V_{SR1}''; and in paragraph (e)(3) by revising the expression ''0.013 V_{S0}^2'' to read ''0.013 V_{SR0}^2.''

§ 25.175 [Amended]

16. Section 25.175 is amended: a. In paragraphs (a)(2), (b)(1) introductory text, (b)(2) introductory text, (b)(3) introductory text and (c)(4) by revising the expression ''1.4 V_{S1}'' to read ''1.3 V_{SR1}'';

b. In paragraph (b)(2)(ii) by revising the expression ''V_{MO} + 1.4 V_{S1}/2'' to read ''(V_{MO} + 1.3 V_{SR1})/2'';

c. In paragraph (c) introductory text by revising the expressions ''1.1 V_{S1}'' to read ''V_{SW}'' and ''1.8 V_{S1}'' to read ''1.7 V_{SR1}'';

d. In paragraph (d) introductory text by revising the expressions ''1.1 V_{SO}'' to read ''V_{SW}'' and ''1.3 V_{S0}'' to read ''1.7 V_{SR0}''; and

e. In paragraph (d)(5) by revising the expression ''1.4 V_{S0}'' to read ''1.3 V_{SR0}.''

§ 25.177 [Amended]

17. Section 25.177 is amended in paragraph (c) by revising the expression ''1.2 V_{S1}'' to read ''1.13 V_{SR1}.''

§ 25.181 [Amended]

18. Section 25.181 is amended in paragraphs (a) introductory text and (b) by revising the reference to ''1.2 V_S'' to read ''1.13 V_{SR}.''

19. Section 25.201 is amended by revising paragraphs (a)(2) and (b)(4) to read as follows:

§ 25.201 Stall demonstration.

(a) * * *

(2) The power necessary to maintain level flight at 1.5 V_{SR1} (where V_{SR1} corresponds to the reference stall speed at maximum landing weight with flaps in the approach position and the landing gear retracted).

(b) * * *

(4) The airplane trimmed for straight flight at the speed prescribed in § 25.103(b)(6).

* * * * *

20. Section 25.207 is amended by revising paragraphs (b) and (c), and by adding new paragraphs (d), (e), and (f) to read as follows:

§ 25.207 Stall warning.

* * * * *

(b) The warning must be furnished either through the inherent aerodynamic qualities of the airplane or by a device that will give clearly distinguishable indications under expected conditions of flight. However, a visual stall warning device that requires the attention of the crew within the cockpit is not acceptable by itself. If a warning device is used, it must provide a warning in each of the airplane configurations prescribed in paragraph (a) of this section at the speed prescribed in paragraphs (c) and (d) of this section.

(c) When the speed is reduced at rates not exceeding one knot per second, stall warning must begin, in each normal configuration, at a speed, V_{SW}, exceeding the speed at which the stall is identified in accordance with § 25.201(d) by not less than five knots or five percent CAS, whichever is greater. Once initiated, stall warning must continue until the angle of attack is reduced to approximately that at which stall warning began.

(d) In addition to the requirement of paragraph (c) of this section, when the speed is reduced at rates not exceeding one knot per second, in straight flight with engines idling and at the center-of-gravity position specified in § 25.103(b)(5), V_{SW}, in each normal configuration, must exceed V_{SR} by not less than three knots or three percent CAS, whichever is greater.

(e) The stall warning margin must be sufficient to allow the pilot to prevent

stalling (as defined in § 25.201(d)) when recovery is initiated not less than one second after the onset of stall warning in slow-down turns with at least 1.5g load factor normal to the flight path and airspeed deceleration rates of at least 2 knots per second, with the flaps and landing gear in any normal position, with the airplane trimmed for straight flight at a speed of 1.3 V_{SR}, and with the power or thrust necessary to maintain level flight at 1.3 V_{SR}.

(f) Stall warning must also be provided in each abnormal configuration of the high lift devices that is likely to be used in flight following system failures (including all configurations covered by Airplane Flight Manual procedures).

§ 25.231 [Amended]

21. Section 25.231 is amended in paragraph (a)(2) by revising the word ''altitude'' to read ''attitude'' and by revising the expression ''80 percent of V_{S1}'' to read ''75 percent of V_{SR1}.''

§ 25.233 [Amended]

22. Section 25.233 is amended in paragraph (a) by revising the reference ''0.2 V_{S0}'' to read ''0.2 V_{SR0}.''

§ 25.237 [Amended]

23. Section 25.237 is amended in paragraphs (a), (b)(1), and (b)(2) by revising the reference ''0.2 V_{S0}'' to read ''0.2 V_{SR0}.''

24. Section 25.735 is amended by revising paragraphs (f)(2) and (g) to read as follows:

§ 25.735 Brakes and braking systems.

* * * * *

(f) * * *

(2) Instead of a rational analysis, the kinetic energy absorption requirements for each main wheel-brake assembly may be derived from the following formula, which must be modified in cases of designed unequal braking distributions.

$$KE = \frac{0.0443WV^2}{N}$$

where—

KE = Kinetic energy per wheel (ft.-lb.);

W = Design landing weight (lb.);

V = $V_{REF}/1.3$

VREF = Airplane steady landing approach speed, in knots, at the maximum design landing weight and in the landing configuration at sea level; and

N = Number of main wheels with brakes.

* * * * *

(g) In the landing case, the minimum speed rating of each main wheel-brake assembly (that is, the initial speed used in the dynamometer tests) may not be more than the V used in the determination of kinetic energy in accordance with paragraph (f) of this section, assuming that the test procedures for wheel-brake assemblies involve a specified rate of deceleration, and, therefore, for the same amount of kinetic energy, the rate of energy absorption (the power absorbing ability of the brake) varies inversely with the initial speed.

* * * * *

§ 25.773 [Amended]

25. Section 25.773 is amended in paragraph (b)(1)(i) by revising the expression ''1.6 V_{S1}'' to read ''1.5 V_{SR1}.''

§ 25.1001 [Amended]

26. Section 25.1001 is amended in paragraphs (c)(1) and (c)(3) by revising the expression ''1.4 V_{S1}'' to read ''1.3 V_{SR1}.''

§ 25.1323 [Amended]

27. Section 25.1323 is amended in paragraph (c)(1) by revising the expression ''1.3 V_{S1}'' to read ''1.23 V_{SR1}'' and in paragraph (c)(2) by revising the expression ''1.3 V_{S0}'' to read ''1.23 V_{SR0}.''

§ 25.1325 [Amended]

28. Section 25.1325 is amended in paragraph (e) by revising the expressions ''1.3 V_{S0}'' and ''1.8 V_{S1}'' to read ''1.23 V_{SR0}'' and ''1.7 V_{SR1},'' respectively.

§ 25.1587 [Amended]

29. Section 25.1587 is amended by in paragraph (b)(2) by revising the expression ''V_S'' to read ''V_{SR}.''

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

31. Section 97.3 is amended by revising the first two sentences of paragraph (b) introductory text to read as follows:

§ 97.3 Symbols and terms used in procedures.

* * * * *

(b) Aircraft approach category means a grouping of aircraft based on a speed of V_{REF}, if specified, or if V_{REF} is not specified, 1.3 V_{S0} at the maximum certificated landing weight. V_{REF}, V_{S0}, and the maximum certificated landing weight are those values as established for the aircraft by the certification authority of the country of registry.

* * *

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Issued in Washington, DC on November 14, 2002.

Marion C. Blakey,

Administrator.

[FR Doc. 02–29667 Filed 11–25–02; 8:45 am]

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Federal Register

Tuesday,
November 26, 2002

Part III

The President

Proclamation 7628—Thanksgiving Day, 2002

Proclamation 7629—National Farm-City Week, 2002

Federal Register
Vol. 67, No. 228
Tuesday, November 26, 2002

Presidential Documents

Title 3—

The President

Proclamation 7628 of November 21, 2002

Thanksgiving Day, 2002

By the President of the United States of America

A Proclamation

In celebration of Thanksgiving Day 1902, President Theodore Roosevelt wrote, ''Rarely has any people enjoyed greater prosperity than we are now enjoying. For this we render heartfelt and solemn thanks to the Giver of Good; and we seek to praise Him—not by words only—but by deeds, by the way in which we do our duty to ourselves and to our fellow men.'' President Roosevelt's words gracefully remind us that, as citizens of this great Nation, we have much for which to be thankful; and his timeless call inspires us to meet our responsibilities to help those in need and to promote greater understanding at home and abroad.

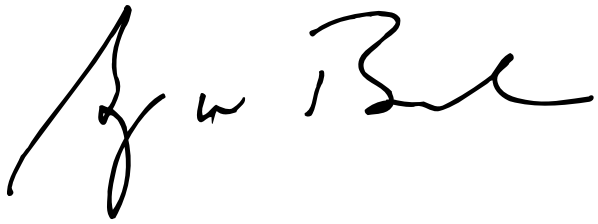
As the Pilgrims did almost four centuries ago, we gratefully give thanks this year for the beauty, abundance, and opportunity this great land offers. We also thank God for the blessings of freedom and prosperity; and, with gratitude and humility, we acknowledge the importance of faith in our lives.

Throughout the Thanksgiving holiday, let us renew our commitment to make our country and our world better. As we welcome new opportunities and face new challenges, we are thankful for the resolve and generosity of so many of our people who are touching countless hearts and souls through thoughtful acts of kindness. By answering the call to serve others, Americans are building a culture of service that strengthens our Nation. We also honor and salute the selfless sacrifice of the brave men and women of our Armed Forces who are defending our lives and liberty at home and abroad with skill, honor, and dedication.

This Thanksgiving, we recognize the ties of friendship and respect that bind us together. And we renew our pledge to uphold the timeless principles of freedom, equality, and opportunity that have made our country into a great Nation. By working together, we will continue to build mutual trust, peace, and hope for all across this land 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 Thursday, November 28, 2002, as a National Day of Thanksgiving. I encourage Americans to gather in their homes, places of worship, and community centers to share the spirit of understanding and unity, and of prayer, as we express our thanks for the many blessings we enjoy. I also encourage Americans to reach out in friendship to the larger family of humankind.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of November, 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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Presidential Documents

Proclamation 7629 of November 22, 2002

National Farm-City Week, 2002

By the President of the United States of America

A Proclamation

Agriculture has always been a cornerstone of our Nation's way of life. As wise stewards and innovative entrepreneurs, our dedicated farmers and ranchers improve our well-being by working to ensure a healthy and abundant agricultural supply. To succeed in this important enterprise, our farmers rely on essential partnerships with urban communities to supply, sell, and deliver finished products across the country and around the world. During National Farm-City Week, we recognize the importance of this cooperative network to the success of America's agricultural industry.

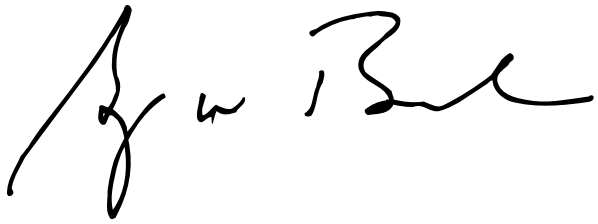
Farming was America's first industry. Today, this industry provides us with many of the necessities of life, such as food, clothing, and,increasingly, fuel for our energy needs. Agriculture employs more than 24 million workers including farmers, shippers, processors, marketers, grocers, truck drivers, inspectors, and others who annually contribute more than $1.3 trillion to our gross domestic product. In the international market, our farmers export more than $50 billion in products that help feed people in countries around the world. As we welcome new opportunities for trade, the hard work and successful cooperation between farmers and city workers will continue to play a vital role in our Nation's success and will continue to be a critical resource for countless people here at home and around the globe.

My Administration remains committed to helping the millions of Americans who work in the agricultural industry. Earlier this year, I signed the Farm Security and Rural Investment Act of 2002 to support these important workers and to strengthen the farm economy. This Act will help our farmers and ranchers by providing financial assistance that encourages sound conservation and environmental practices, and promotes open trade. And to expand opportunities for our farmers to compete in the inter national marketplace and encourage further economic growth, my Administration is committed to opening international markets and reducing tariffs and other barriers to food distribution throughout the world.

Farm-city collaborations help maintain and improve our Nation's food supply and contribute to a better quality of life for countless citizens. With this Farm-City Week observance, we commend the many Americans whose hard work and ingenuity reflect the true spirit of America and help ensure a prosperous future for all.

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 22 through November 28, 2002, as National Farm-City Week. I call upon all Americans, in rural and urban communities, to join in recognizing the accomplishments of all those who work together to produce and promote America's agricultural abundance. I also encourage citizens to strengthen our understanding of the American farm-city partnership by participating in appropriate community events and celebrations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of November, 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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