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Rules and Regulations

Federal Register

Vol. 68, No. 21

Friday, January 31, 2003

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–179–AD; Amendment 39–13028; AD 2003–03–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4; A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600); A310; A319; A320; A321; A330; and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300 B2 and B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); A310; and certain Airbus Model A319; A320; A321; A330; and A340 series airplanes, that requires repetitive visual inspections of the striker and guide valve of the passenger door actuators and certain emergency door actuators for corrosion, and corrective action, if necessary. This AD also requires modification of the striker mechanism of the emergency and passenger door actuators, which terminates the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent corrosion of the emergency actuator mechanism, which could cause failure of the emergency actuator striker mechanism on the passenger or emergency doors, and lead to difficulty in opening the passenger or emergency doors during an emergency evacuation.

DATES: Effective March 7, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 7, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, FAA, Transport Airplane Directorate, International Branch, ANM–116, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

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 Airbus Model A300 B2 and B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); A310; and certain Airbus Model A319; A320; A321; A330; and A340 series airplanes was published in the **Federal Register** on May 17, 2002 (67 FR 35059). That action proposed to require repetitive visual inspections of the striker and guide valve of the passenger door actuators and certain emergency door actuators for corrosion, and corrective action, if necessary. That action also proposed to require modification of the striker mechanism of the emergency and passenger door actuators, which would terminate the repetitive inspections.

Comments

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

Request To Allow Credit for Accomplishment of Earlier Service Bulletin

One commenter requests that the FAA allow credit for accomplishment of Airbus Service Bulletin A320–52–1094, Revision 1, dated June 17, 1998, as terminating action for the repetitive inspections. We agree. We find that the procedures specified in that service bulletin revision are essentially identical to those specified in Revision 02 of the service bulletin (which was referenced in the notice of proposed rulemaking (NPRM) as an appropriate source of service information for accomplishment of the terminating action). Therefore, we have revised the final rule to include a new paragraph (g) to specify that modification of the striker mechanism before the effective date of this AD per Revision 1 of Airbus Service Bulletin A320–52–1094 is considered acceptable for compliance with the requirements of paragraph (f) of this AD (designated as paragraph (d) in the NPRM).

Explanation of Editorial Changes

Since the language in Notes 4 and 5 of the proposed AD is regulatory in nature, those notes have been redesignated as paragraphs (d) and (e) of this final rule, respectively (subsequent paragraphs and notes also have been redesignated).

We have changed certain service bulletin citations throughout this final rule to exclude the Service Bulletin Acceptance/Rejection Sheet. The sheet is intended to be completed by operators and submitted to the airplane manufacturer to provide inspection reports to Airbus; however, this AD does not include such a requirement.

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 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

The FAA estimates that 127 Model A300 B2 and B4 and A300–600 series airplanes of U.S. registry will be affected by this AD.

For these airplanes, it will take approximately 9 work hours per airplane to accomplish the required inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspections on U.S. operators is

estimated to be $68,580, or $540 per airplane, per inspection cycle.

It will take approximately 60 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Parts cost per airplane will be minimal. Based on these figures, the cost impact of the modification on U.S. operators is estimated to be $457,200, or $3,600 per airplane.

The FAA estimates that 47 Model A310 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspections on U.S. operators is estimated to be $16,920, or $360 per airplane, per inspection cycle.

For these airplanes, it will take approximately 20 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Parts cost per airplane will be minimal. Based on these figures, the cost impact of the modification on U.S. operators is estimated to be $56,400, or $1,200 per airplane.

The FAA estimates that 887 Model A319, A320, and A330 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators of these airplanes is estimated to be $212,880, or $240 per airplane, per inspection cycle.

For these airplanes, it will take approximately 80 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Parts cost per airplane will be minimal. Based on these figures, the cost impact of the modification on U.S. operators is estimated to be $4,257,600, or $4,800 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.

There are currently no affected Model A321 or A340 series airplanes on the U.S. Register. All of these 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 it necessary to include these airplanes in the applicability of this rule in order to ensure that the unsafe condition is addressed in the event that any of the subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected Model A321 series airplane be imported and placed on the U.S. Register in the future, it will take approximately 8 work hours per airplane to accomplish the required inspections. Based on an average labor rate of $60 per work hour, the cost impact of the inspections would be $480 per airplane, per inspection cycle.

It will take approximately 20 work hours per airplane to accomplish the required modification on a Model A321 series airplane. Parts cost per airplane will be minimal. Based on an average labor rate of $60 per work hour, the cost impact of the modification will be $1,200 per airplane.

Should an affected Model A340 series airplane be imported and placed on the U.S. Register in the future, it will take approximately 32 work hours per airplane to accomplish the required inspections. Based on an average labor rate of $60 per work hour, the cost impact of the inspections would be $1,920 per airplane, per inspection cycle.

It will take approximately 80 work hours per airplane to accomplish the required modification on a Model A340 series airplane. Parts cost per airplane will be minimal. Based on an average labor rate of $60 per work hour, the cost impact of the modification would be $4,800 per airplane.

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:

2003–03–04 AIRBUS: Amendment 39–13028. Docket 96–NM–179–AD.

Applicability: All Model A300 B2 and B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); A310; A319; A320; A321; A330; and A340 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) 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 corrosion of the emergency actuator mechanism, which could cause failure of the emergency actuator striker mechanism on the passenger or emergency doors, and lead to difficulty in opening the passenger or emergency doors during an emergency evacuation, accomplish the following:

Repetitive Inspections

(a) Within 500 flight hours after the effective date of this AD, or within 36 months after the airplane's date of manufacture, whichever occurs later: Determine if Airbus Modification(s) 45090, 45155, 45197, 45904, 45905, 26015, 26211, 11549, or 12024, as applicable, has been done. If the applicable modification(s) has been done, no further action is required by this AD. If the applicable modification(s) has not been done, before further flight, do the inspections required by paragraph (b) of this AD.

(b) Perform the inspections required by paragraphs (b)(1) and/or (b)(2) of this AD, as applicable, in accordance with Airbus Service Bulletin A300–52–0168, Revision 02, excluding Service Bulletin Acceptance/Rejection Sheet (for Model A300 B2 and B4 series airplanes); A300–52–6052, Revision 02, excluding Service Bulletin Acceptance/Rejection Sheet (for Model A300–600 series airplanes); or A310–52–2058, Revision 02, excluding Service Bulletin Acceptance/Rejection Sheet (for Model A310 series airplanes); all dated October 25, 1999; A330–52–3038, Revision 01, dated December 2, 1996 (for Model A330 series airplanes); A340–52–4048, Revision 03, dated June 10, 1997 (for Model A340 series airplanes); or Airbus All Operator Telex (AOT) 52–12, Revision 1, dated May 9, 1996 (for Model A319, A320, and A321 series airplanes); as applicable. Although certain service bulletins reference a reporting requirement, such reporting is not required by this AD. Repeat the inspections thereafter at intervals not to exceed 3 years:

(1) For Model A321, A330, and A340 series airplanes: Do a detailed inspection of the striker and guide valve of the emergency door actuators for corrosion.

(2) *For all airplanes:* Do a detailed inspection of the striker and guide valve of the passenger door actuators for corrosion.

Note 2: For the purposes of this AD, a detailed visual 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.''

Note 3: Additional service information regarding the required inspections on Airbus Model A300 B2 and B4, A300–600, and A310 series airplanes is provided in RATIER–FIGEAC Service Bulletin 701–5000–52–9, Revision 1, dated October 10, 1996.

Corrective Action

(c) If any corrosion is found during any inspection required by paragraph (b) of this AD, before further flight, accomplish either paragraph (c)(1) or (c)(2) of this AD, in accordance with Airbus Service Bulletin A300–52–0168, Revision 02, excluding Service Bulletin Acceptance/Rejection Sheet (for Model A300 B2 and B4 series airplanes); A300–52–6052, Revision 02, excluding Service Bulletin Acceptance/Rejection Sheet (for Model A300–600 series airplanes); or A310–52–2058, Revision 02, excluding Service Bulletin Acceptance/Rejection Sheet (for Model A310 series airplanes); all dated October 25, 1999; A330–52–3038, Revision 01, dated December 2, 1996 (for Model A330 series airplanes); A340–52–4048, Revision 03, dated June 10, 1997 (for Model A340 series airplanes); or Airbus AOT 52–12, Revision 1, dated May 9, 1996 (for Model A319, A320, and A321 series airplanes); as applicable. Although certain service bulletins reference a reporting requirement, such reporting is not required by this AD.

(1) Clean the corroded areas of the emergency actuator striker mechanism to restore proper function, and re-install the mechanism; and, within 18 months after the corrosion is found, replace the mechanism with a serviceable part; or

(2) Replace the emergency actuator striker mechanism with a serviceable part.

(d) Inspections and corrective action done before the effective date of this AD in accordance with Airbus Service Bulletin A300–52–0168, dated December 4, 1996, or Revision 01, dated March 26, 1998; A300–52–6052, dated December 4, 1996, or Revision 01, dated March 26, 1998; or A310–52–2058, dated December 4, 1996, or Revision 01, dated March 26, 1998; are considered acceptable for compliance with the applicable actions specified in this amendment.

(e) Inspections and corrective action accomplished prior to the effective date of this AD in accordance with Airbus A320 Maintenance Planning Document, task number 521000–13–1, are considered acceptable for compliance with paragraphs (b) and (c) of this AD.

Terminating Action

(f) Within 36 months after the effective date of this AD: Modify the striker mechanism of the emergency and passenger door actuators (includes replacement of the existing copper diaphragm in the striker mechanism with an aluminum diaphragm and re-identification of the actuators) in accordance with Airbus Service Bulletin A300–52–0173, Revision 01, dated September 7, 2000 (for Model A300 B2 and B4 series airplanes); A300–52–6061, Revision 01, dated September 7, 2000 (for Model A300–600 series airplanes); A310–52–2065, Revision 01, dated September 7, 2000 (for Model A310 series airplanes); A330–52–3048, Revision 01, dated December 2, 1998 (for Model A330 series airplanes); A340–52–4059, Revision 01, dated December 2, 1998 (for Model A340 series airplanes); or A320–52–1094, Revision 02, dated April 7, 1999 (for Model A319, A320, and A321 series airplanes); as applicable.

(g) Modification of the striker mechanism accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–52–1094, Revision 1, dated June 17, 1998, is considered acceptable for compliance with paragraph (f) of this AD.

Part Installation

(h) As of the effective date of this AD, no person shall install a passenger door or emergency door actuator on any airplane without first inspecting that actuator in accordance with paragraph (b) of this AD; and repairing, if necessary, in accordance with paragraph (c) of this AD.

Alternative Methods of Compliance

(i) 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, International Branch, ANM–116, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(k) The actions shall be done per the applicable Airbus service information in the following table:

TABLE.—SERVICE INFORMATION

Airbus service information	Revision level	Excluding	Date
All Operator Telex (AOT) 52–12	1	not applicable	May 9, 1996.
Service Bulletin A300–52–0168	02	Service Bulletin Acceptance/Rejection Sheet.	October 25, 1999.
Service Bulletin A300–52–0173	01	not applicable	September 7, 2000.
Service Bulletin A300–52–6052	02	Service Bulletin Acceptance/Rejection Sheet.	October 25, 1999.
Service Bulletin A300–52–6061	01	not applicable	September 7, 2000.

TABLE.—SERVICE INFORMATION—Continued

Airbus service information	Revision level	Excluding	Date
Service Bulletin A310–52–2058	02	Service Bulletin Acceptance/Rejection Sheet.	October 25, 1999.
Service Bulletin A310–52–2065	01	not applicable	September 7, 2000.
Service Bulletin A320–52–1094	02	not applicable	April 7, 1999.
Service Bulletin A330–52–3038	01	not applicable	December 2, 1996.
Service Bulletin A330–52–3048	01	not applicable	December 2, 1998.
Service Bulletin A340–52–4048	03	not applicable	June 10, 1997.
Service Bulletin A340–52–4059	01	not applicable	December 2, 1998.

(1) 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.

(2) Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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.

Note 5: The subject of this AD is addressed in French airworthiness directives 1998–482–122(B) R1, dated April 21, 1999; 1999–410–294(B) R1, dated November 17, 1999; and 98–507–085(B) and 98–508–106(B), both dated December 16, 1998.

Effective Date

(l) This amendment becomes effective on March 7, 2003.

Issued in Renton, Washington, on January 22, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–1831 Filed 1–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–43–AD; Amendment 39–13039; AD 2003–03–15]

RIN 2120–AA64

Airworthiness Directives; Various Boeing and McDonnell Douglas Transport Category Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to various Boeing and McDonnell Douglas transport category airplanes. This AD requires revising the Airplane Flight Manual (AFM) to advise the flightcrew to don oxygen masks as a first and immediate step when the cabin altitude warning horn sounds. This action is necessary to prevent incapacitation of the flightcrew due to lack of oxygen, which could result in loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 7, 2003.

ADDRESSES: Information pertaining to this AD 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.

FOR FURTHER INFORMATION CONTACT: *Boeing Airplane Models:* Don Eiford, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2788; fax (425) 227–1181.

McDonnell Douglas Airplane Models: Joe Hashemi, Aerospace Engineer, Flight Test Branch, ANM–160L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5380; 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 various Boeing and McDonnell Douglas transport category airplanes was published in the **Federal Register** on June 26, 2002 (67 FR 43058). That action proposed to require revising the Airplane Flight Manual (AFM) to advise the flightcrew to don oxygen masks as a first and immediate step when the cabin altitude warning horn sounds.

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.

Support for the Proposed AD

One commenter supports the proposed AD, and another commenter states that it has surveyed its fleet and is already in compliance with the proposed AD.

Request To Expand Applicability of Proposed AD

One commenter notes an inconsistency in the proposed AD. In the preamble of the proposed AD, the FAA states that appropriate instructions for donning emergency oxygen masks are already contained in the AFM for Boeing Model 737–600, –700, –800, and ''900 series airplanes. Thus, those airplanes are not included in the applicability of the proposed AD. The commenter points out, however, that the AFM for Boeing Model 737–600, –700, –800, and –900 series airplanes contains wording similar to that in the AFM for Boeing Model 737–300, –400, and –500 series airplanes, which are included in the applicability of the proposed AD. The commenter also notes that the AFM for Boeing Model 757–300 series airplanes does not address the donning of crew oxygen masks during rapid depressurization, although the proposed AD states that the AFMs for 757 series airplanes contain appropriate instructions for donning oxygen masks. The commenter asks that we review all AFMs again to ensure that the AFM contains appropriate instructions.

We partially concur with the commenter's request. Where we state in the proposed AD that the AFMs for certain models already contain appropriate instructions for the donning of oxygen masks, we should have stated that either the AFM or the airplane operations manual (AOM) contains appropriate instructions for the donning of oxygen masks. For the models identified by the commenter, the AOM contains appropriate instructions for donning oxygen masks. For this reason, those airplanes were not included in the applicability of the proposed AD.

We acknowledge the commenter's concerns. Thus, we have repeated the

review of AFMs of all airplanes that were not included in the proposed AD because correct instructions exist in the AOM. We are planning additional rulemaking to revise the AFMs for all airplane models that have inadequate instructions for donning oxygen masks.

The FAA does not agree that it is necessary to repeat the review of the AFMs for all transport category airplanes to ensure that instructions for donning oxygen masks are adequate. As we stated previously, the models identified by the commenter are all airplanes for which adequate instructions for donning oxygen masks are included in the AOM. As this is a specific and finite group of airplanes, and we have repeated the review of AFMs for this group, we find that it is unnecessary to repeat the review of the AFMs for all transport category airplanes. No change to this final rule is necessary in this regard.

Revise Figure 5 of Proposed AD

One commenter requests that we revise Figure 5 of the proposed AD, which contains revised AFM wording for McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes. The commenter requests that the wording ''If the cabin altitude warning horn sounds'' be changed to ''If a cabin altitude warning occurs.'' The commenter's rationale is that not all DC–9 series airplanes have a cabin altitude warning horn. The commenter also requests that the words ''crew oxygen mask'' be revised to ''crew oxygen masks'' to match the wording of the original AFM.

We concur and have revised Figure 5 of this final rule accordingly.

Request To Omit Certain Wording From Other Documents

One commenter states that it finds the new AFM wording within the proposed AD acceptable and will revise its AFMs accordingly. However, in view of the deletion of the references to 14,000-feet altitude, the commenter requests that we not include references to 14,000 feet altitude in supplementary or separate AFM checklists or other documents. The commenter states no rationale for its request.

We acknowledge the commenter's request and will take steps to ensure that supplemental or separate AFM revisions do not contain the wording specified by the commenter. No change to this final rule is needed in this regard.

Conclusion

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 previously described. We have 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 7,077 airplanes (5,178 Boeing airplanes and 1,899 McDonnell Douglas airplanes) of the affected designs in the worldwide fleet. The FAA estimates that 3,479 airplanes (2,392 Boeing airplanes and 1,087 McDonnell Douglas airplanes) of U.S. registry will be affected by this AD. It will take approximately 1 work hour per airplane to accomplish the required AFM revision, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $208,740, or $60 per airplane.

The cost impact figure discussed above is 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, 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:

2003–03–15 Transport Category Airplanes: Amendment 39–13039. Docket 2002–NM–43–AD.

Applicability: The airplanes listed in Table 1 of this AD, certificated in any category:

TABLE 1.—AFFECTED AIRPLANE MODELS

Airplane manufacturer	Airplane model
Boeing	707 series airplanes 720 series airplanes 727 series airplanes 737–100 series airplanes 737–200 series airplanes 737–200C series airplanes 737–300 series airplanes 737–400 series airplanes 737–500 series airplanes 747–100 series airplanes 747–100B series airplanes 747–100B SUD series airplanes 747–200B series airplanes 747–200F series airplanes 747–200C series airplanes 747–300 series airplanes 747SR series airplanes 747SP series airplanes
McDonnell Douglas.	DC–8–11 airplanes DC–8–12 airplanes DC–8–21 airplanes DC–8–31 airplanes DC–8–32 airplanes DC–8–33 airplanes DC–8–41 airplanes DC–8–42 airplanes DC–8–43 airplanes DC–8–51 airplanes DC–8–52 airplanes DC–8–53 airplanes DC–8F–54 airplanes DC–8–55 airplanes

TABLE 1.—AFFECTED AIRPLANE MODELS—Continued

Airplane manufacturer	Airplane model
	DC–8F–55 airplanes
	DC–8–61 airplanes
	DC–8–61F airplanes
	DC–8–62 airplanes
	DC–8–62F airplanes
	DC–8–63 airplanes
	DC–8–63F airplanes
	DC–8–71 airplanes
	DC–8–71F airplanes
	DC–8–72 airplanes
	DC–8–72F airplanes
	DC–8–73 airplanes
	DC–8–73F airplanes
	DC–9–11 airplanes
	DC–9–12 airplanes
	DC–9–13 airplanes
	DC–9–14 airplanes
	DC–9–15 airplanes
	DC–9–15F airplanes
	DC–9–21 airplanes
	DC–9–31 airplanes
	DC–9–32 airplanes
	DC–9–32 (VC–9C) airplanes
	DC–9–32F airplanes
	DC–9–32F airplanes (C–9A, C–9B)

TABLE 1.—AFFECTED AIRPLANE MODELS—Continued

Airplane manufacturer	Airplane model
	DC–9–33F airplanes
	DC–9–34 airplanes
	DC–9–34F airplanes
	DC–9–41airplanes
	DC–9–51 airplanes
	DC–9–81 (MD–81) airplanes
	DC–9–82 (MD–82) airplanes
	DC–9–83 (MD–83) airplanes
	DC–9–87 (MD–87) airplanes
	MD–88 airplanes
	MD–90–30 airplanes
	DC–10–10 airplanes
	DC–10–10F airplanes
	DC–10–15 airplanes
	DC–10–30 airplanes
	DC–10–30F airplanes
	DC–10–30F (KC–10A, KDC–10) airplanes
	DC–10–40 airplanes
	DC–10–40F airplanes
	MD–10–10F airplanes
	MD–10–30F airplanes
	MD–11 airplanes
	MD–11F airplanes

Compliance: Required as indicated, unless accomplished previously.

To prevent incapacitation of the flightcrew due to lack of oxygen, which could result in loss of control of the airplane, accomplish the following:

Revision to the Airplane Flight Manual

(a) Within 90 days after the effective date of this AD: For the applicable airplane models listed in the ''For—'' column of Table 2 of this AD, revise the procedures regarding donning oxygen masks in the event of rapid depressurization, as contained in the Emergency Procedures section of the FAA-approved Airplane Flight Manual (AFM), by replacing the text in the ''Replace—'' column of Table 2 of this AD with the information in the applicable figure referenced in the ''With the Information In—'' column of Table 2 of this AD. This may be accomplished by recording the AD number of this AD on the applicable figure and inserting it into the AFM. Table 2 and Figures 1 through 9 follow:

TABLE 2.—AFM REVISIONS

For—	Replace—	With the information in—
Boeing Model 707, 720, and 727 series airplanes	''*RAPID DEPRESSURIZATION* Oxygen Masks & Regulators—ON, 100% ALL''	Figure 1 of this AD.
Boeing Model 737–100, –200, and –200C series airplanes	''*RAPID DEPRESSURIZATION* (With airplane altitude above 14,000 feet M.S.L.) PRIMARY Oxygen Masks & Regulators—ON, 100%''	Figure 2 of this AD.
Boeing Model 737–300, 737–400, 737–500, 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200F, 747–200C, 747–300, 747SR, and 747SP series airplanes	''*RAPID DEPRESSURIZATION* (With airplane altitude above 14,000 feet M.S.L.) RECALL Oxygen Masks & Regulators—ON, 100%''	Figure 3 of this AD.
McDonnell Douglas Model DC–8–11, DC–8–12, DC–8–21, DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, DC–8–43, DC–8–51, DC–8–52, DC–8–53, DC–8F–54 DC–8–55, DC–8F–55, DC–8–61, DC–8–61F, DC–8–62, DC–8–62F, DC–8–63, DC–8–63F, DC–8–71, DC–8–71F, DC–8–72, DC–8–72F, DC–8–73, and DC–8–73F airplanes	''*RAPID DEPRESSURIZATION* Phase I and II Crew oxygen mask—ON''	Figure 4 of this AD.
McDonnell Douglas Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, DC–9–34F, DC–9–41, and DC–9–51 airplanes	''*RAPID DECOMPRESSION/EMERGENCY DESCENT* Phase I and II Manual Pressurization Control— FULL FORWARD AND MANUALLY LOCKED Note: Manual Pressurization control forces may be high, apply forces as required Crew Oxygen Masks—ON''	Figure 5 of this AD.

TABLE 2.—AFM REVISIONS—Continued

For—	Replace—	With the information in—
McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes	''*RAPID DECOMPRESSION/EMERGENCY DESCENT* Phase I and II Manual Pressurization Control — FULL FORWARD AND MANUALLY LOCKED Note: Manual Pressurization control forces may be high, apply forces as required Crew Oxygen Masks—ON/EMERGENCY/100%''	Figure 6 of this AD.
McDonnell Douglas Model MD–90–30 airplanes	''*RAPID DECOMPRESSION* OXY MASKS—ON/100%/EMERGENCY''	Figure 7 of this AD.
McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC–10A, KDC–10), DC–10–40, and DC–10–40F airplanes	''*RAPID DEPRESSURIZATION/EMERGENCY DESCENT* *Recall* Cabin OUTFLOW VALVE—VERIFY CLOSED (CLOSE ELECTRICALLY OR MANUALLY IF NOT CLOSED) Oxygen Masks — 100% (if required)''	Figure 8 of this AD.
McDonnell Douglas Model MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes	''*CABIN ALTITUDE* Memory Item Outflow Valve—Verify Closed''	Figure 9 of this AD.

Figure 1.—For Boeing Model 707, 720, and 727 Series Airplanes

Insert the information in this figure into the ''Emergency Procedures'' section of the FAA-approved Airplane Flight Manual.

* * * * * * *

''CABIN ALTITUDE WARNING OR RAPID DEPRESSURIZATION
If the cabin altitude warning horn sounds:
Oxygen Masks & Regulators—ON, 100%, ALL''

* * * * * * *

The rest of the steps under this heading in the AFM are unchanged.

Figure 2.—For Boeing Model 737–100, –200, and –200C Series Airplanes

Insert the information in this figure into the ''Emergency Procedures'' section of the FAA-approved Airplane Flight Manual.

* * * * * * *

''CABIN ALTITUDE WARNING OR RAPID DEPRESSURIZATION
If the cabin altitude warning horn sounds:
PRIMARY
Oxygen Masks & Regulators—ON, 100%''

* * * * * * *

The rest of the steps under this heading in the AFM are unchanged.

Figure 3.—For Boeing Model 737–300, 737–400, 737–500, 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200F, 747–200C, 747–300, 747SR, and 747SP Series Airplanes

Insert the information in this figure into the ''Emergency Procedures'' section of the FAA-approved Airplane Flight Manual.

* * * * * * *

''CABIN ALTITUDE WARNING OR RAPID DEPRESSURIZATION
If the cabin altitude warning horn sounds:
RECALL
Oxygen Masks & Regulators—ON, 100%''

* * * * * * *

The rest of the steps under this heading in the AFM are unchanged.

Figure 4.—For McDonnell Douglas Model DC–8–11, DC–8–12, DC–8–21, DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, DC–8–43, DC–8–51, DC–8–52, DC–8–53, DC–8F–54, DC–8–55, DC–8F–55, DC–8–61, DC–8–61F, DC–8–62, DC–8–62F, DC–8–63, DC–8–63F, DC–8–71, DC–8–71F, DC–8–72, DC–8–72F, DC–8–73, and DC–8–73F Airplanes

Insert the information in this figure into the ''Emergency Procedures'' section of the FAA-approved Airplane Flight Manual.

* * * * * * *

''CABIN ALTITUDE WARNING OR RAPID DEPRESSURIZATION
Phase I and II
If the cabin altitude warning horn sounds:
Crew oxygen mask—ON''

* * * * * * *

The rest of the steps under this heading in the AFM are unchanged.

Figure 5.—For McDonnell Douglas Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, DC–9–34F, DC–9–41, and DC–9–51 Airplanes

Insert the information in this figure into the ''Emergency Procedures'' section of the FAA-approved Airplane Flight Manual.

* * * * * * *

''CABIN ALTITUDE WARNING OR RAPID DECOMPRESSION/EMERGENCY DESCENT
Phase I and II
If a cabin altitude warning occurs:
Crew Oxygen Masks—ON
Manual Pressurization Control—FULL FORWARD AND MANUALLY LOCKED
NOTE: Manual Pressurization control forces may be high, apply forces as required.''

* * * * * * *

The rest of the steps under this heading in the AFM are unchanged.

Figure 6.—For McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes

Insert the information in this figure into the ''Emergency Procedures'' section of the FAA-approved Airplane Flight Manual.

* * * * * * *

''CABIN ALTITUDE WARNING OR RAPID DECOMPRESSION/EMERGENCY DESCENT
Phase I and II
If the cabin altitude warning horn sounds:
Crew Oxygen Mask—ON/EMERGENCY/100%
Manual Pressurization Control—FULL FORWARD AND MANUALLY LOCKED
NOTE: Manual Pressurization control forces may be high, apply forces as required.''

* * * * * * *

The rest of the steps under this heading in the AFM are unchanged.

Figure 7.—For McDonnell Douglas MD–90–30 Airplanes

Insert the information in this figure into the ''Emergency Procedures'' section of the FAA-approved Airplane Flight Manual.

* * * * * * *

''CABIN ALTITUDE WARNING OR RAPID DECOMPRESSION
If the cabin altitude warning horn sounds:
• OXY MASKS—ON/100%/EMERGENCY''

* * * * * * *

The rest of the steps under this heading in the AFM are unchanged.

Figure 8.—For McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC–10A, KDC–10), DC–10–40, and DC–10–40F Airplanes:

Insert the information in this figure into the ''Emergency Procedures'' section of the FAA-approved Airplane Flight Manual.

* * * * * * *

''CABIN ALTITUDE WARNING OR RAPID DEPRESSURIZATION/EMERGENCY DESCENT
Recall
If the cabin altitude warning horn sounds:
Oxygen Masks—100%
Cabin
OUTFLOW VALVE—VERIFY CLOSED (CLOSE ELECTRICALLY OR MANUALLY IF NOT CLOSED)''

* * * * * * *

The rest of the steps under this heading in the AFM are unchanged.

Figure 9.—For McDonnell Douglas Model MD–10–10F, MD–10–30F, MD–11, and MD–11F Airplanes:

Insert the information in this figure into the ''Emergency Procedures'' section of the FAA-approved Airplane Flight Manual.

* * * * * * *

''CABIN ALTITUDE WARNING OR CABIN ALTITUDE
If the cabin altitude warning horn sounds:
Memory Item
Oxygen Masks—ON/100%/EMERGENCY
Outflow Valve—Verify Closed''

* * * * * * *

The rest of the steps under this heading in the AFM are unchanged.

Alternative Methods of Compliance

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

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

Special Flight Permits

(c) 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.

Effective Date

(d) This amendment becomes effective on March 7, 2003.

Issued in Renton, Washington, on January 24, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–2147 Filed 1–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–31–AD; Amendment 39–13035; AD 2003–03–11]

RIN 2120–AA64

Airworthiness Directives; Air Cruisers Company Emergency Evacuation Slide/Rafts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to a certain Air Cruisers Company Emergency Evacuation Slide/Raft System. This amendment requires a one-time unpacking and subsequent repacking of the slide/raft system, identified by serial numbers (SN's), and mandates repacking of all other slide/raft systems of the same design at the next required normal maintenance schedule of the slide/ raft system. This amendment is prompted by reports of separation of the lower aspirator during a number of deployments. The actions specified by this AD are intended to prevent failure of the slide/raft to properly inflate, which could impede the emergency evacuation of passengers in the event of an airplane emergency.

DATES: Effective March 7, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 7, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Air Cruisers Company, Technical Publications Department, P.O. Box 180, Belmar, NJ 07719–0180; telephone: (732) 681–3527, fax: (732) 280–8212. 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: Leung Lee, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth Street, 3rd floor, Valley Stream, NY 11581–1200; telephone (516) 256–7509; fax (516) 568–2716.

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 a certain Air Cruisers Company Emergency Evacuation Slide/Raft System was published in the **Federal Register** on November 9, 1999 (64 FR 61042). That action proposed to require a one-time unpacking and subsequent repacking of affected slide/raft systems identified by SN's in accordance with Air Cruisers Company Service Bulletin (SB) 777–107–25–06, dated February 19, 1999, and repacking of all other slide/raft systems of the same design in accordance with Air Cruisers Company SB 777–107–25–06, dated February 19,

1999 and the applicable Air Cruisers Company Folding Procedures P–12054 or P–12064, Revision E, dated October 14, 1998.

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.

Revise the Number of Affected Slide/Rafts

Two commenters state that the proposal implies that the problem extends beyond the 93 affected slide/rafts that are listed by SN's in SB 777–107–25–06, dated February 19, 1999. In the proposed actions section, the proposal states that an unsafe condition has been identified that is likely to exist or develop on other emergency evacuation slide/raft systems of the same type design. The commenters disagree with this statement because at the time the problem was identified, a program was implemented to repack all slide/raft systems in inventory, leaving only those identified by SN's listed in the SB as affected.

The FAA disagrees. Because emergency evacuation slide/raft systems of this same design are suspect to potential failure due to the use of improper folding instructions, this AD must address all emergency evacuation slide/raft systems of this same type design, including those specifically identified in the Air Cruisers Company Service Bulletin 777–107–25–06.

Use One Compliance Time

Two commenters request a one-time repacking compliance time of within 18 months after the effective date of this AD for all slide/rafts, instead of the current proposed repacking within two months for slide/rafts identified by SN's, and repacking all other slide/rafts within 18 months after the effective date of this AD. This would make the associated risk consistent for all affected slide/rafts.

The FAA disagrees. The FAA position is that there is still a risk of potential separation of the lower aspirator in this emergency evacuation slide/raft system. In the event of an emergency evacuation, even one slide/raft malfunction may be extremely dangerous. Furthermore, because the Air Cruisers Company Service Bulletin 777–107–25–06, dated February 19, 1999 has been available for more than 18 months, the burden of this AD should be less on all involved. Therefore, the FAA made no changes to the rule with respect to this request.

One-Time Repacking With No Repetitive Repacking

Three commenters request that a one-time unpacking and subsequent repacking be done with no repetitive repacking procedure added to the regular maintenance of the airplane. Since the problem will be corrected with the one-time repacking, the need for repetitive repacking will be eliminated.

The FAA partially agrees. A one-time unpacking and subsequent repacking of the 93 slide/raft systems identified by SN's per this AD is all that is required for conformance to this AD. The requirement of this AD for ''repetitive repacking'' is for addressing all other slide/raft systems of the same design. These slide/raft systems are to be repacked at the next scheduled maintenance cycle within the compliance time of this AD in accordance with the applicable Air Cruisers Company Folding Procedures. The FAA will modify the wording ''repetitive repacking'' to read ''repacking of all other slide/raft systems of the same design.''

Revision Level of the Applicable Folding Procedures

One commenter states that it is not appropriate to designate the folding procedure revision number since the procedure may be revised in the future. The commenter requests including ''or latest as revised'' to Folding Procedures P–12054 and P–12064, Revision E. Another commenter requests that the specific revision level of the applicable folding procedure not be listed at all.

The FAA partially agrees. Since the proposal was issued, the FAA has determined that Folding Procedures P–12054 and P–12064, Revision E and earlier, are insufficent and are not to be used to comply with this AD. Repacking must be done in accordance with the applicable Air Cruisers Company Folding Procedure P–12054 or P–12064, Revision F, dated March 12, 1999, or later FAA approved revision, for all emergency evacuation slide/raft systems of the same design. Therefore paragraphs (a) through (d) of the AD is reworded, stating to repack the slide/raft systems in accordance with the applicable Air Cruisers Company Folding Procedure P–12054 (for left-hand slide/rafts), Revision F, dated March 12, 1999, or later FAA approved revision, or Folding Procedure P–12064 (for right-hand slide/rafts), Revision F, dated March 12, 1999, or later FAA approved revision.

Limit the Applicability

One commenter requests removing the words '' but not limited to'' from the proposed AD applicability paragraph. Otherwise, unaffected owners/operators will have to spend resources in determining that compliance is unnecessary.

The FAA disagrees. Although these emergency evacuation slide/raft systems are currently installed on Boeing 777–200 and –300 only, it is possible that these slide/raft systems could be installed on other airplanes. Therefore, the FAA made no changes to the rule with respect to this request.

Identify Only Basic Part Numbers

One commenter requests that the AD remove the dash numbers from part numbers identifying the slide/raft systems, and use only the basic, open-ended part numbers. Then for part number details, refer to the effectivity of the applicable Air Cruisers Service Bulletin.

The FAA disagrees. Open-ended slide/raft systems part numbers would cause any future part numbers to become falsely applicable to this AD. Therefore, the FAA made no changes to the rule with respect to this request.

Approval As-Written

One commenter approves the proposal as-written.

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 388 slide/raft systems of the affected design in the worldwide fleet. The FAA estimates that 74 slide/raft systems installed on airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 work hours per slide/raft system to accomplish the repacking, and that the average labor rate is $60 per work hour. Based on these figures, the total cost of the AD on U.S. operators is estimated to be $22,200.

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:

2003–03–11 Air Cruisers Company: Amendment 39–13035. Docket No. 99–NE–31–AD.

Applicability

This airworthiness directive (AD) is applicable to Air Cruisers Company Emergency Evacuation Slide/Raft System part numbers (P/N's) 62774–401, 62774–402, 62774–403, 62774–404, 62774–405, 62774–406, 62774–407 and 62774–408, with the affected slide/raft systems identified by the serial numbers (SN's) listed in the following Table 1:

TABLE 1.—AFFECTED SLIDE/RAFT SN'S

0203	0207	0220	0234	0235	0239	0241	0245	0250	0255
0267	0277	0280	0302	0305	0306	0310	0312	0316	0318
0320	0330	0332	0333	0335	0339	0342	0343	0344	0345
0348	0349	0350	0351	0354	0355	0356	0358	0364	0365
0366	0368	0369	0372	0373	0374	0376	0378	0379	0380
0381	0384	0385	0388	0389	0390	0391	0392	0394	0395
0396	0397	0398	0399	0402	0403	0404	0406	0408	0409
0411	0413	0415	0417	0418	0419	0420	0421	0422	0423
0425	0426	0427	0428	0429	0430	0431	0433	0438	0443
0445	0455	0456							

These Emergency Evacuation Slide/Raft Systems are installed on, but not limited to Boeing 777–200 and –300 series airplanes.

Note 1: This AD applies to each Emergency Evacuation Slide/Raft System identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired. For Emergency Evacuation Slide/Raft Systems that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if 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 emergency evacuation slide/raft to properly inflate, which could impede the emergency evacuation of passengers in the event of an airplane emergency, do the following:

Repacking

(a) For slide/raft systems identified by SN's as listed in Table 1 of this AD, do the following in accordance with Accomplishment Instructions described in Air Cruisers Company SB 777–107–25–06, dated February 19, 1999, and the applicable Air Cruisers Company Folding Procedure P–12054 (for left-hand slide/rafts), Revision F, dated March 12, 1999, or later FAA approved revision, or Folding Procedure P–12064 (for right-hand slide/rafts), Revision F, dated March 12, 1999, or later FAA approved revision:

(1) For slide/raft systems currently installed on airplanes, repack within 2 months after the effective date of this AD.

(2) For uninstalled slide/raft systems, repack before installation.

(b) Repack all slide/raft systems, excluding those identified in paragraph (a) of this AD, in accordance with the applicable Air Cruisers Company Folding Procedure P–12054 (for left-hand slide/rafts), Revision F, dated March 12, 1999, or later FAA approved revision, or Procedure P–12064 (for right-hand slide/rafts), Revision F, dated March 12, 1999, or later FAA approved revision, at the next required normal maintenance schedule of the slide/raft system, or no later than 18 months after the effective date of this AD.

(c) Emergency Evacuation Slide/Raft Systems which have already been repacked in accordance with the applicable Air Cruisers Company Folding Procedures P–12054 or P–12064, Revision F or later FAA approved revision, are considered in compliance to the requirements of paragraph (b) of this AD.

(d) All subsequent repacking of the Emergency Slide/Raft System during the normal scheduled maintenance must be performed in accordance with the applicable Air Cruisers Company Folding Procedures P–12054 or P–12064, Revision F or later FAA approved revision.

Alternative Methods of Compliance

(e) 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, New York Aircraft Certification Office. Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

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

Special Flight Permits

(f) 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

(g) The repacking must be done in accordance with the following Air Cruisers Company service bulletin (SB) and Folding Procedures (FP):

Document No.	Pages	Revision	Date
SB 777–107–25–06 Total pages: 3	All	Original	February 19, 1999.
P–12054 Total pages: 158	All	F	March 12, 1999.
P–12064 Total pages: 156	All	F	March 12, 1999.

The incorporations by reference were 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 Air Cruisers Company, Technical Publications Department, PO Box 180, Belmar, NJ 07719–0180; telephone: (732) 681–3527, fax: (732) 280–8212. Copies may be inspected by appointment 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

(h) This amendment becomes effective on March 7, 2003.

Issued in Burlington, Massachusetts, on January 22, 2003.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–1952 Filed 1–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–277–AD; Amendment 39–13032; AD 2003–03–08]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes, that requires a one-time inspection at a certain disconnect panel in the left forward cargo compartment to find contamination of electrical connectors and to determine if a dripshield is installed over the disconnect panel, and corrective actions if necessary. The actions specified by this AD are intended to find and fix contamination of certain electrical connectors and prevent future contamination of these connectors, which could cause electrical arcing that could result in a fire on the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 7, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 7, 2003.

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: Elvin K. Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 certain McDonnell Douglas Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes was published in the **Federal Register** on August 23, 2002 (67 FR 54597). That action proposed to require a one-time inspection at a certain disconnect panel in the left forward cargo compartment to find contamination of electrical connectors and to determine if a dripshield is installed over the disconnect panel, and corrective actions if necessary.

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 Clarify Applicability

One commenter asks that the applicability in the proposed AD be clarified, in that it only applies to airplanes with forward lavatories installed. The commenter notes that Boeing Alert Service Bulletin DC9–24A190, Revision 01, dated November 21, 2001 (which is referenced as the appropriate source of service information for accomplishment of the actions specified in the proposed AD), specifies airplanes that had forward lavatories installed. The commenter adds that such clarification would eliminate the need for an alternative method of compliance for airplanes without a forward lavatory.

The FAA agrees with the commenter. We have changed the applicability section in this final rule to clarify that it applies only to airplanes with forward lavatories installed.

Request To Extend Compliance Time

One commenter asks that the compliance time in the proposed AD be extended from 18 to 24 months after the effective date of the AD. The commenter states that per the 18 month compliance time, 159 airplanes in the DC–9 fleet must be modified during normal ''L,'' ''H,'' and ''M'' maintenance checks. The commenter adds that meeting the 18-month compliance time may require special maintenance visits, and changing the compliance time to 24 months would allow time for accomplishment of the inspection and for the airplane manufacturer to provide parts to support replacement of the dripshield, if necessary, during normal maintenance visits.

We do not agree with the commenter. The commenter provides no technical data to justify its statement that the proposed compliance time should be extended. In developing an appropriate compliance time for this AD, we considered not only the safety implications, but the manufacturer's recommendations, availability of spare parts, and the practical aspect of accomplishing the inspection within an interval of time that parallels normal scheduled maintenance for affected operators. In consideration of all of these factors, we have determined that the compliance time, as proposed, represents an appropriate interval in which the inspection can be

accomplished in a timely manner within the fleet and still maintain an adequate level of safety. However, under the provisions of paragraph (c) of the final rule, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. No change to the final rule is necessary in this regard.

Request To Change Cost Impact Section

One commenter does not agree with the manpower estimates in the Cost Impact section of the proposed AD. The commenter states that, under the worst conditions, an airplane will have blue water contamination and no dripshield installed. The commenter adds that it will take one sheet metal mechanic 6 hours to install the dripshield and all open/close access requirements; and it will take one electrical technician 8 hours to clean each electrical connector and do affected system checks. The commenter notes that these estimates are based on actual labor done on one of its airplanes. The commenter also provided estimates of the inflated cost of parts ordered with a 300-day lead-time.

From this comment, we infer that the commenter is asking that the cost impact estimate be revised. We do not agree. The economic analysis of the AD is limited only to the cost of actions actually required by the rule. It does not consider the costs of ''on condition'' actions, such as installation of an electrical connector or a dripshield if discrepancies are found during a required inspection (''corrective actions, if necessary''). Such ''on-condition'' corrective actions would be required to be accomplished, regardless of AD direction, to correct an unsafe condition identified in an airplane and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations. Therefore, no change to the final rule is necessary in this regard.

Explanation of Editorial Change

We have changed the service bulletin citation throughout this final rule to exclude the Evaluation Form. (The form is intended to be completed by operators and submitted to the manufacturer to provide input on the quality of the service bulletin; however, this AD does not include such a requirement.)

Conclusion

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 previously described. 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 80 airplanes of the affected design in the worldwide fleet. The FAA estimates that 51 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection on U.S. operators is estimated to be $3,060, or $60 per airplane.

The cost impact figure discussed above is 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 adding the following new airworthiness directive:

2003–03–08 McDonnell Douglas: Amendment 39–13032. Docket 2001–NM–277–AD.

Applicability: Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, DC–9–34F, DC–9–41, and DC–9–51 airplanes equipped with forward lavatories; as listed in Boeing Alert Service Bulletin DC9–24A190, Revision 01, dated November 21, 2001; 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 find and fix contamination of certain electrical connectors and prevent future contamination of these connectors, which could cause electrical arcing and result in a fire on the airplane, accomplish the following:

One-Time Inspection and Corrective Actions

(a) Within 18 months after the effective date of this AD, perform a one-time general visual inspection of the disconnect panel at station Y=237.000 in the left forward cargo compartment to find evidence of contamination (*e.g.*, staining or corrosion) of electrical connectors by blue water, and to determine if a dripshield is installed over the

disconnect panel. Do this inspection according to the Accomplishment Instructions of Boeing Alert Service Bulletin DC9–24A190, Revision 01, excluding Evaluation Form, dated November 21, 2001.

(1) If no evidence of contamination of electrical connectors is found, and a dripshield is installed, no further action is required by this AD.

(2) If any evidence of contamination of any electrical connector is found: Before further flight, remove each affected connector, and install a new or serviceable connector according to the service bulletin.

(3) If no dripshield is installed over the disconnect panel: Before further flight, install a dripshield according to the service bulletin.

Previously Accomplished Inspections and Corrective Actions

(b) Inspections and corrective actions accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin DC9–24A190, dated July 31, 2001, are considered acceptable for compliance with the corresponding action specified in 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) Unless otherwise specified by this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin DC9–24A190, Revision 01, excluding Evaluation Form, dated November 21, 2001. 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 March 7, 2003.

Issued in Renton, Washington, on January 22, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–1954 Filed 1–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–48–AD; Amendment 39–13034; AD 2003–03–10]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes, that requires replacement of the existing ''Low Temp'' terminal blocks ''G'' with new, fireproof ceramic terminal blocks ''G'' in engine zones 412, 422, 432, and 442. This action is necessary to prevent failure of the engine fire detection and suppression systems to operate properly in the event of a fire due to failure of non-fireproof terminal blocks, which could result in an undetected and uncontrollable fire in an engine. This action is intended to address the identified unsafe condition.

DATES: Effective March 7, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 7, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

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 BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ series airplanes was published in the **Federal Register** on May 15, 2002 (67 FR 34633). That action proposed to require replacement of the existing ''Low Temp'' terminal blocks ''G'' with new, fireproof ceramic terminal blocks ''G'' in engine zones 412, 422, 432, and 442.

Comments

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

Request To Extend the Compliance Time

One commenter requests that the FAA extend the compliance time for the replacement in the proposed AD from 21 months to July 31, 2004, (the equivalent of an additional 12 months). The commenter states that the request is based upon limited parts availability and feedback from large fleet operators. The commenter also states that the Civil Aviation Authority for the United Kingdom has approved the extension of the compliance time for airplanes operating in the United Kingdom.

The FAA concurs with the commenter's request. We have verified that the lead time for obtaining the required modification parts will exceed the proposed compliance time of 21 months. In light of this situation, we will extend the compliance time from 21 months to 31 months after the effective date of this AD. We have determined that such an extension will accommodate the time necessary for affected operators to order and obtain the replacement parts, without adversely affecting safety. We have revised paragraph (a) of this AD accordingly.

Explanation of New Relevant Service Information

Since issuance of the proposed AD, the manufacturer has issued BAE Systems (Operations) Limited Service Bulletin SB.71–077–01693A, Revision 1, dated March 28, 2002; and Revision 2, dated May 28, 2002. The proposed rule

referenced the original issue of this service bulletin, dated October 10, 2001, as the appropriate source of service information for the proposed replacement. We find that the procedures described in Revision 1 and Revision 2 of the service bulletin are essentially the same as those in the original issue. Therefore, we have revised paragraph (a) of the final rule to reference Revision 2 of the service bulletin as the appropriate source of service information. We have also included a new paragraph (b) to this final rule (and re-lettered subsequent paragraphs accordingly) to give credit for replacements accomplished before the effective date of this AD per the original issue or Revision 1 of the service bulletin.

Conclusion

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

Cost Impact

We estimate that 55 Model BAe 146 and Avro 146-RJ series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane (1 hour per engine, 4 engines per airplane) to accomplish the required actions, and that the average labor rate is $60 per work hour. The cost for required parts will be negligible. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $13,200, or $240 per airplane.

The cost impact figure discussed above is 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 adding the following new airworthiness directive:

2003–03–10 BAE Systems (Operations) Limited: Amendment 39–13034. Docket 2002–NM–48–AD.

Applicability: All Model BAE 146 and Avro 146–RJ series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 failure of the engine fire detection and suppression systems to operate properly in the event of a fire, which could result in an undetected and uncontrollable fire in an engine, accomplish the following:

Replacement

(a) Within 31 months after the effective date of this AD, replace the existing ''Low Temp'' terminal blocks ''G'' with new, fireproof ceramic terminal blocks ''G,'' part number S3409–872, in engine zones 412, 422, 432, and 442; per BAE Systems (Operations) Limited Service Bulletin SB.71–077–01693A, Revision 2, dated May 28, 2002.

(b) Replacements accomplished prior to the effective date of this AD per BAE Systems (Operations) Limited Service Bulletin SB.71–077–01693A, dated October 10, 2001; or Revision 1, dated March 28, 2002; are acceptable for compliance with the requirements of 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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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) Unless otherwise specified in this AD, the replacement shall be done per BAE Systems (Operations) Limited Service Bulletin SB.71–077–01693A, Revision 2 dated May 28, 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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. 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.

Note 3: The subject of this AD is addressed in British airworthiness directive 005–10–2001.

Effective Date

(f) This amendment becomes effective on March 7, 2003.

Issued in Renton, Washington, on January 22, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–1955 Filed 1–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–06–AD; Amendment 39–13036; AD 2003–03–12]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Arriel 1 A2, 1 C, 1 C1, 1 C2, 1 D, 1 D1, 1 E2, 1 K, 1 K1, 1 S, 1 S1 and Arriel 2 B, 2 B1, 2 C, 2 C1, 2 S1 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Turbomeca S.A. Arriel 1 A2, 1 C, 1 C1, 1 C2, 1 D, 1 D1, 1 E2, 1 K, 1 K1, 1 S, 1 S1 and Arriel 2 B, 2 B1, 2 C, 2 C1, 2 S1 series turboshaft engines. This amendment requires the insertion of a sleeve in the attachment boss of the compressor bleed valve, and bonding the sleeve in the bleed-valve mounting pad. This amendment is prompted by several cases of contained centrifugal compressor impeller blade ruptures that occurred in service. The actions specified by this AD are intended to prevent acoustic excitation of the centrifugal compressor impeller blades resulting in contained compressor impeller blade ruptures and power loss that could lead to an uncommanded in-flight shutdown.

DATES: Effective March 7, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 7, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Turbomeca S.A, 64511 Bordes Cedex, France; telephone 33 05 59 64 40 00; fax 33 05 59 64 60 80. 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: Antonio Cancelliere, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7751; 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 Turbomeca S.A. Arriel 1 D, 1 D1, 1 S, 1 S1, and −2B series turboshaft engines was published in the **Federal Register** on September 6, 2001 (66 FR 46562). That proposal was revised by a supplemental notice of proposed rulemaking (SNPRM) to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that expanded the applicability to Turbomeca S.A. Arriel 1 A2, 1 C, 1 C1, 1 C2, 1 D, 1 D1, 1 E2, 1 K, 1 K1, 1 S, 1 S1 and Arriel 2 B, 2 B1, 2 C, 2 C1, 2 S1 series turboshaft engines. That SNPRM was published in the **Federal Register** on September 20, 2002 (67 FR 59217). That action proposed to require the insertion of a sleeve in the attachment boss of the compressor bleed valve, and bonding the sleeve in the bleed-valve mounting pad, in accordance with Turbomeca S.A. Mandatory Service Bulletin (MSB) No. 292 72 2054, dated September 20, 1999; MSB No. 292 72 0261, dated September 20, 1999; MSB No. 292 72 2070, Update No. 1, dated October 5, 2001; and MSB No. 292 72 0275, Update No. 1, dated October 2, 2001. Since the publication of the SNPRM, MSB No. 292 72 0275 has been reissued as Update No. 2, dated April 15, 2002. This MSB expands the engine model applicability of this AD by referencing MSB No. 292 72 0261, dated September 20, 1999, and Service Bulletin (SB) No. 292 72 0262, dated September 28, 1999. Accordingly, a new paragraph (b) has been added to reflect the updated MSB.

Comments

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

Economic Analysis

There are approximately 1,406 Turbomeca S.A. Arriel 1 and Arriel 2 model turboshaft engines of the affected design in the worldwide fleet. The FAA estimates that 476 engines installed on helicopters of U.S. registry will be affected by this AD, that it will take approximately 1.0 work hour per engine to perform the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $430 per engine. Based on these figures, the total cost of the AD to U.S. operators is estimated to be $233,240.

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:

2003–03–12 Turbomeca S.A.: Amendment 39–13036. Docket No. 2001–NE–06–AD.

Applicability: This airworthiness directive (AD) is applicable to Turbomeca S.A. Arriel

1 A2, 1 C, 1 C1, 1 C2, 1 D, 1 D1, 1 E2, 1 K, 1 K1, 1 S, 1 S1 and Arriel 2 B, 2 B1, 2 C, 2 C1, 2 S1 series turboshaft engines. These engines are installed on, but not limited to, Eurocopter France AS350B1, AS350B2, AS350B3; Astar 350D, Fennic AD550U2 and Sikorsky S–76A and S–76C series helicopters.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 within 30 days after the effective date of this AD, unless already done.

To prevent acoustic excitation of the centrifugal compressor impeller blades, resulting in contained blade ruptures and power loss that could lead to an uncommanded in-flight shutdown, do the following:

Modification TU 300 Not Incorporated

(a) For Arriel 1 D, 1 D1, 1 S, and 1 S1 engines that do not have TU 300 incorporated, incorporate TU 300 and TU 316A as follows:

(1) Remove the bleed valve in accordance with the Instructions to be Incorporated of Turbomeca mandatory service bulletin (MSB) No. 292 72 0261, dated September 20, 1999.

(2) Install sleeve part number (P/N) 0 292 15 333 0 and the bleed valve in accordance with 2.B.(1)(d) through 2.B.(1)(g) of the Instructions to be Incorporated of Turbomeca MSB No. 292 72 0275, Update No. 2, dated April 15, 2002.

(b) For Arriel 1 A2, 1 C, 1 C1, 1 C2, 1 E2, 1K, 1 K1 engines that do not have TU 300 incorporated, incorporate TU 300 and TU 316A as follows:

(1) Remove the bleed valve in accordance with the Instructions to be Incorporated of Turbomeca service bulletin (SB) No. 292 72 0262, dated September 28, 1999.

(2) Install sleeve part number (P/N) 0 292 15 333 0 and the bleed valve in accordance with 2.B.(1)(d) through 2.B.(1)(g) of the Instructions to be Incorporated of Turbomeca MSB No. 292 72 0275, Update No. 2, dated April 15, 2002.

Modification TU 300 Incorporated

(c) For Arriel 1 A2, 1 C, 1 C1, 1 C2, 1 D, 1 D1, 1 E2, 1 K, 1 K1, 1 S and 1 S1 engines that have modification TU 300 incorporated, incorporate modification TU 316A in accordance with 2.B.(1)(a) through 2.B.(1)(g) or 2.B.(2) of the Instructions to be Incorporated of Turbomeca. MSB No. 292 72 0275, Update No. 2, dated April 15, 2002.

Modification TU 54 Not Incorporated

(d) For Arriel 2 B and 2 S1 engines that do not have modification TU 54 incorporated, incorporate TU 54 and TU 70A as follows:

(1) Remove the bleed valve in accordance with the Instructions to be Incorporated of Turbomeca MSB No. 292 72 2054, dated September 20, 1999.

(2) Install sleeve P/N 0 292 15 333 0 and the bleed valve in accordance with the 2.B.(1)(d) through 2.B.(1)(g) or 2.B.(2) of the Instructions to be Incorporated of Turbomeca MSB No. 292 72 2070, Update No. 1, dated October 5, 2001.

Modification TU 54 Incorporated

(e) For Arriel 2 B, 2 B1, 2 C, 2 C1 and 2 S1 engines that have modification TU 54 incorporated, incorporate modification TU 70A in accordance with 2.B.(1)(a) through 2.B.(1)(g) or 2.B.(2) of the Instructions to be Incorporated of Turbomeca MSB No. 292 72 2070, Update No. 1, dated October 5, 2001.

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 request 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 aircraft to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(h) The actions must be done in accordance with the following Turbomeca S.A. Mandatory Service Bulletins (MSB's) and Service Bulletin (SB):

Document No.	Pages	Revision	Date
MSB No. 292 72 2054 Total Pages: 6	All	Original	Sept. 20, 1999.
MSB No. 292 72 0261 Total Pages: 6	All	Original	Sept. 20, 1999.
SB No. 292 72 0262 Total Pages: 6	All	Original	Sept. 28, 1999.
MSB No. 292 72 2070 Total Pages: 9	All	1	Oct. 5, 2001.
MSB No. 292 72 0275 Total Pages: 9	All	2	April 15, 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 Turbomeca S.A, 64511 Bordes Cedex, France; telephone 33 05 59 64 40 00; fax 33 05 59 64 60 80. 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 3: The subject of this AD is addressed in Direction Generale de L'Aviation Civile (DGAC) Airworthiness Directives No. 2002–126(A) and 2002–127(A), dated March 6, 2002 that replaced DGAC AD's 1999–391(A) and 1999–392(A), dated October 6, 1999.

Effective Date

(i) This amendment becomes effective on March 7, 2003.

Issued in Burlington, Massachusetts, on January 22, 2003.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–2093 Filed 1–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–05–AD; Amendment 39–13037; AD 2003–03–13]

RIN 2120–AA64

Airworthiness Directives; MORAVAN a.s. Model Z-242L Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all MORAVAN a.s. (Moravan) Model Z-242L airplanes. This AD establishes a technical service life for these airplanes by restricting Acrobatic and Utility category operations and requiring replacement of the wings after a certain operational time period. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the Czech Republic. The actions specified by this AD are intended to prevent structural failure of the wing due to fatigue cracking. Such failure could result in a wing separating from the airplane with consequent loss of airplane control.

DATES: This AD becomes effective on March 21, 2003.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 21, 2003.

ADDRESSES: You may get the service information referenced in this AD from Moravan, Inc., 765 81 Otrokovice, Czech Republic; telephone: +420 67 767 3940; facsimile: +420 67 792 2103. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE–05-AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Civil Aviation Authority Czech Republic (CAA CZ), which is the airworthiness authority for the Czech Republic, notified FAA that an unsafe condition may exist on all Moravan Model Z-242L airplanes. The CAA CZ reports that these airplanes are operated over the load spectrum that was used at certification. The CAA CZ further reports that a technical service life for these airplanes is needed. The affected airplanes fall into two different groups:

—Group 1: those airplanes with a serial number in the range of 0001 through 0656 with the original wings installed; and

—Group 2: those airplanes with stronger wings installed either through modification (serial numbers 0001 through 0656) or at manufacture (all serial numbers beginning with 0657).

Based on analysis, the CAA CZ reports that the technical service life should be:

	Acrobatic and utility category operations	All operations
Group 1	190 hours time-in-service (TIS) only in these categories. Operation only in the Normal category thereafter.	3,500 hours TIS. New wings must be installed prior to further operation.
Group 2	450 hours TIS only in these categories. Operation only in the Normal category thereafter.	5,500 hours TIS. New wings must be installed prior to further operation.

What Is the Potential Impact if FAA Took No Action?

Fatigue cracks in the wing, if not detected and corrected or prevented, could result in structural failure of the wing. Such failure could result in a wing separating from the airplane with consequent loss of airplane control.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Moravan Model Z–242L airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 4, 2002 (67 FR 62214). The NPRM proposed to establish a technical service life for these airplanes by restricting Acrobatic and Utility category operations and requiring replacement of the wings after a certain operational time period.

Was the Public Invited to Comment?

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

Comment Issue No. 1: Delay the AD Until Moravan America Completes an Analysis of the Problem and Presents an Alternative

What Is the Commenters' Concern?

Several commenters request that FAA delay issuing the final rule AD until after Moravan America has a chance to present an alternative to the actions specified in the NPRM. Specific comments in this area are as follows:

—One of the alternatives that Moravan America is working on allows an extension of the 450-hour time-in-service (TIS) Acrobatic and Utility operations life limit to 700 hours TIS. This would only apply to airplanes with strengthened wings;

—Moravan America will produce a service bulletin tailored to the operational characteristics of the U.S. safety assurance system and will provide operational guidelines and a measurement system for exceeding load limits. Included in this service bulletin would be guidelines for continued airworthiness and operational constraints;

—The FAA should delay issuing this AD until Moravan America has a chance to evaluate all the facts leading to the issuance of the Czech Republic AD. The Moravan America proposed solution will be a better option; and

—Moravan America can have a proposed alternative to this AD within 90 days.

What Is FAA's Response to the Concern?

The FAA is continuing with this AD action. However, we will add a grace period of ''90 days after the effective date of this AD'' to the compliance time of the life limits in the Utility and Acrobatic categories. This would make the compliance time ''upon accumulating either 190 hours TIS or 450 hours TIS in the Utility or Acrobatic category or on or before June 10, 2003 (90 days after the effective date of this AD), whichever occurs later.'' This compliance time change will give Moravan America the time it needs to develop an alternative method of compliance and service bulletin for FAA approval.

Based on data submitted, we may approve an alternative method of compliance and amend the AD, as appropriate.

Comment Issue No. 2: The Life Limit for Airplanes With Strengthened Wings Should Be 5,500 Hours Time-in-Service (TIS)

What Is the Commenter's Concern?

One commenter states that the life limit for airplanes with the strengthened wings should be 5,500 hours TIS. We infer that the commenter wants the NPRM changed to reflect this.

What Is FAA's Response to the Concern?

We partially concur. The life limit for the affected airplanes with strengthened wings is 5,500 hours TIS while operated in the Normal category. The life limit for these airplanes in the Utility and Acrobatic categories is 450 hours TIS. After the sum of time in the Utility and Acrobatic categories equals 450 hours TIS or within 90 days after the effective date of the AD (whichever occurs later), you may only operate the airplane in the Normal category until the accumulation of 5,500 hours TIS. Utility and Acrobatic category operation would be prohibited until the installation of new wings.

The life limits for Utility and Acrobatic category operation and Normal category operation would start over again after replacement of the wings.

We are not changing the final rule AD action as a result of this comment.

Comment Issue No. 3: Allow a Life Limit Extension Through Installation of the AMU1 Monitoring Unit

What Is the Commenters' Concern?

Several commenters request that FAA change the NPRM to allow those airplanes that incorporate the strengthened wings to operate past 450 hours TIS in the Utility and Acrobatic categories if an AMU1 (acceleration monitoring unit) is installed. The commenters state that this unit regularly monitors the load factors on the primary structure and evaluates the measured load spectrum and collates it with the CAA–FAA and ZLIN–A spectrums. The commenters feel that this AMU1 unit has had an indisputable and substantial impact on increasing the safe fatigue life on the Model Z–242L airplanes.

What Is FAA's Response to the Concern?

We do not concur that the AMU1 unit should be part of the proposed AD. The CAA CZ examined all the available data and decided that these airplanes should be life limited to the levels described in the NPRM.

We have determined that these life limit values are valid and that allowing all airplanes to exceed these values through the use of an acceleration monitoring unit does not address the unsafe condition. The FAA will evaluate requests for this option on an individual basis and may issue alternative methods of compliance provided the request is made in accordance with the procedures in paragraph (e) of the AD and provides a level of safety acceptable to FAA.

We are not changing the final rule AD action as a result of this comment.

Comment Issue No. 4: Allow Moravan to Extend the Life Limits on a Case-by-Case Basis

What Is the Commenters' Concern?

Several commenters state that Moravan has the capability of approving the data from the acceleration monitoring unit and allowing continued operation past the specified life limits. The commenters further state that Moravan recognizes the information from both the AMU1 unit and the Corsa Data Acquisition System (CDAS) in allowing the affected airplanes to operate past the 450-hour TIS life limit in the Utility and Acrobatic categories and operate to the 5,500-hour TIS Normal category life limit.

The commenters suggest that FAA give Moravan the authority to allow the affected airplane operators to operate past the Utility and Acrobatic life limit categories.

What Is FAA's Response to the Concern?

We do not concur. As earlier stated, the CAA CZ examined all the available data and decided that these airplanes should be life limited to the levels described in the NPRM. We have determined that these life limits are valid.

The FAA is not allowed to delegate its rulemaking authority to an aircraft manufacturer. Allowing Moravan to determine whether an airplane can exceed these values through the use of an AMU1 or CDAS would be the same as delegating our rulemaking authority.

We will evaluate requests for this option on an individual basis and may issue alternative methods of compliance provided the request is found to be at a level of safety acceptable to FAA and is made in accordance with the procedures in paragraph (e) of the AD.

We are not changing the final rule AD action as a result of this comment.

Comment Issue No. 5: Allow a Root Wing Modification

What Is the Commenter's Concern?

One commenter recommends that FAA add the option of incorporating a wing root modification to allow operation in the Utility and Acrobatic categories to 3,500 hours TIS. This is for airplanes with unstrengthened wings that are not eligible for the AMU1 method to increase operation to the 5,500 hours TIS.

What Is FAA's Response to the Concern?

We do not concur. As earlier stated, the CAA CZ examined all the available data and decided that these airplanes should be life limited to the levels described in the NPRM. We have determined that these life limits are valid.

Moravan has superseded the service bulletin that incorporated the referenced root wing modification, and the CAA CZ does not have current AD action that references this root wing modification. The FAA has examined all of the information available from CAA CZ and has determined that the root wing modification is not a valid option for this AD action.

We are not changing the final rule AD action as a result of this comment.

Comment Issue No. 6: The Model Z–242L Airplanes Should Either Be Eliminated From the AD or Not Have Utility and Acrobatic Category Life Limit Restrictions

What Is the Commenters' Concern?

Several comments state that both the CAA CZ and FAA have approved fatigue testing done on 3 Model Z242L airplanes that shows that the airplanes can be operated to 5,500 hours TIS without any life limits on Utility or Acrobatic category operations. These commenters recommend that we remove the Utility and Acrobatic category life limit requirement from the AD for the Model Z–242L airplanes.

Another commenter states that the service history on this subject matter is only for the earlier manufactured airplane models and no data exists for the Model Z–242L airplanes. The airplane models that the commenter refers to are not certificated for operation in the United States. This commenter recommends that FAA withdraw the NPRM.

One commenter states that the proposed AD action is based on an accident of a Model Z–142 airplane (not certificated in the United States) in Australia. The commenter points out that the wing on the Model Z–242L has a totally different design and should not be affected by the subject matter in this AD. The commenter proposes that FAA withdraw the NPRM.

What Is FAA's Response to the Concern?

The FAA does not concur that the Model Z–242L airplanes should be

excluded from the AD or exempt from the Utility and Acrobatic category life limit requirements. We concur that there may be differences in the design of the aircraft, but we do not concur that the Model Z–242L is not affected by this subject matter. The CAA CZ has approved the life limits that are included in this AD for the Model Z–242L airplanes, and FAA has determined that they are valid for these airplanes that are registered in the United States. The FAA has to issue an AD to mandate the reduction in a life limit or a change or addition of an airworthiness limitation, even if the reduction, change, or addition is FAA-approved. Therefore, the AD is necessary in order to ensure the life limits are required.

We are not changing the final rule AD action as a result of this comment.

Comment Issue No. 7: Why Issue an AD When the Life Limits Are Already Published in the Maintenance Manual

What Is the Commenter's Concern?

One commenter states that the current life limits are already in force because the manufacturer included them in a revision to the maintenance manual. Because of this, the commenter believes the AD is unnecessary and requests that FAA withdraw the NPRM.

What Is FAA's Response to the Concern?

We do not concur that the AD is unnecessary and the NPRM should be withdrawn. There are distinct differences between the CAA CZ and FAA's rulemaking processes. If the CAA CZ determines an airworthiness limitation should be added or a life limit should be reduced, it only has to stamp CAA CZ approved on the document (service bulletin or maintenance manual revision) to enforce the change. The FAA has to issue an AD to mandate the reduction in a life limit or a change or addition of an airworthiness limitation, even if the reduction, change, or addition is FAA-approved. Therefore, the AD is necessary in order to ensure the life limits are required.

We are not changing the final rule AD action as a result of this comment.

Comment Issue No. 8: Allow the Option of Repetitive Inspections Instead of Wing Replacement

What Is the Commenter's Concern?

One commenter requests that FAA allow repetitive inspection of the wings once one of the affected airplanes reaches the life limit in Utility and Acrobatic operations. The commenter believes that the aircraft could then continue to fly until it reached the total hours TIS life limit provided no cracks are found during the inspections. The commenter states that this would provide the same level of safety because cracks would be detected before failure, and then FAA could mandate replacement of the wings when the cracks were found.

What Is FAA's Response to the Concern?

There currently are no procedures available for detecting cracks in the wings of the affected airplanes. The CAA CZ has not approved inspections in this area and has approved the life limits. Therefore, we are mandating the life limits through this AD action.

We would consider repetitive inspections as an alternative method of compliance provided the method:

—included procedures that provided details on how the onset of the fatigue damage was going to be detected;
—was submitted in accordance with the procedures specified in this AD; and
—provided a level of safety that was acceptable to FAA.

We are not changing the final rule AD action as a result of this comment.

Comment Issue No. 9: The Cost of This AD Is Too High

What Is the Commenters' Concern?

Several commenters request that FAA not issue the AD because of the high cost.

What Is FAA's Response to the Concern?

The FAA does not concur. While we do take the cost impact into consideration on AD actions, the most important aspect is the safety issue. The passenger injuries that might be prevented through compliance with this AD outweigh the cost of compliance with this AD. We have determined that the CAA CZ life limits are valid and should be mandated for airplanes certificated for operation in the United States. We will approve any alternative method of compliance from the commenters provided it is submitted in accordance with the procedures in the AD and we determine that it provides an acceptable level of safety.

We are not changing the final rule AD action as a result of this comment.

Comment Issue No. 10: How Do You Track Utility and Acrobatic Time?

What Is the Commenter's Concern?

One commenter wants clarification on how time in the Utility and Acrobatic categories is calculated. This commenter states that no U.S. operator has an accurate account of acrobatic time at this point so all wings would have to be replaced or no one is going to claim the right number of hours in these categories.

What Is FAA's Response to the Concern?

We concur that it could be difficult to account for the number of hours TIS previously accumulated in the Utility and Acrobatic categories. However, the CAA CZ established the limits in the Utility and Acrobatic categories at 190 or 450 hours TIS and we have determined that they are valid and should be mandated for airplanes certificated for operation in the United States. As previously discussed, we are adding a grace period of ''90 days after the effective date of this AD'' to the compliance time of the life limits in the Utility and Acrobatic categories. This would make the compliance time ''upon accumulating either 190 hours TIS or 450 hours TIS in the Utility or Acrobatic category or on or before June 10, 2003 (90 days after the effective date of this AD), whichever occurs later.''

All operators will have at least 90 days before they are restricted from operations in the Utility and Acrobatic categories.

We have added procedures to the AD on how to track time in the Acrobatic and Utility categories. These procedures are also specified in Moravan Mandatory Service Bulletin Z 242L/37a (Z 142C/17a), Rev. 1, dated October 31, 2000; and Moravan Mandatory Service Bulletin Z 242L/38a (Z 142C/18a), dated October 31, 2000.

Comment Issue No. 11: Aircraft Equipped With Nitrogen Spars Should Be Exempt From the AD

What Is the Commenter's Concern?

One commenter states that the life limits are not valid because the affected airplanes are equipped with nitrogen spars. With these spars, you can detect cracks through pressure leakage. The commenter believes that because of these early signs of failure, it is inconceivable that the wings will fall off due to stress. The commenter requests that FAA withdraw the NPRM.

What Is FAA's Response to the Concern?

We do not concur that the AD action is not valid because the affected airplanes are equipped with nitrogen spars. The CAA CZ was aware of this when it performed the analysis to determine the life limits. We have determined that the CAA CZ life limits are valid and should be mandated for airplanes certificated for operation in the United States.

We are not changing the final rule AD action as a result of this comment.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the compliance time change, the addition of procedures on how to track time in the Acrobatic and Utility categories, and minor editorial corrections. We have determined that the change, the addition, and the minor editorial corrections:

—provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 39 airplanes in the U.S. registry.

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

We estimate the following costs to replace the wings after the technical service life is reached:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
60 work hours × $60 per hour = $3,600	$17,400 per set of wings	$21,000	$819,000

We have no way of determining the monetary cost of the inconvenience of restricting flight to Normal category operations.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2003–03–13 MORAVAN A.S.: Amendment 39–13037; Docket No. 2000–CE–05–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model Z–242L airplanes, all serial numbers, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent structural failure of the wing due to fatigue cracking. Such failure could result in a wing separating from the airplane with consequent loss of airplane control.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must establish a technical service life and restrict Acrobatic and Utility category operations. This must be done by accomplishing the following, as applicable:

Actions	Compliance	Procedures
(1) You must annotate Acrobatic and Utility category operational time in the logbook. If the airplane is utilized in either of these categories at any time during a flight, you must annotate the total time for that flight in the Utility or Acrobatic category, as appropriate. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may annotate the logbook.	As of the March 21, 2003 (the effective date of this AD).	This is specified in Moravan Mandatory Service Bulletin Z 242L/37a (Z 142C/17a), Rev. 1, dated October 31, 2000; and Moravan Mandatory Service Bulletin Z 242L/38a (Z 142C/18a), dated October 31, 2000.

Actions	Compliance	Procedures
(2) If you have an airplane with a serial number in the range of 0001 through 0656 that does not have strengthened wings installed (both left and right wings) in accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000, accomplish the following:. (i) Insert the following information into the Limitations Section of the Airplane Flight Manual (AFM): ''Do not operate in the Acrobatic or Utility category. Operate in the Normal category only.'' (ii) Replace both wings with the following part numbers: (A) L 242.2100 left-hand wing; and (B) L 242.2200 right-hand wing	*AFM incorporation:* Upon the accumulation of 190 hours time-in-service (TIS) in the Acrobatic category and/or Utility category or on or before June 10, 2003 (90 days after the effective date of this AD), whichever occurs later; and *Replacement:* Upon the accumulation of 3,500 hours TIS in all operations or within the next 50 hours TIS in all operations after March 21, 2003 (the effective date of this AD), whichever occurs later.	*AFM incorporation:* The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish this AFM insertion of this AD. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). This operational restriction is referenced in Moravan Mandatory Service Bulletin Z 242L/37a (Z 142C/17a), Rev. 1, dated October 31, 2000. *Replacement:* In accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000.
(3) If you have an airplane with a serial number of 0657 or higher or one in the range of 0001 through 0656 that has strengthened wings (both left and right) installed in accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000, accomplish the following:. (i) Insert the following information into the Limitations Section of the Airplane Flight Manual (AFM): ''Do not operate in the Acrobatic or Utility category. Operate in the Normal category only.'' (ii) Replace both wings with the following part numbers: (A) L 242.2100 left-hand wing; and (B) L 242.2200 right-hand wing	*AFM incorporation:* Upon the accumulation of 450 hours (TIS) in the Acrobatic category and/or Utility category or on or before June 10, 2003 (90 days after the effective date of this AD), whichever occurs later; and *Replacement:* Upon the accumulation of 5,500 hours TIS in all operations or within the next 50 hours TIS after March 21, 2003 (the effective date of this AD), whichever occurs later. You must maintain the AFM requirement until replacement of the wings.	*AFM incorporation:* The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish this AFM insertion of this AD. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). This operational restriction is referenced in Moravan Mandatory Service Bulletin Z 242L/38a (Z 142C/18a), dated October 31, 2000. *Replacement:* In accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000.
(4) Only install a wing with a part number of L 242.2100 left-hand wing or L 242.2200 right-hand wing.	As of March 21, 2003 (the effective date of this AD).	Not applicable.
(5) When you install new wings (both left and right) on your airplane, the AFM and replacement requirements of paragraph (d)(2) of this AD apply.	*AFM incorporation:* Upon the accumulation of 450 hours TIS in the Acrobatic category and/or Utility category; and *Replacement:* Upon the accumulation of 5,500 hours TIS in all operations.	See paragraph (d)(3) of this AD.

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

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

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

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

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

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

(h) *Are any service bulletins incorporated into this AD by reference?* The replacements required by this AD must be done in accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Moravan, Inc., 765 81 Otrokovice, Czech Republic; telephone: +420 67 767 3940; facsimile: +420 67 792 2103. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Czech Republic AD Number CAA–AD–T–099/2000R1, dated June 28, 2001.

(i) *When does this amendment become effective?* This amendment becomes effective on March 21, 2003.

Issued in Kansas City, Missouri, on January 21, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–1956 Filed 1–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–172–AD; Amendment 39–13033; AD 2003–03–09]

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 certain McDonnell Douglas Model MD–90–30 airplanes. This AD requires a one-time inspection of the single-phase remote control circuit breaker(s) (RCCBs) in a certain area of the electrical/electronic (E/E) compartment to determine the part number and serial number of the RCCB(s), and replacement of certain RCCBs with new or serviceable RCCBs, if necessary. This action is necessary to prevent failure of an RCCB to trip during an overload condition due to a defective braze joint in the RCCB latch assembly, which could result in overheating of the RCCB load wire, and consequent smoke and possible fire in the E/E compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 7, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 7, 2003.

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; 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, 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 certain McDonnell Douglas Model MD–90–30 airplanes was published in the **Federal Register** on October 1, 2002 (67 FR 61569). That action proposed to require a one-time inspection of the single-phase remote control circuit breaker(s) (RCCBs) in a certain area of the electrical/electronic (E/E) compartment to determine the part number and serial number of the RCCB(s), and replacement of certain RCCBs with new or serviceable RCCBs, 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.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 86 Model MD–90–30 airplanes of the affected design in the worldwide fleet. We estimate that 21 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $1,260, or $60 per airplane.

The cost impact figure discussed above is 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 adding the following new airworthiness directive:

2003–03–09 McDonnell Douglas: Amendment 39–13033. Docket 2001–NM–172–AD.

Applicability: Model MD–90–30 airplanes as listed in McDonnell Douglas Alert Service Bulletin MD90–24A053, Revision 01, dated February 23, 2001; 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by

this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a remote control circuit breaker (RCCB) to trip during an overload condition due to a defective braze joint in the RCCB latch assembly, which could result in overheating of the RCCB load wire, and consequent smoke and possible fire in the electrical/electronic (E/E) compartment of the airplane, accomplish the following:

Inspection and Replacement, If Necessary

(a) Within 6 months after the effective date of this AD, perform a one-time inspection of the single-phase RCCB or RCCBs, as applicable, at station Y=120.050 in the E/E compartment of the airplane to determine the part number and serial number of the RCCB(s), per the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin MD90–24A053, Revision 01, excluding Evaluation Form, dated February 23, 2001.

(1) If an RCCB has a part number that is not listed in Table 1, Figure 1, or Table 2, Figure 2, of the service bulletin, as applicable: No further action is required by this AD for that RCCB. It is not necessary to report findings to Boeing by completing the form in the Appendix of the service bulletin.

(2) If an RCCB has a part number that is listed in Table 1, Figure 1, or Table 2, Figure 2, of the service bulletin, as applicable, and the corresponding serial number is not identified in that table: No further action is required by this AD for that RCCB. It is not necessary to report findings to Boeing by completing the form in the Appendix of the service bulletin.

(3) If an RCCB has a part number that is listed in Table 1, Figure 1, or Table 2, Figure 2, of the service bulletin, as applicable; and the corresponding serial number is identified in that table: Before further flight, replace the RCCB with a new or serviceable RCCB per the Accomplishment Instructions of the service bulletin. The replacement RCCB must have the same part number as the part being replaced, and a serial number that is not identified in Table 1, Figure 1, or Table 2, Figure 2, of the service bulletin, as applicable. It is not necessary to report findings to Boeing by completing the form in the Appendix of the service bulletin.

Alternative Methods of Compliance

(b) 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

(c) 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

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A053, Revision 01, excluding Evaluation Form, dated February 23, 2001. 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; 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

(e) This amendment becomes effective on March 7, 2003.

Issued in Renton, Washington, on January 22, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–1953 Filed 1–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket No. 92N–0297]

RIN 0905–AC81

Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; 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 April 1, 2004, the effective date of certain requirements of a final rule published in the **Federal Register** of December 3, 1999 (64 FR 67720). In the **Federal Register** of May 3, 2000 (65 FR 25639), the agency delayed until October 1, 2001, the effective date of certain requirements in the final rule relating to wholesale distribution of prescription drugs by distributors that are not authorized distributors of record, and distribution of blood derivatives by entities that meet the definition of a ''health care entity'' in the final rule. The agency further delayed the effective date of these requirements in two subsequent **Federal Register** documents. Most recently, in the **Federal Register** of February 13, 2002 (67 FR 6645), FDA delayed the effective date until April 1, 2003. This action further delays the effective date of these requirements until April 1, 2004. The final rule implements the Prescription Drug Marketing Act of 1987 (PDMA), as modified by the Prescription Drug Amendments of 1992 (PDA), and the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). The agency is taking this action to address concerns about the requirements raised by affected parties.

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, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(3)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. As explained in the **SUPPLEMENTARY INFORMATION** section, FDA has prepared a report for Congress and concluded that although FDA can address some of industry's concerns with the PDMA regulation through regulatory changes, other concerns would have to be addressed by Congress through legislative action. The further delay is necessary to give Congress additional time to consider the information and conclusions contained in the agency's report, and to determine if legislative action is appropriate. The further delay will also give the agency additional time to consider whether regulatory changes are appropriate and, if so, to initiate such changes.

DATES: The effective date for §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities, added at 64 FR 67720, December 3, 1999, is delayed until April 1, 2004. Submit written or electronic comments by April 1, 2003.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

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

SUPPLEMENTARY INFORMATION: PDMA (Public Law 100–293) was enacted on April 22, 1988, and was modified by the PDA (Public Law 102–353, 106 Stat. 941) on August 26, 1992. The PDMA, as modified by the PDA, amended sections 301, 303, 503, and 801 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 331, 333, 353, and 381) to, among other things, establish requirements for the wholesale distribution of prescription drugs and for the distribution of blood derived prescription drug products by health care entities.

On December 3, 1999, the agency published final regulations in part 203 (21 CFR part 203) implementing PDMA (64 FR 67720). After publication of the final rule, the agency received communications from industry, industry trade associations, and members of Congress objecting to the provisions in §§ 203.3(u) and 203.50. On March 29, 2000, the agency met with representatives from the wholesale drug industry and industry associations to discuss their concerns. In addition, FDA received a petition requesting that the relevant provisions of the final rule be stayed until October 1, 2001. The agency also received a petition from the Small Business Administration requesting that FDA reconsider the final rule and suspend its effective date based on the severe economic impact it would have on more than 4,000 small businesses.

In addition to the communications regarding wholesale distribution by unauthorized distributors, the agency received several letters on, and held several meetings to discuss, the implications of the final regulations for blood centers that distribute blood derivative products and provide health care to hospitals and patients.

Based on the concerns expressed by industry, industry associations, and Congress about implementing §§ 203.3(u) and 203.50 by the December 4, 2000, effective date, the agency published a notice in the **Federal Register** of May 3, 2000 (65 FR 25639), delaying the effective date for those provisions until October 1, 2001. In addition, the May 2000 document delayed the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities until October 1, 2001. The May 2000 document also reopened the administrative record to give interested persons until July 3, 2000, to submit written comments.

On May 16, 2000, the House Committee on Appropriations (the Committee) stated in its report accompanying the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2001 (H. Rept. 106–619) that it supported the ''recent FDA action to delay the effective date for implementing certain requirements of the Prescription Drug Marketing Act until October 1, 2001, and reopen the administrative record in order to receive additional comments.'' In addition, the Committee stated that it ''believes the agency should thoroughly review the potential impact of the proposed provisions on the secondary wholesale pharmaceutical industry.'' The Committee directed the agency to provide a report to the Committee summarizing the comments and issues raised and agency plans to address the concerns.

After issuing the delay of the effective date, the agency announced in the **Federal Register** of September 19, 2000 (65 FR 56480), that a public hearing would be held to discuss the requirements at issue. The hearing was held on October 27, 2000, and comments were accepted until November 20, 2000.

In the **Federal Register** of March 1, 2001 (66 FR 12850), the agency announced that it was further delaying, until April 1, 2002, the effective date of §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities. As explained by the agency, the effective date was further delayed to give FDA additional time to consider comments and testimony received, for FDA to prepare its report to Congress, and, if appropriate, for Congress or the agency to make legislative or regulatory changes. The report was completed and submitted to Congress on June 7, 2001.

In its report to Congress, the agency concluded that it could address some, but not all, of the concerns raised by the secondary wholesale industry and the blood industry through regulatory changes. However, to make other changes requested by the secondary wholesale industry, Congress would have to amend section 503(e) of the act. As a result, on February 13, 2002, FDA further delayed the effective date of the relevant provisions of the final rule until April 1, 2003, in part to give Congress time to consider the information and conclusions contained in the agency's report and to determine if legislative action was appropriate. Based on a recent petition submitted by affected parties, FDA understands that members of Congress are, in fact, considering the issues presented in the agency's report. Due to competing legislative priorities, however, the issues have not yet been resolved. Therefore, to give Congress additional time to determine if legislative action is appropriate, the agency is further delaying the effective date for §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities. The further delay of the effective date until April 1, 2004, will also give the agency additional time to consider whether regulatory changes are warranted.

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 by delaying the effect of §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities while Congress considers taking legislative action. Thus, this action is not a significant action as defined by the Executive order.

This action is being taken under FDA's authority under 21 CFR 10.35(a). The Commissioner of Food and Drugs finds that this delay of the effective date is in the public interest.

Dated: January 23, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–2293 Filed 1–30–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, 526, and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 25 approved new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) from Bimeda, Inc., to Cross Vetpharm Group Ltd.

DATES: This rule is effective January 31, 2003.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967; e-mail: dnewkirk@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Bimeda, Inc., 291 Forest Prairie Rd., LeSueur, MN 56058, has informed FDA that it has transferred ownership of, and all rights and interest in, the following 25 approved NADAs and ANADAs to Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.

NADA Number	Trade Name
010–092	GALLIMYCIN 50
010–346	COMBUTHAL Powder
012–123	ERYTHRO–100, –200; GALLIMYCIN Injectable
035–157	GALLIMYCIN 100; GALLIMYCIN 500
035–455	ERYTHRO–36 Dry; GALLIMYCIN–36 Dry
035–456	GALLIMYCIN–36 Sterile
038–241	ERYTHRO (High Lev)/Zoalene Plus Arsanilic Acid
038–242	ERYTHRO (Low Lev)/Amp Plus Etho
038–624	PRO-GALLIMYCIN–10
038–661	SPECTAM Water Soluble Concentrate
041–955	Erythromycin Medicated Premix
044–756	TEVCODYNE
055–059	TEVCOCIN Tablets
093–515	SPECTAM Tablets
095–218	Dexamethasone Tablets, 0.25 mg
100–128	Supersweet Medipak TYLAN 10
101–690	ERYTHRO–100 Injection
107–506	CARBAM Tablets
118–032	CARBAM PALATABS
118–979	BUTATRON Gel
120–615	SUSTAIN III Bolus
126–504	Nitrofurazone Ointment
200–050	Neomycin 325 Soluble Powder
200–103	Penicillin G Potassium, USP
200–144	Oxytetracycline HCl Soluble Powder; TETROXY

Accordingly, the agency is amending the regulations in 21 CFR 520.390a, 520.540b, 520.622a, 520.823, 520.1484, 520.1660d, 520.1696b, 520.1720a, 520.1720d, 520.2123a, 520.2123b, 520.2260b, 522.820, 522.2444b, 524.1580b, 526.820, 558.248, and 558.625 to reflect the transfer of ownership.

Following this change of sponsorship, Bimeda, Inc., is no longer the sponsor of any approved application. Accordingly, 21 CFR 510.600(c) is being amended to remove the entries for Bimeda, Inc.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, 524, and 526

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, 526, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for ''Bimeda, Inc.'' and in the table in paragraph (c)(2) by removing the entry for ''061133''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.390a [Amended]

4. Section 520.390a *Chloramphenicol tablets* is amended in paragraph (b)(2) by removing ''061133'' and by adding in its place ''061623''.

§ 520.540b [Amended]

5. Section 520.540b *Dexamethasone tablets and boluses* is amended in paragraph (b)(2) by removing ''061133'' and by adding in its place ''061623''.

§ 520.622a [Amended]

6. Section 520.622a *Diethylcarbamazine citrate tablets* is amended in paragraph (a)(3) by removing ''061133'' and by adding in its place ''061623''.

§ 520.823 [Amended]

7. Section 520.823 *Erythromycin phosphate* is amended in paragraphs (b) by removing ''061133'' and by adding in its place ''061623''.

§ 520.1484 [Amended]

8. Section 520.1484 *Neomycin sulfate soluble powder* is amended in paragraph (b)(2) by removing ''061133'' and by adding in its place ''061623''.

§ 520.1660d [Amended]

9. Section 520.1660d *Oxytetracycline hydrochloride soluble powder* is amended in paragraph (b)(7) by removing ''061133'' and by adding in its place ''061623''.

§ 520.1696b [Amended]

10. Section 520.1696b *Penicillin G potassium in drinking water* is amended in paragraph (b) by removing ''061133'' and by adding in its place ''061623''.

§ 520.1720a [Amended]

11. Section 520.1720a *Phenylbutazone tablets and boluses* is amended in paragraph (b)(3) by

removing ''061133'' and by adding in its place ''061623''.

§ 520.1720d [Amended]

12. Section 520.1720d *Phenylbutazone gel* is amended in paragraph (b) by removing ''061133'' and by adding in its place ''No. 061623''.

§ 520.2123a [Amended]

13. Section 520.2123a *Spectinomycin dihydrochloride pentahydrate tablets* is amended in paragraph (b) by removing ''061133'' and by adding in its place ''061623''.

§ 520.2123b [Amended]

14. Section 520.2123b *Spectinomycin dihydrochloride pentahydrate soluble powder* is amended in paragraph (b) by removing ''061133'' and by adding in its place ''061623''.

§ 520.2260b [Amended]

15. Section 520.2260b *Sulfamethazine sustained-release boluses* is amended in paragraphs (c)(1) and (e)(1) by removing ''061133'' and by adding in its place ''061623''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

16. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.820 [Amended]

17. Section 522.820 *Erythromycin injection* is amended in paragraph (a) by removing ''061133'' and by adding in its place ''No. 061623''.

§ 522.2444b [Amended]

18. Section 522.2444b *Sodium thiopental, sodium pentobarbital for injection* is amended in paragraph (b) by removing ''061133'' and by adding in its place ''061623''.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

19. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.1580b [Amended]

20. Section 524.1580b *Nitrofurazone ointment* is amended in paragraph (b) by removing ''061133'' and by adding in its place ''061623''.

PART 526—INTRAMAMMARY DOSAGE FORM NEW ANIMAL DRUGS

21. The authority citation for 21 CFR part 526 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 526.820 [Amended]

22. Section 526.820 *Erythromycin* is amended in paragraph (b) by removing ''061133'' and by adding in its place ''061623''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

23. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.248 [Amended]

24. Section 558.248 *Erythromycin thiocyanate* is amended in paragraphs (a)(1) and (a)(2) by removing ''061133'' and by adding in its place ''061623''; and in the table in paragraph (d)(1) in the ''Sponsor'' column by removing ''061133'' wherever it appears and by adding in its place ''061623''.

§ 558.625 [Amended]

25. Section 558.625 *Tylosin* is amended in the table in paragraph (b)(39) by removing ''061133'' and by adding in its place ''061623''.

Dated: January 6, 2003.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 03–2295 Filed 1–30–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Triamcinolone Spray

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by RMS Laboratories, Inc. The NADA provides for use of triamcinolone topical spray in dogs for the control of pruritus associated with allergic dermatitis.

DATES: This rule is effective January 31, 2003.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7543, e-mail: mberson@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: RMS Laboratories, Inc., 1903 East First St., Vidalia, GA 30474, filed NADA 141–210 that provides for use of GENESIS (triamcinolone acetonide) Topical Spray in dogs for the control of pruritus associated with allergic dermatitis. The NADA is approved as of November 4, 2002, and the regulations are amended in part 524 (21 CFR part 524) by adding new § 524.2482 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, RMS Laboratories, Inc., has not been previously listed in the animal drug regulations as a sponsor of an approved application. At this time, 21 CFR 510.600(c) is being amended to add entries for the firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning November 4, 2002.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for ''RMS Laboratories, Inc.'' and in the table in paragraph (c)(2) by numerically adding an entry for ''067292'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
RMS Laboratories, Inc., 1903 East First St., Vidalia, GA 30474.	067292
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
067292	RMS Laboratories, Inc., 1903 East First St., Vidalia, GA 30474
* * * * *	

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

4. Section 524.2482 is added to read as follows:

§ 524.2482 Triamcinolone spray.

(a) *Specifications*. Each milliliter of solution contains 0.15 milligrams triamcinolone acetonide.

(b) *Sponsor*. See No. 067292 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount*. Apply sufficient pump sprays to uniformly and thoroughly wet the affected areas while avoiding run off of excess product. Administer twice daily for 7 days, then once daily for 7 days, then every other day for an additional 14 days (28 days total).

(2) *Indications for use*. For the control of pruritus associated with allergic dermatitis.

(3) *Limitations*. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: January 10, 2003.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 03–2211 Filed 1–30–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Levamisole Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for use of levamisole hydrochloride soluble powder in the drinking water of swine for the treatment of various internal parasites.

DATES: This rule is effective January 31, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Terrace, St. Joseph, MO 64503, filed ANADA 200–313 for Levamisole Hydrochloride Soluble Pig Wormer used to make medicated drinking water for the treatment of various internal parasites. Phoenix Scientific, Inc.'s Levamisole Hydrochloride Soluble Pig Wormer is approved as a generic copy of Schering-Plough Animal Health's TRAMISOL (levamisole hydrochloride) Soluble Pig Wormer, approved under NADA 112–049. The ANADA is approved as of October 25, 2002, and the regulations are amended in 21 CFR 520.1242a to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1242a is amended by adding paragraph (b)(4) to read as follows:

§ 520.1242a Levamisole hydrochloride drench and drinking water.

* * * * *

(b) * * *

(4) See No. 059130 for use of 18.15-gram packages as in paragraph (d)(3) of this section.

* * * * *

Dated: January 6, 2003.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 03–2212 Filed 1–30–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9039]

RIN 1545–BA33

Guidance Regarding the Definition of Foreign Personal Holding Company Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide that gain or loss arising from certain commodities

hedging transactions and currency gain or loss arising from certain interest-bearing liabilities do not constitute (or are not netted against) foreign personal holding company income. This treatment is implemented because the applicable commodities hedging transactions and interest-bearing liabilities typically offset transactions that do not generate foreign personal holding company income.

DATES: *Effective Date:* These regulations are effective January 31, 2003.

Applicability Date: For dates of applicability, see § 1.954–2(f)(2)(iv)(C), (v)(D), and (g)(2)(ii)(C)(*2*)(*iii*).

FOR FURTHER INFORMATION CONTACT: Kenneth Christman or Gregory Spring at (202) 622–3870 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

On May 13, 2002, proposed regulations (REG–154920–01) were published in the **Federal Register** (67 FR 31995) under section 954 governing the definition of *foreign base company income* and *foreign personal holding company income* of a *controlled foreign corporation* (a CFC). These regulations addressed, among other matters, the circumstances in which income from transactions in commodities will be treated as foreign personal holding company income.

Following the publication of the proposed regulations, the IRS scheduled a public hearing and requested written comments on the regulations. The public hearing was canceled because no one requested to speak at the hearing. The IRS received one written comment, which recommended the proposed regulations be finalized as written.

Explanation of Revisions

The language of the proposed regulations is unchanged except for nonsubstantive changes to §§ 1.954–2(g)(2)(ii)(C)(*2*)(*i*) and (*ii*) that more explicitly set out the relationship between those paragraphs and § 1.954–2(g)(2)(ii)(C)(*1*).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Kenneth Christman and Ted Setzer of the Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. In § 1.954–0, paragraph (b) is amended by:

1. Removing the entry for § 1.954–2(f)(2)(iii)(E).
2. Revising the entry for § 1.954–2(f)(2)(iv).
3. Adding entries for § 1.954–2(f)(2)(iv)(C), and (f)(2)(v) through (f)(2)(vi).
4. Adding entries for § 1.954–2(g)(2)(ii)(C)(*1*) through (g)(2)(ii)(C)(*2*)(*iii*).

The additions and revisions read as follows:

§ 1.954–0 Introduction.

* * * * *

(b) * * *

§ 1.954–2 Foreign personal holding company income.

* * * * *

(f) * * *

(2) * * *

(iv) Qualified hedging transaction entered into prior to January 31, 2003.

* * * * *

(C) Effective date.

(v) Qualified hedging transaction entered into on or after January 31, 2003.

(A) In general.

(B) Exception.

(C) Examples.

(D) Effective date.

(vi) Financial institutions not a producer, etc.

(g) * * *

(2) * * *

(ii) * * *

(C) Regular dealers.

(*1*) General rule.

(*2*) Certain interest-bearing liabilities treated as dealer property.

(*i*) In general.

(*ii*) Failure to identify certain liabilities.

(*iii*) Effective date.

* * * * *

Par. 3. Section 1.954–2 is amended by:

1. Removing paragraph (f)(2)(iii)(E).
2. Revising the heading of paragraph (f)(2)(iv).
3. Adding paragraphs (f)(2)(iv)(C) and (f)(2)(v) through (f)(2)(vi).
4. Adding paragraphs (g)(2)(ii)(C)(*1*) through (g)(2)(ii)(C)(*2*)(*iii*).
5. Revising paragraph (g)(2)(iii).

The revisions and additions read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(f) * * *

(2) * * *

(iv) *Qualified hedging transaction entered into prior to January 31, 2003.*

* * * * *

(C) *Effective date.* This paragraph (f)(2)(iv) applies to gain or loss realized by a controlled foreign corporation with respect to a qualified hedging transaction entered into prior to January 31, 2003.

(v) *Qualified hedging transaction entered into on or after January 31, 2003*—(A) *In general.* The term *qualified hedging transaction* means a bona fide hedging transaction, as defined in paragraph (a)(4)(ii) of this section, with respect to one or more commodities transactions reasonably necessary to the conduct of any business by a producer, processor, merchant or handler of commodities in a manner in which such business is customarily and usually conducted by others. For purposes of this paragraph (f)(2)(v), a producer, processor, merchant or handler of commodities includes a controlled foreign corporation that regularly uses commodities in a manufacturing, construction, utilities, or transportation business.

(B) *Exception.* The term *qualified hedging transaction* does not include a transaction described in section 988(c)(1) (without regard to section 988(c)(1)(D)(i)).

(C) *Examples.* The following examples illustrate the provisions of this paragraph (f)(2)(v):

Example 1. CFC1 is a controlled foreign corporation located in country A. CFC1 manufactures and sells machinery in country B using aluminum and component parts

purchased from third parties that contain significant amounts of aluminum. CFC1 conducts its manufacturing business in a manner in which such business is customarily and usually conducted by others. To protect itself against increases in the price of aluminum used in the machinery it manufactures, CFC1 enters into futures purchase contracts for the delivery of aluminum. These futures purchase contracts are bona fide hedging transactions. As CFC1 purchases aluminum and component parts containing significant amounts of aluminum in the spot market for use in its business, it closes out an equivalent amount of aluminum futures purchase contracts by entering into offsetting aluminum futures sales contracts. The aluminum futures purchase contracts are qualified hedging transactions as defined in paragraph (f)(2)(v)(A) of this section. Accordingly, any gain or loss on such aluminum futures purchase contracts is excluded from the computation of foreign personal holding company income.

Example 2. CFC2 is a controlled foreign corporation located in country B. CFC2 operates an airline business within country B in a manner in which such business is customarily and usually conducted by others. To protect itself against increases in the price of aviation fuel, CFC2 enters into forward contracts for the purchase of aviation fuel. These forward purchase contracts are bona fide hedging transactions. As CFC2 purchases aviation fuel in the spot market for use in its business, it closes out an equivalent amount of its forward purchase contracts for cash pursuant to a contractual provision that permits CFC2 to terminate the contract and make or receive a one-time payment representing the contract's fair market value. The aviation fuel forward purchase contracts are qualified hedging transactions as defined in paragraph (f)(2)(v)(A) of this section. Accordingly, any gain or loss on such aviation fuel forward purchase contracts is excluded from the computation of foreign personal holding company income.

(D) *Effective date.* This paragraph (f)(2)(v) applies to gain or loss realized by a controlled foreign corporation with respect to a qualified hedging transaction entered into on or after January 31, 2003.

(vi) *Financial institutions not a producer, etc.* For purposes of this paragraph (f), a corporation is not a producer, processor, merchant or handler of commodities if its business is primarily financial. For example, the business of a controlled foreign corporation is primarily financial if its principal business is making a market in notional principal contracts based on a commodities index.

* * * * *

(g) * * *

(2) * * *

(ii) * * *

(C) *Regular dealers—(1) General rule.* Transactions in dealer property (as defined in paragraph (a)(4)(v) of this section) described in section 988(c)(1)(B) or (C) that are entered into by a controlled foreign corporation that is a regular dealer (as defined in paragraph (a)(4)(iv) of this section) in such property in its capacity as a dealer will be treated as directly related to the business needs of the controlled foreign corporation under paragraph (g)(2)(ii)(A) of this section.

(2) Certain interest-bearing liabilities treated as dealer property—(i) In general. For purposes of this paragraph (g)(2)(ii)(C), an interest-bearing liability incurred by a controlled foreign corporation that is denominated in (or determined by reference to) a non-functional currency shall be treated as dealer property of the type described in paragraph (g)(2)(ii)(C)(*1*) of this section if the liability, by being denominated in such currency, reduces the controlled foreign corporation's currency risk with respect to dealer property, and the liability is identified on the controlled foreign corporation's records as a liability treated as dealer property before the close of the day on which the liability is incurred.

(ii) Failure to identify certain liabilities. If a controlled foreign corporation identifies certain interest-bearing liabilities as liabilities treated as dealer property under paragraph (g)(2)(ii)(C)(*2*)(*i*) of this section but fails to so identify other interest-bearing liabilities that manage its currency risk with respect to assets held that constitute dealer property, the Commissioner may treat such other liabilities as properly identified as dealer property under paragraph (g)(2)(ii)(C)(*2*)(*i*) of this section if the Commissioner determines that the failure to identify such other liabilities had as one of its principal purposes the avoidance of Federal income tax.

(iii) Effective date. This paragraph (g)(2)(ii)(C)(*2*) applies only to gain or loss from an interest-bearing liability entered into by a controlled foreign corporation on or after January 31, 2003.

* * * * *

(iii) *Special rule for foreign currency gain or loss from an interest-bearing liability.* Except as provided in paragraph (g)(2)(ii)(C)(*2*) or (g)(5)(iv) of this section, foreign currency gain or loss arising from an interest-bearing liability is characterized as subpart F income and non-subpart F income in the same manner that interest expense associated with the liability would be allocated and apportioned between subpart F income and non-subpart F income under §§ 1.861–9T and 1.861–12T.

* * * * *

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: January 17, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–2209 Filed 1–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301 and 602

[TD 9040]

RIN 1545–AY56

Guidance Necessary To Facilitate Electronic Tax Administration

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and removal of temporary regulations.

SUMMARY: This document contains final regulations that eliminate regulatory impediments to the electronic filing of Form 1040, ''U.S. Individual Income Tax Return.'' These regulations affect taxpayers who file Form 1040 and who are required to file any of the following forms: Form 56, ''Notice Concerning Fiduciary Relationship''; Form 2120, ''Multiple Support Declaration''; Form 2439, ''Notice to Shareholder of Undistributed Long-Term Capital Gains''; Form 3468, ''Investment Credit''; and Form T (Timber), ''Forest Activities Schedules.''

DATES: *Effective Date:* These regulations are effective January 31, 2003.

FOR FURTHER INFORMATION CONTACT: Joseph P. Dewald, (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1783. The collection of information in these final regulations is in §§ 1.48–12(d)(7)(iv), 1.152–3(c), 1.611–3(h), 1.852–9(c)(1), and 301.6903–1(b). Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

The estimated additional burden in final regulations §§ 1.611–3(h), 1.852–9(c)(1), and 301.6903–1(b) is 0 hours because the records that are required to be maintained were previously required to be maintained to document the reporting requirements. This reporting burden will be reflected in the burden estimate for Form T (Timber), Form 2439, and Form 56, respectively.

Estimated additional total annual reporting burden for 2002 for Form 3468: 376 hours.

Estimated number of responses for 2002 for Form 3468: 22,575.

Estimated additional average annual burden hours per response for 2002 for Form 3468: 1 minute.

Estimated additional total annual reporting burden for 2002 for Form 2120: 550 hours.

Estimated number of responses for 2002 for Form 2120: 11,000.

Estimated additional average annual burden hours per response for 2002 for Form 2120: 3 minutes.

The estimated additional reporting burden for the reporting in final regulations §§ 1.48–12(d)(7)(iv) and 1.152–3(c) will be reflected in the burden estimate for Form 3468 and Form 2120, respectively.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

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

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) and the Procedure and Administration Regulations (26 CFR part 301) designed to eliminate regulatory impediments to the electronic filing of Form 1040.

In 1998, Congress enacted the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 1998), Public Law 105–206 (112 Stat. 685) (1998). Section 2001(a) of RRA 1998 states that the policy of Congress is that paperless filing should be the preferred and most convenient means of filing Federal tax returns. Section 2001(a) of RRA 1998 also sets a long-range goal for the IRS to have at least 80 percent of all Federal tax returns filed electronically by 2007. Section 2001(b) of RRA 1998 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing. On April 24, 2002, the IRS published temporary regulations (TD 8989, 67 FR 20028) and a cross-reference notice of proposed rulemaking (REG–107184–00, 67 FR 20072) to facilitate the implementation of this plan by eliminating regulatory impediments to the electronic filing of Form 1040.

The temporary regulations amended the Procedure and Administration Regulations to provide a regulatory statement of IRS authority to prescribe what return information or documentation must be filed with a return, statement, or other document required to be made under any provision of the internal revenue laws or regulations. The regulations give the IRS maximum flexibility in prescribing (1) what needs to be filed in support of a return or claim, and (2) the form of the filing, *e.g.*, electronic versus paper. The regulations permit the IRS to prescribe required return information in forms, instructions, or other appropriate guidance.

In addition, the IRS identified five regulatory provisions that impede electronic filing by requiring the taxpayer to either include a third-party signature, or attach a document generated by a third party. The temporary regulations amended those provisions to eliminate the impediments.

No written comments were received in response to the cross-reference notice of proposed rulemaking and no public hearing was requested or held.

Explanation of Provisions

This Treasury decision removes the temporary regulations and adopts the proposed regulations with minor clarifications explained below.

These final regulations clarify how to ''file'' a written declaration waiving the dependency deduction under section 152(c)(4). Section 1.152–3(a)(4) of the existing regulations provides that each person waiving the deduction should ''file'' a written declaration stating that the person waiving the deduction will not claim the individual as a dependent. However, the term ''file'' is confusing because it usually refers to a submission to the IRS. These final regulations amend section 1.152–3(a)(4) to provide that each person waiving the deduction should ''furnish'' a written waiver declaration to the taxpayer claiming the deduction.

Section 1.152–3(b) of the existing regulations provides two examples explaining the requirements in section 1.152–3(a). The examples require that the written declarations furnished by each person waiving the deduction be attached to the income tax return of the taxpayer. These final regulations update the examples by removing the requirement that the waivers be attached to the taxpayer's return. The amended regulations require the taxpayer to retain the waivers consistent with section 1.152–3(c).

Under section 1.152–3(c)(3) of the proposed regulations, the taxpayer claiming the individual as a dependent must retain the declarations furnished by the persons waiving the deduction. Section 1.152–3(c)(3) of the proposed regulations also provides that the IRS may request other information from the taxpayer to substantiate the dependency claim. The proposed regulation then states that the other information that will substantiate the claim may include a statement showing the names of all contributors and the amount contributed by each. These final regulations clarify that the statement is just one of many pieces of information that the IRS may request to substantiate the dependency claim. No one statement or piece of information is necessarily determinative.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the persons responsible for recordkeeping are principally individuals, and the burden is not significant as described earlier in the preamble. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business

Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Joseph P. Dewald, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

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

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended as follows:

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

Par. 2. Section 1.48–12 is amended as follows:

1. Revising paragraph (d)(7)(iii).
2. Adding a new paragraph (d)(7)(iv).

§ 1.48–12 Qualified rehabilitated building; expenditures incurred after December 31, 1981.

* * * * *

(d) * * *

(7) * * *

(iii) *Effective dates.* Paragraph (d)(7)(i) of this section applies to returns for taxable years beginning before January 1, 2002. The requirement in the fourth sentence of paragraph (d)(7)(ii) of this section applies only if the first income tax return filed after receipt by the taxpayer of the certification is for a taxable year beginning before January 1, 2002. For rules applicable to returns for taxable years beginning after December 31, 2001, see paragraph (d)(7)(iv) of this section.

(iv) *Returns for taxable years beginning after December 31, 2001*—(A) *In general.* Except as otherwise provided in paragraph (d)(7)(ii) of this section and this paragraph (d)(7)(iv), a taxpayer claiming the credit for rehabilitation of a certified historic structure (within the meaning of section 47(c)(3) and paragraph (d)(1) of this section) for a taxable year beginning after December 31, 2001, must provide with the return for the taxable year in which the credit is claimed, the NPS project number assigned by, and the date of the final certification of completed work received from, the Secretary of the Interior. If a credit (including a credit for a taxable year beginning before January 1, 2002) is claimed under the late certification procedures of paragraph (d)(7)(ii) of this section and the first income tax return filed by the taxpayer after receipt of the certification is for a taxable year beginning after December 31, 2001, the taxpayer must provide the NPS project number assigned by, and the date of the final certification of completed work received from, the Secretary of the Interior with that return.

(B) *Reporting and recordkeeping requirements.* The information required under paragraph (d)(7)(iv)(A) of this section must be provided on Form 3468 (or its successor) filed with the taxpayer's return. In addition, the taxpayer must retain a copy of the final certification of completed work for as long as its contents may become material in the administration of any internal revenue law.

(C) *Passthrough entities.* In the case of a credit for qualified rehabilitation expenditures of a partnership, S corporation, estate, or trust, the requirements of this paragraph (d)(7)(iv) apply only to the entity. Each partner, shareholder or beneficiary claiming a credit for such qualified rehabilitation expenditures from a passthrough entity must, however, provide the employer identification number of the entity on Form 3468 (or its successor).

§ 1.48–12T [Removed]

Par. 3. Section 1.48–12T is removed.

§ 1.152–3 [Amended]

Par. 4. In § 1.152–3, paragraphs (a)(4) and (b) are revised and paragraph and (c) is added to read as follows:

§ 1.152–3 Multiple support agreements.

(a) * * *

(4) Each other person in the group who contributed more than 10 percent of such support furnishes to the taxpayer claiming the dependent a written declaration that such other person will not claim the individual as a dependent for any taxable year beginning in such calendar year.

(b) *Examples.* Application of the rule contained in paragraph (a) of this section may be illustrated by the following examples:

Example (1). During the taxable year, brothers A, B, C, and D contributed the entire support of their mother in the following percentages: A, 30 percent; B, 20 percent; C, 29 percent; and D, 21 percent. Any one of the brothers, except for the fact that he did not contribute more than half of her support, would have been entitled to claim his mother as a dependent. Consequently, any one of the brothers could claim a deduction for the exemption of the mother if he obtained a written declaration (as provided in paragraph (a)(4) of this section) from each of the other brothers. Even though A and D together contributed more than one-half the support of the mother, A, if he wished to claim his mother as a dependent, would be required to obtain written declarations from B, C, and D, since each of those three contributed more than 10 percent of the support and, but for the failure to contribute more than half of the mother's support, would have been entitled to claim his mother as a dependent.

Example (2). During the taxable year, E, an individual who resides with his son, S, received his entire support for that year as follows:

Source	Percentage of total
Social Security	25
N, an unrelated neighbor	11
B, a brother	14
D, a daughter	10
S, a son	40
Total received by E	100

B, D, and S are persons each of whom, but for the fact that none contributed more than half of E's support, could claim E as a dependent for the taxable year. The three together contributed 64 percent of E's support, and, thus, each is a member of the group to be considered for the purpose of section 152(c). B and S are the only members of such group who can meet all the requirements of section 152(c), and either one could claim E as a dependent for his taxable year if he obtained a written declaration (as provided in paragraph (a)(4) of this section) signed by the other, and furnished the other information required by the return with respect to all the contributions to E. Inasmuch as D did not contribute more than 10 percent of E's support, she is not entitled to claim E as a dependent for the taxable year nor is she required to furnish a written declaration with respect to her contributions to E. N contributed over 10 percent of the support of E, but, since he is an unrelated neighbor, he does not qualify as a member of the group for the purpose of the multiple support agreement under section 152(c).

(c)(1) The member of a group of contributors who claims an individual as a dependent for a taxable year beginning before January 1, 2002, under the multiple support agreement provisions of section 152(c) must attach to the member's income tax return for

the year of the deduction a written declaration from each of the other persons who contributed more than 10 percent of the support of such individual and who, but for the failure to contribute more than half of the support of the individual, would have been entitled to claim the individual as a dependent.

(2) The taxpayer claiming an individual as a dependent for a taxable year beginning after December 31, 2001, under the multiple support agreement provisions of section 152(c) must provide with the income tax return for the year of the deduction—

(i) A statement identifying each of the other persons who contributed more than 10 percent of the support of the individual and who, but for the failure to contribute more than half of the support of the individual, would have been entitled to claim the individual as a dependent; and

(ii) A statement indicating that the taxpayer obtained a written declaration from each of the persons described in section 152(c)(2) waiving the right to claim the individual as a dependent.

(3) The taxpayer claiming the individual as a dependent for a taxable year beginning after December 31, 2001, must retain the waiver declarations and should be prepared to furnish the waiver declarations and any other information necessary to substantiate the claim, which may include a statement showing the names of all contributors (whether or not members of the group described in section 152(c)(2)) and the amount contributed by each to the support of the claimed dependent.

§ 1.152–3T [Removed]

Par. 5. Section 1.152–3T is removed.

§ 1.611–3 [Amended]

Par. 6. In § 1.611–3, paragraph (h) is added to read as follows:

§ 1.611–3 Rules applicable to timber.

* * * * *

(h) *Reporting and recordkeeping requirements—(1) Taxable years beginning before January 1, 2002.* A taxpayer claiming a deduction for depletion of timber for a taxable year beginning before January 1, 2002, shall attach to the income tax return of the taxpayer a filled-out Form T (Timber) for the taxable year covered by the income tax return, including the following information—

(i) A map where necessary to show clearly timber and land acquired, timber cut, and timber and land sold;

(ii) Description of, cost of, and terms of purchase of timberland or timber, or cutting rights, including timber or timber rights acquired under any type of contract;

(iii) Profit or loss from sale of land, or timber, or both;

(iv) Description of timber with respect to which claim for loss, if any, is made;

(v) Record of timber cut;

(vi) Changes in each timber account as a result of purchase, sale, cutting, reestimate, or loss;

(vii) Changes in improvements accounts as the result of additions to or deductions from capital and depreciation, and computation of profit or loss on sale or other disposition of such improvements;

(viii) Operation data with respect to raw and finished material handled and inventoried;

(ix) Statement as to application of the election under section 631(a) and pertinent information in support of the fair market value claimed thereunder;

(x) Information with respect to land ownership and capital investment in timberland; and

(xi) Any other data which will be helpful in determining the reasonableness of the depletion or depreciation deductions claimed in the return.

(2) *Taxable years beginning after December 31, 2001.* A taxpayer claiming a deduction for depletion of timber on a return filed for a taxable year beginning after December 31, 2001, shall attach to the income tax return of the taxpayer a filled-out Form T (Timber) for the taxable year covered by the income tax return. In addition, the taxpayer must retain records sufficient to substantiate the right of the taxpayer to claim the deduction, including a map, where necessary, to show clearly timber and land acquired, timber cut, and timber and land sold for as long as their contents may become material in the administration of any internal revenue law.

§ 1.611–3T [Removed]

Par. 7. Section 1.611–3T is removed.

§ 1.852–9 [Amended]

Par. 8. In § 1.852–9, paragraph (c)(1) is added to read as follows:

§ 1.852–9 Special procedural requirements applicable to designation under section 852(b)(3)(D).

* * * * *

(c) *Shareholders*—(1) *Return and Recordkeeping Requirements*—(i) *Return requirements for taxable years beginning before January 1, 2002.* For taxable years beginning before January 1, 2002, the copy B of Form 2439 furnished to a shareholder by the regulated investment company or by a nominee, as provided in § 1.852–9(a) or (b) shall be attached to the income tax return of the shareholder for the taxable year in which the amount of undistributed capital gains is includible in gross income as provided in § 1.852–4(b)(2).

(ii) *Recordkeeping requirements for taxable years beginning after December 31, 2001.* For taxable years beginning after December 31, 2001, the shareholder shall retain a copy of Form 2439 for as long as its contents may become material in the administration of any internal revenue law.

* * * * *

§ 1.852–9T [Removed]

Par. 9. Section 1.852–9T is removed.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 10. The authority citation for part 301 continues to read as follows:

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

Par. 11. Section 301.6011–1 is added to read as follows:

§ 301.6011–1 General requirement of return, statement or list.

(a) For provisions requiring returns, statements, or lists, see the regulations relating to the particular tax.

(b) The Internal Revenue Service may prescribe in forms, instructions, or other appropriate guidance the information or documentation required to be included with any return or any statement required to be made or other document required to be furnished under any provision of the internal revenue laws or regulations.

§ 301.6011–1T [Removed]

Par. 12. Section 301.6011–1T is removed.

§ 301.6903–1 [Amended]

Par. 13. In § 301.6903–1, paragraph (b) is added to read as follows:

§ 301.6903–1 Notice of fiduciary relationship.

* * * * *

(b) *Manner of notice*—(1) *Notices filed before April 24, 2002.* This paragraph (b)(1) applies to notices filed before April 24, 2002. The notice shall be signed by the fiduciary, and shall be filed with the Internal Revenue Service office where the return of the person for whom the fiduciary is acting is required to be filed. The notice must state the name and address of the person for whom the fiduciary is acting, and the nature of the liability of such person; that is, whether it is a liability for tax, and, if so, the type of tax, the year or

years involved, or a liability at law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary under section 3467 of the Revised Statutes, as amended (31 U.S.C. 192) in respect of the payment of any tax from the estate of the taxpayer. Satisfactory evidence of the authority of the fiduciary to act for any other person in a fiduciary capacity must be filed with and made a part of the notice. If the fiduciary capacity exists by order of court, a certified copy of the order may be regarded as satisfactory evidence. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as such, must file with the Internal Revenue Service office with whom the notice of fiduciary relationship was filed written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. The notice of termination should state the name and address of the person, if any, who has been substituted as fiduciary. Any written notice disclosing a fiduciary relationship which has been filed with the Commissioner under the Internal Revenue Code of 1939 or any prior revenue law shall be considered as sufficient notice within the meaning of section 6903. Any satisfactory evidence of the authority of the fiduciary to act for another person already filed with the Commissioner or district director need not be resubmitted.

(2) *Notices filed on or after April 24, 2002.* This paragraph (b)(2) applies to notices filed on or after April 24, 2002. The notice shall be signed by the fiduciary, and shall be filed with the Internal Revenue Service Center where the return of the person for whom the fiduciary is acting is required to be filed. The notice must state the name and address of the person for whom the fiduciary is acting, and the nature of the liability of such person; that is, whether it is a liability for tax, and if so, the type of tax, the year or years involved, or a liability at law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary under 31 U.S.C. 3713(b), in respect of the payment of any tax from the estate of the taxpayer. The fiduciary must retain satisfactory evidence of his or her authority to act for any other person in a fiduciary capacity as long as the evidence may become material in the administration of any internal revenue law.

* * * * *

§ 301.6903–1T [Removed]

Par. 14. Section 301.6903–1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 15. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 16. In § 602.101, paragraph (b), the table is amended as follows:

1. The following entries are removed:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.48–12T	1545–0155 1545–1783
* * * * *	
1.152–3T	1545–0071 1545–1783
* * * * *	
1.611–3T	1545–0007 1545–0099 1545–1784
* * * * *	
1.852–9T	1545–0074 1545–0123 1545–0144 1545–0145 1545–1783
* * * * *	
301.6903–1T	1545–0013 1545–1783
* * * * *	

2. The following entries are revised:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.48–12	1545–0155 1545–1783
* * * * *	
1.152–3	1545–0071 1545–1783
* * * * *	
1.611–3	1545–0007 1545–0099 1545–1784
* * * * *	
1.852–9	1545–0074 1545–0123 1545–0144 1545–0145 1545–1783
* * * * *	
301.6903–1	1545–0013 1545–1783
* * * * *	

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: January 14, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–2063 Filed 1–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 9041]

RIN 1545–BB88

Taxpayer Identification Number (TIN) Matching Program

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations under section 3406 relating to the IRS Taxpayer Identification Number (TIN) Matching Program. These final and temporary regulations affect payors, and their authorized agents, and provide guidance necessary to comply with the law. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the Proposed Rules section published elsewhere in this issue of the **Federal Register**.

DATES: *Effective Date.* These regulations are effective January 31, 2003.

Applicability Date. For dates of applicability, *see* §§ 31.3406(j)–1(f) and 31.3406(j)–1T(f).

FOR FURTHER INFORMATION CONTACT: Donna Welch at (202) 622–4910.

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Employment Tax Regulations (26

CFR part 31) relating to the IRS TIN Matching Program.

Section 3406(a)(1) requires a *payor* to withhold on any reportable payment (as defined in section 3406(b)(1)) in certain situations, including if (1) the payee fails to furnish his TIN to the *payor* as required or (2) the Secretary notifies the *payor* that the TIN furnished by the payee is incorrect. Section 3406(i) provides that the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 3406.

Regulations under section 3406(i) provide that the Commissioner has the authority to establish TIN matching programs through revenue procedures or other appropriate guidance. Under the regulations, a *payor* participating in a TIN matching program may, before filing information returns with respect to reportable payments, contact the IRS with respect to the TIN furnished by the payee. The regulations provide that the IRS will inform the *payor* whether or not the name/TIN combination furnished by the payee matches a name/TIN combination maintained for the TIN matching program.

Pursuant to the authority in the regulations, the IRS issued Rev. Proc. 97–31 (1997–1 C.B. 703) and implemented a TIN matching program for Federal agency payors. The IRS is now issuing a second revenue procedure pursuant to that authority (as amended by these temporary regulations). This revenue procedure will expand the scope of the IRS TIN Matching Program to allow all payors (and not merely Federal agency payors), as well as payors' authorized agents, to participate in TIN matching. In addition, the IRS and the Treasury Department expect to issue additional published guidance that will allow payment card organizations to act on behalf of cardholder/payors for purposes of soliciting, collecting, and validating merchant/payees' names and TINs through TIN matching if certain requirements are met.

Explanation of Provisions

These regulations specifically authorize a payor's authorized agent to participate in TIN matching by providing that, for purposes of the TIN matching program, the term *payor* includes an agent designated by the *payor* to participate in TIN matching on behalf of the *payor.*

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**. Pursuant to section 7805(f), the temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of the regulations is Donna Welch, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

List of Subjects in 26 CFR Part 31

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

Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

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

1. The authority citation for part 31 is amended by adding an entry in numerical order to read in part as follows:

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

Section 31.3406(j)–1T also issued under 26 U.S.C. 3406(i). * * *

2. Section 31.3406(j)–1 is amended by revising paragraphs (a) and (f) to read as follows:

§ 31.3406(j)–(1) Taxpayer Identification Number (TIN) matching program.

(a) [Reserved]. For further guidance, *see* § 31.3406(j)–1T(a).

* * * * *

(f) [Reserved]. For further guidance, *see* § 31.3406(j)–1T(f).

3. Section 31.3406(j)–1T is added to read as follows:

§ 31.3406(j)–1T Taxpayer Identification Number (TIN) matching program (temporary).

(a) *The matching program.* Under section 3406(i), the Commissioner has the authority to establish Taxpayer Identification Number (TIN) matching programs. The Commissioner may prescribe in a revenue procedure (*see* § 601.601(d)(2) of this chapter) or other appropriate guidance the scope and the terms and conditions of participating in any TIN matching program. In general, under a matching program, prior to filing information returns with respect to reportable payments as defined in section 3406(b)(1), a *payor* of those reportable payments who is entitled to participate in the matching program may contact the Internal Revenue Service (IRS) with respect to the TIN furnished by a payee who has received or is likely to receive a reportable payment. The IRS will inform the *payor* whether or not a name/TIN combination furnished by the payee matches a name/TIN combination maintained in the data base utilized for the particular matching program. For purposes of this section, the term *payor* includes an agent designated by the *payor* to participate in TIN matching on the *payor's* behalf.

(b) through (e) [Reserved]. For further guidance, *see* § 31.3406(j)–1(b) through (e).

(f) *Effective date.* The provisions of this section are applicable on or after June, 18, 1997, except the last sentence in paragraph (a) of this section which is applicable on January 31, 2003. The applicability of this section expires on January 30, 2006.

David A. Mader,

Acting Deputy Commissioner of Internal Revenue.

Approved: January 17, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–2207 Filed 1–30–03; 8:45 am]

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DEPARTMENT OF JUSTICE

28 CFR Parts 0, 9, 11, 16, 71, 77

[AG Order No. 2650–2003]

Organization of the Bureau of Alcohol, Tobacco, Firearms, and Explosives

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Homeland Security Act of 2002 transferred certain law enforcement and regulatory functions of the Bureau of Alcohol, Tobacco and Firearms from the Department of the Treasury to the Department of Justice and changed its name to the Bureau of Alcohol, Tobacco, Firearms, and Explosives. This rule delegates specific authorities to that Bureau and

incorporates it into the structure of the Department of Justice.

EFFECTIVE DATE: January 24, 2003.

FOR FURTHER INFORMATION CONTACT: Stuart Frisch, General Counsel, Justice Management Division, Rm. 520, National Place Building, United States Department of Justice, Washington, DC 20530; Telephone (202) 514–3452; FAX: (202) 514–4317.

SUPPLEMENTARY INFORMATION:

Introduction

The Homeland Security Act of 2002, Pub. L. 107–296, title XI, 116 Stat. 2135 (Nov. 25, 2002) (''Act''), transferred certain law enforcement and regulatory authorities, functions, personnel, and assets of the former Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury to the Department of Justice as the Bureau of Alcohol, Tobacco, Firearms, and Explosives. The Act also created new authorities, particularly in the area of regulation of explosives.

The Attorney General (with minimal exceptions not relevant here) is vested with the responsibility for the management of all functions of the Department of Justice and may delegate those functions to officials of the Department as he deems appropriate. 28 U.S.C. 509, 510. In implementing his statutory responsibilities for the Act and the administration of the Department, the Attorney General is issuing these regulations for the internal management of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

This final rule creates a new subpart of title 28, Code of Federal Regulations (CFR), part 0, regarding the establishment, functions, and management of the Bureau of Alcohol, Tobacco, Firearms, and Explosives. This rule also makes minor technical amendments to other Department regulations relating to authority for processing petitions for remission or mitigation of forfeitures, compromise of claims, maintenance of reading rooms, program fraud civil remedies, and ethical standards. These changes align the Bureau of Alcohol, Tobacco, Firearms, and Explosives with other law enforcement components within the Department of Justice.

Transfer Authority in the Homeland Security Act of 2002

On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Pub. L. No. 107–296, 116 Stat. 2135 (2002). Section 1111 of the Act establishes in the Department the ''Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' and generally transfers most of the non-tax authorities, functions, personnel and assets of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury to the Department of Justice. This transfer is effective on January 24, 2003.

Under the Homeland Security Act of 2002, the Department of the Treasury retains authority over certain tax provisions relating to alcohol, tobacco and firearms, as well as the Federal Alcohol Administration Act. Those functions will be handled by the new Tax and Trade Bureau in the Department of the Treasury.

A. Part 0—Organization of the Department of Justice

The amendment to 28 CFR 0.1 adds the Bureau of Alcohol, Tobacco, Firearms, and Explosives to the list of bureaus within the Department of Justice.

This rule redesignates subpart W as subpart W–1, and creates a new subpart W for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, consistent with the subparts that delegate authority to other bureaus of the Department.

New 28 CFR 0.130 delegates to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (''Director''), subject to the direction of the Attorney General and Deputy Attorney General, responsibilities with respect to the investigation and enforcement of federal firearms, explosives, and arson laws, as well as the provisions of title 18, United States Code, with respect to violations involving alcohol and tobacco. Paragraphs (a) through (c) reflect the authorities that were previously exercised by the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury and which were transferred in the Homeland Security Act of 2002, plus new authority enacted in the Safe Explosives Act, title XI, subtitle C, of the Homeland Security Act of 2002. Paragraph (d) reflects the management of new authority which may be delegated by the Attorney General in the future as authorized by section 1111(b)(3) of the Homeland Security Act of 2002.

Section 0.131 delegates to the Director specific functions previously performed by the Bureau of Alcohol, Tobacco and Firearms, including the operation of laboratories, the National Explosives Licensing Center, the National Firearms Licensing Center, the National Firearms Registration and Transfer Record, the Arson and Explosives National Repository, the National Tracing Center, and a new Explosives Training and Research Facility, as well as specific functions performed by law enforcement bureaus of the Department of Justice.

Section 0.132 delegates to the Director authority to settle certain claims against the Bureau of Alcohol, Tobacco, Firearms, and Explosives and its personnel within certain applicable monetary limits.

Section 0.133 of this rule provides administrative continuity in the transfer of functions from the Department of the Treasury to the Department of Justice by adopting and carrying forward certain extant regulations specifically relating to the authorities transfered to the Department of Justice. In a separate rule, these regulations are being recodified in a new chapter II of 27 CFR.

There are other regulations issued by the Department of the Treasury, or the former Bureau of Alcohol, Tobacco and Firearms, that apply to both the authorities that were transferred to the Department of Justice and the authorities that were retained in the Department of the Treasury pursuant to the Homeland Security Act. For example, the regulations in 27 CFR part 70 contain general rules on procedure and administration. Many of these rules apply only to taxes collected by the Department of the Treasury. However, some of these rules also apply to administration of the National Firearms Act, which will be enforced by the Department of Justice. Paragraph (a)(2) continues the application of these regulations to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives until amended, or otherwise revised.

Accordingly, this section provides that, pending the issuance of new regulations or other changes in authority, all other regulations issued by the Department of the Treasury or the Bureau of Alcohol, Tobacco and Firearms prior to January 24, 2003, shall continue to apply to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, to the extent that such regulations apply to the authorities or functions transferred to the Department of Justice pursuant to the Homeland Security Act of 2002 or the regulations in this part, unless the application of such regulations would be inconsistent with statutes or regulations applicable to the Department of Justice.

Similarly, paragraph (a)(3) continues the orders and other legal authorities related to the former Bureau of Alcohol, Tobacco and Firearms. Paragraph (a)(4) alters the effect of the reference to appropriate entities and officials of the Department of the Treasury before the transfer to refer to the corresponding

entities and officials of the Department of Justice after the transfer. Finally, paragraph (b) makes four exceptions for specific matters relating to forfeitures. In the future, when it is clear that pending proceedings no longer depend on such pre-existing authority, the Department will make the necessary adjustments to change the nomenclature in the regulations transferred to chapter II, title 27, and to eliminate obsolete regulations.

B. Conforming Authorities in Other Parts of 28 CFR

Additionally, a number of conforming changes are required in other parts in 28 CFR to incorporate the Bureau of Alcohol, Tobacco, Firearms, and Explosives into the Department of Justice. These changes affect only the internal administration of the Department.

Amendments to part 9 apply the procedures used by the Department of Justice for remission and mitigation of forfeiture to the Bureau of Alcohol, Tobacco, Firearms, and Explosives. 27 CFR part 72 will not be applicable to the Bureau of Alcohol, Tobacco, Firearms, and Explosives after transfer to the Department of Justice.

Similarly, under the Department of Justice authority in amendments to part 11, the Director is delegated authority to compromise claims under the Debt Collection Act, 31 U.S.C. 3711. This replaces authority previously exercised within the Department of the Treasury under 31 CFR part 5.

Amendments to part 16 establish the various Freedom of Information Act functions, 5 U.S.C. 552, within the Department for the Bureau of Alcohol, Tobacco, Firearms, and Explosives. These provisions replace Department of the Treasury regulations. 31 CFR part 1.

The Chief Counsel of the Bureau of Alcohol, Tobacco, Firearms, and Explosives is designated as the reviewing official under the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq*. Finally, in 28 CFR part 77 attorneys in the office of the Chief Counsel of the Bureau of Alcohol, Tobacco, Firearms, and Explosives are brought under the ethical standards applicable to Department of Justice attorneys under 28 U.S.C. 530B.

Finally, the Department notes that all Department of Justice regulations and policy applicable to its Bureaus and employees, such as the policy statements of 28 CFR part 50, automatically become applicable to the Bureau of Alcohol, Tobacco, Firearms, and Explosives through this transfer of functions under the Act.

Administrative Procedure Act

This rule relates to matters of agency management and personnel and, therefore, is exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date. *See* 5 U.S.C. 553(a)(2) and (d). The rule only continues extant provisions of the regulations of the former Bureau of Alcohol, Tobacco and Firearms and makes appropriate changes to reflect the transfer certain law enforcement functions of the former Bureau of Alcohol, Tobacco and Firearms to the Department of Justice.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory Flexibility Analysis is not required for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is limited to agency organization, management and personnel matters as described by Executive Order 12866, § 3(d)(3) and, therefore, is not a ''regulation'' or ''rule'' as defined by that Executive Order.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, Federalism, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

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 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq*.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a rule for purposes of the reporting requirement of 5 U.S.C. 801.

List of Subjects 28 CFR Part 0

Authority delegations (government agencies), Government employees, Organization and functions (government agencies), Whistleblowing.

28 CFR Part 9

Administrative practice and procedure, Crime, Seizures and forfeitures.

28 CFR Part 11

Claims, Government contracts, Government employees, Income taxes, Lawyers, Wages.

28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of information, Privacy, Sunshine Act.

28 CFR Part 71

Administrative practice and procedure, Claims, Fraud, Penalties.

28 CFR Part 77

Government employees, Investigations, Law enforcement, Lawyers.

Accordingly, chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

§ 0.1 [Amended]

2. In § 0.1, under the subheading ''Bureaus'', the words ''Bureau of Alcohol, Tobacco, Firearms, and Explosives.'' are added following ''United States Marshals Service.''

§ 0.137 [Removed]

3. Section 0.137 is removed.

Subpart W—[Redesignated as Subpart W–1]

4. Subpart W (§§ 0.130 through 0.132) is redesignated as subpart W–1.

§§ 0.130–0.132 [Redesignated]

5. Sections 0.130 through 0.132 are redesignated as sections 0.135 through 0.137, respectively.

§§ 0.130–0.133 [Added]

6. Subpart W, and §§ 0.130 through 0.133 are added to read as follows:

Subpart W—Bureau of Alcohol, Tobacco, Firearms, and Explosives

Sec.
0.130 General functions.
0.131 Specific functions.
0.132 Delegation respecting claims against the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
0.133 Transition and continuity of regulations.

Subpart W—Bureau of Alcohol, Tobacco, Firearms, and Explosives

§ 0.130 General functions.

Subject to the direction of the Attorney General and the Deputy Attorney General, the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall:

(a) Investigate, administer, and enforce the laws related to alcohol, tobacco, firearms, explosives, and arson, and perform other duties as assigned by the Attorney General, including exercising the functions and powers of the Attorney General under the following provisions of law:

(1) 18 U.S.C. chapters 40 (related to explosives), 44 (related to firearms), 59 (related to liquor trafficking), and 114 (related to trafficking in contraband cigarettes);

(2) Chapter 53 of the Internal Revenue Code of 1986, 26 U.S.C. chapter 53 (related to certain firearms and destructive devices);

(3) Chapters 61 through 80, inclusive, of the Internal Revenue Code of 1986, 26 U.S.C. chapters 61—80, insofar as they relate to activities administered and enforced with respect to chapter 53 of the Internal Revenue Code of 1986, 26 U.S.C. chapter 53;

(4) 18 U.S.C. 1952 and 3667, insofar as they relate to liquor trafficking;

(5) 49 U.S.C. 80303 and 80304, insofar as they relate to contraband described in section 80302(a)(2) or 80302(a)(5); and

(6) 18 U.S.C. 1956 and 1957, insofar as they involve violations of:

(i) 18 U.S.C. 844(f) or (i) (relating to explosives or arson),

(ii) 18 U.S.C. 922(l) (relating to the illegal importation of firearms),

(iii) 18 U.S.C. 924(n) (relating to illegal firearms trafficking),

(iv) 18 U.S.C. 1952 (relating to traveling in interstate commerce in aid of racketeering enterprises insofar as they concern liquor on which Federal excise tax has not been paid);

(v) 18 U.S.C. 2341—2346 (trafficking in contraband cigarettes);

(vi) Section 38 of the Arms Export Control Act, as added by Public Law 94–329, section 212(a)(1), as amended, 22 U.S.C. 2778 (relating to the importation of items on the U.S. Munitious Import List), except violations relating to exportation, in transit, temporary import, or temporary export transactions;

(vii) 18 U.S.C. 1961 insofar as the offense is an act or threat involving arson that is chargeable under State law and punishable by imprisonment for more than one year; and

(viii) Any offense relating to the primary jurisdiction of Bureau of Alcohol, Tobacco, Firearms, and Explosives that the United States would be obligated by a multilateral treaty either to extradite the alleged offender or to submit the case for prosecution if the offender were found within the territory of the United States;

(b) Investigate, seize, and forfeit property involved in a violation or attempted violation within the investigative jurisdiction set out in paragraph (a), under 18 U.S.C. 981 and 982;

(c) Subject to the limitations of 3 U.S.C. 301, exercise the authorities of the Attorney General under section 38 of the Arms Export Control Act, 22 U.S.C. 2778, relating to the importation of defense articles and defense services, including those authorities set forth in 27 CFR part 47; and

(d) Perform any other function related to the investigation of violent crime or domestic terrorism as may be delegated to the Bureau of Alcohol, Tobacco, Firearms, and Explosives by the Attorney General.

§ 0.131 Specific functions.

The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall:

(a) Operate laboratories in support of Bureau activities; provide, with or without cost, technical and scientific assistance, including expert testimony, to Federal, State, or local agencies; and make available the services of the laboratories to foreign law enforcement agencies and courts under procedures agreed upon by the Secretary of State and the Attorney General;

(b) Operate the National Explosives Licensing Center to review applications for explosives licenses and permits; determine the eligibility of applicants; issue licenses and permits on approved explosives applications; coordinate with field offices the inspection of applicants, licensees, and permittees; and maintain an explosives license and permit database;

(c) Operate the National Firearms Licensing Center to review applications for firearms licenses; determine the eligibility of applicants; issue licenses on approved firearms applications; coordinate with field offices the inspection of applicants and licensees; and maintain a firearms license database;

(d) Maintain and operate the National Firearms Registration and Transfer Record (NFRTR), pursuant to section 5841 of the Internal Revenue Code of 1986, 26 U.S.C. 5841, as a registry of all National Firearms Act (NFA) firearms in the United States that are not in the possession or under the control of the United States;

(e) Maintain and operate the Arson and Explosives National Repository, a national repository of information on incidents involving arson and the suspected criminal misuse of explosives, under 18 U.S.C. 846(b);

(f) Maintain and operate the National Tracing Center to process requests from Federal, State, local, and foreign law enforcement agencies for the tracing of crime guns; and collect and analyze trace data, out-of-business records, reports of firearms stolen or lost from the inventories of licensees or interstate shipments, and multiple sales reports contained in the Firearms Tracing System (FTS), under 18 U.S.C. chapter 44;

(g) Establish, maintain and operate an Explosives Training and Research Facility to train Federal, State, and local law enforcement officers to investigate bombings and explosions, properly handle, utilize, and dispose of explosives materials and devices, train canines as explosives detection canines, and conduct research on explosives, as authorized by section 1114 of the Homeland Security Act of 2002;

(h) Pay awards for information or assistance and pay for the purchase of

evidence or information as authorized by 28 U.S.C. 524;

(i) Subject to applicable statutory restrictions on the disclosure of records of information:

(1) Release information obtained by the Bureau and Bureau investigative reports to Federal, State, and local officials engaged in the enforcement of laws related to alcohol, tobacco, arson, firearms, and explosives offenses;

(2) Release information obtained by Bureau and Bureau investigative reports to Federal, State, and local prosecutors, and State licensing boards, engaged in the institution and prosecution of cases before courts and licensing boards related to alcohol, tobacco, arson, firearms and explosives offenses;

(3) Authorize the testimony of Bureau officials in response to subpoenas or demands issued by the prosecution in Federal, State, or local criminal cases involving offenses under the jurisdiction of the Bureau; and

(4) Except as provided in paragraph (i)(1) of this section, authorize all other production of information or testimony of Bureau officials in response to subpoenas or demands of courts or other authorities as governed by subpart B of part 16 of this chapter.

§ 0.132 Delegation respecting claims against the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

(a) The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives is authorized to exercise the power and authority vested in the Attorney General under 28 U.S.C. 2672 to consider, ascertain, adjust, determine, compromise and settle any claim thereunder not exceeding $50,000 in any one case caused by the negligent or wrongful act or omission of any employee of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

(b) The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives is authorized to exercise the power and authority vested in the Attorney General under 31 U.S.C. 3724, with regard to claims arising out of the lawful activities of Bureau of Alcohol, Tobacco, Firearms, and Explosives personnel in an amount not to exceed $50,000 in any one case.

(c) The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives is authorized to redelegate the power and authority vested in him in paragraph (b) of this section to the Chief Counsel of the Bureau of Alcohol, Tobacco, Firearms, and Explosives and the Chief Counsel's designee within the Office of Chief Counsel. This authority shall not be further redelegated below the Associate Chief Counsel level.

§ 0.133 Transition and continuity of regulations.

(a) Except as otherwise provided in this section, and to the extent applicable to the functions transferred to the Department of Justice by the Homeland Security Act of 2002:

(1) The regulations contained in 27 CFR part 46, subpart F (Distribution of Cigarettes), part 47 (Importation of Arms, Ammunition and Implements of War), part 55 (Commerce in Explosives), part 178 (Commerce in Firearms and Ammunition), and part 179 (Machine Guns, Destructive Devices, and Certain Other Firearms) as in effect on January 23, 2003 (*see* 27 CFR chapter I, revised as of July 1, 2002), shall continue in effect with respect to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law.

(2) The regulations promulgated by the Department of the Treasury relating to the Bureau of Alcohol, Tobacco and Firearms, or by the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, in effect as of January 23, 2003, shall continue to apply to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives until amended, modified, superseded, terminated, set aside, or revoked in accordance with law, unless the application of such regulations would be inconsistent with statutes or regulations applicable to the Department of Justice.

(3) All orders, delegations, determinations, rules, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges of the Bureau of Alcohol, Tobacco and Firearms completed or in effect as of January 23, 2003, and all matters and proceedings pending therein on January 23, 2003, shall continue in effect according to their terms, to the extent that they relate to the authorities or functions transferred to the Department of Justice pursuant to the Homeland Security Act of 2002, until amended, modified, superseded, terminated, set aside, or revoked in accordance with law, unless such application would be inconsistent with statutes or regulations applicable to the Department of Justice.

(4) References in such regulations, orders, delegations, determinations, rules, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges to the Secretary of Treasury, the Department of Treasury, the Director of the Bureau of Alcohol, Tobacco and Firearms, or the Bureau of Alcohol, Tobacco and Firearms or its officers, employees, agents or organizational units or functions shall be deemed to refer, as appropriate, on and after January 24, 2003, to the Attorney General, the Department of Justice, the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Bureau of Alcohol, Tobacco, Firearms, and Explosives or to its officers, employees, or agents or its corresponding organizational units or functions, respectively.

(b) Exceptions. Notwithstanding the provisions of paragraph (a) of this section, 27 CFR part 72, and 27 CFR 46.155, 178.152 and 179.182 as in effect on January 23, 2003, shall not be deemed applicable to the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

§ 0.138 [Amended]

7. In § 0.138, in the section heading, ''Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' is added following the words ''Drug Enforcement Administration,'' and in paragraph (a), the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following ''the Administrator of the Drug Enforcement Administration,''.

§ 0.140 [Amended]

8. In § 0.140, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Administrator of the Drug Enforcement Administration,''.

§ 0.141 [Amended]

9. In § 0.141, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following ''the Administrator of the Drug Enforcement Administration,''.

§ 0.142 [Amended]

10. In § 0.142 introductory text, the words ''Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''Administrator of the Drug Enforcement Administration,''.

11. In paragraph (g) of § 0.142, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Director of the Federal Bureau of Investigation''.

§ 0.143 [Amended]

12. In § 0.143, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Administrator

of the Drug Enforcement Administration,''.

§ 0.144 [Amended]

13. In § 0.144, the words ''Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''Administrator of the Drug Enforcement Administration,''.

§ 0.145 [Amended]

14. In § 0.145, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Administrator of the Drug Enforcement Administration,''.

§ 0.146 [Amended]

15. In § 0.146, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Administrator of the Drug Enforcement Administration,''.

§ 0.147 [Amended]

16. In § 0.147, the words ''for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Assistant Director, Management;'' are added following the words ''Drug Enforcement Administration, the Director of the Office of Administration and Management;''.

§ 0.148 [Amended]

17. In § 0.148, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Administrator of the Drug Enforcement Administration,''.

§ 0.149 [Amended]

18. In § 0.149:

a. Redesignate paragraphs (a) through (c) as paragraphs (a)(1) through (a)(3);

b. Redesignate the introductory paragraph of the section as paragraph (a) introductory text and add the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' following the words ''the Administrator of the Drug Enforcement Administration,''; and

c. Designate the undesignated paragraph at the end of the section as paragraph (b).

§ 0.151 [Amended]

19. In § 0.151, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Administrator of the Drug Enforcement Administration,''.

§ 0.152 [Amended]

20. In § 0.152, the words '', the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Administrator of the Drug Enforcement Administration''.

§ 0.153 [Amended]

21. In § 0.153, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Administrator of the Drug Enforcement Administration,''.

§ 0.154 [Amended]

22. In § 0.154, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following the words ''the Administrator of the Drug Enforcement Administration,''.

§ 0.155 [Amended]

23. In § 0.155, the words ''the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' are added following ''the Administrator of the Drug Enforcement Administration,''.

PART 9—REGULATIONS GOVERNING THE REMISSION OR MITIGATION OF CIVIL AND CRIMINAL FORFEITURES

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

Authority: 28 U.S.C. 509, 510, 515–518, 524; 8 U.S.C. 1324; 15 U.S.C. 1177; 17 U.S.C. 509; 18 U.S.C. 512, 981, 982, 1467, 1955, 1963, 2253, 2254, 2513; 19 U.S.C. 1613, 1618; 21 U.S.C. 853, 881; 22 U.S.C. 401.

§ 9.1 [Amended]

25. In § 9.1, in paragraph (b)(1), the words ''within the Bureau of Alcohol, Tobacco, Firearms, and Explosives, authority to grant remission and mitigation is delegated to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;'' are added following the words ''within the Drug Enforcement Administration, authority to grant remission and mitigation is delegated to the Forfeiture Counsel, Office of Chief Counsel;''.

26. In § 9.3, redesignate paragraph (e)(1)(iii) as paragraph (e)(1)(iv), and add a new paragraph (e)(1)(iii) to read as follows:

§ 9.3 Petitions in administrative forfeiture cases.

* * * * *

(e) * * *

(1) * * *

(iii) Bureau of Alcohol, Tobacco, Firearms, and Explosives, Special Agent in Charge, Asset Forfeiture and Seized Property Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226.

* * * * *

§ 9.4 [Amended]

27. In § 9.4, before the period at the end of paragraph (e), add the words '', and except in Bureau of Alcohol, Tobacco, Firearms, and Explosives cases, where the copy shall be submitted to the Special Agent in Charge, Asset Forfeiture and Seized Property Branch, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 650 Massachusetts Avenue, NW., Washington, DC 20226''.

PART 11—DEBT COLLECTION

28. The authority citation for part 11 continues to read as follows:

Authority: 5 U.S.C. 301, 28 U.S.C. 509, 510, 31 U.S.C. 3718, 3720A.

§ 11.6 [Amended]

29. In § 11.6(b), the words ''the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF),'' are added following the abbreviation ''(FBI),''.

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

30. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

31. In § 16.2, redesignate paragraphs (b)(11) and (b)(12) as paragraphs (b)(12) and (b)(13), respectively, and add a new paragraph (b)(11) to read as follows:

§ 16.2 Public reading rooms.

* * * * *

(11) Bureau of Alcohol, Tobacco, Firearms, and Explosives—650 Massachusetts Avenue, NW., Washington, DC;

* * * * *

Appendix I to Part 16 [Amended]

32. In Appendix I to part 16—Components of the Department of Justice, Subpart C, add the words ''Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, Washington, DC 20226'' following the item headed ''Tax Division'':

PART 71—IMPLEMENTATION FOR ACTIONS INITIATED BY THE DEPARTMENT OF JUSTICE

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

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; 31 U.S.C. 3801–3812; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

34. In § 71.2, in the definition of ''Reviewing Official'', redesignate paragraphs (e) and (f) as paragraphs (f) and (g), respectively, and add a new paragraph (e) to read as follows:

§ 71.2 Definitions.

* * * * *

(e) For the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), the Chief Counsel, ATF;

* * * * *

PART 77—ETHICAL STANDARDS FOR ATTORNEYS FOR THE GOVERNMENT

35. The authority citation for part 77 continues to read as follows:

Authority: 28 U.S.C. 530B.

§ 77.2 [Amended]

36. In § 77.2, in paragraph (a), add the words ''the Chief Counsel for ATF and any attorney employed in that office;'' following the words ''the Chief Counsel for the DEA and any attorney employed in that office;''.

Dated: January 23, 2003.

John Ashcroft,

Attorney General.

[FR Doc. 03–1896 Filed 1–29–03; 8:45 am]

BILLING CODE 4410–19–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 005–2003]

Privacy Act of 1974; Implementation

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice, Office of the Pardon Attorney (OPA), is exempting a Privacy Act system of records entitled ''Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA–001)'' from subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), and (e)(5) of the Privacy Act. Information in this system relates to the investigation and evaluation of applicants for executive clemency and case-related correspondence regarding such applicants and the clemency process. The exemptions are necessary to avoid interference with clemency investigations and decision-making, when such interference could impair the Department of Justice's ability to provide candid recommendations to the President for his ultimate decisions on clemency matters, and to prevent unwarranted invasions of the personal privacy of third parties.

EFFECTIVE DATE: This final rule is effective January 31, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Cahill, (202) 307–1823.

SUPPLEMENTARY INFORMATION: On October 31, 2002 (67 FR 66348), a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have ''a significant impact on a substantial number of small entities.''

List of Subjects in Part 16

Administrative practices and procedures, Courts, Freedom of Information and Privacy.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a, and delegated to me by Attorney General Order No. 793–78, 28 CFR Part 16 is amended as follows:

PART 16—[AMENDED]

1. The authority citation for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. Section 16.79 is revised to read as follows:

§ 16.79 Exemption of Pardon Attorney System.

(a) The following system of records is exempt from 5 U.S.C. 552a, subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), and (e)(5): Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA–001). These exemptions apply only to the extent that information in this system of records is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(b) Exemption from the particular subsections is justified for the following reasons:

(1) From subsection (c)(3) because:

(i) The purpose of the creation and maintenance of the Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA–001) is to enable the Justice Department to prepare reports and recommendations to the President for his ultimate decisions on clemency matters, which are committed to exclusive discretion of the President pursuant to Article II, Section 2, Clause 1 of the Constitution.

(ii) Release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the requester to obtain valuable information concerning the nature and scope of a clemency investigation, invade the right of candid and confidential communications among officials concerned with making recommendations to the President in clemency matters, and disclose the identity of persons who furnished information to the Government under an express or implied promise that their identities would be held in confidence.

(2) From subsection (c)(4) because the exemption from subsections (d)(1), (d)(2), (d)(3), and (d)(4) will make notification of disputes inapplicable.

(3) From subsections (d)(1), (d)(2), (d)(3), and (d)(4) is justified for the reasons stated in paragraph (b)(1) of this section.

(4) From subsection (e)(5) is justified for the reasons stated in paragraph (b)(1) of this section.

Dated: January 17, 2003.

Paul R. Corts,

Assistant Attorney General for Administration.

[FR Doc. 03–2252 Filed 1–30–03; 8:45 am]

BILLING CODE 4410–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 273–0370a; FRL–7441–5]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District and Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) and the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portions of the California State Implementation Plan (SIP). The ICAPCD revision concerns the emission of particulate matter (PM–10) from agricultural burning. The MBUAPCD revision concerns the emission of PM–10 from incinerator burning. We are approving the local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on April 1, 2003 without further notice, unless EPA receives adverse comments by March 3, 2003. If we receive such comments, we

will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

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

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

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

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

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

A copy of a rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* This is not an EPA Web site and it may not contain the same version of the rule that was submitted to EPA. Readers should verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval and be aware that the official submittal is only available at the agency addresses listed above.

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

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

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I. The State's Submittal

A. What Rules Did the State Submit?

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

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Revised	Submitted
ICAPCD	701	Agricultural burning	08/13/02	10/16/02
MBUAPCD	408	Incinerator burning	08/21/02	10/16/02

On December 3, 2002, this submittal was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We gave a limited approval and limited disapproval to a version of ICAPCD Rule 701 on July 11, 2001 (66 FR 36170). We approved a version of MBUAPCD Rule 408 on July 13, 1987 (52 FR 26148).

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

The purpose of the submitted revised ICAPCD Rule 701 is to remedy the deficiency cited in the limited approval and limited disapproval action on July 11, 2001 (66 FR 36170).

The purposes of the submitted revised MBUAPCD Rule 408 are to reformat the rule and to remove the blanket exemption from the rule for burning household rubbish and yard trimmings at single- and two-family homes in all of San Benito County.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). Section 189(a) of the CAA requires moderate PM–10 nonattainment areas with significant PM–10 sources to adopt reasonably available control measures (RACM), including reasonably available control technology (RACT). RACM/RACT is not required for attainment areas unless required by a maintenance attainment plan. ICAPCD regulates a moderate PM–10 nonattainment area. MBUAPCD is a PM–10 attainment area. See 40 CFR 81.305.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.
- *General Preamble Appendix C3—Prescribed Burning Control Measures* (57 FR 18072, April 28, 1992).
- *PM–10 Guideline Document,* EPA–452/R–93–008.

B. Do the Rules Meet the Evaluation Criteria?

The deficiency in ICAPCD Rule 701 was that the APCO had open-ended discretion to allow burning on No-Burn Days in case of imminent and substantial economic loss. The deficiency was remedied in paragraph B.1 with the addition that the APCO must limit the amount of acreage per No-Burn Day and that the APCO may authorize such burning only when downwind populated areas are forecast by the ICAPCD to achieve the ambient air quality standards.

The cited changes improve MBUAPCD Rule 408 with increased stringency by eliminating a blanket exemption.

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and RACM/RACT requirements. The TSDs have more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by March 3, 2003, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not

receive timely adverse comments, the direct final approval will be effective without further notice on April 1, 2003. This will incorporate these rules into the federally-enforceable SIP and will terminate all sanctions and Federal Implementation Plan implications associated with our June 11, 2001 action on a previous version of ICAPCD Rule 701.

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

III. Background Information

A. Why Were These Rules Submitted?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists some of the national milestones leading to the submittal of local agency PM–10 rules.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
November 15, 1990	PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate pursuant to section 188(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 188(c).

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

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

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: December 12, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 [AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(302) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(302) New and amended regulations for the following APCDs were submitted on October 16, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Imperial County Air Pollution Control District.

(*1*) Rule 701, revised on August 13, 2002.

(B) Monterey Bay Unified Air Pollution Control District.

(*1*) Rule 408, adopted on September 1, 1974 and revised on August 21, 2002.

* * * * *

[FR Doc. 03–2174 Filed 1–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 273–0370c; FRL–7441–7]

Interim Final Determination to Stay and/or Defer Sanctions, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is making an interim final determination to stay and/or defer imposition of sanctions based on a proposed approval of revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP) published elsewhere in today's **Federal Register**. The revisions concern ICAPCD Rule 701.

DATES: This interim final determination is effective on January 31, 2003. However, comments will be accepted until March 3, 2003.

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

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

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243.

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

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

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

I. Background

On July 11, 2001 (66 FR 36170), we published a limited approval and limited disapproval of ICAPCD Rule 701 as adopted locally on September 14, 1999 and submitted by the State on May 26, 2000. We based our limited disapproval action on certain deficiencies in the submittal. This disapproval action started a sanctions clock for imposition of offset sanctions 18 months after August 10, 2001 and highway sanctions 6 months later, pursuant to section 179 of the Clean Air Act (CAA) and our regulations at 40 CFR 52.31.

On August 13, 2002, ICAPCD adopted revisions to Rule 701 that were intended to correct the deficiencies identified in our disapproval action. On October 16, 2002, the State submitted these revisions to EPA. In the Proposed Rules section of today's **Federal Register**, we have proposed approval of this submittal because we believe it corrects the deficiencies identified in our July 11, 2001 disapproval action. Based on today's proposed approval, we are taking this final rulemaking action, effective on publication, to stay and/or defer imposition of sanctions that were triggered by our July 11, 2001 disapproval.

EPA is providing the public with an opportunity to comment on this stay/deferral of sanctions. If comments are submitted that change our assessment described in this final determination and the proposed approval of revised ICAPCD Rule 701, we intend to take subsequent final action to reimpose sanctions pursuant to 40 CFR 51.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks will be permanently terminated on the effective date of a final rule approval.

II. EPA Action

We are making an interim final determination to stay and/or defer CAA section 179 sanctions associated with ICAPCD Rule 701 based on our concurrent proposal to approve the State's SIP revision as correcting deficiencies that initiated sanctions.

Because EPA has preliminarily determined that the State has corrected the deficiencies identified in EPA's limited disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date, and EPA will consider any comments received in determining whether to reverse such action.

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all it can to correct the deficiencies that triggered the sanctions clocks. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to stay and/or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this

action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

III. Administrative Requirements

This action stays and/or defers federal sanctions and imposes no additional requirements.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action.

The administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply to this rule because it imposes no standards.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefor, and established an effective date of January 31, 2003. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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

List of Subjects in 40 CFR Part 52

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

Dated: December 12, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 03–2175 Filed 1–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIP NO. CO–001–0068; FRL–7443–8]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Governor of Colorado on November 5, 1999. The November 5, 1999 submittal exempts military training exercises at the United States Army Installation Fort Carson and United States Army Pinon Canyon Maneuver Site (PCMS) from opacity limits. The intended effect of this action is to allow the use of smoke and obscurants for military training exercises when operated under applicable requirements. This action is being taken under section 110 of the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective March 3, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202 and copies of the Incorporation by Reference material at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

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

SUPPLEMENTARY INFORMATION: On October 23, 2002 (67 FR 65080), EPA published a notice of proposed rulemaking (NPR) for the State of Colorado. The NPR proposed approval of a State Implementation Plan (SIP) revision submitted by the Governor of Colorado on November 5, 1999. The November 5, 1999 submittal exempts military training exercises at the United States Army Installation Fort Carson and United States Army Pinon Canyon Maneuver Site from opacity limits. The intended effect of this action is to allow the use of smoke and obscurants for military training exercises when operated under applicable requirements.

I. Final Action

Since we received no comment on the October 23, 2002 notice of proposed rulemaking, EPA is approving a State Implementation Plan (SIP) revision submitted by the Governor of Colorado on November 5, 1999. The November 5,

1999 submittal revises Colorado's Regulation No. 1 Emission Control for Particulates, Smokes, Carbon Monoxide and Sulfur Dioxide by adding a new subsection D to section II.

II. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: January 13, 2003.

Robert E. Roberts,

Regional Administrator, Region 8.

40 CFR part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(98) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(98) On November 5, 1999 the Governor of Colorado submitted a revision to Regulation No. 1, ''Emission Control for Particulates, Smokes, Carbon Monoxide and Sulfur Dioxide.'' The November 5, 1999 submittal exempts military training exercises at the United States Army Installation Fort Carson and United States Army Pinon Canon Maneuver Site (PCMS) from opacity limits. A new subsection D to Regulation No. 1, section II, has been approved into the SIP.

(i) Incorporation by reference.

(A) Colorado Regulation No. 1, section II, subsection D effective September 30, 1998.

[FR Doc. 03–2173 Filed 1–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPPT–2002–0013; FRL–7288–6]

RIN 2070–AB20

Polychlorinated Biphenyls; Manufacturing (Import) Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With certain exceptions, section 6(e)(3) of the Toxic Substances Control Act (TSCA) bans the manufacture (including import), processing, and distribution in commerce of polychlorinated biphenyls (PCBs). One of these exceptions is TSCA section 6(e)(3)(B), which gives EPA authority to grant petitions through rulemaking, to perform these banned activities for a period of up to 12 months, provided EPA can make certain

findings. In January and April 2001, the United States Defense Logistics Agency (DLA), a component of the Department of Defense (DoD), submitted two petitions to EPA to import foreign-manufactured PCBs that DoD currently owns in Japan and Wake Island for disposal in the United States. EPA is amending its rules to grant both of DLA's petitions; this action will allow DLA to engage in the import of these PCBs for disposal.

DATES: This rule shall become effective April 18, 2003, and shall expire on April 17, 2004. This rule shall be promulgated for purposes of judicial review at 1 p.m. eastern standard time on January 31, 2003.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Peter Gimlin, Environmental Protection Specialist, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 566–0515; fax number: (202) 566–0473; e-mail address: gimlin.peter@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. To Whom Does this Action Apply?

This action applies to the petitioner, the DLA. Potentially affected categories and entities include, but are not necessarily limited to:

Public Administration (NAICS Code 92), e.g., Petitioning Agency (i.e., DLA).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR part 761. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document or Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPPT–2002–0013. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566–0280.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 761 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr761_00.html, a beta site currently under development. To access information about PCBs, go directly to the PCB Home Page for the Office of Pollution Prevention and Toxics at http://www.epa.gov/pcb.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

A. What Action is the Agency Taking?

In this document, the Agency is granting two petitions submitted by DLA to import PCB waste for disposal. In the absence of an exemption, import of this waste would be banned by TSCA section 6(e)(3). One petition, dated January 19, 2001, is for an exemption to import foreign-source PCBs that were used on DoD installations in Japan and are currently stored on Wake Island, a United States territory in the Pacific Ocean west of Hawaii (Ref. 9). (While Wake Island is part of the United States, it is outside the Customs Territory of the United States, and TSCA defines ''manufacture'' to include ''import into the Customs Territory of the United States.'') In addition, 40 CFR 761.99(c) does not exclude this waste from EPA's regulatory interpretation of ''import,'' because it was not present in the United States on January 1, 1979. For more information on these definitional issues, see the **Federal Register** documents of November 1, 2000 (Ref. 7) and March 30, 2001 (Ref. 8). The other petition, dated April 16, 2001, is to import foreign-generated PCBs owned by DoD that are currently in use or storage in Japan (Ref. 10). (The term ''foreign-generated PCBs'' is used to identify those PCBs that DoD acquired from foreign sources and that are subject to the TSCA ban on import.)

B. What is the Agency's Statutory Authority for Taking this Action?

Section 6(e) of TSCA, 15 U.S.C. 2605(e), generally prohibits the manufacture of PCBs after January 1, 1979, the processing and distribution in commerce of PCBs after July 1, 1979, and most uses of PCBs after October 11, 1977. Section 6(e)(3)(A) of TSCA prohibits the manufacture, processing, and distribution in commerce of PCBs except for the distribution in commerce of PCBs that were sold for purposes other than resale before July 1, 1979. Section 6(e)(1) of TSCA also authorizes EPA to regulate the disposal of PCBs consistent with the provisions in TSCA section 6(e)(2) and (3). Section 6(e)(3)(B) of TSCA provides that any person may petition the Administrator for an exemption from the prohibition on the manufacture, processing, and distribution in commerce of PCBs. The Administrator may by rule grant an exemption if the Administrator finds that:

> (i) an unreasonable risk of injury to health or the environment would not result, and (ii) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl. (15 U.S.C.2605(e)(3)(B)(i)–(ii)).

The Administrator may prescribe terms and conditions for an exemption

and may grant an exemption for a period of not more than 1 year from the date the petition is granted. In addition, TSCA section 6(e)(4) requires that a rule under TSCA section 6(e)(3)(B) be promulgated in accordance with TSCA sections 6(c)(2), (3), and (4), which provides for publication of a proposed rule and an opportunity for an informal public hearing before a final rule can be issued.

C. What is the Agency's Regulatory Authority for Taking this Action?

EPA's procedures for rulemaking under TSCA section 6 are found under 40 CFR part 750. This part includes Subpart B—Interim Procedural Rules for Manufacturing Exemptions (40 CFR 750.10 through 750.21) that describe the required content for manufacturing exemption petitions and the procedures EPA follows in rulemaking on these petitions.

III. Findings Necessary to Grant Petitions

A. Unreasonable Risk Finding.

Before granting an exemption petition, TSCA section 6(e)(3)(B)(i) requires the Administrator to find that granting an exemption would not result in an unreasonable risk of injury to health or the environment in the United States. To determine whether a risk is unreasonable, EPA balances the probability that harm will occur to health or the environment against the benefits to society from granting or denying each petition (see generally, 15 U.S.C. 2605(c)(1)). Specifically, EPA considers the following factors:

1. *Effects of PCBs on human health and the environment.* In deciding whether to grant an exemption, EPA considers the magnitude of exposure and the effects of PCBs on humans and the environment. The following discussion summarizes EPA's assessment of these factors. A more complete discussion of these factors is provided in the preamble to the proposed rule: Polychlorinated Biphenyls; Manufacturing, Processing, and Distribution in Commerce Exemptions (Ref. 3), in the rulemaking record for that proposed rule (OPTS Docket–66008F), 40 CFR 761.20, and in EPA's 1996 PCB Cancer Assessment (Ref. 32).

i. *Health effects.* EPA has determined that PCBs cause significant human health effects including cancer, immune system suppression, liver damage, skin irritation, and endocrine disruption. PCBs exhibit neurotoxicity as well as reproductive and developmental toxicity. PCBs are readily absorbed through the skin and are absorbed at even faster rates when inhaled. Because PCBs are stored in animal fatty tissue, humans are also exposed to PCBs through ingestion of animal products (Ref. 32).

ii. *Environmental effects.* Certain PCB congeners are among the most stable chemicals known, and decompose very slowly once they are released in the environment. PCBs are absorbed and stored in the fatty tissue of higher organisms as they bioaccumulate up the food chain through invertebrates, fish, and mammals. Significantly, bioaccumulated PCBs appear to be even more toxic than those found in the ambient environment, since the more toxic PCB congeners are more persistent and thus more likely to be retained (Ref. 32). PCBs also have reproductive and other toxic effects in aquatic organisms, birds, and mammals.

iii. *Risks.* Toxicity and exposure are the two basic components of risk. EPA has concluded that any exposure of humans or the environment to PCBs may be significant, depending on such factors as the quantity of PCBs involved in the exposure, the likelihood of exposure to humans and the environment, and the effect of exposure. Minimizing exposure to PCBs should minimize any eventual risk. EPA has previously determined that some activities, including the disposal of PCBs in accordance with 40 CFR part 761, pose no unreasonable risks. Other activities, such as long-term storage of PCB waste, are generally considered by EPA to pose unreasonable risks.

2. *Benefits and costs.* The benefits to society of granting an exemption vary, depending on the activity for which the exemption is requested. The reasonably ascertainable costs of denying an exemption vary, depending on the individual petition. EPA takes benefits and costs into consideration when evaluating each exemption petition.

B. Good Faith Efforts Finding

Section 6(e)(3)(B)(ii) of TSCA also requires the Administrator to find that ''good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for [PCBs].'' EPA considers several factors in determining whether good faith efforts have been made. For each petition, EPA considers the kind of exemption the petitioner is requesting and whether the petitioner expended time and effort to develop or search for a substitute. To satisfy this finding in the context of an exemption to import PCBs for disposal, EPA looks at why such activity should occur in the United States, including what steps the petitioner has taken to find an alternative to importing the PCBs for disposal. While requiring a petitioner to demonstrate that good faith efforts to develop a substitute for PCBs makes sense when dealing with traditional manufacturing and distribution exemption petitions, the issue of the development of substitute chemicals seems to have little bearing on whether to grant a petition for exemption that would allow the import into the United States for disposal of waste generated by the DoD overseas. EPA believes the more relevant ''good faith'' issue for such an exemption request is whether the disposal of the waste should occur outside the United States.

IV. Summary of the Final Action

A. The Petitions

1. *January 19, 2001, petition to import PCBs located on Wake Island.* On January 19, 2001, DLA submitted a petition for a 1–year exemption to import certain PCBs and PCB items into the Customs Territory of the United States for disposal. The waste in question consists of approximately 91 metric tons [a metric ton is 1,000 kilograms, or 2,200 pounds] of material, of which 31 metric tons DLA estimates to be liquids. Non-liquid material consists of electrical transformers, switches, circuit breakers, and debris (rags, small parts, and packaging materials). The laboratory analyses conducted by DLA indicate PCB concentrations of less than 50 parts per million (ppm) for all materials that could be tested without disassembly. DLA indicates that while it believes any components that could not be tested were excluded from this waste in question, there is a possibility that inaccessible internal components (e.g., small capacitors) of certain transformers may contain PCB constituents at or above 50 ppm.

The material is currently stored in overpack containers at a U.S. Government-owned storage site on Wake Island. DLA proposes to ship the materials in these containers to the Customs Territory of the United States using U.S. flag carriers, and in accordance with applicable laws. Upon arrival in port, the containers would be transported by Department of Transportation (DOT) permitted carriers to the destination facility. On April 16,2001, DLA also amended its petition to include the possibility that the materials could be transported by air on U.S. military aircraft.

DLA proposes in its January 19, 2001, petition to ship the materials to an EPA-approved PCB disposal facility. While DLA initially identified Trans Cycle Industries, Inc. (TCI) in Pell City, Alabama as the receiving facility, it amended its petition on September 28, 2001, to include any EPA-approved PCB disposal facility as a potential receiving facility, indicating that it is premature to specify which approved facility would be contracted to treat and dispose of the waste. DLA would treat and dispose of all material in compliance with the U.S. PCB regulations at 40 CFR part 761. Generally, DLA indicates its intention is to recycle all metal components that can be decontaminated; if they are not decontaminated they would be buried in a chemical waste landfill or incinerated. Used oils or liquids would be decontaminated by dechlorination or sent for energy recovery as fuel. Non-recyclable material will be disposed of as residual solid waste. DLA also notes that EPA-approved alternative disposal methods may also be used. (Note that while DLA is proposing to send this material to a TSCA-approved facility for initial processing, this is not normally required for materials containing less than 50 ppm PCBs that have not been subject to dilution.)

A detailed summary of this petition can be found in Unit IV.A.1 of the September 17, 2002, proposal to this rule (Ref. 38)

2. *April 16, 2001, petition to import PCBs located in Japan*. On April 16, 2001, DLA submitted a second petition; this petition sought a 1–year exemption to import PCBs and PCB items currently in temporary storage on U.S. military installations in Japan. In revised figures provided in June 2001, DLA estimates that as much as 4,293,621 pounds, or approximately 1,952 metric tons of waste containing PCBs could be generated in Japan through the year 2006 and beyond; however, much of this material is currently still in use, and will not become waste requiring disposal for several years. Exactly how much waste can be imported under this exemption will depend on what is available for shipment for disposal while the exemption is in effect, as the exemption is limited to a 1–year maximum. The material in Japan consists of liquids, electrical transformers, capacitors, switches, circuit breakers, other miscellaneous items, and debris (rags, small parts, and packaging materials). PCB concentrations of the waste include amounts at all concentrations; however, most of the waste is at concentrations below 50 ppm PCB. Details of particular amounts and concentrations are provided in Appendix 1 (Refs. 10 and 11).

DLA proposes to package and transport, treat, and dispose of this PCB waste in the same manner as waste identified in the previous petition. DLA states it would handle and dispose of all PCBs in conformance with the PCB regulations at 40 CFR part 761. DLA notes that it has ''considerable experience and expertise in awarding and administering disposal contracts for PCB waste in the United States'' and that it will only ''use contracts with commercial firms providing such services in accordance with all applicable Federal procurement statutes and the Federal Acquisition Regulations (FAR).'' DLA states that it has not yet identified the specific companies that would receive the waste, but that only Federal and State-permitted facilities would be used. Proposed treatment would be in accordance with the options allowed by 40 CFR part 761, including landfilling, incineration, decontamination and recovery of metal, decontamination or burning of used oil, and alternative disposal technologies where allowed.

A detailed summary of this petition can be found in Unit IV.A.2 of the September 17, 2002, proposal to this rule (Ref. 38)

B. Comments On the Proposed Rule

On September 17, 2002, EPA published a notice in the **Federal Register** proposing to grant both of DLA's petitions (Ref. 38). The notice also solicited comments on the proposed action and offered an opportunity for a public hearing if requested. Two comments were received on the proposed action; no person requested a public hearing.

Both comments supported the Agency's proposed decision to grant the petitions. One commenter, Perry & Spann (Ref. 39), urged EPA to grant the applicant's petition as ''...the best manner to control and eliminate PCBs and any potential toxic contamination.'' The other commenter, Environmental Technology Council (Ref. 40), noted ''...not only is there no unreasonable risk ... the risks to public health and the environment will be decreased by importing this waste for proper disposal.'' Additionally, this commenter questioned the need for persons wishing to import PCB waste for disposal to demonstrate ''good faith efforts'' under TSCA section 6(e)(3)(B)(ii). In light of the fact that the Agency has determined that the DLA petitions meet this ''good faith'' test, no response to this comment is necessary at this time. However, the Agency does note that it does not agree with the comment, and continues to believe it appropriate to examine whether there are good reasons that disposal of PCB wastes should occur in the United States when reviewing petitions for exemptions under TSCA section 6(e)(3) that would authorize import of PCB wastes for disposal in this country.

C. EPA's Final Decision on Petitions

1. *January 19, 2001, petition; EPA grants this petition*. EPA agrees with DLA's reasoning in its petition that this waste, being primarily and perhaps exclusively at concentrations below 50 ppm PCBs, has little inherent potential to pose an unreasonable risk to health or the environment. Even more germane to this waste than the ''Excluded PCB Products'' processing, distribution, and use standards referred to by DLA in the petition are the disposal regulations at 40 CFR part 761, subpart D, that do not require waste below 50 ppm PCBs be disposed of in a TSCA or RCRA approved facility, provided the concentration was not affected by dilution. EPA notes the prohibition on import of PCBs at concentrations less than 50 ppm stems from the TSCA ban on ''manufacture'' of PCBs and is not based on any specific finding of EPA that importing PCBs at concentrations less than 50 ppm for disposal presents any unreasonable risk. Prior to 1997, EPA allowed such imports for disposal without restriction. (EPA authorized the import for disposal of PCBs at concentrations of less than 50 ppm in 1984 (Ref.37), at 40 CFR 761.20(b)(2), using the authority of TSCA section 6(e)(1). This import provision was recodified from § 761.20(b) to § 761.93(a)(1)(i) as part of the March 18, 1996, PCB Import for Disposal Rule (Ref. 5). On July 7, 1997, the U.S. Court of Appeals for the Ninth Circuit overturned the PCB Import for Disposal Rule, on the grounds that EPA could not rely, as it did, on TSCA section 6(e)(1) to authorize imports of PCBs for disposal. *Sierra Club* v. *EPA*, 118 F 3d 1324 (9th Cir. 1997). EPA amended § 761.93 on June 29, 1998 (Ref.6) to reflect the Sierra Club decision, by changing it to state that no person may import PCBs or PCB items for disposal without a TSCA section 6(e)(3) exemption.)

EPA also concurs with DLA's assessment in its petition that transportation of this waste poses no significant risk if conducted in accordance with all applicable laws and regulations. Domestically, EPA permits the processing and distribution in commerce of PCBs and PCB items at concentrations less than 50 ppm for

disposal (§ 761.20(c)(4)) without additional restriction. Higher concentration PCBs and PCB items may be processed and distributed in commerce for disposal in compliance with part 761 (which requires marking, manifesting, registration, recordkeeping, etc.). In issuing the PCB Import for Disposal Rule, EPA investigated and sought comment on the risks inherent in transportation of imported PCB waste, and determined those risks to be insignificant (Ref. 5, p. 11097).

As this waste will be processed and, where required, disposed of at EPA-approved PCB disposal facilities, EPA finds that the import and disposal of this waste will not pose an unreasonable risk of injury to health or the environment. EPA approves all TSCA PCB disposal facilities on the basis of this standard, whether the unit be an incinerator, chemical waste landfill, or alternative process, such as a decontamination or chemical dechlorination operation. Similarly, EPA has previously determined that other disposal options for PCB waste at concentrations below 50 ppm, such as burning used oil for energy recovery in compliance with 40 CFR 761.20(e), pose no unreasonable risk to health or the environment.

Moreover, any risks inherent in transportation and disposal must be weighed against the risks of continued long-term storage. As DLA noted in its petition, Wake Island is a part of the United States and under TSCA it is entitled to the protection against unreasonable risk of injury to health or the environment. Generally, EPA considers long-term storage of PCB waste to pose an unacceptable risk due to threat of leaks and spills, and with certain limited exceptions, EPA limits storage for disposal of PCB waste to 1–year from the date the waste was generated (40 CFR 761.65(a)). As discussed at length by EPA in recent **Federal Register** documents (Refs. 7 and 8), the long-term storage of PCBs in U.S. territories and possessions outside the Customs Territory of the United States, such as Wake Island, often poses additional risks; examples of problems cited included risk of severe storms, sensitive ecosystems, limited available land, low elevation, and water resources that are vulnerable to contamination. For instance, while 40 CFR 761.65(b)(1)(v) stipulates that PCB waste storage sites should not be located below the 100–year flood water elevation, the highest elevation on Wake Island is only 6 meters above sea level. Therefore, EPA concludes that removal of this PCB material from Wake Island in the most expeditious manner possible will reduce risk of injury to health and the environment.

Other benefits to the United States will be realized through the granting of this petition, as well. One of EPA's purposes in promulgating 40 CFR 761.99(c) was to address the inequitable treatment of the territories outside the Customs Territory of the United States that was inadvertently created by the manufacturing ban of TSCA section 6(e)(3) (Refs. 7 and 8). EPA believes that granting this exemption will likewise allow waste stored in the territories to be managed and disposed of in a manner similar to waste generated in other States, and it will prevent the Pacific Island territories of the United States from bearing any undue burden for the disposal of such waste. Furthermore, as this waste is the property of the U.S. Government, and it was generated by the U.S. Government while conducting its affairs abroad, EPA believes the U.S. Government has an obligation to allow this waste to be safely disposed of under its jurisdiction in the United States. A grant of this petition will allow the United States Government to solve one of its own toxic waste problems without relying on other countries' disposal resources. Thus, EPA finds that DLA has provided adequate justification for a finding that the activity proposed in this petition would not pose an unreasonable risk of injury to health or the environment.

EPA also finds that DLA has made good faith efforts to find alternatives to import into the Customs Territory of the United States. EPA agrees with DLA's contention in its petition that Wake Island is an unsuitable location for attempts at on-site disposal, due to its extremely remote location, small size, lack of facilities, and fragile environment. In addition, as DLA notes in its petition, decontamination procedures typical for this type of waste would not eliminate all PCBs and the concomitant need for an exemption. EPA also believes DLA has made good faith efforts to find disposal alternatives in other countries; indeed, the waste came to Wake Island as a result of an unsuccessful effort to dispose of it abroad. EPA is well aware of DLA's growing difficulty in disposing of its foreign-manufactured waste abroad, a problem outlined in DLA's report to Congress in 1999 (Ref. 33), and EPA has been aware of DLA's substantial efforts since April 2000 to identify options for disposal of this particular waste in a responsible manner, including disposal in another country. EPA accepts DLA's assessment that with the notoriety that is now attached to this particular waste shipment and the difficulty of satisfying Basel Convention obligations, acceptance of this waste by another country for disposal is unlikely to ever occur. EPA further notes that disposal in a facility in the United States, but outside the Customs Territory of the United States, e.g., in another Pacific territory, is not an alternative because no suitable facilities exist. Finally, EPA also believes it relevant to the good faith issue that, as noted earlier, this waste was generated by the U.S. Government while conducting its affairs abroad, and thus the United States bears some obligation to provide for the safe disposal of this waste in the United States if it can not be easily disposed elsewhere.

For these reasons, EPA finds DLA has satisfied the exemption criteria of TSCA section 6(e)(3)(B) and grants this petition.

2. *April 16, 2001, petition; EPA grants this petition.* As with the previous petition, EPA concurs with DLA's assessment that transportation of this waste will pose no unreasonable risk if conducted in accordance with all applicable laws and regulations. As noted in Unit IV.C.1., EPA permits the domestic processing and distribution in commerce of PCBs and PCB items for disposal in compliance with part 761, and in issuance of the PCB Import for Disposal Rule EPA investigated and sought comment on the risks inherent in transportation of imported PCB waste, and determined those risks to be insignificant (Ref. 5, p. 11097). Also, as discussed in Unit IV.C.1. in regard to the Wake Island petition, EPA finds generally that the disposal of imported PCB waste at an EPA-approved PCB disposal facility poses no unreasonable risks as these facilities have been approved on the basis of that standard.

EPA believes that granting this petition will benefit the United States in several ways. As DLA notes in its petition, the continued long-term storage of PCB waste on U.S. military facilities in Japan poses risks of exposure to U.S. personnel and the environment—risks that can be mitigated through the action proposed in this petition. Also, the reduction of risk to Japanese citizens must be considered advantageous, especially in light of the heightened concerns over PCBs in that country and the sensitivities surrounding the U.S. military's presence in Japan. Currently, the U.S. military is in the awkward position of explaining to its Japanese hosts that it can not remove its toxic waste from their country because United States law does not allow the waste to be sent to the United States. As with the Wake Island petition, granting this

petition allows the United States to accept responsibility for solving its own toxic waste problems. Thus, EPA finds that the activity proposed in this petition would not pose an unreasonable risk of injury to health or the environment.

EPA believes that DLA has demonstrated good faith efforts to find alternatives to disposal of this PCB waste in the United States. EPA is aware of the lack of adequate PCB disposal capacity in Japan, to which DoD's large inventory of PCB waste is itself testimony. While EPA is aware that some recent efforts are underway to establish new disposal capacity in Japan (Refs. 34 and 35), EPA believes it will be some time before these new facilities are operational and the large inventories of commercial and government PCB waste that have accumulated over the years in Japan will be eliminated. Moreover, as DLA notes in its petition, even assuming adequate disposal capacity becomes available in Japan in the near future, there are significant political obstacles that are likely to prevent the U.S. military disposing of its PCB waste in Japan, either off-site at a commercial facility or on-site at a U.S. base.

EPA is generally aware of the increasing difficulties DoD has in disposing of its foreign-generated PCB waste abroad, as described in its report to Congress, and as evidenced by the difficulties with the waste now stored on Wake Island. EPA also acknowledges the peculiar circumstances of DoD's PCBs, which, while present in one country, are owned by another's government, leading to significant difficulty in providing Basel notification to third countries. Given these difficulties, EPA concurs with DLA's conclusion that disposal in a third country is not a viable option for this waste. And, as stated earlier, EPA also believes it is relevant to the good faith issue that since this waste was generated by the U.S. Government while conducting its affairs abroad, the United States bears some obligation to provide for the safe disposal of this waste in the United States if it can not be easily disposed of elsewhere.

For these reasons EPA finds DLA has satisfied the exemption criteria of TSCA section 6(e)(3)(B) and grants this petition.

V. References

1. USEPA, Office of Toxic Substances (OTS). Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Final Rule. OPTS–60001. **Federal Register** (44 FR 31514, May 31, 1979).

2. USEPA. Polychlorinated Biphenyls (PCBs); Expiration of the Open Border Policy for PCB Disposal; Notice. OPTS–62008. **Federal Register** (45 FR 29115, May 1, 1980).

3. USEPA. Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, and Distribution in Commerce Exemptions; Proposed Rule. OPTS–66008F. **Federal Register** (53 FR 32326, August 24, 1988).

4. USEPA. Disposal of Polychlorinated Biphenyls; Proposed Rule. OPPTS–6009A. **Federal Register** (59 FR 62788, December 6, 1994) (FRL–4167–1).

5. USEPA. Disposal of Polychlorinated Biphenyls (PCBs); Import for Disposal; Final Rule. OPPTS–66009F. **Federal Register** (61 FR 11096, March 18, 1996) (FRL–5354–8).

6. USEPA. Disposal of Polychlorinated Biphenyls (PCBs); Final Rule. OPPTS–66009C. **Federal Register** (63 FR 35384, June 29, 1998) (FRL–5726–1).

7. USEPA. Polychlorinated Biphenyls (PCBs); Return of PCB Waste from U.S. Territories Outside the Customs Territory of the United States; Proposed Rule. OPPTS–66020. **Federal Register** (65 FR 65654, November 1, 2000) (FRL–6750–6).

8. USEPA. Polychlorinated Biphenyls (PCBs); Return of PCB Waste from U.S. Territories Outside the Customs Territory of the United States; Final Rule. OPPTS–66020A. **Federal Register** (66 FR 17468, March 30, 2001) (FRL–6764–9).

9. DoD, DLA. Petition from Lieutenant General, Henry T. Glisson, Director, to Carol Browner, Administrator, EPA. Subject: Enclosed petition. January 19, 2001. 15 pp. with attachments.

10. DoD, DLA. Letter from Lieutenant General, Henry T. Glisson, Director, to Christine Todd Whitman, Administrator, EPA. Subject: Enclosed petition. April 16, 2001. 12 pp. with attachments.

11. DoD, DLA. Electronic mail from Karen Moran, Environmental Quality Division, to Peter Gimlin, National Program Chemicals Division, OPPT, EPA. Subject: Updated inventory, Appendix 1 to April petition. June 28, 2001. 2 pp. with attachments.

12. DoD, DLA. Letter from Richard J. Connelly, Director, DLA Support Services, to Peter Gimlin, Office of Pollution Prevention and Toxics, EPA. Subject: Revisions to both petitions. September 28, 2001. 2 pp. with attachments.

13. Cabinet set to approve two bills on PCB disposal. *The Japanese Times Online*. February 20, 2001. 3 pp.

14. United Nations Environment Programme (UNEP). Inventory of Worldwide PCB Destruction Capacity. First Issue. December 1998. 72 pp.

15. United Nations Environment Programme (UNEP). Survey of Currently Available Non-Incineration PCB Destruction Technologies. First Issue. August 2000. 70 pp.

16. Defense Agency will Inspect PCB Storage. *The Yomiuri Shimbun*. Tokyo. August 20, 2000. 2 pp.

17. Pollution at Okinawa Bases Cannot be Left Uncorrected. *Asahi Shimbun*. January 14, 1999. 3 pp.

18. David Armstrong. U.S. Presence on Foreign Soil is Tainted. *Boston Globe*. November 15, 1999. 3 pp.

19. Danielle Knight. Environment: Asian Women Demand Cleanup of U.S. Military Bases. *Inter Press Service*. October 16, 1998. 3 pp.

20. Japan: Probe Fails to Confirm Source of Pollutant at Kadena Air Base. *Kyodo News Service*. September 28, 1998. 1 p.

21. High Level of PCB Detected in Okinawa. *Jiji Press Ticker Service*. February 21, 1997. 1 p.

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23. MOFA, Environment Agency to Investigate Base PCB Dumping. *Ryukyu Shimpo*. August 19, 1998. 4 pp.

24. Editorial: Probe Pollution at U.S. Bases. *Ryukyu Shimpo*. August 18, 1998. 3 pp.

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26. U.S. Rejects Request for PCB Test at Kadena. *Japan Economic Newswire*. November 25, 1998. 1 p.

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28. Japan to Check U.S. Base Employees for Waste Contamination. *Asahi News Service*. February 18, 1992. 2 p.

29. Sagamihara City. Letter from Tokio Kanero, Councilman, to Chief, DRMO Sagami. Subject: FOIA request for information on hazardous material shipments. March 3, 1999. 1 p.

30. Sagamihara City. Letter from Tokio Kanero, Councilman, to Paul Ortiz, Asia Zone Manager, DRMS International. Subject: March 3, 1999, FOIA request pertains to PCBs, heavy metals and asbestos only. March14, 1999. 1 p.

31. DoD, DLA. Letter from Vice Admiral Keith W. Lippert, Director, to Christie Whitman, Administrator, EPA. Subject: Opportunity to meet regarding petitions. November 14, 2001. 1 p.

32. USEPA, Office of Research and Development (ORD). PCBs Cancer Dose-Response Assessment and Application to Environmental Mixtures. EPA600P–96001F. September 1996. 75 pp. OPPTS–66009C (B3–026)

33. DoD. Report to Congress: Foreign-Manufactured PCBs at U.S. Military Installations Overseas. March 1999. 20 pp.

34. USEPA, Region 9. Electronic Mail from Max Weintraub to Peter Gimlin, EPA, OPPT, Re: Startech Environmental's 8/23/2001 Press Release. September 5, 2001. 2 pp.

35. Japan Government Submits Legislation Requiring Destruction of All PCBs in 15 years. *BNA International Environment Daily*. March 23, 2001. 1 p.

36. USEPA. Hazardous Waste Management System; Notification Concerning the Basel Convention's Potential Implications for Hazardous Waste Exports and Imports. **Federal Register** (57 FR 20602, May 13,1992).

37. USEPA. Toxic Substances Control Act; Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Exclusions, Exemptions and Use Authorizations; Final Rule. OPTS–62032A. **Federal Register** (49 FR 28172, July 10, 1984).

38. USEPA. Polychlorinated Biphenyls; Manufacturing (Import) Exemptions; Proposed Rule. OPPT–2002–0013. **Federal Register** (67 FR 58567, September 17, 2002) (FRL–7176–1).

39. Perry & Spann. Letter from Victor Alan Perry, Esq. to EPA Document Control Office. Subject: Comment on OPPT–2002–0013. October 4, 2002. 1 p.

40. Environmental Technology Council. Letter from Scott Slesinger, Vice President for Governmental Affairs, to EPA Docket. Subject: Comment on Proposed Rule. October 15, 2002. 3 pp.

VI. Statutory and Executive Order Reviews

A. Regulatory Planning and Review

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), it has been determined that this action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB), because this action is not likely to result in a rule that meets any of the criteria for a ''significant regulatory action'' provided in section 3(f) of the Executive order.

B. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

This rule does not impose any new information collection burden. DLA is subject to the existing EPA regulations regarding the storage and disposal of PCBs in 40 CFR part 761. OMB has previously approved the information collection requirements contained in 40 CFR part 761 under the PRA, and has assigned OMB Control No. 2070–0112 (EPA ICR No. 1446.07).

The annual public burden approved under OMB Control No. 2070–0112, is estimated to average 0.57 hours per response. As defined by the PRA and 5 CFR 1230.3(b), ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of this ICR document may be obtained from Susan Auby, by mail at the Office of Environmental Information, Collection Strategies Division (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, by e-mail at auby.susan@epa.gov, or by calling (202) 566–1972. Copies may also be downloaded from the Internet at http://www.epa.gov/icr. Include the EPA ICR number and/or OMB control number in any correspondence.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because this rule will not impose any requirements on small entities. Under section 601 of RFA, ''small entity'' is defined as:

1. A small business that meets the Small Business Administration size standards codified at 13 CFR 121.201.

2. A small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000.

3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. In this rule, EPA is granting two petitions by DLA to import PCBs for disposal. Only DLA, which is not a small entity, will be regulated by this rule.

D. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, (UMRA), Public Law 104–4, EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Nor does this rule contain regulatory requirements that might significantly or uniquely affect small governments. EPA is granting two petitions by DLA to import PCBs for disposal. DLA is required to comply with the existing regulations on PCB disposal at 40 CFR part 761. The only mandate imposed by this rule is imposed on DLA. In addition, EPA has determined that this rule does not significantly or uniquely affect small governments. The DLA petitions state that the PCBs will be disposed of in facilities approved to handle PCBs. No new facilities, which could affect small government resources if a permit is required, are contemplated. EPA believes that the disposal of PCBs in previously approved disposal facilities in the amounts specified in this rule would have little, if any, impact on small governments. Thus, this rule is not subject to the requirements of UMRA sections 202, 203, 204, and 205.

E. Federalism

Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' 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.''

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. EPA is granting two petitions from DLA to import PCBs and dispose of them in accordance with existing regulations. There will be no direct effects on the States, nor will there be any impact on the relationships between the various levels of government with respect to PCB disposal issues. Thus, Executive Order 13132 does not apply to this rule.

F. Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (59 FR 22951, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. EPA is granting two petitions from DLA to import PCBs and dispose of them in facilities approved to handle PCBs in accordance with existing regulations. EPA does not believe that this activity will have any impacts on the communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Children's Health

This rule is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because it is not economically significant as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. EPA is granting two petitions from DLA to import PCBs and dispose of them in facilities approved to handle PCBs in accordance with existing regulations. EPA believes that the import and disposal of the amount of PCBs specified in the exemption petitions will present little, if any, additional risk to persons living in the vicinity of the approved disposal facilities or in the communities through which the PCBs may be transported.

H. Energy Effects

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. The National Technology Transfer and Advancement Act

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

J. Environmental Justice

This action does not involve special considerations of environmental justice related issues as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

K. Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the *Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings* issued under the Executive order.

L. Civil Justice Reform

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

VII. Congressional Review Act

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

Lists of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls (PCBs), Reporting and recordkeeping requirements.

Dated: January 23, 2003.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I is amended as follows:

PART 761—[AMENDED]

1. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

2. Section 761.80 is amended by adding a new paragraph (j) to read as follows:

§ 761.80 Manufacturing, processing and distribution in commerce exemptions.

* * * * *

(j) The Administrator grants the following petitions to import PCBs and PCB items for disposal pursuant to this part:

(1) United States Defense Logistics Agency's January 19, 2001, petition for an exemption for 1 year to import PCBs and PCB Items stored on Wake Island and identified in its petition for disposal. This exemption shall expire on April 17, 2004.

(2) United States Defense Logistics Agency's April 16, 2001, petition for an exemption for 1 year to import PCBs and PCB Items stored or in use in Japan and identified in its petition, as

amended, for disposal. This exemption shall expire on April 17, 2004.

* * * * *

[FR Doc. 03–2344 Filed 1–31–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–P–7620]

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 ninety (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: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2878 or (e-mail) *michael.grimm@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 record keeping 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.
Arkansas:					
Sebastian (Case No. 02–06–1094P).	City of Greenwood.	Nov. 13, 2002, Nov. 20, 2002, *Greenwood Democrat*.	The Honorable Judy Selkirk, Mayor, City of Greenwood, City Hall, P.O. Box 1450, 101 North Aster Street, Greenwood, Arkansas 72936.	Nov. 25, 2002	050198
Crawford (Case No. 02–06–873P).	City of Van Buren	Nov. 13, 2002, Nov. 20, 2002, *Van Buren Press Argus Courier*.	The Honorable John Riggs, Mayor, City of Van Buren, 1003 Broadway, Van Buren, Arkansas 72956.	Feb. 19, 2003	050053
Kansas:					
Johnson (Case No. 01–07–457P).	City of Overland Park.	Nov. 13, 2002, Nov. 20, 2002, *The Sun Newspapers*.	The Honorable Ed Eilert, Mayor, City of Overland Park, City Hall, 8500 Santa Fe Drive, Overland Park, Kansas 66212.	Feb. 19, 2003	200174

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Minnesota:					
Washington (Case No. 02–05–0419P).	City of Hugo	Nov. 6, 2002, Nov. 13, 2002, *The White Bear Press*.	The Honorable Fran Miron, Mayor, City of Hugo, 14669 Fitzgerald Avenue North, Hugo, Minnesota 55038.	Nov. 15, 2002	270504
Nebraska:					
Lancaster (Case No. 02–07–1012P).	City of Lincoln	Nov. 18, 2002, Nov. 25, 2002, *Lincoln Journal Star*.	The Honorable Don Wesely, Mayor, City of Lincoln, 555 South 10th Street, Room 208, Lincoln, Nebraska 68508.	Oct. 25, 2002	315273
Ohio:					
Franklin (Case No. 02–05–3971P).	Unincorporated Areas.	Oct. 31, 2002, Nov. 7, 2002, *The Columbus Dispatch*.	The Honorable Arlene Shoemaker, President, Franklin County Board of Commissioners, 373 South High Street, 26th Floor, Columbus, Ohio 43215–6304.	Oct. 15, 2002	390167
Texas:					
Denton (Case No. 02–06–1264P).	Town of Copper Canyon.	Nov. 18, 2002, Nov. 25, 2002, *Denton Record Chronicle*.	The Honorable Chuck Wainscott, Mayor, Town of Copper Canyon, 400 Woodland Drive, Copper Canyon, Texas 75067–8501.	Oct. 25, 2002	481508
Denton (Case No. 02–06–419P).	City of Denton	Nov. 19, 2002, Nov. 26, 2002, *Denton Record Chronicle*.	The Honorable Euline Brock, Mayor, City of Denton, 215 East McKinney Street, Denton, Texas 76201.	Feb. 25, 2003	480194
Denton (Case No. 02–06–419P).	Unincorporated Areas.	Nov. 19, 2002, Nov. 26, 2002, *Denton Record Chronicle*.	The Honorable Mary Horn, Judge, Denton County, Courthouse on the Square, 110 West Hickory Street, Denton, Texas 76201.	Feb. 25, 2003	480774
Tarrant (Case No. 02–06–263P).	City of Fort Worth	Dec. 2, 2002, Dec. 9, 2002, *Fort Worth Star Telegram*.	The Honorable Kenneth Barr, Mayor, City of Forth Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102.	March 10, 2003	480596
Harris (Case No. 02–06–1092P).	Unincorporated Areas.	Nov. 19, 2002, Nov. 26, 2002, *Houston Chronicle*.	The Honorable Robert Eckels, Judge, Harris County, 1001 Preston Street, Houston, Texas 77002.	Oct. 29, 2002	480287
Harris (Case No. 02–06–1537P).	City of Houston ..	Dec. 12, 2002, Dec. 19, 2002, *Houston Chronicle*.	The Honorable Lee P. Brown, Mayor, City of Houston, P.O. Box 1562, Houston, Texas 77251–1562.	Mar. 20, 2003	480296
Dallas (Case No. 01–06–1230P).	City of Mesquite	Nov. 7, 2002, Nov. 14, 2002, *Mesquite Morning News*.	The Honorable Mike Anderson, Mayor, City of Mesquite, P.O. Box 850137, Mesquite, Texas 75185.	Oct. 9, 2002	485490
Midland (Case No. 02–06–1417P).	City of Midland ...	Nov. 12, 2002, Nov. 19, 2002, *Midland Reporter-Telegram*.	The Honorable Michael J. Canon, Mayor, City of Midland, 300 North Loraine, P.O. Box 1152, Midland, Texas 79702.	Nov. 6, 2002	480477
Midland (Case No. 02–06–1417P).	Unincorporated Areas.	Nov. 12, 2002, Nov. 19, 2002, *Midland Reporter-Telegram*.	The Honorable William Morrow, Judge, Midland County, County Courthouse, 200 West Wall Street, Midland, Texas 79701.	Nov. 6, 2002	481239
Tarrant (Case No. 01–06–1464P).	City of North Richland Hills.	Dec. 10, 2002, Dec. 17, 2002, *The Star Telegram*.	The Honorable Oscar Trevino, Jr., Mayor, City of North Richland Hills, 7301 N.E. Loop 820, North Richland Hills, Texas 76180.	Mar. 18, 2003	480607
Collin (Case No. 02–06–536P).	City of Plano	Nov. 13, 2002, Nov. 20, 2002, *Plano Star Courier*.	The Honorable Pat Evans, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	Feb. 19, 2003	480140
Collin (Case No. 02–06–992P).	City of Plano	Dec. 4, 2002, Dec. 11, 2002, *Plano Star Courier*.	The Honorable Pat Evans, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	MAR. 12, 2003	480140
Bexar (Case No. 02–06–1072P).	City of San Antonio.	Nov. 13, 2002, Nov. 20, 2002, *San Antonio Express News*.	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283.	Feb. 19, 2003	480045
Bexar (Case No. 02–06–1707P).	City of San Antonio.	Dec. 4, 2002, Dec. 11, 2002, *San Antonio Express News*.	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283.	Mar. 12, 2003	480045

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tarrant (Case No. 02–06–263P).	Unincorporated Areas.	Dec. 2, 2002, Dec. 9, 2002, *Fort Worth Star Telegram*.	The Honorable Tom Vandergriff, Judge, Tarrant County, 100 E. Weatherford, Fort Worth, Texas 76196.	Mar. 10, 2003	480582
Bell (Case No. 02–06–590P).	City of Temple	Dec. 11, 2002, Dec. 18, 2002, *Temple Daily Telegram*.	The Honorable Bill Jones, III, Mayor, City of Temple, 2 North Main Street, Temple, Texas 76501.	Mar. 19, 2003	480034
Tarrant (Case No. 02–06–263P).	City of Watauga	Dec. 2, 2002, Dec. 9, 2002, *Fort Worth Star Telegram*.	The Honorable Harry Jeffries, Mayor, City of Watauga, 7101 Whitley Road, Watauga, Texas 76148.	Mar. 10, 2003	480613

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

Dated: January 21, 2003.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–2246 Filed 1–30–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Final rule.

SUMMARY: Modified Base (1-percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps ((FIRMs) in effect for the listed communities prior to this date.

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: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2878 (e-mail) Michael.grimm@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below of the final determinations of modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Administrator, Federal Insurance and Mitigation Administration, has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modifications are made pursuant to section 206 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.

These modified BFEs 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.

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, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations 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 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 65

Flood insurance, Floodplains, Reporting and record keeping 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 names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas:					
Washington (Case No. 02–06–1260P) (FEMA Docket No. P7616).	City of Fayetteville.	Aug. 1, 2002, Aug. 8, 2002, *Northwest Arkansas Times*.	The Honorable Dan Coody Mayor, City of Fayetteville 113 West Mountain Street, Fayetteville, Arkansas 72701.	July 23, 2002	050216
Pulaski (Case No. 01–06–1835P) (FEMA Docket No. P7614).	City of Little Rock	July 10, 2002, July 17, 2002, *Little Rock Free Press*.	The Honorable Jim Dailey Mayor, City of Little Rock, 500 West Markham Street Room 203, Little Rock, Arkansas 72201.	Oct. 16, 2002	050181
Illinois:					
Cook (Case No. 02–05–2333P) (FEMA Docket No. P7614).	Village of Palos Park.	July 9, 2002, July 16, 2002, *Daily Southtown*.	The Honorable Jean A. Moran, Mayor, Village of Palos Park, 8999 West 123rd Street, Palos Park, Illinois 60464.	Oct. 15, 2002	170144
Cook (Case No. 01–05–3037P) (FEMA Docket No. P7616).	Village of Palos Park.	Aug. 8, 2002, Aug. 15, 2002, *Daily Southtown*.	The Honorable Jean A. Moran, Mayor, Village of Palos Park, 8999 West 123rd Street, Palos Park, Illinois 60464.	Nov. 14, 2002	170144
Will (Case No. 02–05–1170P) (FEMA Docket No. 7616).	Village of Romeoville.	Aug. 1, 2002, Aug. 8, 2002, *The Herald News*.	The Honorable Fred Dewald, Mayor, Village of Romeoville, Village Hall, 13 Montrose Drive, Romeoville, Illinois 60446.	Nov. 7, 2002	170711
Michigan:.					
Wayne (Case No. 01–05–2843P) (FEMA Docket No. 7612).	Township of Canton.	July 11, 2002, July 18, 2002, *Michigan Community Newspapers*.	Mr. Thomas Yack, Township Supervisor, Township of Canton, 1150 South Canton Center, Canton, Michigan 48188.	June 14, 2002	260219
Minnesota:					
Olmsted (Case No. 01–05–746P) (FEMA Docket No. P7616).	Unincorporated Areas.	Aug. 1, 2002, Aug. 8, 2002, *Post Bulletin*.	Mr. Richard Devlin, County Administrator, Olmsted County, 151 4th Street SE, Rochester, Minnesota 55904.	July 18, 2002	270626
Olmsted (Case No. 01–05–746P) (FEMA Docket No. P7616).	City of Rochester	Aug. 1, 2002, Aug. 8, 2002, *Post Bulletin*.	The Honorable Chuck Canfield, Mayor, City of Rochester, City Hall, Room 281, 201 4th Street, SE, Rochester, Minnesota 55904.	July 18, 2002	275246
Missouri:.					
Howell (Case No. 00–07–791P) (FEMA Docket No. 76112).	City of West Plains.	June 21, 2002, June 28, 2002, *West Plains Daily Quill*.	The Honorable Joe Paul Evans, Myor, City of West Plains, P.O. Box 710, West Plains, Missouri 65775.	Dec. 6, 2002	290166
Ohio:					
Lorain (Case No. 02–05–0982P) (FEMA Docket No. P7614).	City of Avon	July 9, 2002, July 16, 2002, *The Morning Journal*.	The Honorable James Smith, Mayor, City of Avon, 36080 Chester Road, Avon, Ohio 44011.	June 20, 2002	390348
Franklin (Case No. 01–05–1827P) (FEMA Docket No. P7614).	City of Columbus	July 8, 2002, July 15, 2002, *Columbus Dispatch*.	The Honorable Mike Coleman, Mayor, City of Columbus, 90 West Broad Street, Columbus, Ohio 43215.	Oct. 14, 2002	390170
Franklin (Case No. 01–05–1827P) (FEMA Docket No. P7614).	Unincorporated Areas.	July 8, 2002, July 15, 2002, *Columbus Dispatch*.	Ms. Arlene Shoemaker, President, Franklin County Board of Commissioners, 373 South High Street, 26th Floor, Columbus, Ohio 43215.	Oct. 14, 2002	390167
Franklin (Case No. 01–05–1827P) (FEMA Docket No. P7614).	Village of Groveport.	July 8, 2002, July 15, 2002, *Southwest Messenger*.	Mr. Anthony Bales, Village Administrator, Village of Groveport, Groveport Municipal Building, 655 Blacklick Street, Groveport, Ohio 43125.	Oct. 14, 2002	390174

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Montgomery (Case No. 02–05–0845P) (FEMA Docket No. P7614).	Unincorporated Areas.	July 9, 2002, July 16, 2002, *Dayton Daily News*.	Mr. Charles J. Curran, Commissioner, Montgomery County, 451 West Third Street, Dayton, Ohio 45422.	Oct. 15, 2002	390775
Oklahoma:					
Oklahoma (Case No. 02–06–281P) (FEMA Docket No. P7614).	City of Edmond ..	July 16, 2002, July 23, 2002, *The Edmond Sun*.	The Honorable Saundra Naifeh, Mayor, City of Edmond, P.O. Box 2970, Edmond, Oklahoma 73083.	July 2, 2002	400252
Oklahoma, Canadian, Cleveland, McClain and Pottawatomie (Case No. 01–06–1912P) (FEMA Docket No. P7614).	City of Oklahoma City.	July 24, 2002, July 31, 2002, *The Daily Oklahoman*.	The Hon. Kirk Humphreys, Mayor, City of Oklahoma City, 200 North Walker, Suite 302, Oklahoma City, Oklahoma 73102.	Oct. 30, 2002	405378
Texas:					
Dallas (Case No. 02–06–478P) (FEMA Docket No. P7616).	City of Cedar Hill	July 25, 2002, Aug. 1, 2002, *DeSoto Today*.	The Hon. Robert L. Franke, Mayor, City of Cedar Hill, P.O. Box 96, Cedar Hill, Texas 75106.	July 12, 2002	480168
Denton (Case No. 02–06–525P) (FEMA Docket No. P7614).	Town of Corinth ..	July 16, 2002, July 23, 2002, *Denton Record Chronicle*.	The Honorable J. B. Troutman, Mayor, Town of Corinth, 2002 South Corinth Street, Corinth, Texas 76210.	Oct. 22, 2002	481143
Tarrant (Case No. 02–06–453P) (FEMA Docket No. P7614).	City of Fort Worth	July 19, 2002, July 26, 2002, *Fort Worth Star Telegram*.	The Honorable Kenneth Barr, Mayor, City of Fort Worth, City Hall, 1000 Throckmorton Street, Fort Worth, Texas 76102—6311.	Oct. 25, 2002	480596
Dallas (Case No. 02–06–1535P) (FEMA Docket No. P7614).	City of Garland ...	July 18, 2002, July 25, 2002 *Garland Morning News*.	The Honorable Jim Spence, Mayor, City of Garland, P.O. Box 469002 Garland, TX 75046.	June 28, 2002	458471
Tarrant (Case No. 02–06–046P) (FEMA Docket No. P7616).	City of Keller	Aug. 13, 2002, Aug. 20, 2002, *The Keller Citizen*.	The Honorable David Phillips, Mayor, City of Keller, P.O. Box 770, Keller, Texas 76244–0770.	Aug. 2, 2002	480602
Harrison and Gregg (Case No. 02–06–1946P) (FEMA Docket No. P7614).	City of Longview	July 11, 2002, July 18, 2002, *Longview News Journal*.	The Honorable Earl Roberts, Mayor, City of Longview, P.O. Box 1952, Longview, TX 75606–1952.	Oct. 17, 2002	480264
Collin (Case No. 02–06–823P) (FEMA Docket No. P7616).	City of Plano	Aug. 21, 2002, Aug. 28, 2002, *Plano Star Courier*.	The Honorable Pat Evans, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	Aug. 6, 2002	480140
Bexar (Case No. 02–06–1320P) (FEMA Docket No. P7614).	City of San Antonio.	July 11, 2002, July 18, 2002, *San Antonio Express News*.	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966,News San Antonio, Texas 78283–3966.	Oct. 17, 2002	480045
Bexar (Case No. 02–06–252P) (FEMA Docket No. P7614).	City of San Antonio.	July 19, 2002, July 26, 2002, *San Antonio Express News*.	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	Oct. 25, 2002	480045
Tarrant (Case No. 02–06–453P) (FEMA Docket No. P7614).	Unincorporated Areas.	July 19, 2002, July 26, 2002, *Fort Worth Star Telegram*.	The Hon. Tom Vandergriff, Judge, Tarrant County, 100 East Weatherford Street, Fort Worth, Texas 76196–0101.	Oct. 25, 2002	480582
Bexar (Case No. 01–06–1218P) (FEMA Docket No. P7614).	City of Universal City.	July 11, 2002, July 18, 2002, *Primetime Newspapers*.	The Honorable Wesley Becken, Mayor, City of Universal City, P.O. Box 3008, Universal City, Texas 78148.	Oct. 17, 2002	480049

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Collin (Case No. 01–06–1232P) (FEMA Docket No. P7610).	City of Wylie	March 20, 2002, March 27, 2002, *Wylie News*.	The Honorable John Mondy, Mayor, City of Wylie, 2000 State Highway 78 North, Wylie, Texas 75098.	Mar. 1, 2002	480759

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

Dated: January 21, 2003.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–2247 Filed 1–30–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified Base (1-percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps in effect for the listed communities prior to this date.

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: 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 makes the final determinations listed below of the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Administrator, Federal Insurance and Mitigation Administration has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFEs determinations are available for inspection.

The modifications are made pursuant to section 206 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 elevations, 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 modified 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.

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, 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 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 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]

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

State and county	Location and case No.:	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona:					

State and county	Location and case No.:	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Cochise (FEMA Docket No. B–7429).	Cochise County (01–09–019P).	April 25, 2001, May 2, 2001, *Arizona Range News*.	The Honorable Pat Call, Chairman, Cochise County, Board of Supervisors, 1415 West Melody Lane, Bisbee, Arizona 85603.	July 31, 2001	040012
Cochise (FEMA Docket No. B–7429).	City of Sierra Vista (01–09–492P).	April 18, 2002, April 25, 2002, *Sierra Vista Herald*.	The Honorable Thomas J. Hessler, Mayor, City of Sierra Vista, 1011 North Coronado Drive, Sierra Vista, Arizona 85635.	August 1, 2002	040017
Maricopa (FEMA Docket No. B–7431).	Town of Carefree (01–09–1157P) (02–09–1409X).	August 29, 2002, September 5, 2002, *Arizona Business Gazette*.	The Honorable Edward C. Morgan, Mayor, Town of Carefree, P.O. Box 740, Carefree, Arizona 85377.	December 5, 2002	040126
Maricopa (FEMA Docket No. B–7431).	Town of Cave Creek (01–09–1157P) (02–09–1409X).	August 29, 2002, September 5, 2002, *Arizona Business Gazette*.	The Honorable Vincent Francia, Mayor, Town of Cave Creek, 37622 North Cave Creek Road, Cave Creek, Arizona 85331.	December 5, 2002	040129
Maricopa (FEMA Docket No. B–7431).	City of Chandler (02–09–248P).	July 24, 2002, July 31, 2002, *Arizona Republic*.	The Honorable Jay Tibshraeny, Mayor, City of Chandler, 55 North Arizona Place, Chandler, Arizona 85225.	October 30, 2002	040040
Maricopa (FEMA Docket No. B–7429).	City of Mesa (02–09–260P).	June 13, 2002, June 20, 2002, *Arizona Business Gazette*.	The Honorable Keno Hawker, Mayor, City of Mesa, P.O. Box 1466, Mesa, Arizona 85211–1466.	September 19, 2002.	040048
Maricopa (FEMA Docket No. B–7429).	City of Scottsdale (02–09–1084X).	July 18, 2002, July 25, 2002, *Arizona Republic*.	The Honorable Mary Manross, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, Arizona 85251.	October 24, 2002	045012
Maricopa (FEMA Docket No. B–7431).	City of Scottsdale (01–09–1157P) (02–09–1409X).	August 29, 2002, September 5, 2002, *Arizona Business Gazette*.	The Honorable Mary Manross, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, Arizona 85251.	December 5, 2002	045012
Maricopa (FEMA Docket No. B–7431).	Unincorporated Areas (02–09–068P).	September 5, 2002, September 12, 2002, *Arizona Business Gazette*.	The Honorable Don Stapley, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, Arizona 85003.	August 21, 2002 ...	040037
Pima (FEMA Docket No. B–7431).	City of Tucson (02–09–1050P).	September 18, 2002, September 25, 2002, *Daily Territorial*.	The Honorable Robert Walkup, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	September 11, 2002.	040076
Pima (FEMA Docket No. B–7431).	Unincorporated Areas (02–09–1007P).	September 19, 2002, September 26, 2002, *Arizona Daily Star*.	The Honorable Raul Grijalva, Chairman, Pima County Board of Supervisors, 130 West Congress, 11th Floor, Tucson, Arizona 85701.	September 9, 2002	040073
Pima (FEMA Docket No. B–7429).	Unincorporated Areas (02–09–746X).	April 18, 2002, April 25, 2002, *Tucson Citizen*.	The Honorable Raul Grijalva, Chairman, Pima County Board of Supervisors, 130 West Congress, 11th Floor, Tucson, Arizona 85701.	July 25, 2002	040073
Pinal (FEMA Docket No. B–7429).	Town of Kearny (01–09–283P).	June 5, 2002, June 12, 2002, *Copper Basin News*.	The Honorable Debra Sommers, Mayor, Town of Kearny, P.O. Box 639, Kearny, Arizona 85237.	September 11, 2002.	040085
Pinal (FEMA Docket No. B–7429).	Unincorporated Areas (01–09–283P).	June 5, 2002, June 12, 2002, *Copper Basin News*.	The Honorable Jimmie B. Kerr, Chairman, Pinal County Board of Supervisors, P.O. Box 827, Florence, Arizona 85232–0827.	September 11, 2002.	040077
California:					
Alameda (FEMA Docket No. B–7431).	City of Dublin (00–09–931P).	July 26, 2002, August 2, 2002, *Tri-Valley Herald*.	The Honorable Janet Lockhart, Mayor, City of Dublin, 100 Civic Plaza, Dublin, California 94568.	November 1, 2002	060705
Kern (FEMA Docket No. B–7429).	Unincorporated Areas (01–09–764P).	May 22, 2002, May 29, 2002, *News Review*.	The Honorable Barbara Patrick, Chairperson, Kern County Board of Supervisors, 1115 Truxton Avenue, Fifth Floor, Bakersfield, California 93301.	August 28, 2002 ...	060075
Los Angeles (FEMA Docket No. B–7429).	Unincorporated Areas (01–09–559P).	July 18, 2002, July 25, 2002, *Los Angeles Times*.	The Honorable Zev Yaroslavsky, Chairperson, Los Angeles County Board of Supervisors, 821 Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angles, California 90012.	October 24, 2002	065043
Orange (FEMA Docket No. B–7429).	City of Orange (01–09–975P).	June 6, 2002, June 13, 2002, *Orange County Register*.	The Honorable Mark Murphy, Mayor, City of Orange, 300 East Chapman Avenue, Orange, California 92866.	September 12, 2002.	060228
Placer (FEMA Docket No. B–7429).	Town of Loomis (02–09–862P).	June 20, 2002, June 27, 2002, *Loomis News*.	The Honorable Rhonda Morillas, Mayor, Town of Loomis, Town Hall, 6140 Horseshoe Bar Road, Suite K, Loomis, California 95650.	September 26, 2002.	060721
Riverside (FEMA Docket No. B–7429).	City of Murrieta (01–09–849P).	April 4, 2002, April 11, 2002, *Press-Enterprise*.	The Honorable Dick Ostling, Mayor, City of Murrieta, 26442 Beckman Court, Murrieta, California 92562.	March 18, 2002	060751
Riverside (FEMA Docket No. B–7429).	City of Perris (01–09–524P).	April 25, 2002, May 2, 2002, *Press-Enterprise*.	The Honorable Daryl Busch, Mayor, City of Perris, 101 North D Street, Perris, California 92570.	April 1, 2002	060258
Riverside (FEMA Docket No. B–7429).	Unincorporated Areas (01–09–849P).	April 4, 2002, April 1,, 2002, *Press-Enterprise*.	The Honorable Jim Venable, Chairman, Riverside County Board of Supervisors, 4080 Lemon Street, 14th Floor, Riverside, California 92501.	March 18, 2002	060245
San Diego (FEMA Docket No. B–7429).	City of Carlsbad (02–09–594P).	May 23, 2002, May 30, 2002, *North County Times*.	The Honorable Claude A. Lewis, Mayor, City of Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, California 92008.	August 29, 2002 ...	060285

State and county	Location and case No.:	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Yolo (FEMA Docket No. B–7431).	City of Winters (02–09–649P).	August 1, 2002, August 8, 2002, *Winters Express*.	The Honorable Harold Anderson, Mayor, City of Winters, 318 First Street, Winters, California 95694–1923.	July 11, 2002	060425
Colorado:					
Arapahoe (FEMA Docket No. B–7429).	City of Cherry Hills Village (02–08–052P).	May 2, 2002, May 9, 2002, *Denver Post*.	The Honorable John Welbron, Mayor, City of Cherry Hills Village, 2450 East Quincy Avenue, Cherry Hills Village, Colorado 80110.	April 12, 2002	080013
Boulder (FEMA Docket No. B–7429).	Unincorporated Areas (02–08–082P).	April 4, 2002, April 11, 2002, *Daily Camera*.	The Honorable Jana L. Mendez, Chairperson, Boulder County Board of Commissioners, P.O. Box 471, Boulder, Colorado 80306–0471.	March 25, 2002	080023
Boulder (FEMA Docket No. B–7429).	City of Lafayette (02–08–331P).	May 20, 2002, May 24, 2002, *Daily Camera*.	The Honorable Dale Avery, Mayor, City of Lafayette, 1290 South Public Road, Lafayette, Colorado 80026.	August 23, 2002 ...	080026
Boulder (FEMA Docket No. B–7429).	City of Longmont (02–08–082P).	April 4, 2002, April 11, 2002, *Daily Times Call*.	The Honorable Julia Pirnack, Mayor, City of Longmont, 350 Kimbark Street, Longmont Colorado 80501.	March 25, 2002	080027
El Paso (FEMA Docket No. B–7431).	City of Colorado Springs (02–08–141P).	August 14, 2002, August 21, 2002, *The Gazette* .	The Honorable Mary Lou Makepeace, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901–1575.	August 6, 2002	080060
Jefferson (FEMA Docket No. B–7431).	City of Golden (02–08–185P).	August 8, 2002, August 15, 2002, *Denver Post*.	The Honorable Charles J. Branch, Mayor City of Golden, 911 10th Street, Golden, Colorado 80401.	November 14, 2002.	080090
Jefferson (FEMA Docket No. B–7431).	City of Westminster (02–08–013P).	September 12, 2002, September 19, 2002, *Westminster Window*.	The Honorable Ed Moss, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, Colorado 80031.	December 19, 2002.	080008
Jefferson (FEMA Docket No. B–7431).	Unincorporated Areas (02–08–185P).	August 8, 2002, August 15, 2002, *Denver Post*.	The Honorable Michelle Lawrence, Chairman, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Golden, Colorado 80419.	July 23, 2002	080087
Weld (FEMA Docket No. B–7431).	Town of Firestone (01–08–384P).	July 31, 2002, August 7, 2002, *Farmer and Miner*.	The Honorable Michael Simone, Mayor, Town of Firestone, P.O. Box 100, Firestone, Colorado 80520.	November 6, 2002	080241
Weld (FEMA Docket No. B–7431).	Unincorporated Areas (01–08–384P).	July 31, 2002, August 7, 2002, *Farmer and Miner*.	The Honorable Glenn Vaad, Chairman, Weld County Board of Commissioners, P.O. Box 758, Greeley, Colorado 80632–0758.	July 11, 2002	080266
Hawaii:					
Hawaii (FEMA Docket No. B–7429).	Hawaii County (02–09–633P).	May 23, 2002, May 30, 2002, *Hawaii Tribune Herald*.	The Honorable Harry Kim, Mayor, Hawaii County, 25 Aupuni Street, Hilo, Hawaii 96720.	May 3, 2002	155166
North Dakota:					
Stark (FEMA Docket No. B–7429).	City of Dickinson (02–08–057P).	May 9, 2002, May 16, 2002, *Dickinson Press*.	The Honorable Dennis W. Johnson, Mayor, City of Dickinson, 99 Second Street East, Dickinson, North Dakota 58601.	August 15, 2002 ...	380117
Utah:					
Salt Lake (FEMA Docket No. B–7429).	City of Draper (02–08–198P).	June 26, 2002, July 7, 2002, *Salt Lake Tribune*.	The Honorable Darrell H. Smith, Mayor, City of Draper, 12441 South 900 East, Draper, UT 84020.	October 2, 2002 ...	490244
Utah (FEMA Docket No. B–7431).	City of Spanish Fork (01–08–306P).	August 28, 2002, September 4, 2002, *Daily Herald* .	The Honorable Dale Barney, Mayor, City of Spanish Fork, 40 South Main Street, Spanish Fork, Utah 84660.	February 16, 2003	490241
Utah (FEMA Docket No. B–7431).	Unincorporated Areas (01–08–306P).	August 28, 2002, September 4, 2002, *Daily Herald*.	The Honorable Jerry Grover, Chairman, Utah County Board of Commissioners, County Administration Building, 100 East Center Street, Suite 2300, Provo, Utah 84606.	December 4, 2002	495517
Wyoming: Teton (FEMA Docket No. B–7429).	Unincorporated Areas (02–08–268P).	July 17, 2002, July 24, 2002, *Jackson Hole News*.	The Honorable Bill Paddleford, Chairperson, Teton County Board of Commissioners, County Courthouse, P.O. Box 3594, Jackson, Wyoming 83001.	July 8, 2002	560094

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

Dated: January 21, 2003.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–2248 Filed 1–30–03; 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, Hazard Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2878 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
IL	Bradley (Village) (Kankakee County) (FEMA Docket No. 7613).	Kankakee River	The southwest corner of the Village of Bradley.	*599
		North Branch Soldier Creek.	Just upstream of Conrail bridge	*628
		Soldier Creek	At the confluence of North Branch Soldier Creek.	*627
			Approximately 400 feet upstream of North Street.	*634
Maps are available for inspection at the Department of Building Standards, 147 S. Michigan Avenue, Bradley, Illinois.				
IL	Kankakee (City) (Kankakee County) (FEMA Docket No. P7613).	Kankakee River	Approximately 7,600 feet downsteam of Conrail.	*598
		Soldier Creek	Approximately 3,600 feet upstream of I–57.	*606
			Just upstream of Illinois Central Railroad	*627
			Approximately 4,300 feet upstream of State Route 50 (Kinzie Avenue).	*631
			.....	
Maps are available for inspection at the City of Kankakee Planning Department, 165 N. Schuyler Avenue, Kankakee, Illinois.				
OK	Prague (City) (Oklahoma County) (FEMA Docket No. P7615).	Shan Creek	.....	*992
		Shan Creek Tributary	.....	*983
Maps are available for inspection at 1116 North Jim Thorpe Boulevard, Prague, Oklahoma.				

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

Dated: January 21, 2003.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–2244 Filed 1–30–03; 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, Hazard Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2878 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:

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD) modified	Commuities affected
Elm Creek:		
Approximately 700 feet downstream of South Main Street	*756	(FEMA Docket No. P7611) City of Grove, Delaware County
Approximately 2,700 feet upstream of N4640 Road	*837	
Flint Creek:		
Approximately 6,850 feet downstream of U.S. 59	*858	Delaware County
Approximately 1,100 feet upstream of D579 Road (Beckwith Bridge)	*889	
Grand Lake of the Cherokees: Entire shoreline	*756	(FEMA Docket No. P7611) City of Grove, Town of Bernice, Delaware County
Illinois River:		
Approximately 7,150 feet downstream of the confluence of Flint Creek	*851	Delaware County
Approximately 5,850 feet upstream of the confluence of Flint Creek	*863	
North Tributary to Spring Branch:		
Approximately 350 feet upstream of North Cherokee Street	*753	Delaware County
Approximately 1,100 feet downstream of North Cherokee Street	*756	
*National Geodetic Vertical Datum		

Delaware County

Maps are available for inspection at the Floodplain Administrator's Office, County Court House, Delaware County, Jay, Oklahoma.

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD) modified	Commuities affected
City of Grove		
Maps are available for inspection at the City Manager's Office, City of Grove, 104 West 3rd Street, Grove, Oklahoma.		
Town of Bernice		
Maps are available for inspection at the Mayor's Office, Town of Bernice, 400 East Main, Bernice, Oklahoma.		
Alsuma Creek:		
Approximately 200 feet upstream of Missouri Kansas Texas Railroad	*668	(FEMA Docket No. P7611) City of Tulsa
Approximately 150 feet upstream of East 55th Street	*680	
Audubon Creek:		
At the mouth	*637	
Approximately 1,600 feet upstream of East 31st Street South	*673	
Bell Creek:		
At the mouth	*644	
Approximately 1,200 feet upstream of East 41st Street South	*671	
Bell Creek Tributary:		
At the mouth	*652	
Just downstream of 50th Street South	*682	
Brookhollow Creek:		
Approximately 150 feet downstream of Mingo Road	*640	
Approximately 150 feet downstream of South 129th East Avenue	*692	
Catfish Creek:		
Approximately 50 feet upstream of Railroad Bridge	*688	(FEMA Docket No. 7611) City of Tulsa
Just downstream of East 61st Street	*678	
Cooley Creek:		
At the mouth	*615	
At the county boundary	*699	
Douglas Creek:		
At the mouth	*609	City of Tulsa, Tulsa County
Just downstream of State Highway 11	*630	
Eagle Creek:		
At the mouth	*608	City of Tulsa
Approximately 2,600 feet upstream of East Pine Street	*655	
Ford Creek:		
At the mouth	*661	
Just down of East 51st Street South	*719	
Fulton Creek:		
At the mouth	*647	
Approximately 200 feet downstream of 39th Street	*666	
Jones Creek:		
At the mouth	*629	(FEMA Docket No. P7611) City of Tulsa
Approximately 200 feet upstream of 69th East Avenue	*686	
Little Creek:		
Approximately 1,200 feet downstream of Mingo Valley Expressway (Highway 169).	*602	
Just downstream of 129th East Avenue	*649	
Mill Creek:		
At the mouth	*622	
Just downstream of East 15th Street	*727	
Mingo Creek:		
Approximately 600 feet upstream of East 56th Street North	*589	City of Tulsa, Tulsa County
Approximately 500 feet downstream of South Memorial Drive	*724	
Quarry Creek:		
Approximately 350 feet upstream of the mouth	*604	City of Tulsa
Just downstream of North 145th East Avenue	*680	
Southpark Creek:		
At the mouth	*652	
Approximately 6,150 feet upstream of Garnett Road	*688	
Sugar Creek:		
At the mouth	*647	(FEMA Docket No. P7611) City of Tulsa
Just downstream of South 129th East Avenue	*692	
Tupelo Creek:		
Approximately 200 feet upstream of Mingo Road	*621	
Approximately 700 feet upstream of East 16th Street	*661	
Tupelo Creek Tributary A:		
At the mouth	*647	
Just downstream of South 129th East Avenue	*696	
Tupelo Creek Tributary C:		
Approximately 200 feet downstream of South Garnett Road	*643	
Just downstream of South 129th East Avenue	*697	
*National Geodetic Vertical Datum		

City of Tulsa

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD) modified	Commuities affected
Maps are available for inspection at 200 Civic Center, Tulsa, Oklahoma.		
Tulsa County		
Maps are available for inspection at the Tulsa County Anex Building, 633 West 3rd, Room 140, Tulsa, Oklahoma.		

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

Dated: January 21, 2003.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–2245 Filed 1–30–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR part 101

[WT Docket No. 00–19; RM–9418; FCC 02–218]

Streamline Processing of Microwave Applications in the Wireless Telecommunications Services and Telecommunications Industry Association Petition for Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, we take further actions to streamline, clarify, and update our rules. We take these actions to provide increased flexibility to licensees, ensure greater and more efficient use of the spectrum bands regulated under the rules, and ensure that our rules are consistent with international agreements.

DATES: Effective April 1, 2003.

FOR FURTHER INFORMATION CONTACT: Edward Hayes or Michael Pollak of the Wireless Telecommunications Bureau, Public Safety and Private Wireless Division at (202) 418–0680 (voice), (202) 418–7233 (TTY).

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Report and Order*, FCC 02–218, adopted on July 18, 2002, and released on July 31, 2002. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov.*

1. In the *Report and Order* in WT Docket No. 94–148 and CC Docket No. 93–2, the Commission consolidated the rules for the common carrier and private operational fixed (POFS) microwave services contained in parts 21 and 94, respectively, of the Commission's Rules to create a new part 101. The new consolidated part 101 reduces or eliminates the differences in processing applications between common carriers and POF microwave service licensees, and furthers regulatory parity between these microwave services. On February 14, 2000, the Commission released the *Memorandum Opinion and Order and Notice of Proposed Rule Making* (''NPRM''), 65 FR 38333, June 20, 2000, in this proceeding. In the *NPRM,* the Commission proposed eliminating duplicative, outmoded, or otherwise unnecessary regulations in order to further the work begun by the consolidation of parts 21 and 94 into a single part 101 in the *R&O* and the implementation of the Universal Licensing System (ULS) for wireless applications. Applicants, licensees and related industries were invited to examine these rules and procedures and offer their views and explanations of ways to streamline them and to make sure that the regulations conform with the Communications Act of 1934, as amended (Act).

2. In this *Report and Order,* we take further actions to streamline, clarify, and update our part 101 rules. These actions will provide increased flexibility to licensees, ensure greater and more efficient use of the spectrum bands regulated under part 101, and ensure that our Rules are consistent with international agreements. The significant rule changes and clarifications that we adopt in this *Report and Order* to streamline part 101 are:

- We permit POFS licensees to lease reserve capacity to common carriers for their common carrier traffic. Further, we grandfather certain POFS licensees who formerly carried private traffic now classified as common carrier traffic.
- We clarify that conditional authorization in the 23 GHz Band is permitted only on the frequency pairs identified in Section 101.147(s), and only if the maximum Effective Isotropic Radiated Power (EIRP) utilized does not exceed 55 dBm.
- We allow conditional operation in the 952.95–956.15 and 956.55–959.75 MHz bands.
- We clarify and correct the frequency tolerance table in Section 101.107(a) in accordance with the proposal contained in the *MO&O and NPRM,* 15 FCC Rcd at 3153 ¶ 45.
- We amend the EIRP table in § 101.113(a) to divide the 10.55–10.68 GHz band into two separate bands: 10.55–10.6 GHz with the maximum power of 55 dBW and 10.6–10.68 GHz with a maximum power of 40 dBW.
- We permit any Local Multipoint Distribution Service (LMDS) antenna polarization away from service boundaries.
- We amend § 101.507 to provide the frequency tolerance of ±0.0001% for Digital Electronic Message Service (DEMS) Nodal Stations and ±0.0003% for DEMS User Stations in the 10,550–10,680 MHz band.
- We modify the part 101 emission mask to make it less severe for LMDS by adopting for LMDS the same mask requirements that we did for the 24 GHz service, as outlined in § 101.111(a)(2)(iv).
- We modify the reference bandwidth in § 101.111(a)(2)(iii) from 4 kHz to 1 MHz for consistency with § 101.111(a)(2)(ii) and Appendix S3 of the International Radio Regulations.

3. Additionally, in response to the Telecommunications Industry Association (TIA) Petition for Rulemaking relating to the 10 GHz and 23 GHz bands, we adopt the following rule changes:

- We specify a channel plan for the 23 GHz band in our Rules.
- We adopt frequency tolerance standards for both digital and analog radios operating in the 23 GHz band.
- We extend a 1 bps/Hz spectrum efficiency rate requirement to the 23 GHz band for digital transmitters.
- We allow the use of smaller antennas in the 10 GHz and 23 GHz bands.

I. Procedural Matters

A. Regulatory Flexibility Act Analysis

4. A Final Regulatory Flexibility Analysis (FRFA) with respect to the *Report and Order,* pursuant to the Regulatory Flexibility Act (RFA), is contained below. The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this *Report and Order,* including the FRFA, to the Chief Counsel of the Small Business Administration in accordance with the RFA.

B. Paperwork Reduction Act of 1995 Analysis

5. This Report and Order does not contain either a proposed or modified information collection.

II. Final Regulatory Flexibility Analysis

6. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *MO&O and NPRM* in this proceeding. The Commission sought written public comments on the proposals in those proceedings, including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) for the *Report and Order* (*R&O*) conforms to the RFA.

A. Need For and Purpose of This Action

7. This *R&O* furthers the Commission's continuing efforts to eliminate and/or modify regulations in part 101 that are duplicative, outmoded, or otherwise unnecessary. This action will (1) clarify the existing rules so they are easier to understand, (2) facilitate the awarding of licenses more quickly, and (3) eliminate unnecessary regulation.

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

8. Commenters did not file any comments in direct response to the IRFA. Some commenters, however, raised issues that may be of particular concern to small entities. The specific suggestions, modifications, and deletions have been discussed above. We have reviewed the comments to determine the impact of the decisions set forth herein on small entities.

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

9. The rules will affect all common carrier and private operational fixed microwave licensees who are authorized under part 101 of the Commission's Rules. The Commission has not developed a definition of small entities applicable to these licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules for the radiotelephone industry, which provides that a small entity is a radiotelephone company employing fewer than 1,500 persons. The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. With respect to these entities, we note that the effect will be to lessen time and input and thereby any costs associated with processing their applications.

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

10. There is only one new reporting requirement adopted in this *R&O.* We are amending § 101.31(b) to require that an application for authority to operate a fixed station at temporary locations must specify the precise geographic area within which the operation will be confined. We will require that the area specified must be defined as a radius of operation about a given state or states, latitude/longitude, or as a rectangular area bounded by upper and lower lines of latitude and longitude. This requirement previously was in our rules and inadvertently deleted during recodification. Nothing in the record indicates that the requirement was, or will be, burdensome to small entities. Other than this, we have amended the fixed microwave rules to make them less burdensome and clarified the language of some of the rules.

E. Significant Alternatives Considered

11. The comments offered various alternatives for modification of proposals contained in the notice of proposed rule making portion of the *MO&O and NPRM.* An additional alternative was to maintain the *status quo.* Generally, the comments supported the proposals, but offered changes to make the rules more clear and accurate. Some of the suggested modifications are contained in the final rules. Aside from the amendment of § 101.31 highlighted above, the rules impose no additional regulatory burdens. The Commission will continue to examine alternatives in the future with the objective of eliminating unnecessary regulations and minimizing economic impact on small business entities.

F. Commission's Outreach Efforts To Learn of and Respond to the Views of Small Entities Pursuant to 5 U.S.C. 609

12. In this proceeding, the Commission has taken several steps to learn and respond to the views of small entities. Throughout the course of this proceeding, representatives of the Public Safety and Private Wireless Division (PSPWD) of the Wireless Telecommunications Bureau have had numerous discussions with the representatives of small entities. The staff of the Licensing and Technical Analysis Branch of the PSPWD in Gettysburg, Pennsylvania routinely respond to questions posed by the representatives of small entities and, when appropriate, refer issues arising from those questions to PSPWD staff in Washington, DC for determination of whether a rule change or clarification will benefit the small entities posing the questions.

G. Report to Congress

13. The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with the *Report and Order,* in a report to Congress pursuant to section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA will also be published in the **Federal Register**.

III. Ordering Clauses

14. Accordingly, pursuant to sections 1, 2, 4(i), 5(c), 7(a), 11(b), 301, 302, 303, 307, 308, 309(j), 310, 312a, 316, 319, 323, 324, 332, 333, 336, 337, and 351 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157(a), 161(b), 301, 302, 303, 307, 308, 309(j), 310, 312a, 316, 319, 323, 324, 332, 333, 336, 337, 351, and §§ 1.421 and 1.425 of the Commission's Rules, 47 CFR 1.421, 1.425, the *Report and Order* in this proceeding *is hereby adopted.*

15. The Commission's Consumer Information 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 U.S. Small Business Administration.

List of Subjects in 47 CFR Part 101

Communications equipment, Marine safety, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

Part 101 of chapter 1 of title 47 of the Code of Federal Regulations is amended as follows:

PART 101—FIXED MICROWAVE SERVICES

1. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

2. Section 101.3 is amended by removing the definition for MHz Service Bands and by revising the Multiple address system (MAS) definition to read as follows:

§ 101.3 Definitions.

* * * * *

Multiple address system (MAS). A point-to-multipoint or point-to-point radio communications system used for either one-way or two-way transmissions that operates in the 928/952/956 MHz, the 928/959 MHz or the 932/941 MHz bands in accordance with § 101.147.

* * * * *

3. Section 101.5 is amended by revising paragraph (b) to read as follows:

§ 101.5 Station authorization required.

* * * * *

(b) A separate application form must be filed electronically via ULS for each Digital Electronic Message Service (DEMS) Nodal Station. No license is required for a DEMS User Station or for a Multiple Address System (MAS) remote or mobile station. Authority for a DEMS Nodal Station licensee to serve a specific number of user stations to be licensed in the name of the carrier must be requested on FCC Form 601 filed for the DEMS Nodal Station. Authority for any number of MAS remotes and authority to serve MAS mobiles (to the extent this part permits such operation) within a specified area will be included in the authority for the MAS fixed master stations.

* * * * *

4. Section 101.31 is amended by revising paragraphs (a)(2), (b)(1) introductory text, (b)(1) (vii) and (b)(3), by removing paragraphs (a)(3) through (a)(5) and paragraph (b)(4), by redesignating paragraphs (a)(6) as paragraph (a)(3) and by revising newly designated paragraph (a)(3) to read as follows:

§ 101.31 Temporary and conditional authorizations.

(a) * * *

(2) Applications for authorizations to operate stations at temporary locations under the provisions of this section shall be made upon FCC Form 601. Blanket applications may be submitted for the required number of transmitters. An application for authority to operate a fixed station at temporary locations must specify the precise geographic area within which the operation will be confined. The area specified must be defined as a radius of operation about a specific coordinate (latitude/longitude), or as a county, or as a State. Exception to this specific requirement may be made for exceptionally large areas, such as the continental United States. Sufficient data must be submitted to show the need for the proposed area of operation.

(3) Operations in the 17.8–19.7 GHz band are prohibited in the areas defined in § 1.924 of this chapter. Operations proposed in the areas defined in § 1.924 of this chapter may not commence without prior specific notification to, and authorization from, the Commission.

* * * * *

(b) * * *

(1) An applicant for a new point-to-point microwave radio station(s) or a modification of an existing station(s) in the 952.95–956.15, 956.55–959.75, 3,700–4,200; 5,925–6,425; 6,525–6,875; 10,550–10,680; 10,700–11,700; 11,700–12,200; 12,700–13,200; 13,200–13,250; 17,700–19,700; and 21,800–22,000 MHz, and 23,000–23,200 MHz bands (*see* § 101.147(s) for specific service usage) may operate the proposed station(s) during the pendency of its applications(s) upon the filing of a properly completed formal application(s) that complies with subpart B of part 101 if the applicant certifies that the following conditions are satisfied:

* * * * *

(vii) With respect to the 21.8–22.0 GHz and 23.0–23.2 GHz band, the filed application(s) does not propose to operate on a frequency pair centered on other than 21.825/23.025 GHz, 21.875/23.075 GHz, 21.925/23.125 GHz or 21.975/23.175 GHz and does not propose to operate with an E.I.R.P. greater than 55 dBm. The center frequencies are shifted from the center frequencies listed above for certain bandwidths as follows: add 0.005 GHz for 20 MHz bandwidth channels, add 0.010 GHz for 30 MHz bandwidth channels, and subtract 0.005 GHz for 40 MHz bandwidth channels. *See* specific channel listings in § 101.147(s).

* * * * *

(3) Conditional authorization does not prejudice any action the Commission may take on the subject application(s). Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. An applicant operating pursuant to this conditional authority assumes all risks associated with such operation, the termination or modification of the conditional authority, or the subsequent dismissal or denial of its applications(s).

* * * * *

1. Section 101.55 is amended by revising paragraph (a) introductory text and removing paragraph (e) to read as follows:

§ 101.55 Considerations involving transfer or assignment applications.

(a) Except as provided for in paragraph (d) of this section, licenses not authorized pursuant to competitive bidding procedures may not be assigned or transferred prior to the completion of construction of the facility.

* * * * *

6. Section 101.101 is amended by revising frequency band 2450–2500, 18,820–18,920 and 19,160–19,210 the table to read as follows:

§ 101.101 Frequency availability.

Frequency band (MHz)	Radio service				
	Common carrier (part 101)	Private radio (part 101)	Broadcast auxiliary (part 74)	Other (parts 15, 21, 24, 25, 74, 78, & 100)	Notes
* * *	*	*		*	*
2450–2500	CC	OFS	TV BAS	ISM	F/M/TF

Frequency band (MHz)	Radio service				
	Common carrier (part 101)	Private radio (part 101)	Broadcast auxiliary (part 74)	Other (parts 15, 21, 24, 25, 74, 78, & 100)	Notes
* * *	*	*		*	*
18,820–18,920	CC	OFS		SAT	
* * *	*	*		*	*
19,160–19,260	CC	OFS		SAT	
* * *	*	*		*	*

7. Section 101.107 is amended by revising the table in paragraph (a) to read as follows:

§ 101.107 Frequency tolerance.

(a) * * *

Frequency (MHz)	Frequency tolerance (percent)
928 to 929 [5]	0.0005
932 to 932.5	0.00015
932.5 to 935	0.00025
941 to 941.5	0.00015
941.5 to 944	0.00025
952 to 960 [5]	0.0005
1,850 to 1,990	0.002
2,110 to 2,200	0.001
2,450 to 2,500 [1]	0.001
3,700 to 4,200 [1]	0.005
5,925 to 6,875 [1]	0.005
10,550 to 11,700 [1 2]	0.005
11,700 to 12,200 [1]	0.005
12,200 to 13,250 [4]	0.005
14,200 to 14,400	0.03
17,700 to 18,820 [3]	0.003
18,820 to 18,920 [3]	0.001
928 to 929 [5]	0.0005
18,920 to 19,700 [3]	0.003
19,700 to 27,500 [4 7]	0.001
27,500 to 28,350	0.001
29,100 to 29,250	0.001
31,000 to 31,300 [6]	0.001
31,300 to 40,000 [4]	0.03

* * * * *

[1] Applicable only to common carrier LTTS stations. Tolerance for 2450–2500 MHz is 0.005%. Beginning Aug. 9, 1975, this tolerance will govern the marketing of LTTS equipment and the issuance of all such authorizations for new radio equipment. Until that date new equipment may be authorized with a frequency tolerance of .03% in the frequency range 2,200 to 10,500 MHz and .05% in the range 10,500 MHz to 12,200 MHz, and equipment so authorized may continue to be used for its life provided that it does not cause interference to the operation of any other licensee.

[2] *See* subpart G of this part for the stability requirements for transmitters used in the Digital Electronic Message Service.

[3] Existing type accepted equipment with a frequency tolerance of ±0.03% may be marketed until December 1, 1988. Equipment installed and operated prior to December 1, 1988 may continue to operate after that date with a minimum frequency tolerance of ±0.03%. However, the replacement of equipment requires that the current tolerance be met.

[4] Applicable to private operational fixed point-to-point microwave and stations providing MVDDS.

[5] For private operational fixed point-to-point microwave systems, with a channel greater than or equal to 50 KHz bandwidth, ±0.0005%; for multiple address master stations, regardless of bandwidth, ±0.00015%; for multiple address remote stations with 12.5 KHz bandwidths, ±0.00015%; for multiple address remote stations with channels greater than 12.5 KHz bandwidth, ±0.0005%.

[6] For stations authorized prior to March 11, 1997, transmitter tolerance shall not exceed 0.03%.

[7] The frequency tolerance for stations authorized on or before April 1, 2005 is 0.03%. Existing licensees and pending applicants on that date may continue to operate after that date with a frequency tolerance of 0.03%, provided that it does not cause harmful interference to the operation of any other licensee. For analog systems, if the channel bandwidth is greater than 30 MHz up to 50 MHz, the frequency tolerance standard will be 0.03%; if the channel bandwidth is 30 MHz or less, then the frequency tolerance standard will be 0.003%. This analog standard is conditional provided that harmful interference is not caused to digital stations operating within the 0.001% tolerance standards. If harmful interference is caused to stations operating with the more stringent standard, the onus shall be on the operators with the less stringent parameters to develop an engineering solution to the problem. For exceptions, *see* § 101.147 and § 101.507.

8. Section 101.109 is amended by revising the frequency band of 21,200 to 23,600 table in paragraph (c) to read as follows:

§ 101.109 Bandwidth.

* * * * *

(c) * * *

Frequency band (MHz)	Maximum authorized bandwidth
* * *	* *
21,200 to 23,600	50 MHz [1 4]

* * * * *

9. Section 101.111 is amended by revising (a)(2)(i) through (a)(2)(iv) to read as follows:

§ 101.111 Emission limitations.

* * * * *

(a) * * *

(2) * * *

(i) For operating frequencies below 15 GHz, in any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 50 decibels:

$A = 35 + 0.8(P - 50) + 10 \text{ Log}_{10} B.$

(Attenuation greater than 80 decibels or to an absolute power of less than −13 dBm/1MHz is not required.)

where:

A = Attenuation (in decibels) below the mean output power level.

P = Percent removed from the center frequency of the transmitter bandwidth.

B = Authorized bandwidth in MHz.

Note: MVDDS operations in the 12.2–12.7 GHz band shall use 24 megahertz for the value of B in the emission mask equation set forth in this section.

(ii) For operating frequencies above 15 GHz, in any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 11 decibels:

$A = 11 + 0.4(P - 50) + 10 \text{ Log}_{10} B.$

(Attenuation greater than 56 decibels or to an absolute power of less than −13 dBm/1MHz is not required.)

(iii) In any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least $43 + 10 \text{ Log}_{10}$ (the mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation. The authorized bandwidth includes the nominal radio frequency bandwidth of an individual transmitter/modulator in block-assigned bands. Equipment licensed prior to April 1, 2005 shall only be required to meet this standard in any 4 kHz band.

(iv) The emission mask for LMDS and the 24 GHz Service shall use the equation in paragraph (a)(2)(ii) of this section and apply it only to the band edge of each block of spectrum, but not

to subchannels established by licensees. The value of P in the equation is the percentage removed from the carrier frequency and assumes that the carrier frequency is the center of the actual bandwidth used. The emission mask can be satisfied by locating a carrier of the subchannel sufficiently far from the channel edges so that the emission levels of the mask are satisfied. The LMDS or 24 GHz emission mask shall use a value B (bandwidth) of 40 MHz, for all cases even in the case where a narrower subchannel is used (for instance the actual bandwidth is 10 MHz) and the mean output power used in the calculation is the sum of the output power of a fully populated channel. For block assigned channels, the out-of-band emission limits apply only outside the assigned band of operation and not within the band.

* * * * *

10. Section 101.113 is amended by revising the frequency band of 10,550 to 10,680 and by revising footnote 5 of the table in paragraph (a) to read as follows:

§ 101.113 Transmitter power limitations.

(a) * * *

Frequency band (MHz)	Maximum allowable EIRP [1 2]	
	Fixed (dBW)	Mobile (dBW)
* * * * *		
10,550 to 10,600 [5]	+55	
10,600 to 10,680 [5]	+40	
* * * * *		

* * * * *

[5] The output power of a DEMS System nodal transmitter shall not exceed 0.5 watt per 250 kHz. The output power of a DEMS System user transmitter shall not exceed 0.04 watt per 250 kHz. The transmitter power in terms of the watts specified is the peak envelope power of the emission measured at the associated antenna input port. The operating power shall not exceed the authorized power by more than 10 percent of the authorized power in watts at any time. Frequencies from 10,600–10,680 MHz are subject to footnote US265 in the Table of Frequency Allocations in § 2.106 of the Commission's Rules. Stations authorized prior to April 1, 2003 to exceed the 40 dBW limit may continue to operate at their authorized output power level indefinitely, provided that neither end point of the relevant link is relocated.

* * * * *

11. Section 101.115 is amended by removing paragraph (b) and redesignating paragraphs (c) through (g) as (b) through (f), and revising footnote 7 and the frequency bands of 10,550 to 16,680 and 21,200 to 23,600, and by adding footnote 7 to frequency 21,200 to 23,600 of the table in newly designated paragraph (b) to read as follows:

§ 101.115 Directional antennas.

* * * * *

(b) * * *

(2) * * *

ANTENNA STANDARDS

Frequency (MHz)	Category	Maximum beamwidth to 3 dB points [1] (included angle in degrees)	Minimum antenna gain (dBi)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels						
				5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
*	*	*		*		*		*		*
10,550 to 10,680 [7]	A	3.5	33.5	18	24	28	32	35	55	55
	B	3.5	33.5	17	24	28	32	35	40	45
*	*	*		*		*		*		*
21,200 to 23,600 [7,11] ..	A	3.3	33.5	18	26	26	33	33	55	55
	B	3.3	33.5	17	24	24	29	29	40	50
*	*	*		*		*		*		*

* * * * * * *

[7] For stations authorized or pending on April 1, 2003, the minimum radiation suppression for Category B is 35 dB in the 10,550–10,680 MHz band and 36 dB in the 21,200–23,600 MHz band for discrimination angles from 100° to 180°.

* * * * *

12. Section 101.117 is revised to read as follows:

§ 101.117 Antenna polarization.

Except as set forth herein, stations operating in the radio services included in this part are not limited as to the type of polarization of the radiated signal that may be employed. However, in the event interference in excess of permissible levels is caused to the operation of other stations as a result of employing other than linear polarization, the Commission may order a licensee to change its system polarization to mitigate the interference. No change in polarization may be made without prior authorization from the Commission. Unless otherwise allowed, only linear polarization (horizontal and vertical) shall be used. For LMDS systems, unless otherwise authorized, system operators are permitted to use any polarization within its service area, but only vertical and/or horizontal polarization for antennas located within 20 kilometers of the outermost edge of their service area.

13. Section 101.133 is amended by adding paragraph (e) to read as follows:

§ 101.133 Limitations on use of transmitters.

* * * * *

(e) Existing private operational fixed wireless licensees applying to become common carrier wireless licensees shall comply with all provisions of the Communications Act and the Commission's rules. Applicants must take all required filings, including FCC Form 601, and receive all necessary Commission approval prior to operating

as a common carrier wireless licensee. The regulatory fee associated with FCC wireless application Form 601 is waived for applicants who are existing private operational fixed licensees seeking common carrier status, provided that such licensees have also complied with all other discontinuance requirements of Title II of the Act. Applicants are responsible for all other Commission regulatory fees.

14. Section 101.135 is amended by revising paragraph (a) to read as follows:

§ 101.135 Shared use of radio stations and the offering of private carrier service.

* * * * *

(a) Persons or governmental entities licensed to operate radio systems pursuant to subpart H of this part on any of the private radio frequencies set out in § 101.101 may share such systems with, or provide private carrier service to, any eligible entity for licensing under this part, regardless of individual eligibility restrictions, provided that the communications being carried are permissible under § 101.603.

* * * * *

15. Section 101.139 is amended by revising paragraphs (a) and (g) to read as follows:

§ 101.139 Authorization of transmitters.

(a) Unless specified otherwise, transmitters used in the private operational fixed and common carrier fixed point-to-point microwave and point-to-multipoint services under this part must be a type that has been verified for compliance.

* * * * *

(g) After April 1, 2005, the manufacture (except for export) or importation of equipment for operation in the 21,200–23,600 MHz band must meet:

(1) The 0.001% frequency tolerance requirement for digital systems in § 101.107(a) or the 0.03–0.003% frequency tolerance for analog sytems; and

(2) For equipment employing digital modulation techniques, the minimum bit rate requirements of § 101.141(a).

16. Section 101.141 is amended by revising paragraph (a) introductory text and revising paragraph (a)(1) to read as follows:

§ 101.141 Microwave modulation.

(a) Microwave transmitters employing digital modulation techniques and operating below 25.25 GHz (except for MVDDS stations in the 12,200–12,700 MHz band) must, with appropriate multiplex equipment, comply with the following additional requirements:

(1) The bit rate, in bits per second, must be equal to or greater than the bandwidth specified by the emission designator in Hertz (*e.g.*, to be acceptable, equipment transmitting at a 20 Mb/s rate must not require a bandwidth of greater than 20 MHz), except the bandwidth used to calculate the minimum rate may not include any authorized guard band.

(i) Stations authorized prior to December 1, 1988 may install equipment after that date with no minimum bit rate. Equipment applied for or authorized prior to April 1, 2005 in the 21.2–23.6 GHz band may be installed with no minimum bit rate.

(ii) However, any digital equipment applied for after April 1, 2005 and equipment replacing existing equipment in the 21.2–23.6 GHz band must meet the bit rate standard.

* * * * *

17. Section 101.147 is amended by removing note 4 and adding note 12 to the frequency band of 2,450 to 2,500 in the table following paragraph (a), by revising notes (1), (12), (14), (26) to the table in paragraph (a), by adding a note to paragraph (b) introductory text, by revising the remote transmit of frequency 928.75675 of Table 3 in paragraph (b)(2) , by removing and reserving paragraph (k) and by revising paragraphs (r) (10) introductory text and paragraph (s) to read as follows:

§ 101.147 Frequency assignments.

(a) * * *

* * * * *

2,450–2,500 MHz (12)

* * * * *

(1) Frequencies in this band are shared with control and repeater stations in the Public Mobile Services and with stations in the International Fixed Public Radio communication Services located south of 25°30′ north latitude in the State of Florida and U. S. possessions in the Caribbean area. Additionally, the band 2160–2162 MHz is shared with stations in the Multipoint Distribution Service.

* * * * *

(12) Frequencies in this band are available for assignment to the common carrier and private-operational fixed point-to-point microwave services.

* * * * *

(14) Frequencies in this band are shared with stations in the fixed-satellite service.

* * * * *

(26) Frequencies from 21.8–22.0 GHz and 23.0–23.2 GHz may be authorized for low power, limited coverage systems subject to the provisions of paragraph (s)(8) of this section.

* * * * *

(b) * * *

Note to paragraph (b) introductory text: Paragraphs (b)(1) through (b)(5) and Tables 1 through 7 of this section pertain to Multiple Address System (MAS) frequencies and paragraph (b)(6) and Tables 8 through 11 of this section pertain to Point-To-Point frequencies.

* * * * *

(2) * * *

TABLE 3.—PAIRED FREQUENCIES (MHZ)

[12.5 kHz bandwidth]

Remote transmit	Master transmit
928.75625	952.75625

* * * * *

(k) [Reserved]

* * * * *

(r) * * *

(10) Special provision for low power systems in the 17–700–19700 MHz band: Notwithstanding other provisions in this rule part, and except for specified areas around Washington, DC, and Denver, Colorado, licensees of point-to-multipoint channel pairs 25–29 identified in paragraph (r)(9) of this section may operate multiple low power transmitting devices within a defined service area. New operations are prohibited within 55 km when used outdoor and within 20 km when used indoor of the coordinates 38°48′ N/76°52′ W and 39°43′ N/104°46′ W. The service area will be a 28 kilometer omnidirectional radius originating from specified center reference coordinates. The specified center coordinates must be no closer than 56 kilometers from any co-channel nodal station or the specified center coordinates of another co-channel system. Applicants/licensees do not need to specify the location of each individual transmitting device operating within their defined service areas. Such operations are available to private and common carriers and are subject to the following requirements for the low power transmitting devices:

* * * * *

(s) *21,200 to 23,600 MHz:* 50 MHz authorized bandwidth.

Transmit (receive) (MHz)	Receive (transmit) (MHz)
(1) 2.5 MHz bandwidth channels:	
21601.25	22801.25
21603.75	22803.75

Transmit (receive) (MHz)	Receive (transmit) (MHz)
21606.25	22806.25
21608.75	22808.75
21611.25	22811.25
21613.75	22813.75
21616.25	22816.25
21618.75	22818.75
21621.25	22821.25
21623.75	22823.75
21626.25	22826.25
21628.75	22828.75
21631.25	22831.25
21633.75	22833.75
21636.25	22836.25
21638.75	22838.75
21641.25	22841.25
21643.75	22843.75
21646.25	22846.25
21648.75	22848.75
21651.25	22851.25
21653.75	22853.75
21656.25	22856.25
21658.75	22858.75
21661.25	22861.25
21663.75	22863.75
21666.25	22866.25
21668.75	22868.75
21671.25	22871.25
21673.75	22873.75
21676.25	22876.25
21678.75	22878.75
21681.25	22881.25
21683.75	22883.75
21686.25	22886.25
21688.75	22888.75
21691.25	22891.25
21693.75	22893.75
21696.25	22896.25
21698.75	22898.75
21701.25	22901.25
21703.75	22903.75
21706.25	22906.25
21708.75	22908.75
21711.25	22911.25
21713.75	22913.75
21716.25	22916.25
21718.75	22918.75
21721.25	22921.25
21723.75	22923.75
21726.25	22926.25
21728.75	22928.75
21731.25	22931.25
21733.75	22933.75
21736.25	22936.25
21738.75	22938.75
21741.25	22941.25
21743.75	22943.75
21746.25	22946.25
21748.75	22948.75
21751.25	22951.25
21753.75	22953.75
21756.25	22956.25
21758.75	22958.75
21761.25	22961.25
21763.75	22963.75
21766.25	22966.25
21768.75	22968.75
21771.25	22971.25
21773.75	22973.75
21776.25	22976.25
21778.75	22978.75
21781.25	22981.25
21783.75	22983.75

Transmit (receive) (MHz)	Receive (transmit) (MHz)
21786.25	22986.25
21788.75	22988.75
21791.25	22991.25
21793.75	22993.75
21796.25	22996.25
21798.75	22998.75
22301.25	23501.25
22303.75	23503.75
22306.25	23506.25
22308.75	23508.75
22311.25	23511.25
22313.75	23513.75
22316.25	23516.25
22318.75	23518.75
22321.25	23521.25
22323.75	23523.75
22326.25	23526.25
22328.75	23528.75
22331.25	23531.25
22333.75	23533.75
22336.25	23536.25
22338.75	23538.75
22341.25	23541.25
22343.75	23543.75
22346.25	23546.25
22348.75	23548.75
22351.25	23551.25
22353.75	23553.75
22356.25	23556.25
22358.75	23558.75
22361.25	23561.25
22363.75	23563.75
22366.25	23566.25
22368.75	23568.75
22371.25	23571.25
22373.75	23573.75
22376.25	23576.25
22378.75	23578.75
22381.25	23581.25
22383.75	23583.75
22386.25	23586.25
22388.75	23588.75
22391.25	23591.25
22393.75	23593.75
22396.25	23596.25
22398.75	23598.75
(2) 5 MHz bandwidth channels:	
21602.5	22802.5
21607.5	22807.5
21612.5	22812.5
21617.5	22817.5
21622.5	22822.5
21627.5	22827.5
21632.5	22832.5
21637.5	22837.5
21642.5	22842.5
21647.5	22847.5
21652.5	22852.5
21657.5	22857.5
21662.5	22862.5
21667.5	22867.5
21672.5	22872.5
21677.5	22877.5
21682.5	22882.5
21687.5	22887.5
21692.5	22892.5
21697.5	22897.5
21702.5	22902.5
21707.5	22907.5
21712.5	22912.5
21717.5	22917.5

Transmit (receive) (MHz)	Receive (transmit) (MHz)
21722.5	22922.5
21727.5	22927.5
21732.5	22932.5
21737.5	22937.5
21742.5	22942.5
21747.5	22947.5
21752.5	22952.5
21757.5	22957.5
21762.5	22962.5
21767.5	22967.5
21772.5	22972.5
21777.5	22977.5
21782.5	22982.5
21787.5	22987.5
21792.5	22992.5
21797.5	22997.5
22302.5	23502.5
22307.5	23507.5
22312.5	23512.5
22317.5	23517.5
22322.5	23522.5
22327.5	23527.5
22332.5	23532.5
22337.5	23537.5
22342.5	23542.5
22347.5	23547.5
22352.5	23552.5
22357.5	23557.5
22362.5	23562.5
22367.5	23567.5
22372.5	23572.5
22377.5	23577.5
22382.5	23582.5
22387.5	23587.5
22392.5	23592.5
22397.5	23597.5
(3) 10 MHz bandwidth channels:	
21205	22405
21215	22415
21225	22425
21235	22435
21245	22445
21255	22455
21265	22465
21275	22475
21285	22485
21295	22495
21305	22505
21315	22515
21325	22525
21335	22535
21345	22545
21355	22555
21365	22565
21375	22575
21385	22585
21395	22595
21405	22605
21415	22615
21425	22625
21435	22635
21445	22645
21455	22655
21465	22665
21475	22675
21485	22685
21495	22695
21505	22705
21515	22715
21525	22725
21535	22735

Transmit (receive) (MHz)	Receive (transmit) (MHz)
21545	22745
21555	22755
21565	22765
21575	22775
21585	22785
21595	22795
21605 [1]	[1] 22805
21615 [1]	[1] 22815
21625 [1]	[1] 22825
21635 [1]	[1] 22835
21645 [1]	[1] 22845
21655 [1]	[1] 22855
21665 [1]	[1] 22865
21675 [1]	[1] 22875
21685 [1]	[1] 22885
21695 [1]	[1] 22895
21705 [1]	[1] 22905
21715 [1]	[1] 22915
21725 [1]	[1] 22925
21735 [1]	[1] 22935
21745 [1]	[1] 22945
21755 [1]	[1] 22955
21765 [1]	[1] 22965
21775 [1]	[1] 22975
21785 [1]	[1] 22985
21795 [1]	[1] 22995
21805 [2]	[2] 23005
21815 [2]	[2] 23015
21825 [2]	[2] 23025
21835 [2]	[2] 23035
21845 [2]	[2] 23045
21855 [2]	[2] 23055
21865 [2]	[2] 23065
21875 [2]	[2] 23075
21885 [2]	[2] 23085
21895 [2]	[2] 23095
21905 [2]	[2] 23105
21915 [2]	[2] 23115
21925 [2]	[2] 23125
21935 [2]	[2] 23135
21945 [2]	[2] 23145
21955 [2]	[2] 23155
21965 [2]	[2] 23165
21975 [2]	[2] 23175
21985 [2]	[2] 23185
21995 [2]	[2] 23195
22005	23205
22015	23215
22025	23225
22035	23235
22045	23245
22055	23255
22065	23265
22075	23275
22085	23285
22095	23295
22105	23305
22115	23315
22125	23325
22135	23335
22145	23345
22155	23355
22165	23365
22175	23375
22185	23385
22195	23395
22205	23405
22215	23415
22225	23425
22235	23435
22245	23445
22255	23455

Transmit (receive) (MHz)	Receive (transmit) (MHz)
22265	23465
22275	23475
22285	23485
22295	23495
22305 [1]	[1] 23505
22315 [1]	[1] 23515
22325 [1]	[1] 23525
22335 [1]	[1] 23535
22345 [1]	[1] 23545
22355 [1]	[1] 23555
22365 [1]	[1] 23565
22375 [1]	[1] 23575
22385 [1]	[1] 23585
22395 [1]	[1] 23595
(4) 20 MHz bandwidth channels:	
21210	22410
21230	22430
21260	22460
21280	22480
21310	22510
21330	22530
21360	22560
21380	22580
21410	22610
21430	22630
21460	22660
21480	22680
21510	22710
21530	22730
21560	22760
21580	22780
21610 [1]	[1] 22810
21630 [1]	[1] 22830
21660 [1]	[1] 22860
21680 [1]	[1] 22880
21710 [1]	[1] 22910
21730 [1]	[1] 22930
21760 [1]	[1] 22960
21780 [1]	[1] 22980
21810 [2]	[2] 23010
21830 [2]	[2] 23030
21860 [2]	[2] 23060
21880 [2]	[2] 23080
21910 [2]	[2] 23110
21930 [2]	[2] 23130
21960 [2]	[2] 23160
21980 [2]	[2] 23180
22010	23210
22030	23230
22060	23260
22080	23280
22110	23310
22130	23330
22160	23360
22180	23380
22210	23410
22230	23430
22260	23460
22280	23480
22310 [1]	[1] 23510
22330 [1]	[1] 23530
22360 [1]	[1] 23560
22380 [1]	[1] 23580
(5) 30 MHz bandwidth channels:	
21235	22435
21285	22485
21335	22535
21385	22585
21435	22635
21485	22685

Transmit (receive) (MHz)	Receive (transmit) (MHz)
21535	22735
21585	22785
21635 [1]	[1] 22835
21685 [1]	[1] 22885
21735 [1]	[1] 22935
21785 [1]	[1] 22985
21835 [2]	[2] 23035
21885 [2]	[2] 23085
21935 [2]	[2] 23135
21985 [2]	[2] 23185
22035	23235
22085	23285
22135	23335
22185	23385
22235	23435
22285	23485
22335 [1]	[1] 23535
22385 [1]	[1] 23585
(6) 40 MHz bandwidth channels:	
21220	22420
21270	22470
21320	22520
21370	22570
21420	22620
21470	22670
21520	22720
21570	22770
21620 [1]	[1] 22820
21670 [1]	[1] 22870
21720 [1]	[1] 22920
21770 [1]	[1] 22970
21820 [2]	[2] 23020
21870 [2]	[2] 23070
21920 [2]	[2] 23120
21970 [2]	[2] 23170
22020	23220
22070	23270
22120	23320
22170	23370
22220	23420
22270	23470
22320 [1]	[1] 23520
22370 [1]	[1] 23570
(7) 50 MHz bandwidth channels:	
21225	22425
21275	22475
21325	22525
21375	22575
21425	22625
21475	22675
21525	22725
21575	22775
21625 [1]	[1] 22825
21675 [1]	[1] 22875
21725 [1]	[1] 22925
21775 [1]	[1] 22975
21825 [2]	[2] 23025
21875 [2]	[2] 23075
21925 [2]	[2] 23125
21975 [2]	[2] 23175
22025	23225
22075	23275
22125	23325
22175	23375
22225	23425
22275	23475
22325 [1]	[1] 23525

Transmit (receive) (MHz)	Receive (transmit) (MHz)
22375 [1]	[1]23575

[1] Alternate channels. These channels are set aside for narrow bandwidth systems and should be used only if all other channels are blocked.

[2] These frequencies may be assigned to low power systems, as defined in paragraph (8) of this section.

(8) *Special provisions for low power, limited coverage systems in the 21.8–22.0 GHz and 23.0–23.2 GHz band segments.* Notwithstanding any contrary provisions in this part, the frequency band segment 21.8–22.0 GHz paired with the frequency band segment 23.0–23.2 GHz may be authorized for low power, limited coverage systems subject to the following provisions:

(i) The maximum EIRP shall be 55 dBm and the rated transmitter output power shall not exceed 0.100 Watts;

(ii) In the band segments from 21.8–22.0 GHz and 23.0–23.2 GHz, the frequency tolerance for stations authorized on or before April 1, 2005 is 0.05%. Existing licensees and pending applicants on that date may continue to operate after that date with a frequency tolerance of 0.05%, provided that it does not cause harmful interference to the operation of any other licensee. The frequency tolerance of § 101.107(a) shall apply to stations applied for after April 1, 2005;

(iii) The maximum beamwidth shall not exceed 4 degrees;

(iv) The sidelobe suppression criteria contained in § 101.115 of this part shall not apply, except that a minimum front-to-back ratio of 38 dB shall apply;

(v) Upon showing of need, a maximum bandwidth of 50 MHz may be authorized per frequency assigned;

(vi) Radio systems authorized under the provisions of this section shall have no more than five hops in tandem, except upon showing of need, but in any event the maximum tandem length shall not exceed 40 km (25 miles);

(vii) Interfering signals at the antenna terminals of station authorized under this section shall not exceed –90 dBm and –70 dBm respectively, for co-channel and adjacent channel interfering signals; and

(viii) Stations authorized under the provisions of this section shall provide the protection from interference specified in § 101.105 to stations operating in accordance with the provisions of this part.

* * * * *

18. Section 101.507 is revised to read as follows:

§ 101.507 Frequency stability.

The frequency stability in the 10,550–10,680 MHz band must be ±0.0001% for each DEMS Nodal Station transmitter and ±0.0003% for each DEMS User Station transmitter. The frequency stability in the 24,250–25,250 MHz bands must be ±0.001% for each Nodal Station transmitter and ±0.003% for each User Station transmitter.

19. Section 101.603 is amended by revising paragraph (b)(1) to read as follows:

§ 101.603 Permissible communications.

* * * * *

(b) * * *

(1) Render a common carrier service of any kind. However, licensees are allowed to lease excess capacity to common carriers. In addition, Specialized Mobile Radio (SMR) licensees reclassified by the Commission as Commercial Mobile Radio Services (CMRS), that were formerly private land mobile radio service providers, may continue to utilize private operational fixed microwave systems licensed prior to April 1, 2003 for their land mobile connecting facilities.

* * * * *

20. Section 101.803 is amended by revising paragraph (a)(5), paragraph (d)(8), by removing paragraph (e) and redesignating paragraphs (f) and (g) as paragraphs (e) and (f) to read as follows:

§ 101.803 Frequencies.

(a) * * *

(5) This frequency band is shared with the common carrier and private-operational fixed point-to-point microwave services.

* * * * *

(d) * * *

(8) This frequency band is shared with the common carrier and private-operational fixed point-to-point microwave services.

* * * * *

21. Section 101.809 is amended by revising paragraph (d) to read as follows:

§ 101.809 Bandwidth and emission limitations.

* * * * *

(d) Maximum bandwidths in the following frequency bands must not exceed the limits set forth below:

MAXIMUM AUTHORIZED

Frequency band (MHz)	Bandwidth (MHz)
3,700 to 4,200	[1]20
5,925 to 6,425	[1]30

MAXIMUM AUTHORIZED—Continued

Frequency band (MHz)	Bandwidth (MHz)
6,425 to 6,525	25
10,700 to 12,200	[1]40
13,200 to 13,250	25
21,200 to 23,600	[1]50

[1] The maximum bandwidth that will be authorized for each particular frequency in this band is detailed in the appropriate frequency table in § 101.147.

* * * * *

22. Section 101.815 is amended by revising paragraph (a)(1) to read as follows:

§ 101.815 Stations at temporary fixed locations.

(a) * * *

(1) When a fixed station is to remain at a single location for less than 6 months, the location is considered to be temporary.

* * * * *

23. Section 101.1325 is amended by revising paragraph (a) to read as follows:

§ 101.1325 Construction requirements.

(a) Incumbent and site-based licenses are subject to the construction requirements set forth in § 101.63.

* * * * *

24. Section 101.1333 is amended by revising paragraph (c) to read as follows:

§ 101.1333 Interference protection criteria

* * * * *

(c) EA licensees are prohibited from exceeding a signal strength of 40 dBμV/m at incumbent licensees' 40.2 kilometer (25-mile) radius composite contour specified in § 101.1331(c).

* * * * *

[FR Doc. 03–1325 Filed 1–30–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 02–14270]

RIN 2127–AI71

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule.

SUMMARY: In May 2000, we published a rule to require advanced air bags in light vehicles. The requirements of that rule

are being phased in during two stages, the first of which extends from September 1, 2003, to August 31, 2006. In September 2002, in response to petitions for rulemaking, we published a notice of proposed rulemaking (NPRM) to reduce the percentage of vehicles that must comply with the advanced air bag requirements during the first year of the first stage, *i.e.*, from September 1, 2003, through August 31, 2004, from 35 percent to 20 percent. This final rule adopts that proposed change, which reflects the technical challenges being faced by the vehicle manufacturers in meeting the new requirements and the fact that two of the automotive suppliers dropped plans to offer devices that suppress the passenger air bag when a child is present. In the NPRM, we also requested comments on possible adjustments in the alternative phase-in requirement available to limited line manufacturers. We plan to address that issue in a separate document, in the near future.

DATES: *Effective Date:* The amendments made in this rule are effective March 3, 2003.

Petitions: Petitions for reconsideration must be received by March 17, 2003.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590:

For technical issues: Mr. Louis Molino, Office of Crashworthiness Standards, NVS–112, telephone (202) 366–2264, facsimile (202) 493–2739.

For legal issues: Mr. Edward Glancy, Office of the Chief Counsel, NCC–112, telephone (202) 366–2992, facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION:

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I. Background

A. The Advanced Air Bag Final Rule

On May 12, 2000, we published in the **Federal Register** (65 FR 30680) a rule to require advanced air bags. (Docket No. NHTSA 00–7013; Notice 1.) The rule amended Standard No. 208, *Occupant Crash Protection*, to require that future air bags be designed so that, compared to current air bags, they create less risk of serious air bag-induced injuries, particularly for small women and young children, and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology.

The rule will be phased in during two stages. The first stage phase-in will improve protection by requiring vehicles to be certified as passing the unbelted test requirements [1] for both the 5th percentile adult female and 50th percentile adult male dummies in a 32–40 km/h (20–25 mph) rigid barrier crash, and belted test requirements [2] for the same two dummies in a rigid barrier crash with a maximum test speed of 48 km/h (30 mph). In addition, the first stage will minimize the risk of injury from air bags by requiring vehicles to include technologies that will minimize the risk of air bag-induced injuries for young children and small adults.

During the first stage phase-in, from September 1, 2003, to August 31, 2006, increasing percentages of motor vehicles will be required to meet requirements for minimizing air bag risks,[3] primarily by either automatically turning off the air bag when young children are present or deploying the air bag more benignly so that it is much less likely to cause serious or fatal injury to out-of-position occupants.[4] If they so wish, manufacturers may choose to use a combination of those approaches.

Manufacturers that decide to design their passenger air bags to turn off will use weight sensors and/or other means of detecting the presence of young children. To test the ability of those means to detect the presence of children, the rule specifies that child dummies be placed in child seats that are, in turn, placed on the passenger seat in both proper and (to simulate misuse) improper ways. It also specifies tests that are conducted with unrestrained child dummies sitting, kneeling, standing, or lying on the passenger seat.

The ability of air bags to deploy in a low-risk manner will be tested using child dummies on the passenger side and the small adult female dummy on the driver side. For manufacturers that decide to design their passenger air bags to deploy in a low risk manner, the rule specifies that unbelted child dummies be placed against the instrument panel in two different positions. The air bag is then deployed with the dummies in each position. This placement was specified because pre-crash braking can cause unrestrained children to move forward into or near the instrument panel before the air bag deploys. The ability of driver air bags to deploy in a low risk manner will be tested by placing the 5th percentile adult female dummy against the steering wheel in two different positions and then deploying the air bag with the dummy in each position.

The second stage phase-in will require vehicles to be certified as passing the belted test requirements for the 50th percentile adult male dummy at a test speed up to 56 km/h (35 mph). This requirement will provide improved protection for belted occupants.

B. September 2002 Proposal To Adjust Phase-in

On September 24, 2002, we published in the **Federal Register** (67 FR 59800) a document responding to petitions for rulemaking from the Alliance of Automobile Manufacturers, Toyota, and DaimlerChrysler requesting changes in the advanced air bag final rule. (Docket No. NHTSA 02–13393; Notice 1.)

In response to the petitions, we proposed to reduce the percentage of vehicles that must comply with the advanced air bag requirements during the first year of the phase-in, *i.e.*, from September 1, 2003, through August 31, 2004, from 35 percent to 20 percent. We stated that the proposed change reflected the technical challenges being faced by the vehicle manufacturers in meeting the new requirements and the fact that two of the automotive suppliers had dropped plans to offer devices that suppress the passenger air bag when a child is present. We also stated that we had tentatively concluded that a reduction in the first year's phase-in requirement from 35 percent to 20 percent strikes a reasonable balance between ensuring that the industry provides advanced air bags as quickly as is reasonably possible, while avoiding a situation in which the industry must put new technologies into vehicles before they have been fully tested.

[1] "Unbelted test requirements" are requirements that specify the use of unbelted dummies in testing vehicles.

[2] "Belted test requirements" are requirements that specify the use of belted dummies in testing vehicles.

[3] The complete phase-in schedule was: 9/1/03 to 8/31/04—35 percent; 9/1/04 to 8/31/05—65 percent; 9/1/05 to 8/31/06—100 percent (manufacturers may use credits for early compliance); 9/1/06—all vehicles must comply (no use of credits).

[4] The rule also establishes very general performance requirements for dynamic automatic suppression systems (DASS) and a special expedited petitioning and rulemaking process for considering procedures for testing advanced air bag systems incorporating a DASS.

We otherwise denied the petitions or, as to certain requests, dismissed them because the agency had subsequently considered or was considering the same requests in the context of another rulemaking proceeding.

In addition, in response to a petition for rulemaking from Porsche, we stated that we were considering possible adjustments in the alternative phase-in requirements available to limited line manufacturers.

II. Public Comments

We received a total of nine comments, seven from automobile manufacturers and two from automotive suppliers. The automobile manufacturer commenters were the Alliance of Automobile Manufacturers (Alliance) and six individual manufacturers—Subaru, Nissan, Porsche, General Motors (GM), DaimlerChrysler (DC), and BMW. The automotive supplier commenters were Delphi and Elesys.

The commenters were generally supportive of the agency's proposal to reduce the percentage of vehicles that must comply with the advanced air bag requirements during the first year of the first stage phase-in. No commenter opposed reducing the percentage from 35 percent to 20 percent, although two, the Alliance and DC, argued that a greater reduction should be provided.

Nissan stated that it supports the proposal. According to that company, the developmental period for the occupant sensing technology needed to meet the requirements has been longer than expected due to the developmental capacity of the suppliers of this technology.

BMW cited the significant technical challenges it has faced and will continue to face and stated that it believes that reducing the first year percentage to 20 percent will provide the necessary flexibility such that sufficiently robust advanced air bag systems will be developed for new vehicles, as well as redesigned for current production vehicles and implemented during the phase-in period.

Subaru stated that a reduction in the first year percentage to 20 percent or less would permit it to focus on applying its manpower during the first year on implementing suppression functionality in a single specific model. That company stated that it would then be in a position to effectively develop systems with some certainty for vehicles in the second and third years.

GM stated that it agrees with the agency's proposed reduction to 20 percent of the percentage of vehicles that must meet the first-year phase-in requirements for advanced air bags. That company stated that although it would be able to satisfy the original first-year requirement of 35 percent, it agrees with the agency that the proposal ''strikes a reasonable balance between ensuring the industry provides advanced air bags as quickly as is reasonably possible, while avoiding a situation in which the industry must put new technologies into vehicles before they have been fully tested.''

The Alliance stated that it is unaware of any new data or information that would lead it to change its conclusion, presented in its petition for rulemaking, that 10 percent is the correct phase-in percentage requirement to be applied to the first year. That organization argued that not every manufacturer could accede to a phase-in percentage greater than 10 percent. The Alliance also stated that, while it did not request modification of the second year percentage in its petition, the continued difficulty in developing effective and reliable air bag systems, including occupant classification sensor technologies, supplier constraints, as well as the significant challenge of implementing these new technologies might require modification of the second year phase-in percentage as well.

DC stated that it believes the agency has underestimated the complexity, difficulty, and technical challenges related to the phase-in of the advanced air bag requirements. It stated that in its quest to develop low risk air bag systems, which it believes minimizes real world risk, and to reduce the uncertainty associated with occupant classification systems in the real world, it continues to uncover additional unforeseen technical development and vehicle integration challenges. DC asked that the agency adopt a percentage of 10 percent for the first year phase-in and reconsider its decision not to reduce the second year percentage from 65 percent to 40 percent, as DC had requested in its petition for rulemaking.

Delphi stated that it has, at this time, both technical capability and production capacity to support its customers in meeting either the original or the proposed advanced air bag regulatory volume requirements. That company stated that its product enables compliance with Standard No. 208's suppression requirements and meets real world reliability requirements in calibrated production seats.

Elesys stated that its product meets or exceeds all applicable Standard No. 208 requirements, as well as the significant real-world durability, configuration, production and installation challenges posed by its automotive customers. That company stated that it understands why the agency proposed to reduce the first year percentage, but that any further reduction in the required percentages for later years is unnecessary for two reasons: (1) Viable, real-world-tested solutions already exist in the marketplace, and (2) such a delay would unduly penalize companies, including Elesys, who have invested heavily in research and development to meet the implementation schedule as it is currently configured.

Only one commenter, Porsche, commented on the issue of possible adjustments in the alternative phase-in requirements available to limited line manufacturers. That company suggested a revised approach for addressing the issues it had raised in its petition.

III. Agency Decision

After carefully considering the comments, we have decided, for the reasons discussed in the NPRM, to adopt as final our proposal to reduce the percentage of vehicles that must comply with the advanced air bag requirements during the first year of the phase-in, *i.e.*, from September 1, 2003, through August 31, 2004, from 35 percent to 20 percent. We are making this change in light of the technical challenges being faced by the vehicle manufacturers in meeting the new requirements and the fact that two of the automotive suppliers had dropped plans to offer devices that suppress the passenger air bag when a child is present. We have not yet reached a decision with respect to possible adjustments in the alternative phase-in requirements available to limited line manufacturers, and will address that issue in a separate document, in the near future.

As noted above, no commenter opposed reducing the percentage from 35 percent to 20 percent, although two, the Alliance and DC, argued that a greater reduction should be provided. These commenters recommended that the agency reduce the first year percentage to 10 percent, and DC also recommended that the agency reduce the second year percentage from 65 percent to 40 percent.

While we have considered the recommendations of the Alliance and DC, they have not provided information or analysis demonstrating that a further reduction is necessary, either for the first or second year. We do not disagree with their contention that the advanced air bag final rule poses significant technical challenges, but believe a reduction in the first year percentage from 35 percent to 20 percent adequately addresses that concern. We have had periodic discussions with

vehicle manufacturers over the past two years to assess our original phase-in requirements, as well as the vehicle manufacturers' projections for meeting the phase-in schedule. We have also monitored the advanced air bag systems that they have been developing, as well as met with individual restraint system suppliers. While DC has commented that it is disappointed that the agency has denied its recommendation of a 10 percent first year phase-in, GM has indicated an ability to meet the original first-year requirement of 35 percent. As previously noted, four of the five larger manufacturers that commented on the NPRM, *i.e.*, GM, Subaru, Nissan and BMW, specifically indicated that the reduction of the first year phase-in to 20 percent would give them the necessary flexibility and relief to meet the new phase-in schedule. Thus, the remaining 15 percent of their respective fleets that no longer need to meet the first year phase-in requirements could be deferred to year two, if more development time is needed, or could be certified in model year 2003 to earn advanced credits. Although the Alliance represents many manufacturers, the only member that provided specific comments supporting the Alliance position that the reduction to 20 percent is not sufficient was DC.

DC noted that the agency's original driver automatic protection rule included a phase-in of 10–25–40–100 percent, and argued that the advanced air bag final rule raises issues of even greater complexity. There is no reason, however, why the specific production year percentages for phase-ins of different rules should be the same. We also note that, as part of the May 2002 final rule for advanced air bags, we eliminated altogether the first year of the phase-in schedule we had proposed, which would have required 25 percent of each manufacturer's light vehicles manufactured during the production year beginning September 1, 2002, to comply with the advanced air bag requirements.

Finally, for model year 2003, which began approximately one year before the required phase-in begins, significant numbers of production vehicles are being certified to comply with the advanced air bag requirements. GM has announced introduction of a passenger sensing system that is being installed in nearly 1.6 million vehicles. This system is standard on most of GM's model year 2003 full-size pickups and sport-utility vehicles, including the Chevrolet Silverado and GMC Sierra pickups (except commercial models or chassis-cabs) and Chevrolet Suburban, Tahoe and Avalanche; GMC Yukon XL, Yukon and Denali; and Cadillac Escalade and Escalade EXT. GM has certified that the system meets the advanced air bag requirements. NHTSA has performed some compliance tests on three of the GM C/K trucks that were certified to the advanced air bag requirements. These included the infant, three-year-old and six-year-old child dummy suppression (presence) tests, the 5th percentile adult female driver low risk deployment tests, the belted 5th percentile adult female offset deformable barrier crash test, the frontal unbelted 5th percentile adult female and 50th percentile adult male crash tests. The three units tested passed the applicable performance requirements.

Other manufacturers are certifying, for purposes of the risk minimization requirements for children, on the basis of a combination of air bag suppression (for the infant and three-year-old child dummy tests) and low risk deployment (for the six-year-old child dummy tests) in model year 2003. This demonstrates that vehicle manufacturers are not constrained to a particular advanced air bag technology, and that both suppression and low risk deployment certification methods are viable options for meeting the advanced air bag requirements ahead of the required phase-in schedule. We are also aware that vehicle manufacturers are working with multiple technology suppliers and are not reliant upon a single entity for production.

As with the phase-in of any new requirement involving the use of new technology, we will, of course, continue to monitor the ability of the automobile manufacturers to meet the specified requirements.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rule was reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action is ''significant'' under the Department of Transportation's regulatory policies and procedures.

This rule reduces the percentage of vehicles that must comply with the advanced air bag requirements during the first year of the phase-in, *i.e.*, from September 1, 2003, through August 31, 2004, from 35 percent to 20 percent. However, the rule does not change the requirements for vehicles equipped with advanced air bags. Readers who are interested in the costs and benefits of advanced air bags are referred to the agency's Final Economic Assessment (FEA) for the May 2000 final rule. The estimated benefits compared to pre-model year 1998 (pre-depowered air bags) in that rule for the suppression technologies were estimated to be 93 fatalities and 151 AIS 3–5 injuries. These benefits can be considered to accrue over the 20–25 year lifetime of one model year's fleet. As noted in the NPRM, the reduction in the phase-in schedule for the model year 2004 fleet from 35 percent to 20 percent could result in the potential loss in benefits over the lifetime of the model year 2004 fleet of 14 lives and 23 AIS 3–5 injuries.

B. Regulatory Flexibility Act

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that the amendment will not have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis was prepared for the May 2000 final rule as part of the FEA. This action will not have a significant economic impact on small businesses because the only change it makes to the May 2000 final rule is to reduce the percentage of vehicles that must comply with that rule during the first year of the phase-in. Small organizations and small governmental units will not be significantly affected since the potential cost impacts associated with this amendment should only slightly affect the price of new motor vehicles.

C. National Environmental Policy Act

NHTSA has analyzed this amendment for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The rule will have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Unfunded Mandates Reform Act

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 that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). While the May 2000 final rule is likely to result in over $100 million of annual expenditures by the private sector, the only effect of today's amendment will be to reduce the percentage of vehicles that must comply with that rule during the first year of the phase-in. Accordingly, this rule will not mandate any expenditure by State, local or tribal governments, or by the private sector.

F. Executive Order 12778 (Civil Justice Reform)

This rule does not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This document does not establish any new information collection requirements.

H. Regulation Identifier Number (RIN)

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

List of Subjects in 49 CFR part 571

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR chapter V as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 of title 49 continues to read as follows:

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

2. Section 571.208 is amended by revising S14.1.1.1 to read as follows:

§ 571.208 Standard No. 208, Occupant crash protection.

* * * * *

S14.1.1.1 *Vehicles manufactured on or after September 1, 2003, and before September 1, 2004.* Subject to S14.1.2(a), for vehicles manufactured by a manufacturer on or after September 1, 2003, and before September 1, 2004, the amount of vehicles complying with S14.5.1(a), S14.5.2, S15.1, S15.2, S17, S19, S21, S23, and S25, shall be not less than 20 percent of:

(a) If the manufacturer has manufactured vehicles for sale in the United States during both of the two production years prior to September 1, 2003, the manufacturer's average annual production of vehicles manufactured on or after September 1, 2001, and before September 1, 2004, or

(b) The manufacturer's production on or after September 1, 2003, and before September 1, 2004.

* * * * *

Issued: January 28, 2003.

Jeffrey W. Runge,

Administrator.

[FR Doc. 03–2358 Filed 1–28–03; 5:03 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02; I.D. 012703A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Increase

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

ACTION: Trip limit increase.

SUMMARY: NMFS increases the trip limit in the commercial hook-and-line fishery for king mackerel in the Florida east coast subzone to 75 fish per day in or from the exclusive economic zone (EEZ). This trip limit increase is necessary to maximize the socioeconomic benefits of the quota.

DATES: This rule is effective 12:01 a.m., local time, February 1, 2003, through March 31, 2003, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, telephone: 727–570–5305, fax: 727–570–5583, e-mail: *Mark.Godcharles@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001) NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. The quota implemented for the Florida east coast subzone is 1,040,625 lb (472,020 kg) (50 CFR 622.42(c)(1)(i)(A) (1)).

In accordance with 50 CFR 622.44(a)(2)(i), beginning on February 1, if less than 75 percent of the Florida east coast subzone's quota has been harvested by that date, king mackerel in or from that subzone's EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 75 fish per day. The 75–fish daily trip limit will continue until a closure of the subzone's fishery has been effected or the fishing year ends on March 31.

NMFS has determined that 75 percent of the quota for Gulf group king mackerel for vessels using hook-and-line gear in the Florida east coast subzone was not reached before February 1, 2003. Accordingly, a 75–fish

trip limit applies to vessels in the commercial hook-and-line fishery for king mackerel in or from the EEZ in the Florida east coast subzone effective 12:01 a.m., local time, February 1, 2003. The 75–fish trip limit will remain in effect until the fishery closes or until the end of the current fishing season (March 31, 2003) for this subzone. From November 1 through March 31, the Florida east coast subzone of the Gulf group king mackerel is that part of the eastern zone north of 25°20.4' N. lat. (a line directly east from the Miami-Dade County, FL boundary).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, has determined that this action to increase the trip limit relieves a restriction and enhances the socio-economic benefits derived from this sector of the fishery and, therefore, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(3)(B), as such procedures would be contrary to the public interest. Any delay in implementing this action would be impractical and contradictory to the Magnuson-Stevens Act, the FMP, and the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.44(a)(2)(iii) and is exempt from review under Executive Order 12866.

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

Dated: January 28,2003.

Richard W. Surdi,

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

[FR Doc. 03–2342 Filed 1–28–03; 3:37 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 21
Friday, January 31, 2003

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Doc. No. FV–00–303]

Peaches, Plums, and Nectarines; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening and extension of the comment period.

SUMMARY: Notice is hereby given that the comment period on proposed changes to the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Grades of Nectarines is reopened and extended.

DATES: Comments must be received by March 7, 2003.

ADDRESSES: Interested persons are invited to submit written comments to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 2065 South Building, STOP 0240, Washington, DC 20250; Fax (202) 720–8871, E-mail *FPB.DocketClerk@usda.gov*. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: David L. Priester, at the above address or call (202) 720–2185; E-mail *David.Priester@usda.gov.*

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register**, September 25, 2002, (Vol 67, No. 186, Pages 60171—60184) requesting comments on the proposed revisions of the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Grades of Nectarines. The proposal would delete the ''Unclassified'' section, establish a 25-count minimum sample, revise standard pack and size requirements to reflect current marketing and packaging practices for all three standards, and develop en route or at destination tolerances for grades of peaches to make the standards more uniform and consistent with other tree fruit standards. The proposal would also make changes to the color requirements for grades of nectarines to reflect newer varieties being marketed, as well as current cultural and marketing practices. Also, a definition would be provided for damage and serious damage by discoloration, and additional definitions for damage and serious damage by growth cracks would be provided for grades of fresh plums and prunes. In addition, the proposed rule contains conforming and editorial changes. The comment period ended November 25, 2002.

A comment was received from two industry associations representing peach growers requesting additional time to review the proposed revisions. The associations stated they were not aware changes were being made to the standards. Therefore, they requested the comment period be extended to allow the associations an opportunity to meet with their members to discuss the proposal.

After reviewing the request, AMS is reopening and extending the comment period in order to allow sufficient time for interested persons, including the associations, to file comments.

Authority: 7 U.S.C. 1621–1627.

Dated: January 27, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–2250 Filed 1–30–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Treasury

12 CFR Part 19

[Docket No. 02–15]

RIN 1557–AB43

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Part 263

[Docket No. R–1139]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

RIN 3064–AC57

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 513

[No. 2002–58]

RIN 1550–AB53

Removal, Suspension, and Debarment of Accountants From Performing Audit Services

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice of proposed rulemaking; technical correction.

SUMMARY: The OCC, Board, FDIC, and the OTS jointly published in the **Federal Register** of January 8, 2003 (68 FR 1116), a joint notice of proposed rulemaking that proposed to revise their respective rules of practice pursuant to section 36 of the Federal Deposit Insurance Act (FDIA). This document makes technical corrections to the joint notice of proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: *FDIC:* Richard Bogue, Counsel, Enforcement Unit, (202) 898–3276.

OTS: Teresa A. Scott, Counsel (Banking and Finance), (202) 906–6478.

SUPPLEMENTARY INFORMATION: In FR Doc. 03–98, published on January 8, 2003 (68

FR 1116), make the following corrections:

PART 308—[Corrected]

1. On page 1126, in the second column, the heading of the table of contents and new Subpart U heading are revised to read as follows: ''Subpart U—Removal, Suspension, and Debarment of Accountants From Performing Audit Services''

§ 308.604 [Corrected]

2. On page 1128, in the first column, in § 308.604(b)(1), remove ''§§ 308.603(b) through (d); or'' and add, ''§§ 308.603(a)(2) through (a)(4); or'' in its place.

§ 513.8 [Corrected]

3. On page 1128, in the second line of the third column, in § 513.8(a), remove ''loan holding.'' and add, ''loan holding companies.'' in its place.

4. On page 1130, in the first column, in the last word of § 513.8(j)(1)(iii), remove the word ''and'' and add ''or'' in its place.

Dated: January 17, 2003.

By order of the Board of Directors of the Federal Deposit Insurance Corporation.

Robert Feldman,

Executive Secretary.

Dated: January 22, 2003.

Marilyn K. Burton,

Federal Register Liaison Officer, Office of Thrift Supervision.

[FR Doc. 03–1960 Filed 1–30–03; 8:45 am]

BILLING CODE 6714–01–P; 6720–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[DEA–228A]

RIN 1117–AA66

Chemical Mixtures Containing Listed Forms of Phosphorus

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) is soliciting information on chemical mixtures that contain the list I chemical phosphorus, which includes red phosphorus, white phosphorus, and hypophosphorous acid (and its salts) (hereafter referred to as regulated phosphorus). Specifically, DEA is interested in learning what products contain regulated phosphorus, and what concentrations of regulated phosphorus and other chemicals are used in their formulations. DEA is also interested in how chemical mixtures containing regulated phosphorus are packaged, distributed and used, and their availability at the retail level. DEA is seeking this information to help determine whether there are chemical mixtures (as defined in 21 U.S.C. 802(40)) containing regulated phosphorus that should be exempt from the regulations governing listed chemicals, pursuant to 21 U.S.C. 802(39)(A)(v). Exempt chemical mixtures are those formulations that contain any listed chemical, but are not subject to the regulatory controls of the Controlled Substances Act (CSA) that pertain to listed chemicals because they pose a limited risk of diversion to illicit channels.

On September 16, 1998, DEA published a Notice of Proposed Rulemaking in the **Federal Register** (63 FR 49506) that proposed regulations to define exempt chemical mixtures. Because regulated phosphorus was not then a listed chemical, regulations defining potential exempt chemical mixtures were not proposed. The information being requested in this Advance Notice of Proposed Rulemaking (ANPRM) will be used to help propose regulations to define what chemical mixtures containing regulated phosphorus may be exempt.

DATES: Written comments must be received on or before April 1, 2003.

ADDRESSES: Comments should be received to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC, 20537, Attention: DEA **Federal Register** Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537; Telephone (202) 307–7183.

SUPPLEMENTARY INFORMATION:

What Is Phosphorus, How Is It Used, and Which Forms Are Regulated?

Phosphorus is a nonmetallic element that can occur in three main allotropic (*i.e.* crystalline) forms (white, red, and black), none of which have retail uses. White phosphorus, red phosphorus, and hypophosphrous acid and its salts are list I chemicals. Black phosphorus is not a regulated form of phosphorus. Phosphorus is used as a co-reactant, along with iodine or hydriodic acid, in the clandestine manufacture of the Schedule II controlled substances methamphetamine and amphetamine.

White phosphorus is the most abundant form of phosphorus produced industrially. Most other forms of phosphorus and phosphorus chemicals are produced from white phosphorus, including phosphorus acid, phosphorus trichloride, phosphorus pentasulfide, and phosphorus pentoxide. Over 98% of the annual U.S. phosphorus demand is used in the production of these four compounds, none of which is regulated.

The second crystalline form is red phosphorus. Red phosphorus is usually prepared as a powder and is more stable and less toxic than the white form. Industrial uses of red phosphorus include the manufacture of pyrotechnics, safety matches, phosphoric acid an other phosphorus compounds, fertilizers, incendiary shells, smoke bombs, tracer bullets, and pesticides. Red phosphorus is used to produce an ultra-high-purity phosphorus for application in the electronics industry. A black crystalline form of phosphorus is also occasionally made and is similar to graphite in its physical, thermal, and electrical properties. Black phosphorus is not regulated because it does not have the reactivity needed for use in clandestine operations.

Hypophosphorus acid (H_3PO_2) and its salts are list I chemicals. Hypophosphorus acid is most commonly sold in aqueous solutions, all of which are regulated as list I chemicals and not regarded as chemical mixtures. There are no retail uses for this chemical. Hypophosphorus acid is commonly used by large industry as a bleaching, color stabilization or decoloring agent for plastics, synthetic fibers (primarily polyester) and chemicals. Hypophosphorus acid is also used as a chemical intermediate in organic synthesis and as a polymerization and polycondensation catalyst. It also has applications as a reducing agent and as an antioxidant.

Salts of hypophosphorus acid are known as hypophosphite salts. Examples of these salts include: ammonium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, and sodium hypophosphite. The two most common salts of hypophosphorus acid are sodium hypophosphite and manganese hypophosphite. The sodium salt is used primarily in electroless nickel plating. It is also used as a reducing agent, analytical reagent, polymerization catalyst, polymer stabilizer, and fire retardant. While the manganese salt is used primarily in nylon fiber production, it also has application as a

chemical intermediate. They are not sold at retail.

How Did Red Phosphorus, White Phosphorus, and Hypophosphorus Acid (and Its Salts) Become List I Chemicals?

On September 25, 2000, DEA published a Notice of Proposed Rulemaking (65 FR 57577) that proposed that red phosphorus, white phosphorus, and hypophosphorus acid (and its salts) be placed in list I by amending 21 Code of Federal Regulations (CFR) 1310.02(a). On October 17, 2001, a Final Rule with request for comments was published in the **Federal Register** (66 FR 52670) which amended 21 CFR 1310.02(a) and placed these chemicals in list I of the CSA. Placing these forms of phosphorus in list I became necessary because they are used in the illicit manufacturing of methamphetamine, a Schedule II controlled substance.

The CSA requires that all handlers of red phosphorus, white phosphorus, and hypophosphorus acid (and its salts) must register as set forth in 21 CFR part 1309 and keep records and file reports as set forth in 21 CFR part 1310. Until regulations that delineate criteria and procedures for exempting specific regulated phosphorus-containing chemical mixtures are finalized, DEA is treating regulated phosphorus-containing chemical mixtures as being exempt from the chemical regulatory requirements of the CSA.

Why Is DEA Interested in Learning About Chemical Mixtures Containing Regulated Phosphorus?

DEA is in the process of establishing regulations that define which chemical mixtures are exempt from CSA regulatory controls. The CSA defines the term ''chemical mixture'' as ''a combination of two or more chemical substances, at least one of which is not a list I chemical or a list II chemical, except that such term does not include any combination of a lsit I chemical or a list II chemical that is present solely as an impurity.'' The CSA further allows exemption of chemical mixtures ''based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered.''

A notice of proposed rule making (NPRM) regarding the exemption of chemical mixtures was published in the **Federal Register** on September 16, 1998 (63 FR 49506). The NPRM proposed regulations to identify if a chemical mixture is automatically exempt from CSA regulatory controls. When the NPRM was published, white phosphorus, red phosphorus, and hypophosphorus acid (and its salts) were not regulated chemicals. Therefore, regulations addressing the exemption of chemical mixtures containing regulated phosphorus were not proposed.

The NPRM proposed a concentration limit for each listed chemical. If a listed chemical is found in a chemical mixture at or below the concentration limit, the mixture is exempt. Also proposed were categories of exempt chemical mixtures and an application process. The application process is a means to exempt chemical mixtures not automatically exempted by regulation. These approaches were well received by the regulated industry and may be proposed to identify exempt chemical mixtures containing regulated phosphorus.

What Is DEA Requesting in This ANPRM?

To propose regulations in line with the above approaches, DEA is interested in learning about formulations that contain regulated phosphorus. While some formulations containing regulated phosphorus have been identified, DEA is not aware of the entire scope of mixtures containing regulated phosphorus, including how they are used, traded, and their chemical composition. DEA invites all interested persons to provide any information on chemical mixtures containing regulated phosphorus. Both quantitative and qualitative information is requested. If the concentration of a chemical(s) varies in a formulation, DEA is interested in the range of concentration. Also of interest is how the mixtures are packaged, distributed, type of application, and the target market (*e.g.,* type of industry, availability at retail, Internet sales). This information will be used to propose regulations to exempt any chemical mixture that, according to 21 U.S.C. 802(39)(A)(v), is ''formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered.''

Such information may be submitted to the address listed above and is requested by April 1, 2003. Information designated as confidential or proprietary will be treated accordingly. The release of confidential business information that is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), is governed by section 310(c) of the CSA (21 U.S.C. 830(c)) and the Department of Justice procedures set forth in 28 CFR 16.8.

Dated: January 22, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 03–2296 Filed 1–30–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–125638–01]

RIN 1545–BA00

Guidance Regarding Deduction and Capitalization of Expenditures; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing that explains how section 263(a) of the Internal Revenue Code (Code) applies to amounts paid to acquire, create, or enhance intangible assets. This document was published in the **Federal Register** on December 19, 2002 (67 FR 77701).

FOR FURTHER INFORMATION CONTACT: Andrew J. Keyso (202) 927–9397 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of these corrections are under sections 263(a), 167, and 446 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulations REG–125638–01, contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations REG–125638–01, which is the subject of FR Doc. 02–31859, is corrected as follows:

1. On page 77704, column 1, in the preamble, under the paragraph heading ''Amounts Paid to Obtain or Modify Contract Rights'', paragraph 4, the last two lines of the paragraph, the language ''agreement is a separate and distinct asset'' is corrected to read ''agreement is a separate and distinct intangible asset''.

§ 1.263(a)–4 [Corrected]

2. On page 77722, column 2, § 1.263(a)–4, paragraph (h)(4)(i), line 6, the language ''(relating to *de minimis* applicable to'' is corrected to read ''(relating to *de minimis* rules applicable to''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 03–2332 Filed 1–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 301

[REG–116641–01]

RIN 1545–BA17

Information Reporting and Backup Withholding for Payment Card Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; notice of proposed rulemaking by cross-reference to temporary regulations; and notice of public hearing.

SUMMARY: In the Rules and Regulation section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the IRS Taxpayer Identification Number (TIN) Matching Program. The text of the temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** serves as the text of this portion of the proposed regulations. This document also contains proposed regulations relating to the information reporting requirements, information reporting penalties, and backup withholding requirements for payment card transactions. These regulations affect payors (and their authorized agents) and payees of certain reportable payments and provide guidance necessary to comply with the law. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by May 1, 2003. Outlines of topics to be discussed at the public hearing scheduled for May 21, 2003, must be received by April 30, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG–116641–01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG–116641–01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at *www.irs.gov/regs*. The public hearing will be held in room 6718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Donna Welch, (202) 622–4910; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Sonya Cruse, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by April 1, 2003. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in § 31.3406(g)–1(f)(3). This information is required in order for a Qualified Payment Card Agent (QPCA) to notify a cardholder/payor that a merchant/payee is not a qualified payee for purposes of the proposed regulations. This information will alert a cardholder/payor that backup withholding under 3406 may apply. The collection of information is voluntary to obtain a benefit. The likely respondents are business or other for-profit institutions.

Estimated total annual reporting burden: 11,750,000 hours.

Estimated average annual burden hours per respondent: 5,875 hours.

Estimated number of respondents: 2,000.

Estimated annual frequency of responses: monthly.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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

Background

1. Summary

This document contains proposed amendments to 26 CFR part 31 relating to backup withholding under section 3406 of the Internal Revenue Code and proposed amendments to 26 Part 301 relating to waivers under section 6724 of information reporting penalties under sections 6721 and 6722.

Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** provide that, for purposes of the IRS TIN Matching Program, the term *payor* includes an agent designated by the payor to participate in TIN matching on behalf of the payor. The text of those temporary regulations also serves as the text of proposed amendments to § 31.3406(j)–1(a) of the regulations. The preamble to the temporary regulations explains the proposed amendments to § 31.3406(j)–1(a).

2. Information Reporting and Backup Withholding Provisions

Section 6041(a) requires persons engaged in a trade or business and making payment in the course of such trade or business to another person of rent, salaries, wages, premiums, annuities, compensations,

remunerations, emoluments, or other fixed or determinable gains, profits, and income of $600 or more in any one taxable year to file information returns with the IRS and to furnish information statements to payees. Among other items, the payor must include the payee's name and taxpayer identification number (TIN) on the information return and the information statement.

Section 1.6041–3 of the Income Tax Regulations provides that information returns are not required for certain payments. Section 1.6041–3(q)(1) provides that an information return is not required for payments made to a corporation. Section 1.6041–3(c) provides that an information return is not required for payments of bills for merchandise, telegrams, telephone, freight, storage, and similar charges.

Section 6109(a)(1) provides that a person required to make a return must include that person's identifying number in the return. Section 6109(a)(2) provides that a person (the payee) with respect to whom a return is required to be made by another person (the payor) or whose identifying number is required to be shown on a return of another person must furnish to the other person the identifying number prescribed for securing the proper identification of the payee. Section 6109(a)(3) provides that a person (the payor) required to make a return with respect to another person (the payee) must ask the other person for the identifying number prescribed for securing the proper identification of the payee and include that number in the return.

In general, section 6721(a)(1) imposes a $50 penalty for each failure to file an information return on or before the required filing date, for any failure to include all of the information required to be shown on the return, or for the inclusion of incorrect information.

Section 6724(a) provides that no penalty will be imposed under section 6721 if it is shown that the failure is due to reasonable cause and not to willful neglect.

Section 3406(a)(1) requires a payor to withhold on any reportable payment (as defined in section 3406(b)(1)) in certain situations, including if (1) the payee fails to furnish his TIN to the payor as required or (2) the Secretary notifies the payor that the TIN furnished by the payee is incorrect.

Section 3406(i) provides that the Secretary shall prescribe the regulations necessary or appropriate to carry out the purposes of section 3406.

3. TIN Matching

Regulations issued under section 3406(i) (§ 31.3406(j)–1 of the Employment Tax Regulations) provide that the Commissioner has the authority to establish TIN matching programs through revenue procedures or other appropriate guidance. Under the regulations, a payor participating in a TIN matching program may contact the IRS with respect to the TIN furnished by a payee before filing information returns for reportable payments. The regulations further provide that the IRS will inform the payor whether or not the name/TIN combination furnished by the payee matches a name/TIN combination maintained for the TIN matching program.

Pursuant to the authority in § 31.3406(j)–1, the IRS issued Rev. Proc. 97–31 (1997–1 C.B. 703) and implemented TIN matching for reportable payments by Federal agency payors. The IRS is issuing a second TIN matching revenue procedure to expand the scope of the TIN Matching Program by allowing all payors (and not merely Federal agency payors) to participate in TIN matching for reportable payments. Under the authority of the temporary regulations discussed above, payors' authorized agents will also be permitted to participate in TIN matching.

4. Payment Card Transactions

A *payment card transaction* is a transaction in which a cardholder/payor uses a payment card to purchase goods or services and a merchant agrees to accept a payment card as a means of obtaining payment. A *payment card* is a card (or an account) issued by a payment card organization, or one of its members or affiliates, to a cardholder/payor which, upon presentation to a merchant/payee, represents an agreement of the cardholder to pay the merchant through the payment card organization. A *payment card organization* is an entity that sets the standards and provides the mechanism, either directly or indirectly through members and affiliates, for effectuating payment between a purchaser and a merchant in a payment card transaction. A payment card organization generally provides this mechanism by issuing payment cards, enrolling merchants as authorized acceptors of payment cards for payment for goods or services, and ensuring the system conducts the transactions in accordance with prescribed standards of payment card transactions.

The parties involved in payment card transactions may include the cardholder/payor, the merchant/payee, a bank that issues a payment card (issuing bank), a merchant/payee's bank (merchant bank, acquiring bank, or acquirer), and the payment card organization.

Cash does not pass directly from the cardholder/payor to the merchant/payee for purchases made with a payment card. Rather, in some situations, payment is made by a credit from the issuing bank, through the payment card organization, to the merchant's bank account. In turn, the cardholder pays the issuing bank upon receipt of the payment card monthly billing statement. In other situations, payment is made directly from the payment card organization to the merchant. In turn, the cardholder pays the payment card organization upon receipt of the payment card monthly billing statement.

5. Information Reporting and Backup Withholding Difficulties for Payment Card Transactions

Information reporting compliance is difficult in payment card transactions because an invoice may not be issued, and the employee of the cardholder/payor may not request and obtain the name/TIN combination of the merchant/payee at the time of the transaction. In addition, backup withholding may be difficult because a merchant receives payment from the payment card organization within a few days after the transaction, but the cardholder does not pay the payment card organization until after it receives a payment card monthly billing statement from the payment card organization.

Because of these difficulties, representatives of the payment card industry and the Information Reporting Program Advisory Committee (IRPAC) have proposed that the IRS allow a payment card organization to act on behalf of a cardholder/payor for purposes of soliciting, collecting, and validating the names/TINs of the merchant/payees through TIN matching. In addition, they suggest that the payment card organization be allowed to inform the cardholder about a merchant's corporate status.

The IRS is issuing a proposed revenue procedure that would allow a payment card organization to obtain an IRS determination that it is a *Qualified Payment Card Agent* (QPCA). The proposed procedure would permit a QPCA to act on behalf of a payor for purposes of soliciting, collecting, and validating merchants' names/TINs, and providing merchants' corporate status. To obtain a QPCA determination, the payment card organization would be required, among other things, to

demonstrate the reliability of its data by participating in the IRS TIN Matching Program and matching its merchant name/TIN data with IRS name/TIN data.

Certain payment card industry representatives have suggested that, for payments made through a QPCA, the information provided to the cardholder/payor should be sufficiently reliable that backup withholding should not apply. In addition, they have suggested that a cardholder/payor who files incorrect information returns should be considered to meet the reasonable cause requirements for a waiver under section 6724 if the cardholder/payor relied on payee information provided by a QPCA.

The IRS and the Treasury Department agree that QPCAs, by obtaining TINs and participating in the IRS TIN Matching Program, can enhance the accuracy of information reporting by the cardholder/payors. Accordingly, the IRS and the Treasury Department agree that a limited exception to the backup withholding requirements is appropriate if cardholder/payors rely on a QPCA to solicit, collect, and validate merchant/payees' TINs. In addition, the IRS and the Treasury Department agree that cardholder/payors may establish reasonable cause based on reliance on merchant/payees' TINs supplied through a QPCA.

Explanation of Provisions

1. Backup Withholding

The proposed regulations provide that backup withholding does not apply to payment card transactions if the reportable payments are made through a QPCA and the payee is a qualified payee. The proposed regulations provide that a payee is qualified if, at the time of the payment, the QPCA has validated the payee's TIN through the IRS TIN Matching Program or if the payment is made during the 6-month period following the date on which the QPCA first obtained the payee's TIN.

The proposed regulations provide that reportable payments made through a QPCA are also exempt from backup withholding if the payment is made within 60 days after the date of the first payment with respect to which the QPCA is required to provide notification to the payor that the payee is not a qualified payee. Under the proposed regulations, a QPCA must notify a cardholder/payor of any merchant/payees that are not qualified payees. The notice must appear on the billing information for the payment. The regulations clarify that this notification does not constitute notice by the IRS that the payee's TIN is incorrect for purposes of backup withholding.

2. Waiver Under Section 6724 for Reasonable Cause

The proposed regulations provide that a cardholder/payor may establish reasonable cause based on its reliance on a QPCA. Under the proposed regulations, special solicitation rules will apply if the cardholder/payor relies on a QPCA. Under those rules, a cardholder/payor is not required to make the initial solicitation of a payee's TIN at the time of the transaction and generally is not required to undertake the first and second annual solicitations. Under the proposed regulations, a cardholder/payor that relies on a QPCA is required to solicit a payee's TIN only if the QPCA fails to provide, within a specified period, a TIN that the cardholder/payor believes in good faith to be the payee's correct TIN.

3. Effective Dates

Section 31.3406(j)–1(a) and (f) are applicable January 31 2003. The amendments of § 31.3406(g)–1 are proposed to be applicable for payments on or after January 1, 2004. The amendments of § 301.6724–1 are proposed to be applicable for information returns required to be filed, and information statements required to be furnished, after December 31, 2004. The amendments to §§ 31.3406(g)–1 and 301.6724–1 will not be applicable until they are finalized.

Special Analyses

It has been determined that these proposed regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6) that the collection of information contained in these regulations will not have a significant economic impact on a substantial number of small entities. The reporting burden affects financial institution members of the payment card network that are affiliates of QPCAs. Most of these financial institution members are large businesses. To the extent that small financial institutions have a reporting burden, the burden is expected to be insignificant. Accordingly, a Regulatory Flexibility Analysis is not required.

Pursuant to section 7805(f), this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for May 21, 2003, beginning at 10 a.m. in room 6718 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be permitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight copies by April 30, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the schedule of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of the regulations is Donna Welch, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

List of Subjects

26 CFR Part 31

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

26 CFR Part 301

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

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 301 are proposed to be amended as follows:

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

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

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

2. Section 31.3406(g)–1 is amended by adding paragraph (f) to read as follows:

§ 31.3406(g)–1 Exceptions for payments to certain payees and certain other payments.

* * * * *

(f) *Special rule for certain payment card transactions*—(1) *In general*. No withholding under section 3406 is required for a reportable payment made through a payment card organization if the payment is made on or after January 1, 2004, the organization is a Qualified Payment Card Agent (QPCA), and—

(i) The payee is a qualified payee (as defined in paragraph (f)(2)(v) of this section) with respect to the payment; or

(ii) The payment is made during the 60-day period following the date on which the payor made the first payment with respect to which the QPCA is required under paragraph (f)(3) of this section to provide notification that the payee is a not a qualified payee.

(2) *Definitions*—(i) *Payment card defined*. For purposes of this section, a *payment card* is a card (or an account) issued by a payment card organization, or one of its members or affiliates, to a cardholder/payor which, upon presentation to a merchant/payee, represents an agreement of the cardholder to pay the merchant through the payment card organization.

(ii) *Payment card organization defined*. For purposes of this section, a *payment card organization* is an entity that sets the standards and provides the mechanism, either directly or indirectly through members and affiliates, for effectuating payment between a purchaser and a merchant in a payment card transaction. A payment card organization generally provides such a payment mechanism by issuing payment cards, enrolling merchants as authorized acceptors of payment cards for payment for goods or services, and ensuring the system conducts the transactions in accordance with prescribed standards for payment card transactions.

(iii) *Payment card transaction defined*. For purposes of this section, a *payment card transaction* is a transaction in which a cardholder/payor uses a payment card to purchase goods or services and a merchant agrees to accept a payment card as a means of obtaining payment.

(iv) *Qualified Payment Card Agent (QPCA) defined*. For purposes of this section, a *Qualified Payment Card Agent* (QPCA) is a payment card organization that has a current QPCA determination from the Internal Revenue Service (IRS) under applicable procedures (see § 601.601(d)(2) of this chapter).

(v) *Qualified payee defined*. For purposes of this section, a payee is a *qualified payee* with respect to a reportable payment if—

(A) At the time of the payment, the QPCA has obtained the payee's TIN and the payee's TIN has been validated through the IRS TIN Matching Program; or

(B) The payment is made during the 6-month period following the date on which the QPCA first obtained the payee's TIN.

(3) *Notification of payee status*. In the case of a reportable payment to a payee other than a qualified payee (as defined in paragraph (f)(2)(v) of this section) with respect to the payment, the QPCA must notify the payor on the billing information for the payment that the payee is not a qualified payee. The notification must appear on the face of the bill in print size no smaller than the print size used for the charge amount relating to the purchase from the payee. Notification may consist of an asterisk, footnote, or other mark next to the payee's name or the charge, with the text of the notification at the bottom of the page or at the end of the list of charges. Notification by the QPCA that a payee is not a qualified payee does not constitute notice by the IRS that the payee's TIN is incorrect for purposes of section 3406(a)(1)(B) and § 31.3406(d)–5.

3. In § 31.3406(j)–1, paragraphs (a) and (f) are revised to read as follows:

§ 31.3406(j)–1 Taxpayer Identification Number (TIN) matching program.

(a) [Section 31.3406(j)–1(a) is the same as § 31.3406(j)–1T(a) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(f) [Section 31.3406(j)–1(f) is the same as § 31.3406(j)–1T(f) published elsewhere in this issue of the **Federal Register**.]

PART 301—PROCEDURE AND ADMINISTRATION

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

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

5. Section 301.6724–1 is amended by:

1. Revising the introductory language of paragraph (c)(6).

2. Adding paragraphs (e)(1)(vi)(H) and (f)(5)(vii).

The revision and additions read as follows:

§ 301.6724–1 Reasonable cause.

* * * * *

(c) * * *

(6) *Actions of the payee or any other person*. In order to establish reasonable cause under paragraph (c)(1) of this section due to the actions of the payee or any other person, such as a broker as defined in section 6045(c) or a Qualified Payment Card Agent (QPCA) as defined in § 31.3406(g)–1(f)(2)(iv) of this chapter, providing information with respect to the return or payee statement, the filer must show either—

* * * * *

(e) * * *

(1) * * *

(vi) * * *

(H) In the case of information returns required to be filed, and information statements required to be furnished, after December 31, 2004, the filer—

(*1*) Satisfies the solicitation requirements of paragraphs (e)(1)(i) and (ii) of this section with respect to a payment made through a QPCA if the filer relies in good faith on the QPCA to solicit, record, validate, and furnish the payee's TIN; and

(*2*) Satisfies the solicitation requirement of paragraph (e)(1)(iii) of this section with respect to such a payment if, on or before December 31 of the year immediately succeeding the calendar year in which the payment is made, the filer undertakes a solicitation of the payee's TIN or receives from the QPCA a TIN that the filer believes in good faith to be the payee's correct TIN.

* * * * *

(f) * * *

(5) * * *

(vii) In the case of information returns required to be filed, and information statements required to be furnished, after December 31, 2004, the filer—

(A) Satisfies the solicitation requirement of paragraph (f)(1)(i) of this section with respect to a payment made through a QPCA if the filer relies in good faith on the QPCA to solicit, record, validate, and furnish the payee's TIN; and

(B) Satisfies the solicitation requirement of paragraph (f)(1)(ii) or (iii)

of this section, whichever is applicable, with respect to such a payment if, after the date the filer is notified that the account of the payee contains an incorrect TIN and on or before the date by which the applicable requirement must be satisfied, the filer solicits the payee's correct TIN in a manner that satisfies the applicable requirement or receives from the QPCA a TIN that the filer believes in good faith to be the payee's correct TIN.

* * * * *

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

[FR Doc. 03–2208 Filed 1–30–03; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF JUSTICE

28 CFR Part 16

[FBI 109P; AAG/A ORDER No. 006–2003]

RIN 1110–AA08

Privacy Act of 1974; Implementation

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), proposes to exempt the FBI's National Crime Information Center (NCIC) (JUSTICE/FBI–001), Central Records System (CRS) (JUSTICE/FBI–002), and National Center for the Analysis of Violent Crime (NCAVC) (JUSTICE/FBI–015) systems of records from the Privacy Act. The exemption is necessary to avoid interference with law enforcement functions and responsibilities of the FBI.

DATES: Written comments must be received on or before March 3, 2003.

ADDRESSES: All comments concerning this proposed rule should be mailed to: Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

FOR FURTHER INFORMATION CONTACT: Mary Cahill, (202) 307–1823.

SUPPLEMENTARY INFORMATION: The FBI proposes to exempt the FBI's National Crime Information Center, Central Records System and National Center for the Analysis of Violent Crime systems of records from subsection (e)(5) of the Privacy Act, 5 U.S.C. 552a. Also, the FBI proposes to correct a typographical error by moving the title of the National Crime Information Center to the correct subsection. Except for these amendments, the proposed rule changes do not alter practices and procedures that are currently in effect. However, the FBI is currently reviewing additional changes to this regulation for possible promulgation in future rulemaking.

This proposed rule relates to individuals, as opposed to small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, the proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 16

Administrative practices and procedures, Courts, Freedom of Information, and Privacy.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793–78, it is proposed to amend 28 CFR part 16 as follows:

PART 16—[AMENDED]

Subpart E—Exemption of Records Systems Under the Privacy Act

1. The authority citation for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. Section 16.96 is amended as follows:

(a) By revising the introductory text of paragraph (a);

(b) By redesignating paragraph (b)(6) as (b)(7) and adding a new paragraph (b)(6);

(c) By revising the introductory text of paragraph (g) and adding new paragraph (g)(1);

(d) By redesignating paragraph (h)(5) as (h)(6) and adding new paragraph (h)(5);

(e) By revising the introductory text of paragraph (j);

(f) By adding a new paragraph (k)(5);

(g) By removing ''National Crime Information Center (NOIC) [sic] (JUSTICE/FBI–001).'' from paragraph (k)(4).

The revisions and additions read as follows.

§ 16.96 Exemption of Federal Bureau of Investigation Systems—limited access.

(a) The following system of records is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G) and (H), (e)(5), (e)(8), (f) and (g):

* * * * *

(b) * * *

(6) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by subsection (e)(5) would limit the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement. In addition, because many of these records come from other federal, state, local, joint, foreign, tribal, and international agencies, it is administratively impossible to ensure compliance with this provision.

* * * * *

(g) The following system of records is exempt from 5 U.S.C. 552a (c)(3) and (4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G) and (H), (e)(5), (e)(8), (f), and (g):

(1) National Crime Information Center (NCIC) (JUSTICE/FBI–001). These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(3).

* * * * *

(h) * * *

(5) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by subsection (e)(5) would limit the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement. In addition, the vast majority of these records come from other federal, state, local, joint, foreign, tribal, and international agencies and it is administratively impossible to ensure that the records comply with this provision. Submitting agencies are, however, urged on a continuing basis to ensure that their records are accurate and include all dispositions.

* * * * *

(j) The following system of records is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G) and (H), (e)(5), (f) and (g):

* * * * *

(k) * * *

(5) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to

determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by subsection (e)(5) would limit the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement. In addition, because many of these records come from other federal, state, local, joint, foreign, tribal, and international agencies, it is administratively impossible to ensure compliance with this provision.

* * * * *

Dated: January 17, 2003.

Paul R. Corts,

Assistant Attorney General for Administration.

[FR Doc. 03–2251 Filed 1–30–03; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 4

RIN 1024–AC69

Operating Under the Influence of Alcohol or Drugs

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to amend its regulations concerning motor vehicle operation under the influence of alcohol. Currently, the NPS has regulations prohibiting operation with a blood alcohol concentration (BAC) of 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath. On March 3, 1998, a Presidential directive was issued directing the NPS, and other federal agencies, to promulgate regulations adopting a stricter limit of 0.08 grams BAC.

DATES: Written comments will be accepted through April 1, 2003.

ADDRESSES: Comments should be addressed to Kym Hall, National Park Service, 1849 C Street, NW., Room 7248, Washington, DC 20240. Fax: (202) 219–8835. Email: *WASO_Regulations@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7248, Washington, DC 20240. Telephone: (202) 208–4206. Email: *Kym_Hall@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The NPS administers 385 areas throughout the country under the broad statutory mandates to promote and regulate their use; to conserve the scenery, the natural and cultural objects and the wildlife therein; and to provide for their enjoyment in such manner as will leave them unimpaired for the enjoyment of future generations. Although the nearly 300 million annual visitors to the National Park System use a variety of access methods, the vast majority rely on motor vehicles and roadways to reach park areas and to circulate within them. Consequently, the NPS has major responsibilities and program involvement in the areas of road construction and maintenance, traffic safety and traffic law enforcement.

The NPS currently administers over 8,000 miles of roads within the National Park System that are open to the public. These 8,000 miles compare in magnitude to the State of Arizona's state road system, except that they are scattered throughout the United States and its territories. There is great variety in the nature and extent of park roads, ranging from very short lengths of unpaved secondary roadways, to well-developed road systems complete with spur roads, parking areas and overlooks, to parkways running for hundreds of miles through several States, to parkways used primarily as commuter routes in the Washington, DC area. In addition, many park areas contain State and/or county highways and roads over which the NPS may exercise varying degrees of jurisdiction.

On April 2, 1987, the NPS promulgated a final rule (36 CFR 4.23) concerning operating a motor vehicle under the influence of alcohol (52 FR 10683). That rule prohibits the operation or control of a motor vehicle if the alcohol concentration in the operator's blood or breath is 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath. The regulation provides, however, that if State Law that applies to operating a motor vehicle while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supercede the limits specified in this paragraph. The regulation is implemented primarily through signing, text in brochures and incidental public contact.

President Clinton issued a directive on March 3, 1998, which directed the NPS to propose rules and take other appropriate measures to lower the BAC limit in National Park Service areas. This includes, but is not limited to, strong enforcement, conducting education, awareness and other appropriate programs about the importance of the 0.08 BAC standard. The benefits of the 0.08 standard in lives saved and injuries prevented have been documented extensively.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, Local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule does not raise novel legal or policy issues. This change to the legal blood alcohol concentration level is prevalent throughout the United States and has been adopted by most other federal agencies and states.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Although the regulation has significant implications for public safety, it does not have monetary implications. There are no businesses that depend on the public's ability to operate a motor vehicle while intoxicated. The rule will likely provide non-monetized benefits to the NPS and other law enforcement agencies through decreased accidents and injuries.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas and only allows use within a small portion of the park.

Civil Justice Reform (Executive Order 12988)

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

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

National Environmental Policy Act

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major federal action affecting the quality of the human environment. An environmental assessment is not required.

Government-to-Government Relationship with Tribes

In accordance with Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2:

We have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example § 4.23 Operating Under the Influence of Alcohol or Drugs.) (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also email the comments to this address: *Exsec@ios.doi.gov.*

Drafting Information: The primary author of this regulation was Chip Davis, Criminal Investigator, National Park Service.

Public Participation: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Kym Hall, National Park Service, 1849 C Street, NW., Room 7248, Washington, DC 20240. Fax: (202) 219–8835. You may also comment via the internet to *WASO_Regulations@nps.gov.* Please also include ''Attn: RIN 1024–AC69'' in the subject line and your name and return address in the body of your internet message. Finally, you may hand deliver comments to Kym Hall, National Park Service, 1849 C Street, NW., Room 7248, Washington, DC. Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection.

List of Subjects in 36 CFR Part 4

National parks, Traffic regulations.

In consideration of the foregoing, we propose to amend 36 CFR Part 4 as follows:

PART 4—VEHICLES AND TRAFFIC SAFETY

1. The authority citation for Part 4 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

2. Section 4.23 is (a)(2) revised to read as follows:

§ 4.23 Operating under the influence of alcohol or drugs.

(a) * * *

(2) The alcohol concentration in the operator's blood or breath is 0.08 grams or more of alcohol per 100 milliliters of blood or breath is 0.08 grams or more of alcohol per 210 liters of breath. Provided however, that if State law that applies to operating a motor vehicle while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supersede the limits specified in this paragraph.

* * * * *

Dated: January 10, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–2321 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 273–0370b; FRL–7441–6]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District and Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) and the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portions of the California State Implementation Plan (SIP). The ICAPCD revision concerns the emission of particulate matter (PM–10) from agricultural burning. The MBUAPCD revision concerns the emission of PM–10 from incinerator burning. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by March 3, 2003.

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

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

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

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

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

A copy of a rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* This is not an EPA Web site and it may not contain the same version of the rule that was submitted to EPA. Readers should verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval and be aware that the official submittal is only available at the agency addresses listed above.

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

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local ICAPCD Rule 701 and MBUAPCD Rule 408. In the Rules section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: December 12, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 03–2176 Filed 1–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–7446–3]

Central Characterization Project Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Argonne National Laboratory—East Site Proposed for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA, or ''we'') is announcing an inspection for the week of February 10, 2003, at the Argonne National Laboratory—East (ANL–E). With this notice, we also announce availability of Department of Energy (DOE) documents in the EPA Docket, and solicit public comments on the documents available in the docket for a period of 30 days. The following DOE documents, entitled ''CCP–PO–001—Revision 4, 5/31/02—CCP Transuranic Waste Characterization Quality Assurance Project Plan'' and ''CCP–PO–002—Revision 4, 5/17/02—CCP Transuranic Waste Certification Plan,'' are available for review in the public dockets listed in **ADDRESSES.** In accordance with EPA's WIPP Compliance Criteria, we will conduct an inspection at ANL–E to verify that, using the systems and processes developed as part of the DOE Carlsbad Office's central characterization project (CCP), DOE can characterize TRU waste at ANL–E properly, consistent with the Compliance Criteria.

DATES: EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before March 3, 2003.

ADDRESSES: Comments should be submitted to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Docket No. A–98–49, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. The DOE documents are available for review in the official EPA Air Docket in Washington, DC, Docket No. A–98–49, Category II–A2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday 1 p.m.–5 p.m.; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9 a.m.–5 p.m.

As provided in EPA's regulations at 40 CFR Part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying. Air Docket A–98–49 in Washington, DC, accepts comments sent electronically or by fax (fax: 202–566–1741; e-mail: *a-and-r-docket@epa.gov*).

FOR FURTHER INFORMATION CONTACT: Ms. Rajani D. Joglekar, Office of Radiation and Indoor Air, (202) 564–7734. You can also call EPA's toll-free WIPP Information Line, 1–800–331–WIPP or visit our Web site at *http://www.epa/gov/radiation/wipp.*

SUPPLEMENTARY INFORMATION:

Background

DOE is operating the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. 102–579), as amended (Pub. L. 104–201), transuranic (TRU) waste consists of materials containing elements having atomic numbers greater

than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratory (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of appendix A to 40 CFR part 194); and (2) prohibit shipment of TRU waste for disposal at WIPP from any site other than LANL until the EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in § 194.8. As part of EPA's decision-making process, the DOE is required to submit to EPA appropriate documentation of quality assurance and waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, DC, and informational dockets in the State of New Mexico for public review and comment.

EPA will perform an inspection of the TRU waste characterization activities performed by the DOE's Central Characterization Project (CCP) staff at the Argonne National Laboratory-East (ANL–E) in accordance with Condition 3 of the WIPP certification. We will evaluate the adequacy, implementation, and effectiveness of the CCP technical activities contracted by the ANL–E for characterization of the disposal of retrievably-stored homogeneous solid waste at the WIPP. We also will evaluate DOE's corrective action(s) responding to the EPA finding (identified during the September 2002 inspection) related to the implementation of a procedure to compile acceptable knowledge. This finding resulted in the denial of DOE's request for approving the CCP-characterized TRU debris waste at ANL. Therefore, until EPA is satisfied with the corrective action taken to resolve this finding ANL–E cannot ship TRU debris waste for disposal at WIPP. The overall program adequacy and effectiveness of CCP/ANL–E documents will be based on the following DOE-provided documents: (1) CCP–PO–001—Revision 4, 5/31/02—CCP Transuranic Waste Characterization Quality Assurance Project Plan and (2) CCP–PO–002—Revision 4, 5/17/02—CCP Transuranic Waste Certification Plan. EPA has placed these DOE-provided documents pertinent to the ANL–E inspection in the public docket described in **ADDRESSES.** The documents are included in item II–A2–40 in Docket A–98–49. In accordance with 40 CFR 194.8, EPA is providing the public 30 days to comment on these documents. The inspection is scheduled to take place the week of February 10, 2003.

EPA will inspect the following technical elements for characterizing retrievably-stored TRU debris and solid waste: data validation and verification, acceptable knowledge, nondestructive assay (NDA–WIT and APNEA), Digital Radiography/Computed Tomography, visual examination, and data tracking and reporting via the WIPP Waste Information System.

If EPA determines as a result of the inspection that the proposed CCP waste characterization processes and programs used at ANL–E adequately control the characterization of transuranic waste, we will notify DOE by letter and place the letter in the official Air Docket in Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow DOE to ship transuranic waste from ANL–E to the WIPP. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A–93–02 and is available for review in Washington, DC, and at three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: January 24, 2003.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 03–2343 Filed 1–30–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–P–7619]

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, Hazard 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 record keeping 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 Proposed flood elevation determination.

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	
Grand Lake O' the Cherokees Entire shoreline	None	*756	Town of Grand Lake Towne.
Unnamed Tributary to Spavinaw Creek approximately 750 feet upstream of the confluence with Spavinaw Creek.	None	*637	Town of Spavinaw.
Neosho River/Lake Hudson Entire shoreline	None	*637	Town of Strang.

*National Geodetic Vertical Datum

Town of Grand Lake Towne

Maps are available for inspection at the Town Hall, Grand Lake Towne, Oklahoma.
Send comments to The Honorable Earl Hart, Mayor, Grand Lake Towne, P.O. Box 398, Grand Lake Towne, Oklahoma 74349.

Town of Spavinaw

Maps are available for inspection at the Town Hall, 215 Lake Avenue, Spavinaw, Oklahoma.
Send comments to The Honorable Allan Sutton, Mayor, Town of Spavinaw, P.O. Box 196, Spavinaw, Oklahoma 74366.

Town of Strang

Maps are available for inspection at the Town Hall, Strang, Oklahoma.
Send comments to The Honorable Steve Long, Mayor, Town of Strang, P.O. Box 196, Strang, Oklahoma 74366.

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

Dated: January 21, 2003.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–2242 Filed 1–30–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–P–7621]

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 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, Hazard 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 record keeping 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 Proposed flood elevation determination.

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

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet.	
				*(NGVD) Existing	♦ (NAVD) Modified
MN	Upper Sioux Community (Yellow Medicine County).	Minnesota River	.....	881–882.	

Maps are available for inspection at the Office of the Tribal Council Secretary/FDPO Administrator, Upper Sioux Community Board of Trustees, Granite Falls, Minnesota.

Send comments to The Honorable Helen M. Blue, Tribal Chairperson, Upper Sioux Community Board of Trustees, P.O. Box 147, Granite Falls, MN 56241.

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

Dated: January 21, 2003.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–2243 Filed 1–30–03; 8:45 am]

BILLING CODE 6718–04–P

Notices

Federal Register
Vol. 68, No. 21
Friday, January 31, 2003

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

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant NutraSciences Corp., of San Diego, California a license to U.S. Patent No. 6,017,713, ''Ferritin Formation as a Predictor of Iron Availability in Foods,'' issued on January 25, 2000. This will be the second license granted for this invention. ARS intends to grant no additional licenses. Notice of Availability of this invention for licensing was published in the **Federal Register** on November 3, 1999.

DATES: Comments must be received March 3, 2003.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as NutraSciences Corp. of San Diego, California has submitted a complete and sufficient application for a license. The prospective license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Michael D. Ruff,

Assistant Administrator.

[FR Doc. 03–2249 Filed 1–30–03; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 03–001N]

Codex Alimentarius Commission: 25th (Extraordinary) Session of the Codex Alimentarius Commission

AGENCY: Office of the Under Secretary for Food Safety.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture, and the Food and Drug Administration (FDA) are sponsoring a public meeting on January 31, 2003, to provide information and receive public comments on agenda items that will be discussed at the meeting of the Codex Alimentarius Commission to be held in Geneva, Switzerland on February 13–15, 2003. The Under Secretary and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the Twenty-fifth (Extraordinary) Session of Codex Alimentarius Commission (Codex) and to address items on the Agenda for the 25th Commission meeting.

DATES: The public meeting is scheduled for Friday, January 31, 2003, from 10 a.m. to 1 p.m.

ADDRESSES: The public meeting will be held in Room 107A, Jamie L. Whitten Federal Building, USDA, 12th and Jefferson Drive, SW., Washington, DC. To receive copies of the documents referenced in the notice contact the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web. If you have comments, please send an original and two copies to the FSIS Docket Clerk and reference Docket Number 03–001N. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Ph.D., U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for protecting the health and economic interests of consumers and encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

Issues To Be Discussed at the Public Meeting

Report of the Evaluation of the Codex Alimentarius and other FAO and WHO Food Standards Work. An evaluation was commissioned by FAO and WHO and also designed to meet the request for a review by the Codex Alimentarius Commission. The evaluation team has completed its work and made over 40 recommendations regarding Codex policies and procedures, the expert committees, and capacity building efforts of FAO and WHO. These recommendations will be discussed at the public meeting and at the 25th (Extraordinary) Session of the Commission.

FAO/WHO Trust Fund. At its 24th Session, the Codex Alimentarius Commission agreed in principle to establish an FAO/WHO Trust Fund to support developing country participation in the Codex Commission and subsidiary body meetings. FAO and

WHO were to develop clear rules and procedures for the establishment and functioning of a trust fund for consideration by the Commission to ensure its complete transparency and avoidance of bias and influence, to report on its implementation and indicate envisioned sources of funding. These rules and procedures will be discussed at the public meeting and at the 25th (Extraordinary) Session of the Commission.

Public Meeting

At the January 31st public meeting, the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). Written comments should state that they relate to activities of the 25th (Extraordinary) Session of the Codex Alimentarius Commission.

Additional Public Notification

Pursuant to Departmental Regulation 4300–4, ''Civil Rights Impact Analysis,'' dated September 22, 1993, FSIS has considered the potential civil rights impact of this notice on minorities, women, and persons with disabilities. Therefore, to ensure that these groups and others are made aware of this meeting, FSIS will announce it and provide copies of the **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on line through the Internet at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents and stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information, contact the Congressional and Public Affairs Office at (202) 720–9113. To be added to the free e-mail subscription service (Listserv), go to the ''Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update.htm*. Click on the ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done at Washington, DC, on January 28, 2003.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 03–2305 Filed 1–30–03; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 03–002N]

Codex Alimentarius: Meeting of the Codex Committee on Residues of Veterinary Drugs in Foods

AGENCY: Office of the Under Secretary for Food Safety.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA) and the Center for Veterinary Medicine (CVM), U.S. Food and Drug Administration (FDA), are sponsoring a public meeting on Tuesday, February 18, 2003, to provide information and receive public comments on agenda items that will be discussed at the 14th Session of the Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF), which will be held in Washington, DC on March 4–7, 2003. The Under Secretary and CVM recognize the importance of providing interested parties with information about CCRVDF of the Codex Alimentarius Commission and of discussing items on the Agenda for the 14th Session of the Committee.

DATES: The public meeting is scheduled for Tuesday, February 18, 2003 from 9 a.m. to 12 p.m.

ADDRESSES: The public meeting will be held in Room 0161 of the South Building, Department of Agriculture, 1400 Independence Avenue SW., Washington, DC (Smithsonian Metro Stop). To receive copies of the documents referenced in the notice contact the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.* A link is provided there to the agenda.

If you have comments, please send an original and two copies to the FSIS Docket Clerk and reference Docket Number 03–002N. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 am and 4:30 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edith E. Kennard, Staff Officer, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW., Washington, DC 20250, Phone: (202) 720–5261, Fax: (202) 720–3157, e-mail: *edith.kennard@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

The Codex Committee on Residues of Veterinary Drugs in Foods held its First Session in Washington, DC on 27–31 October, 1986. The Committee's Terms of Reference are:

(a) To determine priorities for the consideration of residues of veterinary drugs in foods;

(b) To recommend maximum levels of such substances;

(c) To develop codes of practice as may be required;

(d) To consider methods of sampling and analysis for the determination of veterinary drug residues in foods.

The Codex Committee on Residues of Veterinary Drugs in Foods is hosted by the United States.

Issues To Be Discussed at the Public Meeting

Provisional agenda items to be discussed during the public meeting:

—Consideration of Draft Maximum Residue Limits for Veterinary Drugs;

—Proposed Draft Appendix on the Prevention and Control of Veterinary Drug Residues in Milk and Milk Products;

—Proposed Draft Code of Practice to Minimize and Contain Antimicrobial Resistance;

—Proposed Draft Revised Guidelines for the Establishment of a Regulatory Programme for the Control of Veterinary Drugs in Foods;
—Discussion Paper on Risk Analysis Principles and Methodologies, including Risk Assessment;
—Policies in the Codex Committee on Residues of Veterinary Drugs in Foods;
—Discussion Paper on Residue Issues;
—Review of Performance-Based Criteria for Methods of Analysis;
—Consideration of the Identification of Routine Methods of Analysis;
—Consideration of the Priority List of Veterinary Drugs Requiring Evaluation or Re-evaluation.

Public Meeting

At the February 18 public meeting, the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). Written comments should state that they relate to activities of the Codex Committee on Residues of Veterinary Drugs in Foods.

Additional Public Notification

Pursuant to Departmental Regulation 4300–4, ''Civil Rights Impact Analysis,'' dated September 22, 1993, FSIS has considered the potential civil rights impact of this notice on minorities, women, and persons with disabilities. Therefore, to ensure that these groups and others are made aware of this meeting, FSIS will announce it and provide copies of the **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on line through the Internet at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents and stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. Through the Listserv and Web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information, contact the Congressional and Public Affairs Office at (202) 720–9113. To be added to the free e-mail subscription service (Listserv), go to the ''Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update.htm.* Click on the ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done at Washington, DC, on January 28, 2003.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 03–2306 Filed 1–30–03; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 03–003N]

Codex Alimentarius Commission: 4th Session of the Codex Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting, request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture (USDA), and the Food and Drug Administration (FDA) are sponsoring a public meeting on February 20, 2003, to provide information and receive public comments on agenda items that will be discussed at the 4th Session of the Codex Ad Hoc Intergovernmental Task Force on Foods Derived from Biotechnology (FBT) to be held in Yokohama, Japan, on March 11–14, 2003. The Under Secretary and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 4th Session of the Codex Ad Hoc Intergovernmental Task Force on Foods Derived from Biotechnology and to address items on the Agenda for the 4th FBT.

DATES: The public meeting is scheduled for Thursday, February 20, 2003 from 2 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in the Lincoln Room, White House Conference Center, 726 Jackson Place, NW., Washington, DC. To receive copies of the documents referenced in the notice contact the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at *http://www.codexalimentarius.net/ccfbt4/bt03_01e.htm.* If you have comments, please send an original and two copies to the FSIS Docket Clerk and reference Docket #03–003N. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Ph.D., U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW., Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for protecting the health and economic interests of consumers and encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

The Codex Ad Hoc Intergovernmental Task Force on Foods Derived from Biotechnology was established to develop standards, guidelines or recommendations, as appropriate, for foods derived from biotechnology or traits introduced into foods by biotechnology, on the basis of scientific evidence, risk analysis and having regard, where appropriate to other legitimate factors relevant to the health of consumers and the promotion of fair trade practices. The Task Force, which was given four years to complete its work, held its first session in 2000.

Issues To Be Discussed at the Public Meeting

The provisional agenda items will be discussed during the public meeting:

1. Adoption of the Agenda (CX/FBT 03/1).

2. Matters Referred to the Task Force by Other Codex Committees (CX/FTB 03/2).

3. Matters of Interest from Other International Organizations with respect to the Evaluation of the Safety and Nutrition Aspects of Foods Derived from Biotechnology (CX/FBT 03/3).

4. Consideration of Draft Guideline for the Conduct of Food Safety Assessment of Foods Produced Using Recombinant-DNA Microorganisms (CL 2002/40–FBT, ALINORM 03/34, Appendix V).

5. Open Discussion on Traceability.

Public Meeting

At the February 20th public meeting, the agenda items will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). Written comments should state that they relate to activities of the 4th Session of the Codex Ad Hoc Intergovernmental Task Force on Foods Derived from Biotechnology, Docket #03–003N.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and Web page, FSIS is able to provide information to a much broader, more diverse audience.

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F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 03–2307 Filed 1–30–03; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of resource advisory committee meeting

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Pub. L. 92–463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Sierra National Forest's Resource Advisory Committee for Madera County will meet on Monday, February 17, 2003. The Madera Resource Advisory Committee will meet at the U.S.D.A. Forest Service Office, 57003 Road 225, North Fork, CA. The purpose of the meeting is update on the RAC committee outreach and RAC Proposal presentations.

DATES: The Madera Resource Advisory Committee meeting will be held Monday, February 17, 2002. The meeting will be held from 7 p.m. to 9 p.m.

ADDRESSES: The Madera County RAC meeting will be held a the U.S.D.A. Forest Service Office, 57003 Road 225, North Fork, CA.

FOR FURTHER INFORMATION CONTACT: Dave Martin, U.S.D.A., Sierra National Forest, 57003 Road 225, North Fork, CA, 93643 (559) 877–2218 ext. 3100; e-mail *dmartin05@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Update on RAC committee outreach, and (2) RAC Proposal presentations. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: January 24, 2003.

David W. Martin,

District Ranger.

[FR Doc. 03–2274 Filed 1–30–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Brazos Electric Power Cooperative, Inc.; Notice of Intent To Hold Public Workshops and Prepare an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of intent To hold public workshops and prepare an environmental assessment.

SUMMARY: The Rural Utilities Service (RUS) intends to hold public scoping workshops and prepare an environmental assessment (EA) in connection with possible impacts related to the construction and operation of a new gas-fired combustion turbine generation facility. The project is proposed by Brazos Electric Power Cooperative, Inc. (Brazos), of Waco, Texas. RUS may provide financing assistance for the project. RUS will hold two public scoping workshops for a proposed Gas-fired Electrical Generation Plant. The first workshop is scheduled for Tuesday, February 11, 2003, from 3 p.m. until 7 p.m. at the Decatur Civic Center. The Decatur Civic Center is located at 2010 W. U.S. 380, in Decatur, Texas. The second workshop will be held on Wednesday, February 12, 2003, from 3 p.m. until 7 p.m. at the Twin Lakes Community Center. The Twin Lakes Community Center is located at 420 Highway 59, Jacksboro, Texas.

FOR FUTHER INFORMATION CONTACT: Dennis E. Rankin, Environmental Protection Specialist, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone: (202) 720–1953 or e-mail: *drankin@rus.usda.gov.*; or Mike McClendon, Brazos at (254) 750–6326 or e-mail: *mmlendon@brazoselectric.com.*

SUPPLEMENTARY INFORMATION: Brazos is proposing to construct a new gas-fired combustion turbine and is evaluating potential sites located in Wise and Jack Counties, Texas. One potential site is located in the southwest corner of Wise County. It is approximately 11 miles northwest of Springtown, west of the intersection of State Highway 199 and FM 920. A second potential site is located north of the City of Bridgeport on or adjacent to the former U.S. Stone Mining company operation northwest of the intersection of State Highway 101 and FM 1658. The third potential site is located northeast of State Highway 199 and FM 1156 in Jack County and southeast of the intersection of Shepard Road/Henderson Ranch Rd. and FM 1156. Associated facilities include a gas pipeline, water pipeline and transmission facilities generation plant.

Comments regarding the proposed project may be submitted in writing at the public workshop or in writing no later than March 14, 2003, to RUS at the address provided above.

An environmental assessment (EA) will be prepared for the proposed project. Based on a review of the Environmental Assessment and other relevant information, RUS will determine if the preparation of an

environmental impact statement is necessary. Should RUS determine that the preparation of an environmental impact statement is not necessary, it will prepare a Finding of No Significant Impact.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal, State, and local environmental laws and regulations and completion of the environmental review procedures as prescribed by RUS' Environmental Policies and Procedures.

Dated: January 28, 2003.

Lawrence R. Wolfe,

Acting Director, Engineering and Environmental Staff, Rural Utilities Service.

[FR Doc. 03–2314 Filed 1–30–03; 8:45 am]

BILLING CODE 3410–15–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 2, 2003.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center, Arlington Heights, Illinois.
NPA: Jewish Vocational Service and Employment Center, Chicago, Illinois.
Contract Activity: Headquarters, 88th Regional Support Command, Fort Snelling, Minnesota.
Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center, Marion, Illinois.
NPA: Franklin-Williamson Human Services, Inc., West Frankfort, Illinois.
Contract Activity: Headquarters, 88th Regional Support Command, Fort Snelling, Minnesota.

G. John Heyer,

General Counsel.

[FR Doc. 03–2303 Filed 1–30–03; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 2, 2003.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 22, December 6, and December 20, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 FR 70401, 72640, and 77926) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Chemical Latrine Rental Servicing, Vault Latrine Servicing, Fort Lewis & Yakima Training Center, Fort Lewis, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contract Activity: Directorate of Contracting, Fort Lewis, Washington.
Service Type/Location: Food Service, 105th Airlift Wing, Newburgh, New York.
NPA: Occupations, Inc., Middletown, New York.
Contract Activity: 105th Airlift Wing/LGC, Newburgh, New York.
Service Type/Location: Janitorial/Custodial, National Park Service, C&O Canal National Historical Park Visitor Center, Cumberland, Maryland.
NPA: Hagerstown Goodwill Industries, Inc., Hagerstown, Maryland.
Contract Activity: National Park Service, C&O Canal NHP, Hagerstown, Maryland.

This action does not affect current contracts awarded prior to the effective

date of this addition or options that may be exercised under those contracts.

G. John Heyer,

General Counsel.

[FR Doc. 03–2304 Filed 1–30–03; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122–845, A-122–847]

Notice of Postponement of Preliminary Antidumping Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat from Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary determinations in the antidumping duty investigations on certain durum wheat and hard red spring wheat from Canada from March 12, 2003 until no later than May 1, 2003. This extension is made pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: January 31, 2003.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder at (202) 482–0189 or Cole Kyle at (202) 482–1503, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Postponement of Preliminary Determinations

On October 29, 2002, the Department of Commerce (''the Department'') published the initiation of the antidumping duty investigations of imports of certain durum wheat and hard red spring wheat from Canada (*see Notice of Initiation of Antidumping Duty Investigations: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 67 FR 65947 (October 29, 2002) (''*Initiation Notice*'')). The *Initiation Notice* stated that we would make our preliminary determinations for these antidumping duty investigations no later than March 12, 2003, 140 days after the date of issuance of the initiation.

Pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''the Act''), the Department can extend the period for reaching a preliminary determination until no later than the 190th day after the date on which the administrating authority initiates an investigation if:

(B) the administrating authority concludes that the parties concerned are cooperating and determines that

(i) the case is extraordinarily complicated by reason of

(I) the number and complexity of the transactions to be investigated or adjustments to be considered,

(II) the novelty of the issues presented, or

(III) the number of firms whose activities must be investigated, and (ii) additional time is necessary to make the preliminary determination.

Regarding the first requirement, we find that all concerned parties are cooperating in each case.

Regarding the second requirement, we find that these cases are extraordinarily complicated because of the novelty of the issues presented. Specifically, the Department requires additional time to examine all relevant facts pertaining to whether a particular market exists in the Canadian market in accordance with section 773(a)(1)(C)(iii) of the Act. Furthermore, once we have determined the appropriate comparison market for these investigations, we need adequate time to gather and analyze the appropriate sales data from the respondent.

Pursuant to section 733(c)(1)(B) of the Act, we have determined that these cases are extraordinarily complicated and that additional time is necessary to make our preliminary determinations. Therefore, we are postponing the preliminary determinations until no later than May 1, 2003.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: January 24, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–2329 Filed 1–30–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 31, 2003.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3208.

Preliminary Determination

We preliminarily determine that certain frozen fish fillets from the Socialist Republic of Vietnam are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On June 28, 2002, the Department of Commerce (''Department'') received a petition on imports of certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam'') filed in proper form by Catfish Farmers of America (''CFA'') and the individual U.S. catfish processors America's Catch Inc.; Consolidated Catfish Co., L.L.C.; Delta Pride Catfish, Inc.; Harvest Select Catfish, Inc.; Heartland Catfish Company; Pride of the Pond; Simmons Farm Raised Catfish, Inc.; and Southern Pride Catfish Co., Inc., hereinafter referred to collectively as ''the petitioners.'' This investigation was initiated on July 18, 2002. *See Notice of Initiation of Antidumping Duty Investigation: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam* (''*Notice of Initiation*''), 67 FR 48437 (July 24, 2002). The Department initiated the investigation using both a market economy and non-market economy analysis. For a further discussion of Vietnam's market analysis, please see the ''Non Market Economy Country Status'' section below. The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Notice of Initiation* at 48437–38. We received comments regarding product coverage from interested parties. For a detailed discussion of the comments regarding the scope of the merchandise under investigation, please see the ''Scope of the Investigation'' section below.

On August 8, 2002, the United States International Trade Commission (''ITC'') issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Vietnam of certain frozen fish fillets, which was published in the

Federal Register on August 15, 2002. *See Certain Frozen Fish Fillets from Vietnam*, 67 FR 53362 (August 15, 2002).

On August 9, 2002, the Department requested quantity and value (''Q&V'') information from a total of fifty-three Vietnamese companies, which were identified in the *Petition for the Imposition of Antidumping Duties: Frozen Fish Fillets from the Socialist Republic of Vietnam*, dated June 28, 2002 (''*Petition*'') and for which the Department was able to locate contact information. On August 9, 2002, the Department also sent the Government of Vietnam a letter requesting assistance locating all known Vietnamese producers/exporters of frozen fish fillets who exported certain frozen fish fillets to the United States during the market (April 1, 2001 through March 31, 2002) and non-market (October 1, 2001 through March 31, 2002) economy periods of investigation and quantity and value information for all exports to the United States of the merchandise under investigation during the period of investigation. On August 20, 2002, we received a letter from Grobest Industrial (Vietnam) Co., Ltd., (''Grobest''), which indicated that Grobest did not sell certain frozen fish fillets to the United States during the market or non-market economy periods. On August 22, 2002, the Department received a letter from Minh Hai Sea Products Import and Export Corporation (''SEAPRIMEXCO''), which indicated that SEAPRIMEXCO did not sell certain frozen fish fillets to the United States during the market or non-market economy periods. Additionally, on August 23, 2002, we received thirteen responses to our Q&V information request. The following thirteen companies submitted quantity and value information: An Giang Agriculture and Food Import Export Company (''Afiex''), An Giang Fisheries Import Export Joint Stock Company (''Agifish''), Ben Tre Frozen Aquaproduct Export Company (''Ben Tre''), Can Tho Agricultural and Animal Products Import Export Company (''CATACO''), Can Tho Animal Fishery Products Processing Export Enterprise (''CAFATEX''), Da Nang Seaproducts Import-Export Corporation (''Da Nang''), Mekong Fish Company (''Mekonimex''), Nam Viet Company Limited (''Nam Viet''), QVD Food Company Limited (''QVD''), Tien Gang Seaproduct Company (''Tieng Gang''), Viet Hai Seafood Company Limited (''Viet Hai''), Vinh Hoan Company Limited (''Vinh Hoan'') and Vinh Long Import-Export Company (''Vinh Long'').

On August 27, 2002, the Department published a postponement of the preliminary antidumping duty determination on certain frozen fish fillets from Vietnam. *See Notice of Postponement of the Preliminary Determination of the Certain Frozen Fish Fillets from the Socialist Republic of Vietnam Antidumping Duty Investigation* (*Notice of Prelim Postponement*'') 67 FR 55003 (August 27, 2002).

On August 30, 2002, the Department requested comments on surrogate country and factor valuation information in order to have sufficient time to consider them for the preliminary determination.

On September 4, 2002, the Department issued its respondent selection memorandum, selecting Agifish, Vinh Hoan, Nam Viet and CATACO, hereinafter referred to collectively as ''the respondents,'' to be investigated. *See Memorandum to the File from James C. Doyle, Program Manager to Edward C. Yang, Director, Office IX, Antidumping Duty Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Selection of Respondents* (''*Respondent Selection Memo*''), dated September 4, 2002.

On September 4, 2002, the Department requested comments from parties regarding the appropriate physical characteristics of certain frozen fish fillets to be reported. On September 5, 2002, the petitioners requested a revision in the schedule for submission of surrogate country comments. On September 6, 2002 the respondents also requested an extension of time to submit surrogate country and factor value information. On September 9, 2002, the Department revised its schedule for submitting comments on the appropriate surrogate country.

On September 11, 2002, the petitioners and the respondents submitted comments regarding the appropriate physical characteristics of certain frozen fish fillets. On September 13, 2002, the respondents submitted rebuttal comments regarding the appropriate physical characteristics of certain frozen fish fillets. On September 16, 2002, the Department sent the respondents Section A of the Department's market and non-market economy antidumping duty questionnaires. In addition, on September 16, 2002, we sent the Government of Vietnam Section A of the Department's market and non-market economy antidumping duty questionnaires.

On September 18, 2002, the petitioners submitted rebuttal comments addressing the respondents' comments and rebuttal comments regarding the appropriate physical characteristics of certain frozen fish fillets.

On September 23, 2002, the petitioners submitted a letter notifying the Department of increased shipments of subject merchandise to the United States in advance of the Department's preliminary determination in this proceeding, and accordingly, requested that the Department take action to collect information regarding entries of subject merchandise pursuant to section 732a(e) of the Act (19 U.S.C. 1673a(e)) and 19 CFR 351.206(g).

On September 23, 2002, the Department sent the respondents and the Government of Vietnam Sections B, C and E of the Department's market economy questionnaire and Sections C & D of the non-market economy questionnaire.

On October 2, 2002, the respondents requested a two-week extension to file their Section A market economy and non-market economy questionnaire responses. On October 3, 2002, the Department granted a partial extension for the respondents to submit their Section A market economy and non-market economy questionnaire responses.

On October 7, 2002, the petitioners requested an extension of time to submit a country-wide sales below cost allegation in the event the Department determines that Vietnam is to be treated as a market economy for antidumping duty purposes. On October 10, 2002, the respondents requested an additional extension to file Section A market and non-market economy questionnaire responses. On October 15, 2002, the petitioners withdrew their October 7, 2002 request for an extension of the deadline to submit a country-wide sales below cost allegation. On October 15, 2002, the Department extended the deadline for the respondents to submit Section A market and non-market economy questionnaire responses. On October 15, 2002, the respondents submitted their Section A market and non-market economy responses. The Government of Vietnam did not provide a response.

On October 23, 2002, the Department received Section A market and non-market economy responses from Afiex, Cafatex, Da Nang, Mekonimex, QVD, Viet Hai and Vinh Long, hereinafter referred to as ''the voluntary Section A respondents.'' On October 24, 2002, the petitioners submitted comments on the market and non-market economy Section A questionnaire responses. On October 24, 2002, the respondents requested an extension for filing the respondents' and the voluntary Section A respondents' non-market economy

Sections C and D questionnaire responses. On October 25, 2002, the Department issued supplemental Section A market and non-market economy questionnaires to the respondents and the voluntary Section A respondents. On October 28, 2002, the respondents requested an extension of time to submit responses to the Department's market and non-market economy supplemental Section A questionnaires. On October 30, 2002, the Department granted the respondents' extension request for their responses to the market and non-market economy Sections C and D questionnaires.

On November 5, 2002, the petitioners submitted comments regarding the voluntary Section A respondents' market and non-market economy responses. On November 6, 2002, the respondents requested an extension of time to submit their market economy Sections B and C of the questionnaires. On November 8, 2002, the petitioners requested an extension of time to submit surrogate country comments and factor value information. Additionally, on November 8, 2002, the Department determined that Vietnam will be treated as a non-market economy country for the purposes of antidumping and countervailing duty proceedings. *See Memorandum for Faryar Shirzad, Assistant Secretary, Import Administration from Shauna Lee-Alaia, George Smolik, Athanasios Mihalakas and Lawrence Norton, Office of Policy through Albert Hsu, Senior Economist, Office of Policy, Import Administration, Jeffrey May, Director, Office of Policy, Import Administration, Antidumping Duty Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Determination of Market Economy Status* (''*Market Status Memo*''), dated November 8, 2002. For a more detailed discussion, please see the ''Non-Market Economy Status'' section below.

On November 12, 2002, the Department sent the respondents and the voluntary Section A respondents a letter informing them that because the Department determined that Vietnam is to be treated as a non-market economy, the respondents and the voluntary Section A respondents were no longer required to submit Sections B, C & E of the market economy antidumping duty questionnaire sent on September 23, 2002. In addition, we stated that the respondents and the voluntary Section A respondents were no longer required to submit the market economy Section A supplemental questionnaire sent on October 25, 2002. On November 13, 2002, the respondents submitted non-market economy Sections C & D questionnaire responses. All subsequent responses from the respondents and voluntary Section A respondents were responses to the non-market economy questionnaire.

On November 14, 2002, the respondents submitted a letter agreeing to the extension of time request submitted by the petitioners on November 8, 2002 for purposes of submitting surrogate country comments and factor value information. On November 14, 2002, the Department granted an extension request for interested parties to submit surrogate country comments and factor value information.

On November 15, 2002, the petitioners filed a formal critical circumstances allegation in accordance with 19 CFR 351.206(c)(2)(iii). For a more detailed discussion, please see the ''Critical Circumstances'' section below. On November 15, 2002, the Department issued a supplemental questionnaire on the respondents' Section D responses. On November 15, 2002, the respondents submitted their responses to the Department's Section A supplemental questionnaire.

On November 18, 2002, the Department issued a Section A supplemental questionnaire to the voluntary Section A respondents. On November 22, 2002, the respondents submitted their responses to the Department's Section D supplemental questionnaire dated November 15, 2002. On November 25, 2002, Agifish and Vinh Hoan submitted a correction to their factors of production database. On November 25, 2002, the Department received an extension request to delay the submittal of the supplemental responses from the voluntary Section A respondents. Also on November 25, 2002, the Department requested that the respondents provide monthly shipment data for use in the critical circumstances determination.

On December 2, 2002, the petitioners submitted comments regarding the respondents' Sections C and D questionnaire responses dated November 13, 2002. On December 6, 2002, the respondents requested an extension of time regarding the Department's request for monthly shipment data. Additionally, the voluntary Section A respondents requested an extension of time to submit their supplemental questionnaire responses. Also on December 6, 2002, the Department issued a Sections C and D supplemental questionnaire to the respondents. On December 6, 2002, the Department granted a second extension of time to submit surrogate country and factor value information. On December 6, 2002, the Ministry of Trade of Vietnam submitted comments regarding the surrogate country. On December 9, 2002, the respondents and the petitioners submitted comments regarding surrogate country and factor value information. On December 9, 2002, the Department granted an extension of time to the voluntary Section A respondents to submit their supplemental responses and an extension of time for the respondents to submit monthly shipment data.

On December 10, 2002, the petitioners submitted comments regarding the respondents' supplemental Section A questionnaire responses. On December 10, 2002, the respondents submitted the monthly shipment data requested by the Department on November 25, 2002 and supplemental questionnaire responses from the voluntary Section A respondents. On December 12, 2002, the petitioners submitted an additional financial statement to supplement the factor value information submitted on November 9, 2002.

On December 13, 2002, the Ministry of Fisheries of Vietnam submitted comments regarding the selection of the surrogate country. On December 13, 2002, the Department granted an extension of time to submit rebuttal comments regarding the surrogate country and the factor value information. On December 18, 2002, the respondents requested an extension of time to submit their supplemental Sections C and D questionnaire responses. On December 18, 2002, the petitioners submitted rebuttal comments regarding the surrogate country and factor value information submitted by the respondents on December 9, 2002.

On December 19, 2002, the respondents requested an extension of time to submit their supplemental Sections C and D questionnaire responses. On December 19, 2002, the Department granted the respondents an extension of time to submit their Section C and D supplemental questionnaire responses. Additionally, on December 19, 2002, the Department issued a second Section A supplemental questionnaire to the respondents. On December 20, 2002, the petitioners submitted comments regarding the voluntary Section A respondents' supplemental questionnaire responses. On December 27, 2002, the Department issued a second supplemental questionnaire to the voluntary Section A respondents. On December 31, 2002, the respondents and the voluntary Section A respondents requested an extension of time to submit their second supplemental questionnaire responses.

On January 2, 2003, the Department granted an extension of time to the respondents and the voluntary Section A respondents to submit their second Section A questionnaire responses. On January 8, 2003, Agifish, one of the respondents, submitted a revised Sections C and D supplemental response. On January 10, 2003, the Department issued a section Sections C and D supplemental questionnaire to the respondents. On January 10, 2003, the respondents submitted an extension of time to submit their second Sections C and D supplemental questionnaire responses. On January 14, 2003, the Department granted an extension of time to the respondents to submit their second Sections C and D supplemental questionnaire responses. On January 16, 2003, the petitioners submitted comments relevant to the Department's preliminary determination. On January 17, 2003, the respondents submitted their responses to the second Sections C & D supplemental questionnaire. Also on January 17, 2003, the respondents submitted a letter requesting the Department to reject the petitioners' submission of January 16, 2003 as untimely. On January 21, 2003, the respondents submitted comments requesting that the Department use their actual reported factors of production. On January 22, 2003, the petitioners submitted a letter requesting that the Department reject the respondents' January 16, 2003 submission on the grounds that it was untimely filed. On January 23, 2003, the respondents submitted a request that the Department not use the petitioners' recently filed submissions for the preliminary determination. Also on January 23, 2003, the respondents and the voluntary Section A respondents requested that the Department postpone the final determination until no later than 135 days after the date of publication of the preliminary determination.

Postponement of Final Determination

Section 735(a) of the Act provides that a final determination may be postponed until no later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On January 23, 2003, the respondents and the voluntary Section A respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. The respondents and the voluntary Section A respondents also included a request to extend the provisional measures to not more than six months after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting parties account for a significant proportion of the exports of the subject merchandise, we have postponed the final determination until no later than 135 days after the date of publication of the preliminary determination, and are extending the provisional measures accordingly.

Period of Investigation

The period of investigation (''POI'') is October 1, 2001 through March 31, 2002. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition (June 28, 2001). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of this investigation, the product covered is frozen fish fillets, including regular, shank, and strip fillets, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus*. The subject merchandise will be hereinafter referred to as frozen ''basa'' and ''tra'' fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 [1] (Frozen Sole Fillets) of the Harmonized Tariff Schedule of the United States (''HTSUS''). This investigation covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

On August 13, 2002, the respondents submitted comments regarding the scope of this investigation. On August 22, 2002, the petitioners also submitted comments regarding the scope language. Citing a report from Tyson Roberts at the California Academy of Sciences and Bhavalit Vidthayanon, National Inland Fisheries Institute, the respondents argued that *Pangasius Micronemus* is an outdated and inaccurate designation that has not been used by the scientific community since the early 1990s. The respondents argued that biologists who specialize in the freshwater fish of Southeast Asia now include the fish once thought to belong to the separate species *Pangasius Micronemus* as part of the species *Pangasius Hypopthalmus*, a correct scientific designation that is already included in the scope of the antidumping investigation. Consequently, the respondents requested that the Department examined more closely the appropriateness of including *Pangasius Micronemus* in the scope of this antidumping investigation.

The petitioners argue that *Pangasius Micronemus* must remain within the scope of this antidumping investigation. According to the petitioners, *Pangasius Micronemus* is a designation that has been, and continues to be, used to describe the species of fish that are being filleted, frozen and exported to the United States, and which are intended to be covered by the scope of this investigation. Referencing the company websites from some of the mandatory and voluntary Section A respondents in this investigation, the petitioners note that *Pangasius Micronemus* continues to be used interchangeably with the *Pangasius Hypopthalmus* species appellation. In addition, the petitioners note that the U.S. Food and Drug Administration continues to recognize *Pangasius Micronemus* as a separate scientific description.

For this preliminary determination, we continue to include the species *Pangasius Micronemus* in the description of the scope. The evidence on the record clearly demonstrates that the producers/exporters of the merchandise under investigation continue to market the species designation *Pangasius Micronemus*. For example, Afiex's (a voluntary Section A respondent) product brochure identifies *Pangasius Micronemus* as the live fish species used to produce the subject merchandise. Furthermore, the petitioners submitted a news article regarding Agifish, one of the

[1] The petitioners have included this tariff classification code because they believe that the merchandise under investigation is entering the United States under this classification based on previous uses of the term ''sole'' to describe Vietnamese basa and tra.

respondents, that mentions that it produces fish fillets from *Pangasius Micronemus*. Therefore, because the designation is clearly still in use commercially by the Vietnamese respondents, for purposes of this preliminary determination, we continue to include *Pangasius Micronemus* as part of the scope in this antidumping investigation.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection; or (2) exporters/producers accounting for the largest volume of the merchandise under investigation that can reasonably be examined. After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we limited our examination to the four exporters and producers accounting for the largest volume of the subject merchandise pursuant to section 777A(c)(2)(B) of the Act. The four Vietnamese producers/exporters, Agifish, Vinh Hoan, Nam Viet and CATACO, accounted for a significant percentage of all exports of the subject merchandise from the Vietnam during the POI, and were therefore selected as mandatory respondents. *See Respondent Selection Memo* at 4.

Nonmarket Economy Country Status

For purposes of initiation, the petitioners submitted LTFV analyses for Vietnam as a non-market economy and a market economy. *See Notice of Initiation*, at 48438. Because the petitioners alleged that Vietnam has a nonmarket economy, the Department invited parties to comment on Vietnam's economy with regards to the factors listed in section 771(18)(B) of the Act, which the Department must take into account when making a non-market economy status determination. *See Opportunity to Comment on Petitioner's Allegation that Vietnam Has a Non-Market Economy: Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam* (''*Notice of Request for Comment*''), 67 FR 52942 (August 14, 2002). Consequently, on November 8, 2002, the Department determined, after analyzing comments from interested parties, that based on the preponderance of evidence related to economic reforms in Vietnam to date, analyzed as required under section 771(18)(B) of the Act, that Vietnam will be treated as a non-market economy country for the purposes of antidumping and countervailing duty proceedings, effective July 1, 2001. *See Market Status Memo* at 44.

A designation as a non-market economy remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act). When the Department is investigating imports from a non-market economy, section 773(c)(1) of the Act directs us to base the normal value on the non-market economy producer's factors of production, valued in an economically comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the ''Factor Valuations'' section, below.

Separate Rates

In proceedings involving non-market economy countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in a non-market economy country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The four companies that the Department selected to investigate (*i.e.*, Agifish, Vinh Hoan, Nam Viet and CATACO), and the Vietnamese producers/exporters that were not selected as mandatory respondents by the Department for this investigation, but which have submitted separate rates responses and had exports sales to the United States during the POI (*i.e.* Afiex, CAFATEX, Da Nang, Mekonimex, QVD, and Viet Hai) have provided company-specific separate rates information and have each stated that they met the standards for the assignment of separate rates.

We considered whether each Vietnamese company is eligible for a separate rate. The Department's separate rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, *e.g.*, export licenses, quotas, and minimum export prices (''EP''), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value,* 62 FR 61754, 61757 (November 19, 1997) and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising out of the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) *(''Sparklers''),* as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2,1994) *(''Silicon Carbide'').* In accordance with the separate rates criteria, the Department assigns separate rates in non-market economy cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See* Sparklers at 20589.

Our analysis shows that the evidence on the record supports a preliminary finding of *de jure* absence of governmental control based on: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the applicable legislative enactments decentralizing control of the companies;

and (3) any other formal measures by the government decentralizing control of companies. *See Memorandum to Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, Enforcement Group III from Joseph Welton, Lisa Shishido and Paul Walker, Case Analysts through James C. Doyle, Program Manager, Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Separate Rates for Producers/Exporters that Submitted Questionnaire Responses (''Separate Rates Memo''),* dated January 24, 2003.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See, Silicon Carbide,* 59 FR at 22586–87; *see, also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We determine that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management.

Therefore, the evidence placed on the record of this investigation by Agifish, Vinh Hoan, Nam Viet, CATACO, Afiex, CAFATEX, Da Nang, Mekonimex, QVD and Viet Hai demonstrates an absence of government control, both in law and in fact, with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide.* As a result, for the purposes of this preliminary determination, we are granting separate, company-specific rates to each of the ten responding exporters which shipped certain frozen fish fillets to the United States during the POI. For a full discussion of this issue, please see the *Separate Rates Memo.*

Vietnam-Wide Rate

The Department's review of import data from the United States Customs Service shows that imports of certain frozen fish fillets from Vietnam during the POI are higher than the volume and value of U.S. sales reported by exporters that responded to our request for this information. *See Respondent Selection Memo,* at Attachment I. Therefore, the Department preliminarily determines that there were exports of the merchandise under investigation from other Vietnamese producers/exporters, which are treated as part of the countrywide entity. All exporters were given an opportunity to provide information showing they qualify for separate rates. However, none of these other exporters provided a response to the Department's Section A questionnaire.

Section 776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. In this case, the government of Vietnam did not respond to the Department's questionnaire, thereby necessitating the use of facts available to determine their rate.

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See* also ''Statement of Administrative Action'' accompanying the URAA, H.R. Rep. No. 103–316, 870 (1994) (''SAA''). The Department finds that because the Vietnam-wide entity did not respond at all to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate. Consistent with Department practice in cases where a respondent is considered uncooperative, as adverse facts available, we have applied a rate of 63.88 percent, the highest rate calculated in the initiation stage of the investigation from information provided in the petition (as adjusted by the Department). *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany,* 63 FR 10847 (March 5, 1998).

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See SAA* at 870. The SAA provides that to ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See id.* The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996) *(''TRB Notice''),* to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

In order to determine the probative value of the initiation margin for use as facts otherwise available for the purposes of this determination, we examined evidence supporting the initiation calculations. We have now corroborated the information in the

petition, with some small changes. *See Memorandum to Edward C. Yang, Director, Office IX from Alex Villanueva, Case Analyst through James C. Doyle, Program Manager, Preliminary Determination in the Investigation of Certain Frozen Fish Fillets from Vietnam, Corroboration Memorandum (''Corroboration Memo''),* dated January 24, 2003.

Consequently, we are applying a single antidumping rate—the Vietnam wide rate—to producers/exporters that failed to respond to the Q&V questionnaire and demonstrate entitlement to a separate rate. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China,* 65 FR 25706, 25707 (May 3, 2000). The Vietnam-wide rate applies to all entries of the merchandise under investigation except for entries from Agifish, Vinh Hoan, Nam Viet, CATACO, Afiex, CAFATEX, Da Nang, Mekonimex, QVD and Viet Hai.

Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final determination for the purpose of determining the most appropriate final Vietnam-wide margin. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Saccharin from the People's Republic of China (''Saccharin from China''),* 67 FR 79049, 79054 (December 27, 2002).

Margins for Cooperative Exporters Not Selected

The exporters who responded to Section A of the Department's antidumping questionnaire and had sales of the merchandise under investigation to the United States, but were not selected as mandatory respondents in this investigation (Afiex, CAFATEX, Da Nang, Mekonimex, QVD and Viet Hai) have applied for separate rates, and provided information for the Department to consider for this purpose. Although the Department is unable, due to administrative constraints *(see Respondent Selection Memo),* to calculate for each of these voluntary Section A respondents who are exporters a rate based on their own data, these companies cooperated in providing all the information that the Department requested of them. Therefore, for Afiex, CAFATEX, Da Nang, Mekonimex, QVD and Viet Hai, we have calculated a weighted-average margin based on the rates calculated for those exporters that were selected to respond in this investigation, excluding any rates that are zero, *de minimis* or based entirely on adverse facts available. Companies receiving this rate are identified by name in the ''Suspension of Liquidation'' section of this notice. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China,* 64 FR 24101 (May 11, 2001).

In addition, several companies indicated that during the POI, they had no sales of the merchandise under investigation to the United States. Specifically, Grobest, SEAPRIMEXCO, Tieng Gang and Ben Tre reported that they did not have sales of the merchandise under investigation to the United States during the POI. We note, moreover, that Vinh Long provided extensive separate rates information to the Department, but because the date of sale used in this investigation is the invoice date and because Vinh Long's only sale of the merchandise under investigation to the United States has a commercial invoice date outside the POI, Vinh Long did not make a sale of the merchandise under investigation to the United States during the POI. Consequently, Vinh Long is not eligible to receive a separate rate at this time. Likewise, because Grobest, SEAPRIMEXCO, Tieng Gang, Ben Tre and Vinh Long made no sales of the merchandise under investigation to the United States during the POI, these companies are not eligible to receive a separate rate.

Surrogate Country

When the Department is investigating imports from a non-market economy country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the non-market economy producer's factors of production, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the non-market economy country; and (2) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department determined that India, Bangladesh, Kenya, Pakistan, and Guinea are countries comparable to Vietnam in terms of economic development. *See Memorandum from Jeffrey May to James Doyle: Antidumping Duty Investigation on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, dated August 23, 2002. Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries. In this case, we have found that Bangladesh is a significant producer of comparable merchandise, *Pangasius* fish, and is at a similar level of economic development pursuant to 733(c)(4) of the Act. *See Memorandum to Edward C. Yang, Director, Office IX, from Alex Villanueva and Paul Walker, Case Analyst, through James C. Doyle, Program Manager: Antidumping Duty Investigation on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Selection of a Surrogate Country* (''*Surrogate Country Memorandum*''), dated January 24, 2003.

Therefore, we used Bangladesh as the primary surrogate country and, accordingly, we have calculated NV using Bangladeshi prices to value the respondents' factors of production, when available and appropriate. Where Bangladeshi values were not available or were impracticable to use, we relied upon data from India, as adequate valuation data for each of the factors of production is available on the record from Indian sources. We have obtained and relied upon publicly available information wherever possible. *See Memorandum to the File from Alex Villanueva, Lisa Shishido, Joseph Welton and Paul Walker, Case Analysts, through James C. Doyle, Program Manager and Edward C. Yang, Director, Office IX, Factors Valuation for An Giang Fisheries Import and Export Joint Stock Company, Can Tho Agricultural and Animal Products Import Export Company, Nam Viet Company Limited, and Vinh Hoan Company Limited* (''*Factor Valuation Memo*''), dated January 24, 2003.

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of this preliminary determination.

Date of Sale

Section 351.401(i) of the Department's regulations state that ''in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business.'' After examining the sales documentation placed on the record by the respondents, we preliminarily determine that invoice date is the most appropriate date of sale for all

respondents. We made this determination because, at this time, there is not enough evidence on the record to determine whether the contracts used by the respondents establish the material terms of sale to the extent required by our regulations in order to rebut the presumption that invoice date is the proper date of sale. *See Saccharin from China* at 67 FR 79054.

Fair Value Comparisons

To determine whether sales of certain frozen fish fillets to the United States by Agifish, Vinh Hoan, Nam Viet and CATACO were made at less than fair value, we compared EP to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).

We calculated EP for Agifish, Vinh Hoan, Nam Viet and CATACO based on delivered prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, ocean freight and brokerage and handling, where appropriate.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from a non-market economy country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

As the basis for normal value, the respondents in this investigation provided integrated factors of production data from the fingerling stage to the frozen fish fillet processing stage. In response to a supplemental questionnaire, the respondents also provided factors of production information used in each of the production stages, including the frozen fish fillet processing stage, separately. Although the respondents reported the inputs used to produce the main input to the processing stage (live fish), for the purposes of this preliminary determination, we are not valuing those inputs when calculating the normal value. Rather, our normal value calculation begins with a valuation of the fish input (live fish) used to produce the merchandise under investigation for the following reasons.

Our general policy, consistent with section 773(c)(1)(B) of the Act, is to value the factors of production that a respondent uses to produce the subject merchandise. If the NME respondent is an integrated producer, we take into account the factors utilized in each stage of the production process. For example, in the case of preserved canned mushrooms produced by a fully integrated firm, the Department valued the factors used to grow the mushrooms, the factors used to further process and preserve the mushrooms, and any additional factors used to can and package the mushrooms, including any used to manufacture the cans (if produced in-house). If, on the other hand, the firm was not integrated, but simply a processor that bought fresh mushrooms to preserve and can, the Department valued the purchased mushrooms and not the factors used to grow them. *See* final results valuation memorandum for *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*; 66 FR 31204 (June 11, 2001) (Final Results Valuation Memorandum). This policy has been applied to both agricultural and industrial products. *See, e.g., Persulfates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Partial Recission*; 67 FR 50866 (August 6, 2002) (unchanged in final) and *Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China*; 62 FR 9160 (February 28, 1997). Accordingly, our standard NME questionnaire asks respondents to report the factors used in the various stages of production.

There are, however, two limited exceptions to this general rule. First, in some cases a respondent may report factors used to produce an intermediate input that accounts for a small or insignificant share of total output. The Department recognizes that, in those cases, the increased accuracy in our overall calculations that would result from valuing (separately) each of those factors may be so small so as to not justify the burden of doing so. Therefore, in those situations, the Department would value the intermediate input directly.

Second, in certain circumstances, it is clear that attempting to value the factors used in a production process yielding an intermediate product would lead to an inaccurate result because a significant element of cost would not be adequately accounted for in the overall factors buildup. For example, in a recent case, we addressed whether we should value the respondent's factors used in extracting iron ore—an input to its wire rod factory. The Department determined that, if it were to use those factors, it would not sufficiently account for the capital costs associated with the iron ore mining operation given that the surrogate used for valuing production overhead did not have mining operations. Therefore, because ignoring this important cost element would distort the calculation, the Department declined to value the inputs used in mining iron ore and valued the iron ore instead. *See Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Ukraine*; 67 FR 55785 (August 30, 2002); *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*; 66 FR 49632 (September 28, 2001); *Final Determination of Sales at Less Than Fair Value; Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*; 62 FR 61964 (November 20, 1997); and *Notice of Final Determination of Sales at Less Than Fair Value; Furfuryl Alcohol From the People's Republic of China*; 60 FR 22544 (May 8, 1995).

In this investigation, we have determined at this time that the exceptions described above do not apply. However, we have carefully reviewed and analyzed the information submitted by each respondent and find that the data pertaining to the fish farming stage of production cannot be used for purposes of the preliminary determination. The respondents' integrated production is a multifaceted process that poses unique issues, particularly as the fish growth portion of the process occurs in an uncontrolled, river environment. Despite respondents' cooperation in providing significant information, certain critical questions regarding the data remain. These questions relate to the seasonality of the production of fish, the narrowness of the six-month period of investigation in relation to the growth cycle of the fish,

and the possible impact of the yield ratios at various stages of production. The Department's ability to analyze these issues was particularly constrained given the large number of supplemental questionnaires issued in this case and the lack of sufficient time to fully evaluate the responses to those questionnaires and issue any follow-up requests for information.

In light of these concerns, we have not used the multi-stage factor data for the preliminary determination and have incorporated, instead, the value of the whole fish used at the filleting/processing stage of production. Subsequent to the preliminary determination, we will make every attempt to clarify the factors data for the fish farming stage of production that respondents have reported. If the questions raised can be addressed, we intend to revert to our standard methodology and use the factor information for the various stages. In that case, before the final determination, we will release to interested parties for comment a preliminary calculation sheet and analysis memorandum using that methodology.

The factors of production for the frozen fish fillet processing stage included: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We calculated NV based on factors of production, reported by each respondent, for materials, energy, labor, and packing. Where applicable, we deducted from each respondent's normal value the value of by-products sold during the POI. For a further discussion, see the analysis memorandum for each respondent. We valued the majority of input factors using publicly available published information as discussed in the ''Surrogate Country'' and ''Factor Valuations'' sections of this notice.

Factor Valuations

The Department will normally use publicly available information to value factors of production. However, in accordance with 19 CFR 351.408(c)(1), the Department's regulations also provide that where a producer sources an input from a market economy and pays for it in market economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. *See Lasko Metal Products* v. *United States*, 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994) (''*Lasko*'').

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Bangladeshi surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added surrogate freight costs to surrogate values using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States*, 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, *see Factor Valuation Memo.*

Certain raw material surrogate values were calculated using data from the *2000 Statistical Yearbook of Bangladesh* (''Bangladesh government statistics''), published by the Bangladesh Bureau of Statistics, Planning Division, Ministry of Planning. The information represents cumulative values for the period of 2000, for inputs classified according to the Harmonized Commodity Description and Coding System (''HS''). Unit values were initially calculated in takas. Since the values were not contemporaneous with the POI, we adjusted the values for inflation and converted them to U.S. dollars using the Department's exchange rate for Bangladesh.

Where Bangladeshi values were not available or were impracticable to use for raw materials inputs, we relied upon data from India, as adequate valuation data for each of these factors of production is available on the record from Indian sources. We also valued certain raw material inputs using weighted-average unit import values derived from the *Monthly Trade Statistics of Foreign Trade of India—Volume II—Imports* (''*Indian Import Statistics*'') for the time period April 2001–March 2002. As appropriate, we adjusted rupee-denominated values for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics* and excluded taxes.

The Department decided to value live fish using data from the financial statement of a Bangladeshi company that produces *Pangasius* fish, Gachihata Aquaculture Farms Limited (''Gachihata''). The data from Gachihata was specific to the price for sales of *Pangasius* fish, the input in question. In addition, while the financial report was not contemporaneous with the POI, it was for the fiscal year ending June 30, 2001, which is reasonably close to the POI. To calculate the surrogate value for live fish, the Department adjusted Gachihata's value for *Pangasius* fish in takas for inflation and converted the value to U.S. dollars, to arrive at a value of $1.23 USD/kg. *See Factor Valuation Memo* Exhibit 1 for CPI data, Exhibit 2 for exchange rate, and Exhibit 3 for the live fish calculation. *See* petitioners' December 18, 2002 submission, Exhibit 2, for Gachihata's complete financial statement.

In valuing live fish, the Department did not use the data from the financial statements of another Bangladeshi company, Dhaka Fisheries Ltd. (''Dhaka''), because although it appeared to produce Pangasius fish as its main fish product, the data represented the company's valuation of its fish inventory. As the Department prefers the use of actual sales data rather than inventory data, use of this source is less than ideal. *See* petitioners' December 18, 2002 submission, Exhibit 4, for Dhaka's complete financial statement.

The Department also did not use a proposed value for live fish in Bangladesh based on the financial statement of another Bangladeshi company submitted by the respondents, Beximco Fisheries Limited (''Beximco''), because it represented the company's valuation of its fish inventory, and it was not specific to the input in question. The data submitted by the respondents was listed as a value for ''fish'' in the financial report, without specifying the species. *See* respondents' December 9, 2002 submission, Exhibit 7. In response to a supplemental questionnaire, respondents stated that ''there is insufficient information on Beximco's financial statement to determine precisely whether or not the values for ''fish'' and ''fish feed'' are specific to the production of *Pangasius* fish.'' *See* respondents'' January 7, 2002 submission, page 12.

To value electricity, we used data from Bangladesh government statistics. The unit value was initially calculated in takas. Since the value was not contemporaneous with the POI, we adjusted the rate for inflation and converted the rate to U.S. dollars using the Department's exchange rate for Bangladesh. *See Factor Valuation Memorandum* at page 6.

As Bangladeshi values were not available or were impracticable for use to value water, we relied upon data from India as adequate valuation data for this factor of production is available on the record from Indian sources. To value water, we used data reported as the average water tariff rate for four cities in

India as reported in the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region* published in 1997. Because the data from this source was not contemporaneous with the POI, we adjusted the rate for inflation. *See Factor Valuation Memorandum* at page 6.

For domestic inland freight (truck), we used data from Bangladesh government statistics. The unit value was initially calculated in takas. Since the value was not contemporaneous with the POI, we adjusted the rate for inflation and converted the rate to U.S. dollars using the Department's exchange rate for Bangladesh.

Our treatment of by-products is in accordance with the Department's practice. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Steel Flat Products from the Peoples' Republic of China and accompanying Issues and Decision Memorandum*, 66 FR 49632 (September 28, 2001) at Comment 3. (''In the case of Angang and Benxi, we allowed recovery/by-product credits where the company provided information demonstrating that the recoveries/by-products were sold and/or reused in the production process.'') Where a respondent provided evidence that the by-product generated during the frozen fish fillet processing stage of the production was sold, we valued that by-product using a surrogate value. If a respondent claimed that it sold a by-product generated during the frozen fish fillet processing stage, but did not provide evidence that the by-product generated was sold, we could not include the by-product offset in the calculation. Several of the respondents reported that certain by-products were reintroduced into the production process. If the by-product was reintroduced into the production process at any stage, we granted the by-product offset in an amount no greater than the volume actually re-introduced into the production process during the POI. *See Factor Valuation Memo* at 7.

To value factory overhead, selling, general and administrative expenses (''SG&A''), and profit, we calculated surrogate financial ratios based on the financial information from Apex Foods, Limited, a Bangladeshi seafood processor. *See Factor Valuation Memorandum* at page 7.

For labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the Vietnam regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in September 2002 (*see http://ia.ita.doc.gov/wages/index.html*). The source of the wage rate data on the Import Administration's Web site can be found in the *Yearbook of Labour Statistics 2000*, International Labor Office (Geneva: 2000), Chapter 5B: Wages in Manufacturing.

Critical Circumstances

On November 15, 2002, petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigations of certain frozen fish fillets from Vietnam. In accordance with 19 CFR 351.206(c)(2)(i), because petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and, (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.'' Section 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the relevant statutory criteria have been satisfied, we considered: (i) The evidence presented by petitioners in their November 15, 2002 letter; (ii) new evidence obtained since the initiation of the less-than-fair-value (''LTFV'') investigation (*i.e.*, additional import statistics released by the U.S. Census Bureau); and (iii) the ITC's preliminary threat of injury determination.

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. *See Preliminary Determination of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (November 27, 2000). With regard to imports of certain frozen fish fillets from Vietnam, petitioners make no specific mention of a history of dumping for Vietnam. We are not aware of any antidumping order in the United States or in any country on certain frozen fish fillets from Vietnam. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from Vietnam pursuant to section 733(e)(1)(A)(i) of the Act.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known the exporter was selling certain frozen fish fillets at less than fair value, the Department normally considers margins of 25 percent or more for export price sales or 15 percent or more for constructed export price transactions sufficient to impute knowledge of dumping. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (October 19, 2001). The Department normally bases its preliminary decision with respect to knowledge on the margins calculated in the preliminary determination. Because the preliminary dumping margins for all exporters are greater than 25 percent, we find there is a reasonable basis to impute to importer knowledge of dumping with respect to all imports from Vietnam.

In determining whether there is a reasonable basis to believe or suspect an importer knew or should have known there was likely to be material injury by reason of dumped imports, the Department normally will look to the

preliminary injury determination of the Commission. If the Commission finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will normally determine a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61967 (November 20, 1997). If, as in this case, the Commission preliminarily finds threat of material injury, the Department will also consider: (1) The extent of the increase in the volume of imports of the subject merchandise during the critical circumstances period and (2) the magnitude of the margins in determining whether a reasonable basis exists to impute knowledge that material injury was likely. (*See Preliminary Determination of Sales at Less Than Fair Value; Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972 (June 11, 1997); *Preliminary Determination of Sales at Less Than Fair Value, Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, 62 FR 31967 (June 11, 1997); *Preliminary Determination of Sales at Less Than Fair Value, Certain Cut-To-Length Carbon Steel Plate from Ukraine*, 62 FR 31958 (June 11, 1997).

In determining whether there are ''massive imports'' over a ''relatively short period,'' pursuant to section 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the ''base period'') to a comparable period of at least three months following the filing of the petition (*i.e.*, the ''comparison period''). However, as stated in section 351.206(i) of the Department's regulations, if the Secretary finds importers, exporters, or producers had reason to believe at some time prior to the beginning of the proceeding that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

For the reasons set forth in the Critical Circumstances Memorandum, we find sufficient bases exist for finding importers, or exporters, or producers knew or should have known antidumping cases were pending on certain frozen fish fillet imports from Vietnam by May 2002 at the latest. Accordingly, we determined December 2001 through April 2002 should serve as the ''base period,'' while May 2002 through September 2002 should serve as the ''comparison period'' in determining whether or not imports have been massive in the comparison period.

In this case, the volume of imports of certain frozen fish fillets from Vietnam increased 72.91 percent from the critical circumstances base period (May 2002 to September 2002) to the critical circumstances comparison period (December 2001 to April 2002), nearly five times the level of increase needed to find ''massive imports.'' Furthermore, the preliminary dumping margins range from 37.94 to 61.88 percent for the mandatory respondents.

Based on the Commission's preliminary determination of threat of injury, the increase in the volume of imports of subject merchandise noted above, and the high margins from the preliminary dumping margins, the Department preliminarily finds that there is a reasonable basis to believe or suspect that the importer knew or should have known that there was likely to be material injury by means of sales at less than fair value of certain frozen fish fillets from Vietnam.

Pursuant to 19 CFR 351.206(h), we found imports increased by more than 15 percent for the respondent Nam Viet and for the Vietnam-wide entity as a whole, but did not increase by more than 15 percent for the respondents Agifish, Vinh Hoan, and CATACO. We therefore, find that imports of subject merchandise were massive in the comparison period for Nam Viet, but not for Agifish, Vinh Hoan, or CATACO.

The Department does not have the individual monthly shipment data necessary to determine if there were massive imports from the six non-selected respondents at this time. While the Department has, in the past, utilized the experience of the mandatory respondents to inform its judgement regarding the non-selected respondents, in this case, there are mixed results among the mandatory respondents. Moreover, the results for the majority of the mandatory respondents are at odds with the broader Customs data available to the Department. Consequently, the Department has determined that the most appropriate action would be to obtain producer-specific shipment data from the non-selected respondents to form the basis of its analysis.

In addition, we find that imports of subject merchandise were massive in the comparison period for the Vietnam-wide entity. *See* the Critical Circumstances Memorandum for more detailed information.

In summary, we find there is a reasonable basis to believe or suspect importers had knowledge of dumping and the likelihood of material injury with respect to imports of certain frozen fish fillets from Vietnam. We further find there have been massive imports of certain frozen fish fillets over a relatively short period from respondent Nam Viet. However, such imports have been found to be not massive over a relatively short period from Agifish, Vinh Hoan and CATACO. In addition, we find that imports of certain frozen fish fillets have been massive over a relatively short period from the Vietnam-wide entity.

Given the analysis summarized above, and described in more detail in the Critical Circumstances Memorandum, we preliminarily determine critical circumstances exist for imports of certain frozen fish fillets from Nam Viet and the Vietnam-wide entity. We will publish our preliminary critical circumstances decision with respect to Afiex, Cafatex, Da Nang, Mekonimex, QVD, and Viet Hai as soon as we have obtained the additional data.

In accordance with section 733(e)(2) of the Act, upon issuance of an affirmative preliminary determination of sales at less than fair value in the investigation with respect to imports of certain frozen fish fillets from Vietnam, the Department will direct the U.S. Customs Service (Customs) to suspend liquidation of all entries of certain frozen fish fillets from Vietnam (excluding entries from Agifish, Vinh Hoan, CATACO, Afiex, Cafatex, Da Nang, Mekonimex, QVD, and Viet Hai) that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determinations in these investigations. Customs shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins reflected in the preliminary determinations published in the **Federal Register**. The suspension of liquidation to be issued after our preliminary determination will remain in effect until further notice.

We will make a final determination concerning critical circumstances for all producers and exporters of subject merchandise from Vietnam when we make our final dumping determinations in this investigation, which will be 135 days after issuance of the preliminary dumping determination.

The weighted-average dumping margins are as follows:

CERTAIN FROZEN FISH FILLETS FROM VIETNAM

Producer/manufacturer/exporter	Weighted-average margin (percent)
Agifish	61.88
Vinh Hoan	37.94
Nam Viet	53.96
CATACO	41.06
Afiex	49.16
CAFATEX	49.16
Da Nang	49.16
Mekonimex	49.16
QVD	49.16
Viet Hai	49.16
Vietnam Wide Rate	63.88

Verification

As provided in section 782(I)(1) of the Act, we intend to verify all company information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** with respect to Agifish, Vinh Hoan, CATACO, Afiex, Cafatex, Da Nang, Mekonimex, QVD and Viet Hai. We will instruct U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds EP, as indicated above. With respect to Nam Viet and all other Vietnam exporters, the Department will direct the U.S. Customs Service to suspend liquidation of all entries of certain frozen fish fillets from Vietnam that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determinations in these investigations. Customs shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins reflected in the preliminary determinations published in the **Federal Register**. The suspension of liquidation to be issued after our preliminary determination will remain in effect until further notice. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination of sales at less than fair value. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain frozen fish fillets, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

In accordance with 19 CFR 351.301(c)(3), interested parties may submit publicly available information to value the factors of production for purposes of the final determination within 40 days after the date of publication of this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, whose content is limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. *See* 19 CFR 351.309(c)(1)(i); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: January 24, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–2331 Filed 1–30–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-507–501; C-507–601]

Certain In-Shell Pistachios (C-507–501) and Certain Roasted In-Shell Pistachios (C-507–601) from the Islamic Republic of Iran: Final Results of New Shipper Countervailing Duty Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty New Shipper Reviews.

SUMMARY: On September 4, 2002, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results in the countervailing duty (CVD) new shipper reviews of certain in-shell pistachios and certain in-shell roasted pistachios from Iran.

The net subsidy rates in these *Final Results* differ from those of the *Preliminary Results*. The revised final net subsidy rates for the reviewed companies are listed below in the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: January 31, 2003.

FOR FURTHER INFORMATION CONTACT: Darla Brown at (202) 482–2849 or Alicia Kinsey (202) 482–4793, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 2002, the Department published the preliminary results of the new shipper reviews on certain in-shell pistachios and certain in-shell roasted pistachios from Iran. *See Certain In-Shell Pistachios (C-507–501) and Certain Roasted In-Shell Pistachios (C-507–601) from the Islamic*

Republic of Iran: Preliminary Results of New Shipper Countervailing Duty Reviews, 67 FR 56534 (September 4, 2002) (*Preliminary Results*). In accordance with 19 CFR 351.214, these new shipper reviews cover only those producers or exporters for which a review was specifically requested. Accordingly, these new shipper reviews cover Tehran Negah Nima Trading Company (Nima) and nine programs.

We invited interested parties to comment on the *Preliminary Results*. On December 16, 2002, we received comments from interested parties. On December 23, 2002, we received rebuttal comments from interested parties. At the request of the Department, respondents submitted revised case brief and rebuttal comments on January 8, 2003, and petitioners submitted revised rebuttal comments on January 10, 2003 that removed new factual information that was included in their initial submissions. A public hearing was held at the Department of Commerce on January 13, 2003.

Scope of the Reviews

In-Shell Pistachios

The product covered by this new shipper review is in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells and edible meat, as currently classifiable in the Harmonized Tariff Schedules of the United States (HTSUS) under item number 0802.50.20.00. The written description of the scope of this proceeding is dispositive.

Roasted In-Shell Pistachios

The product covered by this new shipper review is all roasted in-shell pistachio nuts, whether roasted in Iran or elsewhere, from which the hull has been removed, leaving the inner hard shells and the edible meat, as currently classifiable in the HTSUS under item number 0802.50.20.00. The written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to these new shipper reviews are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) dated January 24, 2003, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in room B-099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://www.ia.ita.doc.gov, under the heading ''Federal Register Notices.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Tariff Act of 1930, as amended (the Act), we have calculated individual rates for the company under these new shipper reviews. For the period October 1, 2000, to September 30, 2001, we determine the net subsidy rates for the company under these new shipper reviews to be as follows:

CERTAIN RAW IN-SHELL PISTACHIOS

Producer/Exporter	Net Subsidy Rate
Tehran Negah Nima Trading Company, Inc.	23.18 percent ad valorem

CERTAIN ROASTED IN-SHELL PISTACHIOS

Producer/Exporter	Net Subsidy Rate
Tehran Negah Nima Trading Company, Inc.	21.68 percent ad valorem

Bonding is no longer permitted to fulfill security requirements for shipments from Tehran Negah Nima Trading Company, Inc. (Nima) of certain raw in-shell pistachios and certain roasted in-shell pistachios from Iran entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these new shipper reviews. As Nima is the exporter but not the producer of subject merchandise, the Department's final results will apply to certain raw in-shell pistachios and certain roasted in-shell pistachios from Iran exported by Nima and produced by Maghsoudi Farms. *See* 19 CFR 351.107(b).

The following deposit requirements will be effective upon publication of this notice of final results of these new shipper reviews for all shipments of certain raw in-shell pistachios and certain roasted in-shell pistachios from Iran entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(B) of the Act: (1) For the merchandise exported by Nima and produced by Maghsoudi Farms, the cash deposit rates will be equal to the net subsidy rates listed above; (2) for subject merchandise exported by Nima but not produced by Maghsoudi Farms, the cash deposit rate will be the ''all others'' rate established in the original CVD investigations. *See Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: In-Shell Pistachios from Iran*, 51 FR 8344 (March 11, 1986) and *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Roasted In-Shell Pistachios from Iran*, 51 FR 35679 (October 7, 1986); (3) if the exporter is not a firm covered in these new shipper reviews, a prior review, or the CVD investigations, but the manufacturer is, the cash deposit rates will be the rates established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor manufacturer is a firm covered in these new shipper reviews or the original investigations, the cash deposit rates will continue to be the ''all others'' rates established in the original CVD investigations.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: January 24, 2003.

Faryar Shirzad,

Assistant Secretaryfor Import Administration.

Appendix I - Issues and Decision Memorandum

Methodology and Background Information

Analysis of Programs

I. Use of Facts Available
II. Programs Determined to Confer Subsidies
A. Provision of Fertilizer and Machinery
B. Provision of Water and Irrigation equipment
C. Provision of Credit
D. Technical Support from the GOI
E. Duty Refunds on Imported Raw or Intermediate Materials Used in the Production of Exported Goods
F. Program to Improve Quality of Exports of Dried Fruit
III. Program Determined to Be Not Countervailable
A. Price Supports and/or Guaranteed Purchase of All Production
IV. Programs Determined to Be Not Used
A. Export Certificate Voucher Program
B. Tax Exemptions
V. Total Ad Valorem Rate
VI. Analysis of Comments
Comment 1: Discovery of Additional Farm Does Not Render Nima Ineligible for a New Shipper Review
Comment 2: Nima's Sale of Subject Merchandise to the United States Is Bona Fide
Comment 3: Application of Adverse Facts Available to Grower-Related Subsidies
Comment 4: Undisclosed Benefits Relating to Maghsoudi Farms' Land Title
Comment 5: Application of Adverse Facts Available to the Price Supports and/or Guaranteed Purchase of Production Program
Comment 6: Application of Adverse Facts Available to the Provision of GOI Credit Program
Comment 7: Application of Adverse Facts Available to the Provision of Fertilizer and Machinery Program
Comment 8: Application of Adverse Facts Available to the Tax Exemption Program
Comment 9: Application of Adverse Facts Available to the Water and Irrigation Program
Comment 10: Application of Adverse Facts Available to the Technical Assistance Program
Comment 11: Application of Adverse Facts Available to the Program for Imported Raw or Intermediate Materials Used in the Production of Exported Goods
Comment 12: Application of Adverse Facts Available to the Program to Improve Quality of Exports of Dried Fruit
Comment 13: Application of Adverse Facts Available to the Export Certificate Voucher Program
Comment 14: Application of a Combination Rate Limited to Production Exported by Nima from the Single Farm Disclosed by Maghsoudi
Comment 15: Completeness and Accuracy of Data Reported by Nima
Comment 16: Reliability of Sales Information Submitted by Fallah Pistachios

[FR Doc. 03–2330 Filed 1–30–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare an Environmental Impact Statement for the Digital Multi-Purpose Range Complex at Fort Benning, GA

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: Fort Benning proposes to construct and operate a digital multi-purpose range complex (DMPRC). The DMPRC would provide a state-of-the-art range facility to meet the Army's training needs for soldiers to conduct gunnery courses in a realistic training environment by expanding the installation's training capacity. The current facilities (ranges) on Fort Benning do not meet modern gunnery standards and are inadequate to support full gunnery training and qualifications, requiring either training to modified standards or transporting units from Fort Benning to Fort Stewart, a distance of approximately 200 miles, for the required training. The project would include construction of the firing and target area, installation of fiber optics, construction of support facilities, upgrading of associated existing roadways, and construction of utilities to support the site. The proposed DMPRC would ensure soldiers are fully combat ready. The DMPRC would provide a suitable training range to fully support future needs of Army Transformation. Incorporating modern technology and range design into the DMPRC will allow Intermediate Brigade Combat Teams at Fort Benning to train more realistically and efficiently.

DATES: To be considered in the Draft EIS, comments and suggestion should be received not later than March 3, 2003.

ADDRESSES: Please direct written comments concerning the scope of the Digital Multi-Purpose Range Complex to Mr. Archibald Caldwell, Assistant Range Officer, Directorate of Training, U.S. Army Infantry Center, Attn: ATZB–OTR, Fort Benning, GA, 31905–5122 or e-mail to *Caldwella@benning.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Archibald Caldwell by telephone at (706) 545–3446 or by e-mail to *Caldwella@benning.army.mil.*

SUPPLEMENTARY INFORMATION: Fort Benning is the ''Home of the Infantry'' and conducts Program of Instruction training for Mechanized Infantry Students and sustainment training for elements of Mechanized Infantry Division units. Today's Army includes Mechanized Infantry units with both M2 Bradley Fighting Vehicles (BFVs) and M1A1 and M1A2 Abrams tanks. Although the Army is undergoing a transformation, Abrams tanks and BFVs will play vital roles in Army operations for a significant period of time (20–30 years). In addition to Infantry School training, Fort Benning is the home of several Forces Command deployable units and approximately 44 tank crews and 84 BFV crews. These assigned units are stationed at Fort Benning and must maintain their proficiency through required gunnery training. Consequently, Fort Benning needs a range that will accommodate all weapon systems that are relevant to ground warfare.

BFV crews and Abrams tank crews train for combat readiness by practicing and qualifying at different skill levels, known as gunnery Tables I through XII. Existing facilities on Fort Benning do not meet full training standards for BFV or Abrams tank training due to inadequate firing distance to the targets and width between the firing lanes. Currently Hastings Range (the existing facility) can only support a modified version of Table XII gunnery qualification training for the BFV and Abrams tank in a non-digitized environment. The digital component of the proposed DMPRC will enhance training by providing real time monitoring to increase safety and by providing feedback for after action reviews.

The proposed DMPRC would support Army Transformation by providing a quality range that would meet the training requirements of the current operational assets (Legacy Forces) as

well as support the additional training requirements of the Intermediate Armored Vehicles to be used by the Intermediate Brigade Combat Teams.

Alternatives to be considered include:

1. No Action—Continue to conduct some modified gunnery training at Fort Benning and conduct remainder of gunnery training at existing ranges at Fort Stewart.

2. Transport to Fort Stewart (transport troops from Fort Benning to existing ranges at Fort Stewart to conduct all Table XII gunnery and related training).

3. Proposed Action—Conduct and operate DMPRC in Fort Benning Training Compartment D–13.

4. Construct DMPRC in Training Compartment K–21 on Fort Benning.

Scoping: A mailing list has been prepared for public scoping and review throughout the process of preparation of a draft Environmental Impact Statement (EIS). This list includes local, state, and Federal officials having jurisdictional expertise or other interests in the project; concerned citizens; conservation groups; and local news media. Comments received as a result of this notice will be used to assist the Army in identifying additional significant resources to be evaluated, as well as potential impacts to the quality of the human and natural environments. Individuals or organizations may participate in the scoping process by submitting written comments or attending a public scoping meeting. The time and location of the scoping meeting will be announced in the Columbus Ledger Enquirer, on the Fort Benning Web site (*http://www.benning.army.mil/EMD/index.htm*), and by public notice sent to parties on the mailing list. Comments concerning the scope of the EIS may also be submitted to the address listed above.

Robert L. Hope,

Chief of Staff, Installation Management Agency, Southeast Region.

[FR Doc. 03–2317 Filed 1–30–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Chemosensitizing Agents Against Chloroquine Resistant P. Falciparum and Methods of Making and Using Thereof

AGENCY: Department of the Army, DoD.

ACTION: Notice.

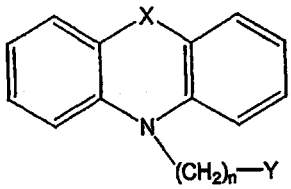
SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 09/849,400 entitled ''Chemosensitizing Agents Against Chloroquine Resistant P. Falciparum and Methods of Making and Using Thereof,'' filed May 7, 2001. Foreign rights are also available (PCT/US01/14574). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

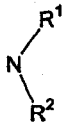
ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

BILLING CODE 2316–08–M

SUPPLEMENTARY INFORMATION: A compound having the structural formula



or pharmaceutically acceptable salt or prodrug thereof, wherein X is a substituted or unsubstituted alkyl or a heteroatom; n is 4,5 or 6; Y is a substituted or unsubstituted alkyl, cycloalkyl, heterocycloalkyl, aryl, heteroaryl, or 

wherein R1 and R2 are each independently, H, a heteroatom, substituted or unsubstituted alkyl, cycloalkyl, heterocycloalkyl, aryl, or heteroaryl; and wherein each ring structure are independently substituted or unsubstituted is disclosed. Also disclosed are chemosensitizing agents and methods of modulating, attenuating, reversing, or affecting a cell's or organism's resistance to a given drug such as an antimalarial.

Luz D. Ortiz
Army Federal Register Liaison Officer

[FR Doc. 03–2316 Filed 1–30–03; 8:45 am]
BILLING CODE 3710–08–C

DEPARTMENT OF DEFENSE

Department of the Army; U.S. Army Corps of Engineers

Intent To Prepare a Joint Environmental Impact Statement and Environmental Impact Report for North Delta Improvements Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) and California Department of Water Resources (DWR) are proposing the North Delta Improvements Project (NDIP). The project would implement flood control improvements in the northern Sacramento-San Joaquin Delta, principally on and around Staten Island, Dead Horse Island, and McCormack Williamson Tract, in a manner that would benefit aquatic and terrestrial habitats and alleviate flood-related problems in the North Delta area.

Pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), the Corps and DWR, respectively, are initiating the NDIP Feasibility Study for a portion of the Sacramento-San Joaquin Delta, and plan to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the proposed NDIP. Development of the Feasibility Report will be closely coordinated with development of the draft EIS/EIR, which will document existing conditions, project actions, and project effects. Responsible and trustee agencies under CEQA may include: California Department of Fish and Game; The Reclamation Board of the State of California; State Lands Commission; California Regional Water Quality Control Boards; State Water Resources Control Board; California Department of Transportation; California Department of Conservation; and California Department of Boating and Waterways.

DATES: Scoping meetings will be held on February 19, 2003, 6–8 PM, Jean Harvie Community Center, Walnut Grove, CA, and February 20, 2003, 1:30–4 PM, Bonderson Building, Sacramento, CA. If special assistance is required, please contact Gwen Knittweis (see information below) as far in advance of the workshops as possible to enable DWR to secure the needed services. If a request cannot be honored, the requestor will be notified.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS/EIR should be addressed to: Ms. Becky Wren, Environmental Manager, U.S. Army Corps of Engineers, CESPK–PD–R, 1325 J Street, Sacramento, CA 95814–2922, telephone: (916) 557–5162, e-mail address: *rebecca.wren@usace.army.mil*, or Ms. Gwen Knittweis, North Delta Project Manager/Engineer, California Department of Water Resources, PO Box 942836, Sacramento, CA 94236–0001, telephone: (916) 653–2118, e-mail address: *gwenk@water.ca.gov*. Also, *http://ndelta.water.ca.gov* contains further project information.

SUPPLEMENTARY INFORMATION:

1. Background

A resolution adopted by the Senate Committee on Public Works on June 1, 1948, requests a review of reports submitted on the Sacramento River, California, to determine if it is advisable to modify existing projects in any way, particularly to (1) provide for the closing of Georgiana Slough and (2) eliminate tidal flow into lower Sherman Island, Frank's Tract, the area south of Dutch Slough, and similar areas subject to tidal inundation, so that the tidal prism of the Sacramento-San Joaquin Delta (Delta) may be reduced to a minimum.

A resolution adopted by both the Senate and House Committee on Public Works on January 31, 1961, and June 7, 1961, respectively, requests a review of Delta reports to determine the advisability of measures to preserve scenic values and to preserve and enhance recreational and related opportunities in project areas in the Delta region, consistent with the primary flood protection purposes of existing and proposed levees and channel improvements. Study authority is also contained in Section 205 of the Flood Control Act of 1950, which authorized the Secretary of the Army to make preliminary examinations and surveys for flood protection and allied purposes in the Delta.

2. Proposed Action

The Corps and DWR are conducting a study on flood control system improvements that would benefit aquatic and terrestrial habitats and alleviate flood-related problems in the North Delta. This study will result in a feasibility report.

3. Project Background

The Sacramento-San Joaquin estuary provides water for a wide range of beneficial uses, including drinking water for millions of Californians, irrigation water for millions of acres of agricultural land, an spawning and rearing habitat for aquatic organisms. The estuary also provides a permanent or seasonal home for a large variety of native plants and wildlife. Over the past several decades increase in the demand for the estuary's resources have increased conflict between the needs of water users and efforts to sustain the estuary's aquatic ecosystem and support recovery of listed fish.

The North Delta area of the estuary faces the need to balance the same issues as the larger estuary, particularly with regard to flood control and ecosystem restoration. The Sacramento-San Joaquin Delta is the focus of complex issues involving water supply, water quality, flood control requirements, and the environment. Of particular concern to this project, runoff from the Sacramento, San Joaquin, Mokelumne, and Cosumnes rivers, as well as from the South Sacramento Stream Group (Morrison Creek, Florin Creek, Union House Creek, Elder Creek, and North Beach-Stone Lakes area) during large storm events has caused flooding in the North Delta. Additionally, the degradation and loss of aquatic and terrestrial habitat are a primary concern in the North Delta.

The joint state-federal CALFED Bay-Delta Program (CALFED) was formed to develop and implement a long-term comprehensive plan to restore ecological health and improve water management for beneficial uses of the Bay-Delta system. The CALFED Programmatic EIS/EIR (PEIS/EIR) and Programmatic Record of Decision (ROD) were issued in July and August 2000, respectively. The CALFED ROD identifies, as a component of conveyance actions, the NDIP, which is to design and construct floodway improvements in the North Delta (such as on the lower Mokelumne River and Georgiana Slough) to provide conveyance, flood control, and ecosystem benefits.

The CALFED ROD also identifies other improvements to the North Delta, including changes to the Delta Cross Channel (DCC) and an evaluation of a through-Delta facility on the Sacramento River. The NDIP will not be addressing these improvements.

4. Need for the Project

Flood control improvements are needed to reduce flood damage to land uses, infrastructure, and the Bay-Delta ecosystem resulting from overflows caused by insufficient channel capacities and catastrophic levee failures within the NDIP study area, including the Point Pleasant area. The existing and historical conditions that warrant flood control and ecosystem quality improvements are described below.

Flood Control—The Mokelumne and Cosumnes rivers and the Morrison Creek Stream group do not have sufficient channel capacity to safely convey 100-year peak flows from Sierra Nevada watersheds through the North Delta to the San Joaquin River. Channel capacities for the north and south forks of the Mokelumne River are approximately 40,000 cubic feet per second (cfs). The combined channel capacity required to safely convey flows from a 100-year flood event would be 90,000 cfs. The lack of channel capacity, combined with constrictions in vulnerable areas (*e.g.,* bridge abutments) and an increase in sedimentation levels over time (which reduces channel capacity), makes a number of areas in the North Delta vulnerable to flooding. Since 1955, several areas have been flooded after levees were either breeched or overtopped, including the Point Pleasant area, McCormack-Williamson Tract, Dead Horse Island, New Hope Tract, Brack and Canal

Ranch Tracts, and the Franklin Pond area. The potential for flooding also threatens important public facilities and institutions in the North Delta area, including Interstate 5, the Union Pacific Railroad line, and the Rio Cosumnes Correctional Center.

The North Delta is also susceptible to levee failure during peak flows. Levees on McCormack-Williamson Tract and Dead Horse Island frequently have been overtopped or have failed during large storm events, and many other levees have been subject to structural failure during past storm events. Failure of Bay-Delta levees could:

(1) Result in flooding of Delta communities, farmland, habitat, key roads and highways;

(2) Expose adjacent islands to increased wave action, increased seepage, and risk of levee erosion;

(3) Affect water supply distribution systems; or

(4) Affect flow patterns, potentially resulting in adverse impacts on water quality if the levee breach is not repaired.

Ecosystem Quality—Degradation and the loss of habitats that support various life stages of aquatic and terrestrial biota are a primary concern in the North Delta. These habitat changes have many causes, including sedimentation from hydraulic mining, habitat conversion, dredging and water diversions. Thirty years of hydraulic mining (in the 19th century) in the river drainages along the eastern edge of the Central Valley have increased sedimentation levels in downstream watercourses, degrading valuable aquatic habitat. In addition, many of the seasonally-inundated lands in the Bay-Delta system that historically provided habitat to a variety of bird and animal species have been converted to agricultural, industrial, and urban uses. Levees constructed to protect lands in the Delta from inundation eliminated fish access to shallow overflow areas. Dredging to construct levees eliminated the tule bed habitat along the river channels. Upstream water development and use, depletion of natural flows by local diverters, and the export of water from the Bay-Delta system have altered hydrodynamic processes. This alteration has resulted in changed seasonal patterns of inflow, reduced Delta outflow, and diminished natural variability of flows into and through the Bay-Delta system. Facilities constructed to support water diversions may contribute to straying or direct losses of fish and can increase exposure of juvenile fish to predation.

5. Purpose of the Project

The purpose of the NDIP is to implement flood control improvements in a manner that benefits aquatic and terrestrial habitats.

To be consistent with the overall goals of CALFED, the NDIP would also be compatible with and supportive of the other programmatic elements outlined in the PEIS/EIR. Therefore, to the extent that meeting other goals is consistent with the primary purpose of the NDIP, the Corps and DWR will incorporate project elements that support the following CALFED objectives:

(a) Improve conveyance to improve water supply reliability at the South Delta export pumps.

(b) Improve conveyance to facilitate reductions in salinity levels in the San Joaquin River and improve the quality of the water at the South Delta export pumps.

(c) Recommend ecosystem restoration and science actions in the project area consistent with the CALFED Ecosystem Restoration Program's strategic goals and objectives.

(d) Improve levee stability and integrity in the NDIP project area.

(e) Minimize the conversion of prime, statewide-important, and unique farmlands to NDIP uses.

(f) Minimize impacts to recreational use in the NDIP project area.

6. Project Area

The NDIP project area is approximately 197 square miles. The project area defines the area within which DWR is considering alternatives for flood control and restoration actions. Direct (on-the-ground) impacts of constructing the alternatives will be evaluated within the project area. However, this area does not represent the limits of the area considered during impact analysis.

7. Alternatives

The NDIP is currently in the preliminary design phase, meaning that alternatives for project actions have not yet been fully defined. However, the team has a list of project design concepts that will be run through a hydraulic model to test their feasibility. The draft concepts include:

(a) *Whole/Partial Island Flood Detention Areas*—Whole and partial island flood detention areas have been proposed for Staten Island, Dead Horse Island, and McCormack-Williamson Tract. This concept would entail strengthening the landward sides of an island's levees and installing weirs and pumps to allow flood control operators to divert water on and off the island from swollen rivers during peak flood flows.

(b) *Parallel Levee Bypasses*—The parallel levee concept would create a controlled flood bypass by constructing a second levee inland from an existing levee and installing weirs at either end of the new bypass area, allowing flood control operators to divert water into the bypass to alleviate peak flood flows. This concept could include the placement of pumps at the downstream end of the bypass in order to return floodflows to the main channel.

(c) *Steback Levees*—Under this concept, a second levee, or setback levee, would be built inland from the existing levee, and the existing levee would be removed or breached in order to permanently widen the existing floodplain and create more capacity in the river corridor.

(d) *Bridge Replacement*—Historically, many bridges in the Delta have constricted channels as a result of their large concrete abutments and pilings. In addition, floating debris often gets entangled on the low bridges during flood events and continues to collect, forming a dam, which restricts flow and can cause upstream flooding. Bridge replacement in the North Delta area would include redesigning bridges with smaller abutments and pilings. Such bridge redesign would place less concrete in the channel, increasing channel capacity. Redesigned bridges would span rivers at a higher elevation, facilitating debris passage, and avoiding or minimizing debris buildup during flood events.

(e) *Maintenance Dredging*—Maintenance dredging has been proposed on the north and south forks of the Mokelumne River to increase channel capacity.

8. Scoping Process

(a) The Corps and DWR invites comments from State and Federal agencies with respect to the scope and content of the environmental information in the proposed EIS/EIR that are within each agency's statutory responsibilities in connection with the proposed NDIP. In addition, written comments from interested parties regarding the scope and content of the environmental documents are invited to ensure that the full range of alternatives and issues related to the proposed project are identified. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public. Comments should be submitted to the previously mentioned Corps or DWR

contact at the earliest possible date, but no later than February 28, 2003.

(b) The draft EIS/EIR will contain an analysis of the physical and biological impacts to the environment rising from the proposed project and alternatives to the project. In addition, it will address the cumulative impacts of implementation of alternatives in conjunction with other past, present, and reasonably foreseeable future actions.

Potential environmental effects could include, but are not limited to, the following: permanent and temporary effects on bodies of water and wetlands associated with the construction of flood control structures and flood control and ecosystem improvements; effects are rare and sensitive biological plant and animal species from construction of flood control structures and flood control and ecosystem improvements; short term effects on water quality associated with excavation and dredging in bodies of water; short term effects on air quality during construction from the operation of heavy equipment; and effects on cultural resources during earth moving operations associated with the construction of flood control structures and flood control and ecosystem improvements.

(c) DWR will consult with the State Historic Preservation Officer to comply with the National Historic Preservation Act, and the Corps will consult with the U.S. Fish and Wildlife Service to provide a Fish and Wildlife Coordination Act Report as an appendix to the EIS/EIR.

(d) A 30-day public review period will be provided for individuals and agencies to review and comment on the draft EIS/EIR. All interested parties are encouraged to respond to this notice and provide a current address if they wish to be notified of the EIS/EIR circulation.

(e) Scoping is an early and open process designed to determine the issues and alternatives to be addressed in a draft EIS/EIR. Two public scoping meetings are scheduled (see **DATES**).

9. Availability

The draft EIS/EIR is scheduled to be available for review and comment in the summer of 2004.

Dated: January 24, 2003.

Mark W. Connelly,

LTC, EN, Acting Commander.

[FR Doc. 03–2318 Filed 1–30–03; 8:45 am]

BILLING CODE 3710–EZ–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 1, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 27, 2003.

John D. Tressler,

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

Office of Elementary and Secondary Education

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Title: Indian Education Formula Grants to Local Educational Agencies (LEAs) (KA).

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 11240.

Burden Hours: 17340.

Abstract: Application for funding under the Indian Education Formula Grant Program to Local Educational Agencies. The application is used to determine applicant eligibility, amount of award, and appropriateness of project services for Indian students to be served. The application also includes the Indian Student Eligibility Certification Form that LEAs have parents complete to certify Indian student eligibility for the program.

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 Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–2260 Filed 1–30–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 3, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Lauren.Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: January 27, 2003.

John D. Tressler,

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

Office of the Undersecretary

Type of Review: New Collection.

Title: Evaluation of Title I Accountability Systems and School Improvement Efforts (TASSIE) (SC).

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 100.

Burden Hours: 100.

Abstract: The purpose of the Evaluation of Title I Accountability Systems and School Improvement Efforts (TASSIE) is to examine and evaluate ESEA Title I accountability systems and school improvement efforts in a nationally representative sample of districts and schools. This project addresses both the implementation of accountability practices in 1,300 school districts and 740 schools. The state data collection component of TASSIE will provide data on the impact of state policies that impact district and school responses to accountability requirements.

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 directed to her 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 Jackie Montague at her e-mail address *Jackie.Montague@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.

Office of the Chief Financial Officer

Type of Review: Revision of a currently approved collection.

Title: U.S. Department of Education Budget Information—Non-Construction Programs Form and Grant Performance Report Form (SC).

Frequency: Annually Other: Once, only per application for new awards (524).

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary), Businesses or other for-profit, Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 23250.

Burden Hours: 421875.

Abstract: This collection is necessary for the award and administration of discretionary and formula grants. The collections specific to ED forms are part of the reinvented process ED used for awarding multi-year discretionary grants. The new process substantially increases flexibility of the grant process by enabling all years of multi-year budget to be negotiated in at the time of initial award (Budget Information Non-Construction Programs, ED FORM 524). The U.S. Department of Education Grant Performance Report (ED Form 524B) is one of the tools used by ED staff as a monitoring tool in the Post-Award and Grant Administration functions.

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 directed to her 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 Jackie Montague at her e-mail address *Jackie.Montauge@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–2261 Filed 1–30–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Notice of Members

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to list the members of the National Advisory Committee on Institutional Quality and Integrity (National Advisory Committee) and to give the public the opportunity to nominate candidates for the positions to be vacated by those members whose terms will expire on September 30, 2003. This notice is required under Section 114(c) of the Higher Education Act (HEA), as amended.

What Is the Role of the National Advisory Committee?

The National Advisory Committee is established under Section 114 of the HEA, as amended, and is composed of 15 members appointed by the Secretary of Education from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and type of institutions of higher education.

The National Advisory Committee meets at least twice a year and provides recommendations to the Secretary of Education pertaining to:

- The establishment and enforcement of criteria for recognition of accrediting agencies or associations under subpart 2 of part H of Title IV, HEA.

• The recognition of specific accrediting agencies or associations.

• The preparation and publication of the list of nationally recognized accrediting agencies and associations.

As the Committee deems necessary or on request, the Committee also advises the Secretary about:

• The eligibility and certification process for institutions of higher education under Title IV, HEA.

• The development of standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies in order to establish the interim eligibility of those institutions to participate in Federally funded programs.

• The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.

• Any other advisory functions relating to accreditation and institutional eligibility that the Secretary may prescribe.

What Are the Terms of Office for Committee Members?

The term of office of each member is 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed is appointed for the remainder of the term. A member may be appointed, at the Secretary's discretion, to serve more than one term.

Who Are the Current Members of the Committee?

The current members of the National Advisory Committee are:

Members With Terms Expiring 9/30/03

• Mr. David Johnson, III, Student Member, Brigham Young University and University of Utah.

• Dr. Estela R. Lopez, Vice Chancellor for Academic Affairs, Connecticut State University System Office.

• Dr. Ronald F. Mason, Jr., President, Jackson State University, Mississippi.

• Dr. Eleanor P. Vreeland, Chairman, Barland Educational Associates, Florida.

• Dr. John A. Yena, President, Johnson & Wales University, Rhode Island.

Members With Terms Expiring 9/30/04

• Dr. Robert C. Andringa, President, Council for Christian Colleges and Universities, Washington, DC.

• Dr. Lawrence W. Burt, Director, Student Financial Services, University of Texas at Austin.

• Dr. Lawrence J. DeNardis, President, University of New Haven, Connecticut.

• Mr. Steven W. McCullough, Executive Director, Iowa Student Loan Liquidity Corporation.

• Dr. Laura Palmer Noone, President, University of Phoenix, Arizona.

Members With Terms Expiring 9/30/05

• Honorable Randolph A. Beales, Former Attorney General of Virginia, Attorney at Law, Christian & Barton, LLP, Virginia.

• Dr. Karen A. Bowyer, President, Dyersburg State Community College, Tennessee.

• Dr. Gerrit W. Gong, Assistant to the President, Brigham Young University, Utah.

• Mr. Donald R. McAdams, President, Center for Reform of School Systems, Texas.

• Dr. George A. Pruitt, President, Thomas A. Edison State College, New Jersey.

How Do I Nominate an Individual for Appointment as a Committee Member?

If you would like to nominate an individual for appointment to the Committee, send the following information to the Committee's Executive Director:

• A copy of the nominee's resume; and

• A cover letter that provides your reason(s) for nominating the individual and contact information for the nominee (name, title, business address, and business phone and fax numbers).

The information must be sent by May 1, 2003 to the following address: Bonnie LeBold, Executive Director, National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, room 7007, MS 7592, 1990 K Street, NW., Washington, DC 20006.

How Can I Get Additional Information?

If you have any specific questions about the nomination process or general questions about the National Advisory Committee, please contact Ms. Bonnie LeBold, the Committee's Executive Director, telephone: (202) 219–7009, fax: (202) 219–7008, e-mail: *Bonnie.LeBold@ed.gov* between 9 a.m. and 5 p.m., Monday through Friday.

Authority: 20 U.S.C. 1011c.

Dated: January 27, 2003.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 03–2290 Filed 1–30–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos: 84.031A, 84.031T, 84.031N and 84.031W]

Office of Postsecondary Education; Strengthening Institutions (SIP), American Indian Tribally Controlled Colleges and Universities (TCCU), and Alaska Native and Native Hawaiian-Serving Institutions (ANNH) Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2003

Purpose of Programs: The SIP, TCCU, and ANNH Programs are all authorized under Title III, Part A of the Higher Education Act of 1965, as amended (HEA). These programs will be referred to collectively in this notice as the ''Title III, Part A Programs.'' Each provides grants to eligible institutions of higher education (IHEs) to enable them to improve their academic quality, institutional management, and fiscal stability, and increase their self-sufficiency.

Eligible Applicants: To qualify as an eligible institution under any of the programs included in this notice, an accredited or preaccredited institution must, among other requirements, have a high enrollment of needy students, and its Educational and General (E&G) expenditures per full-time equivalent (FTE) undergraduate student must be low in comparison with the average E&G expenditures per FTE undergraduate student of IHEs that offer similar instruction. The complete eligibility requirements are found in 34 CFR 607.2–607.5. The regulations may also be accessed by visiting the following Department of Education Web site: *http://www.ed.gov/legislation/FedRegister*

Notes: 1. A grantee under the Developing Hispanic-Serving Institutions (HSI) Program, authorized under Title V of the HEA, may not receive a grant under any Title III, Part A Program. Further, an HSI Program grantee may not give up that grant in order to receive a grant under any Title III, Part A Program. Therefore, a current HSI grantee may not apply for a grant under any Title III, Part A Program in FY 2003.

2. An IHE that does not fall within the limitation described in NOTE 1 may apply for a FY 2003 grant under all Title III, Part A Programs for which it is eligible, as well as under the HSI Program. An applicant may receive only one grant.

Applications Available: January 31, 2003.

Deadline for Transmittal of Applications: March 5, 2003.

Deadline for Intergovernmental Review: May 5, 2003.

Estimated Available Funds: The Administration has requested $76.275

million for the SIP, $18.130 million for the TCCU Program, and $6.734 million for the ANNH Program for FY 2003. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for these programs.

Estimated Range of Awards: $330,000–$365,000 per year for 5-year development grants under SIP; $30,000–$35,000 for 1-year planning grants under the Title III, Part A Programs; $800,000–$1,200,000 for 1-year construction and renovation grants and $347,000–$395,000 per year for 5-year development grants under the TCCU Program; and $300,000–$350,000 per year for 5 year development grants under the ANNH Program.

Estimated Average Size of Awards: $362,000 per year for 5-year development grants under SIP; $32,667 for 1-year planning grants under the Title III, Part A Programs; $1,182,000 per grant for 1-year construction and renovation grants and $380,000 per year for 5-year development grants under the TCCU Program; and $328,000 per year for 5-year development grants under the ANNH Program. Development grants monies may be used for a variety of allowable activities. Construction funds may be used solely for construction, maintenance, renovation and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services. We will refer to grants to carry out construction as construction grants.

Estimated Number of Awards: 15 planning grants under the Title III, Part A Programs; 58 development grants under the SIP; 7 construction and renovation grants and 1 development grant under the TCCU Program; and 4 development grants under the ANNH Program.

Note: The Department is not bound by any estimates in this notice. Applicants should periodically check the Title III, Part A Web site for further information on these programs. The address is: *http://www.ed.gov/offices/OPE/HEP/idues/title3a.html*

Project Period: 60 months for development grants, 12 months for planning grants and 12 months for construction grants.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit your narrative to the equivalent of no more than 100 pages for the individual development grant, 140 pages for the cooperative arrangement development grant and 30 pages for the planning grant, using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles and headings. You may single space footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to the application cover sheet (ED 424), the one-page abstract, the assurances and certification forms, and the Cooperative Arrangement Form (ED–851A–1). The page limit does, however, apply to all remaining parts of the application.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Special Funding Considerations: In tie-breaking situations described in 34 CFR 607.23, the Title III, Part A Program regulations require that we award one additional point to an application from an IHE that has an endowment fund for which the 1999–2000 market value per FTE student was less than the comparable average per FTE student at a similar type IHE. We also award one additional point to an application from an IHE that had expenditures for library materials in 1999–2000 per FTE student that were less than the comparable average per FTE student at a similar type IHE.

For the purpose of these funding considerations, an applicant must demonstrate that the market value of its endowment fund per FTE student and library expenditures per FTE student, were less than the average expenditure per FTE student when calculated using the data submitted by applicants for the year 1999–2000.

If a tie remains, after applying the additional point(s) we will determine the ranking of applicants based on the lowest combined library expenditures per FTE student and endowment values per FTE student.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, 86, 97, 98, and 99; and, (b) The regulations for this program in 34 CFR part 607.

Applicability of Executive Order 13202: Applicants that apply for construction funds under these programs must comply with the Executive Order 13202 signed by President Bush on February 17, 2001 and amended on April 6, 2001. This Executive order provides that recipients of Federal construction funds may not ''require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other construction project(s)'' or ''otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations, on the same or other construction project(s).'' However, the Executive order does not prohibit contractors or subcontractors from voluntarily entering into these agreements.

Projects funded under this program that include construction activity will be provided a copy of this Executive order and will be asked to certify that they will adhere to it.

Priority

Invitational Priority

We are particularly interested in applications that meet the following priority.

Academic programs designed to improve and enhance opportunities for low-income students in the workforce and meet local community workforce needs.

Under 34 CFR 75.105(c)(1) we do not give an application that meets the priority a competitive or absolute preference over other applications.

Application Procedures

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications

In FY 2003, the U.S. Department of Education is continuing to expand its pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Title III, Part A Programs—84.031A, 84.031N, 84.031T, and 84.031W are

included in the pilot project. If you are an applicant under the Title III, Part A Programs, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Application) portion of the Grant Administration and Payment System (GAPS). Users of e-Application will be entering data on-line while completing their applications. You may not e-mail a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter on-line will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in e-Application, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format. When you enter the e-Application system, you will find information about its hours of operation.
- You may submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

(1) Print ED 424 from the e-Application system.

(2) The institution's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on all other forms at a later date.
- *Closing Date Extension in Case of System Unavailability:* If you elect to participate in the e-Application pilot for the Title III, Part A Programs and you are prevented from submitting your application on the closing date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. For us to grant this extension—

(1) You must be a registered user of e-Application, and have initiated an e-Application for this competition; and

(2)(a) The e-Application system must be unavailable for 60 minutes or more between the hours of 8:30 and 3:30 p.m., Washington, DC time, on the deadline date; or

(b) The e-Application system must be unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 and 4:30 p.m., Washington, DC time) on the deadline date. The Department must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension you must contact either (1) the person listed elsewhere in this notice under *For Applications and Further Information Contact* or (2) the e-GRANTS help desk at 1–888–336–8930.

You may access the electronic grant application for the Title III, Part A Programs at: *http://e-grants.ed.gov*

We have included additional information about the e-Application pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

For Applications and Further Information Contact: Darlene B. Collins, U.S. Department of Education, 1990 K Street, NW, 6th Floor, Washington, DC 20006–8513. Telephone: (202) 502–7777 or via Internet: *darlene.collins@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 Applications and Further Information Contact.*

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 20 U.S.C. 1057–1059d.

Dated: January 28, 2003.

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 03–2347 Filed 1–30–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Committee on Foreign Medical Education and Accreditation; Meeting

AGENCY: National Committee on Foreign Medical Education and Accreditation, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to announce the upcoming meeting of the National Committee on Foreign Medical Education and Accreditation. Parts of this meeting will be open to the public, and the public is invited to attend those portions.

When and Where Will the Meeting Take Place?

We will hold the public meeting on March 13, 2003 beginning at 9:30 a.m. in Plaza C at The Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202. You may call the hotel at (703) 415–5000 or fax the hotel at (703) 415–5061 to inquire about room accommodations.

What Assistance Will Be Provided to Individuals With Disabilities?

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in an alternate format) notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested

auxiliary aid or service because of insufficient time to arrange it.

Who Is the Contact Person for the Meeting?

Please contact Ms. Bonnie LeBold, the Executive Director of the National Committee on Foreign Medical Education and Accreditation, if you have questions about the meeting. You may contact her at the U.S. Department of Education, room 7007, MS 7563, 1990 K St. NW., Washington, DC 20006, telephone: (202) 219–7009, fax: (202) 219–7008, e-mail: *Bonnie.LeBold@ed.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339.

What Are the Functions of the National Committee?

The National Committee on Foreign Medical Education and Accreditation was established by the Secretary of Education under section 102 of the Higher Education Act of 1965, as amended. The Committee's responsibilities are to:

- Evaluate the standards of accreditation applied to applicant foreign medical schools; and
- Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

What Items Will Be on the Agenda for Discussion at the Meeting?

The National Committee on Foreign Medical Education and Accreditation will review the standards of accreditation applied to medical schools by several foreign countries to determine whether those standards are comparable to the standards of accreditation applied to medical schools in the United States. Discussions of the standards of accreditation will be held in sessions open to the public. Discussions that focus on specific determinations of comparability are closed to the public in order that each country may be properly notified of the decision. The countries tentatively scheduled to be discussed at the meeting include Australia/New Zealand, Costa Rica, Czech Republic, Denmark, Hungary, India, Ireland, Pakistan, the Philippines, Saba, and St. Lucia. Beginning February 24, you may call the contact person listed above to obtain the final listing of the countries whose standards will be discussed during this meeting. The listing of countries will also be posted on the Department of Education's Web site at the following address: *http://www.ed.gov/offices/OPE/ncfmea/ncfmeetings.html.*

How May I Obtain Electronic Access to This Document?

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Authority: 5 U.S.C. Appendix 2.

Dated: January 27, 2003.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 03–2289 Filed 1–30–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: The Department gives notice that on November 30, 2001, an arbitration panel rendered a decision in the matter of *California Department of Rehabilitation Services* v. *United States Postal Service (Docket No. R–S/00–4).* This panel was convened by the U.S. Department of Education under 20 U.S.C. 107d–1(b), after the Department received a complaint filed by petitioner, the California Department of Rehabilitation Services.

SUPPLEMENTARY INFORMATION: Under section 6(c) of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107d–2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute concerns the alleged improper denial by the United States Postal Service (USPS) of the request of the California Department of Rehabilitation Services, the State licensing agency (SLA), to establish a Randolph-Sheppard vending facility at the Long Beach Processing and Distribution Center in Long Beach, California, in violation of the satisfactory site provisions of the Act (20 U.S.C. 107 *et seq.*) and the implementing regulations in 34 CFR part 395.

A summary of the facts is as follows: In February 1997, the SLA submitted a proposal to USPS to establish a Randolph-Sheppard vending facility by combining the food service facility at the Long Beach Processing and Distribution Center with nine satellite locations. A permit agreement was entered into between the SLA and USPS. In reliance upon the signed permit agreement, the SLA purchased vending machines and other equipment in the amount of $181,000. Additionally, a blind vendor was assigned to the vending facility and route. The blind vendor invested in storage space and hired an assistant to help him service the vending route.

In September 1997, the Manager for Corporate Personnel Management at USPS Headquarters in Washington, DC, became aware of the permit agreement with the SLA to provide food service at the Long Beach Processing and Distribution Center and the nine satellite locations. Subsequently, USPS asserted that the permit agreement violated USPS policies concerning the establishment of vending services operated by the blind. According to USPS, the blind vendor had to be physically present at each vending route where food service was being provided. In the absence of having a blind vendor present at each location, USPS required that the SLA pay USPS $8,400 in service fees. The SLA objected to the payment of service fees and to the directive from USPS Headquarters to terminate the satellite vending routes as a violation of the terms of the permit agreement signed by the SLA and USPS.

As a result of this dispute, the SLA requested the Secretary of Education to convene a Federal arbitration panel to hear this complaint. A panel was convened, and a hearing on this matter was held on May 4, 2001.

Arbitration Panel Decision

After considering the evidence presented, the panel concluded that USPS had entered into a permit agreement with the SLA in February 1997. The panel further determined that the permit agreement at the Long Beach Processing and Distribution Center

provided for a main vending facility and nine satellite vending routes. The panel rejected the explanation of USPS for terminating the permit agreement and ruled that the termination was in violation of the Randolph-Sheppard Act for a number of reasons. First, the panel found that the Act does not prohibit vending routes where blind vendors are not regularly onsite at each location. Secondly, the panel found that having an onsite requirement only for blind vendors and not for commercial vendors was not supported by a reading of the Act. Therefore, the panel concluded that USPS could not unilaterally withdraw its participation in a vending facility permit agreement as this was a violation of the Randolph-Sheppard Act, 20 U.S.C. 107 *et seq.*, and the implementing regulations in 34 CFR part 395.

The panel directed USPS to pay damages as established by the SLA and the blind vendor. The panel retained jurisdiction concerning the matter of payment of damages.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 3232, Mary E. Switzer Building, Washington, DC 20202–2738. Telephone: (202) 205–8536. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8298.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Dated: January 28, 2003.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 03–2315 Filed 1–30–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science; Notice of Renewal of the High Energy Physics Advisory Panel

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, App.2, and section 102–3.65, title 41, Code of Federal Regulations and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the High Energy Physics Advisory Panel has been renewed for a two-year period, beginning in January 2003.

The Panel will provide advice to the Director of the Office of Science (DOE), and the Assistant Director, Mathematical & Physical Sciences Directorate (NSF), on long-range planning and priorities in the national high-energy physics program. The Secretary of Energy has determined that renewal of the Panel is essential to conduct business of the Department of Energy and the National Science Foundation and is in the public interest in connection with the performance of duties imposed by law upon the Department of Energy. The Panel will continue to operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463), the General Services Administration Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

FOR FURTHER INFORMATION CONTACT: Ms. Rachel Samuel at (202) 586–3279.

Issued in Washington, DC on January 24, 2003.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 03–2300 Filed 1–30–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, February 20, 2003, 5:30 p.m.–9 p.m.

ADDRESSES: 111 Memorial Drive, Barkley Centre, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: W. Don Seaborg, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda

5:30 p.m.—Informal Discussion

6 p.m.—Call to Order; Introductions; Approve November Minutes; Review Agenda; Board Retreat

6:10 p.m.—DDFO's Comments
- Budget Update
- Environment, Safety and Health (ES&H) Issues
- Environmental Management (EM) Project Updates
- Citizen Advisory Board (CAB) Recommendation Status
- Other

6:30 p.m.—Ex-officio Comments

6:40 p.m.—Public Comments and Questions

6:50 p.m.—Review of Action Items

7:05 p.m.—Break

7:15 p.m.—Presentation
- Kentucky Pollutant Discharge Elimination System (KPDES) Permit Discussion (Water Task Force)
- Request for Letter of Support from Active Citizens for Truth (ACT) (M. Kemp)

8 p.m.—Public Comments and Questions

8:10 p.m.—Task Force and Subcommittee Reports
- Water Task Force
- Waste Operations Task Force
- Long Range Strategy/Stewardship
- Community Concerns
- Public Involvement/Membership

8:40 p.m.—Administrative Issues
- Review of Work Plan
- Review of Next Agenda
- Federal Coordinator Comments
- Final Comments

9 p.m.—Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact David Dollins at the address listed above or by telephone at (270) 441–6819. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer (DDFO) is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments as the first item of the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m. on Monday thru Friday or by writing to David Dollins, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6819.

Issued at Washington, DC on January 28, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–2301 Filed 1–30–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Biomass Research and Development Technical Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research and Development Act of 2000. The Federal Advisory Committee Act (Public Law No. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and Development Technical Advisory Committee.

DATES: February 24–25, 2003, 8:30 a.m.

ADDRESSES: Hilton Crystal City Hotel at National Airport, Farragut Room, 2399 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: John Ferrell, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–7766.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance that promotes research and development leading to the production of biobased industrial products.

Tentative Agenda: Agenda will include discussions on the following:

• Presentations by representatives from USDA, DOE, DOI, EPA, NSF, OFEE, and OSTP on their respective biomass research and development activities for FY03 and FY04. Meeting will include a joint meeting of the Committee and the Biomass R&D Board members.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you should contact John Ferrell at 202–586–7766 or *Bioenergy @ee.doe.gov* (email). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 28, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–2299 Filed 1–30–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Proposed Collection; Comment Request.

SUMMARY: The EIA is soliciting comments on the proposed three-year extension to the Form DOE–887, ''Department of Energy Customer Surveys.''

DATES: Comments must be filed by April 1, 2003. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Herbert Miller. To ensure receipt of the comments by the due date, submission by FAX (202–287–1705) or e-mail (*herbert.miller@eia.doe.gov*) is recommended. The mailing address is Energy Information Administration, EI–70, Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Alternatively, Mr. Miller may be contacted by telephone at 202–287–1711.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mr. Miller at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. No. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and

statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under section 3507(a) of the Paperwork Reduction Act of 1995.

On September 11, 1993, the President signed Executive Order No. 12862 aimed at ''* * * ensuring the Federal government provides the highest quality service possible to the American people.'' The Order discusses surveys as a means for determining the kinds and qualities of service desired by Federal Government customers and for determining satisfaction levels for existing services. These voluntary customer surveys will be used to ascertain customer satisfaction with the Department of Energy in terms of services and products. Respondents will be individuals and organizations that are the recipients of the Department's services and products. Previous customer surveys have provided useful information to the Department for assessing how well the Department is delivering its services and products and for making improvements. The results are used internally and summaries are provided to the Office of Management and Budget on an annual basis, and are used to satisfy the requirements and the spirit of Executive Order No. 12862.

II. Current Actions

The request to OMB will be for a three-year extension of the expiration date of approval for DOE to conduct customer surveys. During the past three years, 10 customer surveys were conducted by telephone, mail, and the World Wide Web. Examples of previously conducted customer surveys are available upon request. Our planned activities in the next three fiscal years reflect our increased emphasis on and expansion of these activities, including an increased use of electronic means for obtaining customer input (World Wide Web).

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.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Public reporting burden for a customer surveys is estimated to average .25 hours per response. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate is this estimate?

B. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

C. 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.

D. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information To Be Collected

A. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, January 23, 2003.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 03–2302 Filed 1–30–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–219–001]

Discovery Gas Transmission LLC; Notice of Compliance Filing

January 27, 2003.

Take notice that on January 13, 2003, Discovery Gas Transmission LLC (Discovery) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute First Revised Sheet No. 186, to be effective February 1, 2003.

Discovery states that this filing is made to modify the tariff filing made by Discovery in the above-captioned proceeding on December 26, 2002.

Discovery further states that copies of the filing have been mailed to each of its customers, interested State Commissions and other interested persons.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the comment date. 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. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. 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.

Comment Date: February 3, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–2270 Filed 1–30–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–162–001]

Trailblazer Pipeline Company; Notice of Compliance Filing

January 27, 2003.

Take notice that on January 22, 2003, Trailblazer Pipeline Company (Trailblazer) tendered for filing to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Original Sheet No. 174A, to be effective January 1, 2003.

Trailblazer states that the filing is submitted pursuant to the Commission's order issued December 31, 2002, in Docket No. RP03–162–000, which conditionally accepted Sheet No. 174A.

Trailblazer states that copies of the filing have been mailed to all parties set out on the Commission's official service list in Docket No. RP03–162.

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.

Protest Date: February 3, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–2269 Filed 1–30–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–497–002 and RP01–47–004]

Viking Gas Transmission Company; Notice of Compliance Filing

January 27, 2003.

Take notice that on January 23, 2003, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the tariff sheets listed on Appendix A to the filing, to become effective January 1, 2003.

Viking states that the purpose of this filing is to comply with the Order on Compliance with Order No. 637, that the Commission issued on December 24, 2002 in the above-referenced proceedings.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers, to affected state regulatory commissions and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or 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.

Protest Date: February 4, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–2268 Filed 1–30–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG03–39–000, et al.]

Bowie Power Station, LLC, et al.; Electric Rate and Corporate Filings

January 24, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Bowie Power Station, LLC

[Docket No. EG03–39–000]

Take notice that on January 23, 2003, Bowie Power Station, LLC (Bowie), an Arizona limited liability company with its principal place of business at 4350 East Camelback Road, Suite 150, Phoenix, Arizona, 85018, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Bowie states that it owns and operates a 900 MW power generation facility located in Cochise County, Arizona (the Facility) and that electric energy produced from the Facility will be sold by Bowie to the wholesale power market.

Comment Date: February 14, 2003.

2. El Paso Electric Company

[Docket No.ER99–2416–001]

Take notice that on January 21, 2003, El Paso Electric Company (EPE) submitted an updated market analysis.

Comment Date: February 11, 2003.

3. PJM Interconnection, L.L.C.

[Docket No. ER02–1326–004]

Take notice that on January 21, 2003, PJM Interconnection, L.L.C. (PJM), in compliance with the Commission's December 19, 2002 Order, submitted for filing amendments to the PJM Open Access Transmission Tariff and the Amended and Restated Operating Agreement. This Amended and Restated Operating Agreement, permits end use customers that have real-time LMP-based contracts to participate in PJM's Economic Load Response Program.

Consistent with the Commission's order, PJM requests an effective date of June 1, 2002 for the compliance amendments.

PJM states that copies of this filing have been served on all parties listed on the official service list compiled by the Secretary in this proceeding, all PJM members, and each state electric utility regulatory commission in the PJM region.

Comment Date: February 11, 2003.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1420–008]

Take notice that in compliance with the Commission's Order in Midwest Independent Transmission System Operator Inc., 101 FERC ¶ 61,319, on January 21, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted revisions to the Second Revised, Volume No. 1 Resulting Company Open Access Transmission Tariff (Resulting Company Tariff) and the Second Revised Agreement (Resulting Company Agreement) of Transmission Facilities Owners to Organize the company formerly known as the Midwest Independent Transmission System Operator, Inc., a Delaware Non-stock Corporation. The Midwest ISO has requested the Commission to determine the effective date of its compliance filing to be the day immediately following the consummation of the business combination between the Midwest ISO and Southwest Power Pool as contemplated by the Purchase and Assumption Agreement.

The Midwest ISO has requested waiver of the requirements set forth in 18 CFR 385.2010. The Midwest ISO states that it 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 also states that it will provide hard copies to any interested parties upon request.

Comment Date: February 11, 2003.

5. New England Power Pool and ISO New England, Inc.

[Docket No. ER02–2330–007]

Take notice that on January 21, 2003, the New England Power Pool (NEPOOL) Participants Committee and ISO New England Inc., (ISO–NE) submitted their Report of Compliance in response to the requirements of the Commission's December 20, 2002 Order, 101 FERC ¶ 61,344.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: February 11, 2003.

6. Northeast Utilities Service Company

[Docket No. ER03–434–000]

Take notice that on January 21, 2003, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company (CL&P), tendered for filing the executed Interconnection Agreement (IA) by and between CL&P and Exeter Energy Limited Partnership (Exeter), designated as Original Service Agreement No. 94 under Northeast Utilities System Companies' Open Access Transmission Tariff No. 9. The IA is a new agreement establishing the terms and conditions under which CL&P will provide interconnection service to Exeter's 26 megawatt waste tire fired electrical generating facility (Generating Facility) located in Sterling, Connecticut.

NUSCO states that a copy of this filing has been mailed to Exeter and that Exeter fully consents to and supports this filing. NUSCO requests an effective date of July 15, 2002 for the IA and requests any waivers of the Commission's regulations that may be necessary to permit such an effective date.

Comment Date: February 11, 2003.

7. ISO New England Inc.

[Docket No. OA97–237–000]

Take notice that on January 22, 2003, ISO New England Inc. filed its ''Quarterly Report for Regulators,'' as required by New England Power Pool Market Rules and Procedures 17, for the first quarter.

Comment Date: February 12, 2003.

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.

Magalie R. Salas,

Secretary.

[FR Doc. 03–2266 Filed 1–30–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–38–003, et al.]

Broad River Energy LLC, et al.; Electric Rate and Corporate Filings

January 27, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Broad River Energy LLC

[Docket No. ER00–38–003]

Take notice that on January 22, 2003, Broad River Energy LLC submitted for filing its triennial market analysis update.

Comment Date: February 12, 2003.

2. Lyon Rural Electric Cooperative

[Docket No. ER02–2001–000]

Take notice that on December 16, 2002, Lyon Rural Electric Cooperative (Lyon) filed a request for waiver of the requirements of Order No. 2001 pursuant to 18 CFR 385.207 of the Federal Energy Regulatory Commission's Regulations. Lyon's filing is available for public inspection at its offices in Rock Rapids, Iowa.

Comment Date: February 18, 2003.

3. NM Colton Genco LLC, NM Mid-Valley Genco LLC, and NM Milliken Genco LLC

[Docket Nos. ER03–320–001, ER03–321–001, and ER03–322–001]

Take notice that on January 23, 2003, NM Colton Genco LLC (NM Colton), NM Mid-Valley Genco LLC (NM Mid-Valley) and NM Milliken Genco LLC (NM Milliken) (collectively, Applicants), tendered for filing with the Federal Energy Regulatory Commission, an amendment to the Application of NM

Colton Genco LLC, NM Mid-Valley Genco LLC, and NM Milliken Genco LLC for Order Approving Market Based Rates filed with the Commission on December 23, 2002.

Comment Date: February 13, 2003.

4. Elk Hills Power, LLC

[Docket No. ER03–394–001]

Take notice that on January 22, 2003, Elk Hills Power, LLC (Elk Hills) tendered for filing amendments to its petition for waivers and blanket approvals under various regulations of the Federal Energy Regulatory Commission and for an order accepting its FERC Electric Tariff No. 1, originally filed on January 9, 2003.

Comment Date: February 12, 2003.

5. Avista Corporation

[Docket No. ER03-435–000]

Take notice that on January 22, 2003, Avista Corporation (Avista) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to part 35 of the Commission's Rules and Regulations, 18 CFR part 35, Original Service Agreement No. 297, which is an Agreement for Purchase and Sale of Power between Avista and Public Utility District No. 1 of Douglas County, Washington.

Avista requests an effective date of January 1, 2003.

Avista states that copies of the filing were served upon Douglas, the sole party to the Service Agreement.

Comment Date: February 12, 2003.

6. Southern California Edison Company

[Docket No. ER03–436–000]

Take notice that on January 22, 2003, Southern California Edison Company (SCE) tendered for filing revisions to the Agreement For Interconnection Service and the Interconnection Facilities Agreement between SCE and Harbor Cogeneration Company (Harbor), Service Agreement Nos. 2 and 9 under SCE's FERC Electric Tariff, First Revised Volume No. 6.

The revisions to these agreements reflect an extension of their terms and conditions to provide interconnection service to Harbor's 110 MW generating facility through April 30, 2003.

SCE states that copies of this filing were served upon the Public Utilities Commission of the State of California and Harbor.

Comment Date: February 12, 2003.

7. Puget Sound Energy, Inc.

[Docket No. ER03–437–000]

Take notice that on January 22, 2003, Puget Sound Energy, Inc. (Puget) tendered for filing: (i) A change in Puget Rate Schedule FERC No. 86 between the Department of Energy acting by and through the Bonneville Power Administration (Bonneville) and Puget, effective October 1, 2001 (the Revision); and (ii) the Settlement Exchange Agreement between Puget and Bonneville, executed September 17, 1985, as amended.

Puget states that a copy of the filing was served upon Bonneville. Puget also states that the Revision is to Exhibit E to the Settlement Exchange Agreement between Puget and Bonneville. Exhibit E relates to transmission service and charges by Bonneville for deliveries by Bonneville under the Settlement Exchange Agreement.

Comment Date: February 12, 2003.

8. ManChief Power Company, L.L.C.

[Docket No. ER03–438–000]

Take notice that on January 22, 2003, ManChief Power Company, L.L.C. (ManChief Power) tendered for filing pursuant Section 205 of the Federal Power Act proposed revisions to its FERC Electric Tariff, Original Volume No. 1 (Tariff).

ManChief Power requests that the Tariff be modified to provide for sales of electric energy and capacity by ManChief Power on a stand-alone basis. The Tariff currently is shared by ManChief Power with Fulton Cogeneration Associates, L.P. (Fulton) with whom ManChief Power previously was, but is no longer, affiliated.

ManChief Power requests an effective date of November 4, 2002 .

Comment Date: February 12, 2003.

9. Fulton Cogeneration Associates, L.P.

[Docket No. ER03–439–000]

Take notice that on January 22, 2003, Fulton Cogeneration Associates, L.P. (Fulton), tendered for filing pursuant Section 205 of the Federal Power Act proposed revisions to its FERC Electric Tariff, Original Volume No. 1 (Tariff).

Fulton requests that the Tariff be modified to provide for sales of electric energy and capacity by Fulton on a stand-alone basis. The Tariff is currently shared by Fulton and ManChief Power Company, L.L.C. (ManChief).

Fulton requests an effective date of November 4, 2002, the date that member interests in ManChief were transferred to an unaffiliated entity.

Comment Date: February 12, 2003.

10. California Independent System Operator Corporation

[Docket No. ER03–440–000]

Take notice that on January 22, 2003, the California Independent System Operator Corporation (ISO) tendered for filing a notice concerning the termination of the Scheduling Coordinator Agreement (SCA) between the ISO and the Department of Water and Power of the City of Los Angeles (LADWP). The ISO requests that the SCA be terminated effective May 21, 2003.

The ISO states that copies of this filing have been served upon all parties in Docket No. ER99–2241–000.

Comment Date: February 12, 2003.

11. Progress Energy Inc. on behalf of Progress Energy Carolinas, Inc.

[Docket No. ER03–441–000]

Take notice that on January 23, 2003, Progress Energy Carolinas (Progress Carolinas) filed a Service Agreement with Virginia Electric Power Company under Progress Carolinas' market-based rates Tariff, FERC Electric Tariff, First Revised, Volume No. 5.

Progress Carolinas is requesting an effective date of January 1, 2003 for this Agreement. Progress states that copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment Date: February 13, 2003.

12. Progress Energy, Inc. on behalf of Progress Energy Carolinas, Inc.

[Docket No. ER03–442–000]

Take notice that on January 23, 2003, Progress Energy Carolinas, Inc. (Progress Carolinas) tendered for filing an executed long-term Service Agreement between Progress Carolinas and the following eligible buyer, The Town of Winterville, NC. Service to this eligible buyer will be in accordance with the terms and conditions of Progress Carolinas Market-Based Rates Tariff, FERC Electric Tariff No. 5.

Progress Carolinas requests an effective date of March 1, 2003 for this Service Agreement. Progress also states that copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment Date: February 13, 2003.

13. Public Service Company of New Mexico

[Docket No. ER03–443–000]

Take notice that on January 23, 2003, Public Service Company of New Mexico (PNM) submitted for filing an executed service agreement, dated January 1, 2003, for firm point-to-point transmission service and ancillary services, between PNM Transmission Development and Contracts (Transmission Provider) and PNM International Business Development

(Transmission Customer), under the terms of PNM's Open Access Transmission Tariff. The agreement is for 27 MW of reserved transmission capacity (and certain ancillary services) from the San Juan Generating Station 345kV Switchyard to the Luna 345kV Switching Station and represents the Transmission Customer's exercise of its Right of First Refusal to extend service under a predecessor (now expired) agreement for one year (through calendar year 2003). PNM requests January 1, 2003, as the effective date for each agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

PNM states that copies of the filing have been sent to PNM International Business Development, PNM Transmission Development and Contracts, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: February 13, 2003.

14. Public Service Company of New Mexico

[Docket No. ER03–444–000]

Take notice that on January 23, 2003, Public Service Company of New Mexico (PNM) submitted for filing two executed service agreements for firm point-to-point transmission service with Texas-New Mexico Power Company (TNMP), under the terms of PNM's Open Access Transmission Tariff. The agreements are for 5 MW and 15 MW (respectively) of reserved transmission capacity from the Four Corners 345kV Switchyard to the Hidalgo 345kV Switching Station during calendar year 2003. PNM requests January 1, 2003, as the effective date for each agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

PNM states that copies of the filing have been sent to TNMP, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: February 13, 2003.

15. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–445–000]

Take notice that on January 23, 2003, pursuant to Section 205 of the Federal Power Act and Section 35.12 of the Commission's regulations, 18 CFR 35.12 the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing an Interconnection and Operating Agreement among Dakota I Power Partners, the Midwest ISO and Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc.

Midwest ISO states a copy of this filing was sent to the Dakota I Power Partners and Montana-Dakota Utilities Co.

Comment Date: February 13, 2003.

16. Calpine Philadelphia, Inc.

[Docket No. ER03–446–000]

Take notice that on January 23, 2003, Calpine Philadelphia, Inc., (CPI), filed a Notice of Succession to adopt O'Brien (Philadelphia) Cogeneration, Inc.''s market-based rate authorizations.

Comment Date: February 13, 2003.

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.

Magalie R. Salas,

Secretary.

[FR Doc. 03–2267 Filed 1–30–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–31–000]

Paiute Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Carson Lateral Replacement Project and Request for Comments on Environmental Issues

January 27, 2003.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Paiute Pipeline Company's (Paiute) proposed Carson Lateral Replacement Project in Lyon, Douglas, Carson City, and Washoe Counties, Nevada.[1] Paiute seeks to construct about 14 miles of 20-inch-diameter pipeline; abandon about 8 miles of existing 10-inch-diameter pipeline; and modify 4 existing regulation stations. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a Paiute representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, Paiute could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Paiute provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

This Notice of Intent (NOI) is being sent to landowners along Pauite's proposed pipeline route; Federal, state, and local government agencies; national and local elected officials; regional environmental and public interest

[1] Paiute's application was filed on December 19, 2002, under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

groups; Indian tribes that might attach religious and cultural significance to historic properties in the area of potential effects; local libraries and newspapers; and the Commission's list of parties to the proceeding. Government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Additionally, with this NOI we [2] are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues (especially those listed in appendix 3) to cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated Paiute's proposal relative to their agencies' responsibilities. Agencies which would like cooperating status should follow the instructions for filing comments described below.

Summary of the Proposed Project

Paiute wants to abandon and replace a deteriorating segment of pipeline, install a new loop [3] at another segment along its existing Carson Lateral; and increase capacity at 4 existing regulation stations. The proposed facilities would allow Paiute to expand its existing natural gas transmission system capacity by 5,868 dekatherms per day to meet the future demands of existing shippers. Paiute seeks to:

- Construct and operate about 6.4 miles of new 20-inch-diameter loop between mileposts (MP) 9.45 and 15.85 on Paiute's existing Carson Lateral, parallel to U.S. Highway 95A north of Silver Springs, in Lyon County, Nevada (Highway 95A Loop);
- Abandon in place about 8.0 miles of 10-inch-diameter pipeline between MP 37.34 and MP 45.34 on the Carson Lateral in Lyon County, Nevada;
- Construct and operate about 8.1 miles of 20-inch-diameter pipeline, to replace the pipe abandoned in place, between MP 37.34 and MP 45.34 on the Carson Lateral, parallel to U.S. Highway 50 near Dayton, in Lyon County, Nevada (Highway 50 Replacement); and
- Replace and/or install pressure regulation facilities at the White Sage Pressure Limiting Station in Lyon County, Nevada; the Carson Pressure Limiting Station in Carson City County, Nevada; the CP National Corporation City Gate in Douglas County, Nevada; and the California Check Meter in Washoe County, Nevada.

The general location of the proposed facilities is shown in appendix 1.[4]

Land Requirements for Construction

Construction of the facilities would affect a total of about 203 acres of land. Following construction, about 62 acres would be maintained as new easement for operation of the facilities. The remaining 141 acres would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this NOI, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Land use.
- Water resources, fisheries, and wetlands.
- Cultural resources.
- Vegetation and wildlife.
- Air quality and noise.
- Endangered and threatened species.
- Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas. Our independent analysis of the issues will be in the EA. The U.S. Department of the Interior, Bureau of Land Management, Carson City Field Office (BLM) is participating as a cooperating agency in the preparation of the EA.

Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, Native American Tribes, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Paiute. This preliminary list of issues may be changed based on your comments and our analysis.

- The proposed project would cross 4.02 miles of private land; 4.05 miles of state lands; 6.25 of federal (BLM-administered) lands; and 0.2 miles of county lands (Lyon County).
- The project is located in seismic risk zone 3, and the pipelines would cross 4 known faults.
- The Highway 50 Replacement would be within 0.25 mile of the Dayton State Park, and a proposed access road would cross through the northwest portion of the park.
- Nine residences and 15 industrial/commercial structures are within 50 feet of the construction right-of-way; 2 of these residences are within 15 feet.
- The Highway 50 Replacement would cross through the Gold Canyon area (MP 41.5 to 41.6), which has riparian vegetation and was identified as potential raptor nesting habitat.
- The Highway 50 Replacement would cross through the Carson River Mercury Site, which is a National Priorities List Superfund site.
- The Highway 50 Replacement would cross through a portion of the Comstock Historic District, which is listed on the National Register of Historic Places, and is associated with the Virginia City National Historic Landmark.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

[3] A loop is a segment of pipeline installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

[4] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site (*http://www.ferc.gov*) at the ''FERRIS'' link, or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to FERRIS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes variations), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas/Hydro Branch, PJ–11.3;
- Reference Docket No. CP03–31–000; and
- Mail your comments so that they will be received in Washington, DC on or before February 28, 2003.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

We might mail the EA for comments. If you are interested in receiving it, please return the Information Request form (appendix 4). If you do not return the Information Request form, you will be taken off the environmental mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (*see* appendix 2). [5] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or e-mail *FERCOnlineSupport@ferc.gov*. The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–2265 Filed 1–30–03; 8:45 am]

BILLING CODE 6717–01–P

[5] Interventions may also be filed electronically via the Internet in lieu of paper. *See* the previous discussion on filing comments electronically.

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6637–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa.*

Weekly receipt of Environmental Impact Statements

Filed January 20, 2003 Through January 24, 2003

Pursuant to 40 CFR 1506.9.

EIS No. 030032, FINAL EIS, NPS, CA, Santa Monica Mountains National Recreation Area General Management Plan, Implementation, Los Angeles and Ventura Counties, CA, *Wait Period Ends:* March 3, 2003, *Contact:* Allan Schmierer (510) 817–1441.

EIS No. 030033, FINAL SUPPLEMENT, COE, OR, WA, Columbia River Channel Improvement Project, Additional Information to Update the Disposal Plan and to Update the Project Economics, Columbia and Lower Williamette River Federal Navigation Channel, OR, *Wait Period Ends:* March 3, 2003, *Contact:* Laura Hicks (503) 808–4705.

EIS No. 030034, DRAFT EIS, AFS, CA, Stream Fire Restoration Project, Implementation, Plumas National Forest, Mt. Hough Ranger District, Plumas County, CA, *Comment Period Ends:* March 17, 2003, *Contact:* Rich Bednarski (520) 283–7641.

EIS No. 030035, DRAFT SUPPLEMENT, JUS, CA, Pinal County Private Detention Facility, Updated Information, Single Contact for 3,000 Beds Possible Sites (1) Undeveloped Parcel of Land in the City of Eloy and the Existing Central Arizona Detention Center Located in Florence, Pinal County, AZ, *Comment Period Ends:* March 17, 2003, *Contact:* Charles Coburn (202) 307–9045.

EIS No. 030036, FINAL SUPPLEMENT, NRC, PA, Peach Bottom Atomic Power Station Unit 2 and 3, Renewal of the Operating License for Nuclear Plants, NUREG–1437 Supplement 10 Located on the Banks of the Susquehanna River, York County, PA, *Wait Period Ends:* March 3, 2003, *Contact:* Duke Wheeler (301) 414–1444.

EIS No. 030037, FINAL EIS, FHW, IL, MO, Chicago-St. Louis High-Speed Rail Project, Improvement from Chicago to St. Louis to enhance the Passenger Transportation Network, NPDES Permit and COE Section 404 Permit, Cook, Will, Kankakee Grundy, Livington, McLean, Sangemon, Macoupin, Jersey, Madison and St. Louis Counties, IL and St. Louis County, MO, *Wait Period Ends:* March 10, 2003, *Contact:* Norman R. Stoner, P.E. (217) 492–4640.

EIS No. 030038, FINAL EIS, FHW, WA, WA–509 Extension/South Access Road Corridor Project, Construction, Funding and Possible COE Section 404 Permit, the Cities of SeaTac, Des Moines, Kent and Federal Way, King County, WA, *Wait Period Ends:* March 3, 2003, *Contact:* James Christian (306) 753–9480.

EIS No. 030039, FINAL EIS, BLM, OR, Lakeview Resource Management Plan, Unified Land Use Plan to Replace All or Portions of Three nearly Twenty Year Old Existing Land Use Plans, Implementation, Lake and Bend Counties, OR, *Wait Period Ends:* March 3, 2003, *Contact:* Paul Whitman (541) 947–6110.

EIS No. 030040, DRAFT EIS, AFS, WI, Hoffman-Sailor West Project, Proposal for Timber Harvest, Regeneration Activities, Connected Road Construction and Decommissioning Chequamegon-Nicolet National Forest, Medford/Park Falls Ranger District, Price County, WI, *Comment Period Ends:* March 17, 2003, *Contact:* Jane Darnell (715) 748–4875.

EIS No. 030041, FINAL EIS, EPA, FL, Peace River/Manasota Regional Surface Water Supply Authority's Surface Water Supply, Storage and Interconnect Project, Construction and Operation to Increase Finished Water Delivery Capacity of 32.7 Million Gallons Per Day To Meet Year 2015 Potable Water Demand, DeSoto, Manatee, Sarasota and Charlotte Counties, FL, *Wait Period Ends:* March 3, 2003, *Contact:* John Hamilton (404) 562–9617.

EIS No. 030042, FINAL EIS, DOE, WA, Schultz-Hanford Transmission Line Project, New 500 kilovolt (kV) Transmission Line Construction, Central Washington, north of Hanford connecting to existing line at the Schultz Substation, Kittitas, Yakima, Grant and Benton Counties, WA, *Wait Period Ends:* March 3, 2003, *Contact:* Nancy Wittpenn (503) 230–3297.

EIS No. 030043, FINAL EIS, JUS, CA, Sacramento County Juvenile Hall Expansion Project, To Accommodate 90 new beds in the Short-Term, and 240 new beds in the Long-Term, Sacramento County, CA, *Wait Period Ends:* March 3, 2003, *Contact:* John Veen (202) 616–2251.

EIS No. 030044, DRAFT EIS, FRC, WY, MT, ND, Grasslands Pipeline Project, Construct and Operate an Interstate Natural Gas Pipeline System, Docket No. CP02–037–000, WY, ND and MT, *Comment Period Ends:* March 17, 2003, *Contact:* Rich McGuire (202) 502–6177. This document is available on the Internet at: *http://www.ferc.gov.*

EIS No. 030045, FINAL SUPPLEMENT, BLM, NV, Betze-Post Project, Updated Information, Dewatering Operations and a Proposed Pipeline, Elko and Eureka Counties, NV, *Wait Period Ends:* March 3, 2003, *Contact:* Kirk Laird (775) 753–0272.

Dated: January 28, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03–2345 Filed 1–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6637–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 12, 2002 (67 FR 17992).

Draft EISs

ERP No. D–COE–K32012–CA Rating EC2, San Diego Harbor Deepening (Central Navigation Channel) involving Three Components: Deepening Federal Central Navigation Channel, Disposal of the Dredged Material at the LA–5 Ocean Disposal Site and Relocation and Disposal and Abandonment of a 69 kV Electrical Site, San Diego County.

Summary: EPA expressed environmental concerns and requested additional information regarding potential connected actions, water quality, air quality, endangered species and environmental justice.

ERP No. D–COE–L32011–AK Rating EO2, Akutan Harbor Navigation Improvements Project, Construction and Implementation, Bering Sea, City of Akutan, AK.

Summary: EPA raised environmental objections to the recommended project alternative due to direct and indirect impacts to wetlands and the likely exceedances of fully allocated TMDLs for dissolved oxygen and settleable solid residues. EPA also determined that there was insufficient information regarding the full range of reasonable alternatives and potential mitigation measures. EPA recommended that the final EIS demonstrates that alternatives analysis and mitigation measures are consistent with the Clean Water Act Section 404(b)(1) guidelines and that the proposed alternative will not exceed established TMDLs.

ERP No. D–FHW–F40410–IL Rating LO, Milan Beltway Extension (FAU 5822), Airport Road to Blackhawk Road/John Deere Expressway, Funding and Permits Issuance, Rock River, Rock Island County, IL.

Summary: EPA believes that the proposed project will result in minimum adverse impacts to the environment with appropriate mitigation and that we did not identify any outstanding environmental issues that need additional analysis.

ERP No. D–FHW–L40216–OR Rating EC2, Newberg-Dundee Transportation Improvement Project (TEA 21 Prog. #37), Proposal to Relieve Congestion on OR–9W through the Cities of Newberg and Dundee, Bypass Element Location (Tier 1), Yamhill County, OR.

Summary: EPA expressed environmental concern regarding air quality and air toxics, environmental justice issues, alternatives, habitat connectivity effectiveness and wetland impacts. EPA requested additional information, analysis, mitigation and outreach regarding these issues.

ERP No. D–NRC–E05099–FL Rating EC1, Generic EIS—License Renewal of Nuclear Plants for the St. Lucie Units 1 and 2, Supplement 11, NUREG–1437, Implementation, Hutchinson Island, St. Lucie County, FL.

Summary: EPA has environmental concerns with certain aspects of this license renewal and requests clarification of measures to avoid and mitigate for impacts to the Big Mud Creek ecosystem and to herbicide use in the transmission right-of-way. EPA also notes the ongoing need to consult during the facility's operating life with the appropriate agencies regarding threatened and endangered species.

Final EISs

ERP No. F–AFS–K65220–NV Cave Rock Management Direction, Implementation, Lake Tahoe Basin Management Unit, Douglas County, NV.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–K65364–CA Red Star Restoration Project, Fire-Killed Trees Removal, Fuel Reduction, Road Reconstruction and Decommissioning and Associated Restoration, Tahoe Tahoe National Forest, Foresthill Ranger District, Placer County, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–DOE–E09808–KY Kentucky Pioneer Integrated Gasification Combined Cycle Demonstration Project, Construction and Operation of a 540 Megawatt-Electric Power Plant, Clean Coal Technology Program, Clark County, KY.

Summary: EPA still has environmental concerns with certain impacts, but the Final EIS adequately addresses mitigation of potential impacts associated with Cultural Resources, Aesthetic and Scenic Resources, Geology, Air, Traffic and Transportation. EPA requested that the

Record of Decision address our remaining concerns.

ERP No. F–DOE–L08062–WA Grand Coulee-Bell 500-kV Transmission Line Project, Construction and Operation, U.S. Army COE Section 10 Permit Issuance, Douglas, Lincoln, Spokane and Grant Counties, WA.

Summary: EPA still has environmental concerns with BPA's rationale for not more fully considering the alternative action, which appears to have advantages for future transmission needs as well as for environmental protection. EPA requested that BPA provide an explanation for this decision in the Record of Decision.

ERP No. F–FHW–H40403–KS US 59 Highway Construction Improvements, Lawrence to Ottawa, Funding, NPDES Permit Issuance and Possible U.S. Army COE Permit Issuance, Douglas and Franklin Counties, KS.

Summary: EPA had no environmental concerns with the preferred alternative. EPA recommended that the Record of Decision provide more information regarding necessary mitigation.

ERP No. FS–AFS–J65312–WY Squirrel Meadows Grand Targhee Land Exchange Proposal, New Information and Current Environmental and Socioeconomic Conditions, Implementation, Targhee National Forest, Teton County, WY.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. FS–NRC–A00150–00 Generic EIS—Decommissioning of Nuclear Facilities, Updated Information on Dealing With Decommissioning of Nuclear Power Reactors (NUREG–0586).

Summary: EPA continues to express environmental concern with NRC's not requiring consideration of environmental changes to the facility site during plant operation in the environmental assessment of the decommissioning process.

Dated: January 28, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03–2346 Filed 1–30–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2590]

Petitions for Reconsideration of Action in Rulemaking Proceeding

January 22, 2003.

Petitions for reconsideration have been filed in the Commission's rulemaking proceeding listed in this public notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying on Room CY–A257, 445 12th Street SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to these petitions must be filed by February 18, 2003. *See* § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of digital audio broadcasting systems and their impact on the terrestrial radio broadcast service (MM Docket No. 99–325).

Number of Petitions Filed: 2.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–2264 Filed 1–30–03; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

[Notice 2003–4]

Filing Dates for the Texas Special Election in the 19th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Texas has scheduled a special election on May 3, 2003, to fill the U.S. House of Representatives seat in the Nineteenth Congressional District vacated by Representative Larry Combest. There are two possible elections, but only one may be necessary. If no candidate wins a majority of votes in the Special General Election, the two top vote-getters, regardless of party affiliation, will participate in a Special Runoff Election on a date to be set by the Governor after May 3, 2003.

Committees participating in the Texas special election are required to file pre- and post-election reports.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates participating in the Texas Special General Election shall file a 12-day Pre-General Report on April 21, 2003. If there is a majority winner, committees must also file a 30-day Post-General Report on June 2, 2003. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees that file on a semiannual basis in 2003 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Texas Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report).

Committees filing monthly that support candidates in the Texas Special General Election should continue to file according to the monthly reporting schedule.

Possible Special Runoff Election

In the event that no candidate receives a majority of the votes in the Special General Election, a Special Runoff Election will be held. The Commission will publish a future notice giving the filing dates for that election if it becomes necessary.

CALENDAR OF REPORTING DATES FOR TEXAS SPECIAL ELECTION

Report	Close of books[1]	Reg./cert. mailing date[2]	Filing date
If only the Special General is Held (05/03/03), Committees Must File:			
April Quarterly	———Waived———		
Pre-General	04/13/03	04/18/03	04/21/03
Post-General	05/23/03	06/02/03	06/02/03

CALENDAR OF REPORTING DATES FOR TEXAS SPECIAL ELECTION—Continued

Report	Close of books[1]	Reg./cert. mailing date[2]	Filing date
If Two Elections are Held, Committees Involved in Only the Special General (05/03/03) Must File			
April Quarterly	———Waived———		
Pre-General	04/13/03	04/18/03	04/21/03

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

[2] Pre- and Post-General Reports sent registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date. Committees should keep the mailing receipt with its postmark as proof of filing.

Dated: January 23, 2003.

Bradley A. Smith,

Vice Chairman, Federal Election Commission.

[FR Doc. 03–2298 Filed 1–23–03; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning FEMA Form 85–3, National Defense Executive Reserve Personal Qualifications Statement. The form is used by Federal departments and agencies to recruit members for the National Defense Executive Reserve (NDER) program.

SUPPLEMENTARY INFORMATION: The NDER program was established by the Defense Production Act of 1950, as amended, Section 710(e). Under Executive Order 12919, National Defense Industrial Resources Preparedness, June 3, 1994, Part VI, Section 601, the Director of the Federal Emergency Management Agency coordinates the NDER program activities of departments and agencies that have NDER units. The NDER is composed of persons with recognized expertise from industry, organized labor, professional groups, and academia to serve in executive positions in the Federal Government during the event of an emergency that requires such employment. The head of a department or agency may activate an NDER unit in whole or in part, upon the written determination that an emergency affecting the national security or defense preparedness of the United States exists, and that the activation of the unit is necessary to carry out the emergency program functions of the department or agency.

Collection of Information

Title: The National Defense Executive Reserve Personal Qualifications Statement.

Type of Information Collection: Extension of a currently approved collection.

OMB Number: 3067–0001.

Form Numbers: FEMA Form 85–3, National Defense Executive Reserve Personal Qualifications Statement.

Abstract: The NDER is a Federal government program coordinated by FEMA. To become a member of the NDER, individuals with the requisite qualifications must complete a FEMA Form 85–3, National Defense Executive Reserve Personal Qualifications Statement. FEMA Form 85–3 is an application form that is used by Federal departments and agencies to fill NDER vacancies and to ensure that individuals are qualified to perform in the assigned emergency positions. FEMA reviews the application form to ensure that the candidate meets all basic membership qualifications for the Executive Reserve; ensures that the applicant is not already serving in a Federal department or agency sponsored unit; and, in some cases, determines the Federal department or agency best suited for the applicant.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 25 hours.

Estimated Cost: The estimated annual hour burden for this collection is 25 hours. This estimate is based on 50 respondents completing this application form in approximately 30 minutes. (50 respondents × 30 minutes = 25 burden hours).

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Branch, Information Resources Management Division, Information Technology Services Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: For additional information contact Margaret B. Roberts, Program Manager, National Defense Executive Reserve, Response and Recovery Directorate at (202) 646–3564. You may contact Ms. Anderson for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *Information.Collections@fema.gov.*

Dated: January 17, 2003.

Edward W. Kernan,

Division Director, Information Resources Management Division, Information Technology Services Directorate.

[FR Doc. 03–2240 Filed 1–30–03; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Notice of Adjustment of Statewide Per Capita Threshold for Recommending a Cost Share Adjustment

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: FEMA gives notice that we are increasing the statewide per capita threshold for recommending cost share adjustments for disasters declared on or after January 1, 2003, through December 31, 2003.

EFFECTIVE DATE: January 16, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705, or *magda.ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: According to 44 CFR § 206.47, FEMA will annually adjust the statewide per capita threshold that is used to recommend an increase of the Federal cost share from seventy-five percent (75%) to not more than ninety percent (90%) of the eligible cost of permanent work under section 406 and emergency work under section 403 and section 407 of the Stafford Act. The adjustment to the threshold is based on the Consumer Price Index for All Urban Consumers published annually by the U. S. Department of Labor. For disasters declared on January 1, 2003, through December 31, 2003, the qualifying threshold is $104 per capita of State population.

We base the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 2.4 percent for the 12-month period ended in December 2002. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on January 16, 2003.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program).

Joe M. Allbaugh,

Director.

[FR Doc. 03–2241 Filed 1–30–03; 8:45 am]

BILLING CODE 6718–02–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 February 18, 2003.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. The Floyd C. Davis, Sr. Partnership, LP, Heflin, Alabama; to acquire additional voting shares of East Alabama Financial Group, Wedowee, Alabama, and thereby indirectly acquire additional voting shares of Small Town Bank, Wedowee, Alabama.

Board of Governors of the Federal Reserve System, January 27, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–2218 Filed 1–30–03; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Community and Tribal Subcommittee of the Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following subcommittee meeting.

Name: Community and Tribal Subcommittee.

Time and Date: 9:30 a.m.–4 p.m., March 5, 2003.

Place: Doubletree Hotel, 3342 Peachtree Street, Atlanta, Georgia 30326.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 50 people.

Purpose: This subcommittee brings to the Board advice, citizen input, and recommendations on community and tribal programs, practices, and policies of the Agency.

Matters to be Discussed: Agenda items include an update on new data and analysis of the National Health and Nutrition Examination Surveys; discussion on the National Policy on Military Munitions Document; Web-based demonstration on the Community Tool Box; update on collaborative activities on tribal-specific health outcome data; update on the Community and Tribal Subcommittee Evaluation Process; and, a review of action items and recommendations.

Written comments are welcomed and should be received by the contact person listed below prior to the opening of the meeting.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: James E. Tullos, Jr., Designated Federal Official, CTS/ATSDR contact, ATSDR, M/S E–33, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/498–0287.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 24, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–2279 Filed 1–30–03; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–24–03]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: YMC Tween Event Follow-up Survey—NEW—National Center For Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC). In FY 2001, Congress established the Youth Media Campaign at the Centers for Disease Control and Prevention (CDC). Specifically, the House Appropriations Language said: The Committee believes that, if we are to have a positive impact on the future health of the American population, we must change the behaviors of our children and young adults by reaching them with important health messages. CDC, working in collaboration with the Health Resources and Services Administration (HRSA), the National Center for Child Health and Human Development (NICHD), and the Substance Abuse and Mental Health Services Administration (SAMHSA), is coordinating an effort to plan, implement, and evaluate a campaign designed to clearly communicate messages that will help kids develop habits that foster good health over a lifetime. The Campaign is based on principles that have been shown to enhance success, including: designing messages based on research; testing messages with the intended audiences; involving young people in all aspects of Campaign planning and implementation; enlisting the involvement and support of parents and other influencers; tracking the Campaign's effectiveness and revising Campaign messages and strategies as needed.

Close monitoring of the implementation of the program through process evaluation is essential to the success of the campaign. Campaign planners are interested in understanding how well and under what conditions the Campaign was implemented and the size of the audience that was exposed to the messages. This understanding will facilitate any strategy changes that may be necessary to increase the Campaign's effectiveness and sustainability.

The Youth Media Campaign proposes to conduct process evaluation with convenience samples following community events in up to 7 communities nationwide. This process evaluation will gather information from teens and their parents through follow-up telephone interviews.

The purpose of the process research is to determine to what extent the Youth Media Campaign was implemented as planned, the challenges that occurred and how they were addressed in order to refine campaign strategies. The total annualized burden for this data collection is 485 hours.

Respondents	Number of respondents	Number of responses/ respondent	Average burden of response (in hours)
Screener (Parent)	3,332	1	2/60
Child	2,249	1	10/60

Dated: January 27, 2003.

Thomas Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–2276 Filed 1–30–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–22–03]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Evaluating Toolbox Training Safety Program for Construction and Mining (OMB No. 0920–0535)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC) proposes to evaluate the effectiveness of various educational approaches utilizing ''toolbox'' safety training materials targeted to construction and mining industries. The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

In comparison to other industries, construction and mining, workers continue to have the highest rates of occupational fatalities and injuries. The Bureau of Labor Statistics estimated for 1999 that while the construction industry comprises only 6% of the workforce, they account for 20% of the fatal occupational injuries across all industry types (BLS, 1999). Similarly, though the mining industry comprises less than .5% of the workforce, this industry reflects 2% of all fatal occupational injuries (BLS, 1999).

Research on the effectiveness of safety and health training programs has revealed that training can lead to increases in worker knowledge and awareness of workplace safety practices. However, fewer evaluations of safety training effectiveness have investigated the relationship between various instructional approaches and the actual transfer of safety training information into workplace practices. Preliminary input from employees, managers, and union leaders representing construction and mining concerns revealed a desire in these industries for affordable safety training materials that can be effectively administered in short sessions on the job.

Representatives from these industries reported that safety training sessions need to establish a closer connection between the safety recommendations and the background experiences and knowledge of the workers. An instructional approach that may address these needs is often called ''toolbox'' or ''tailgate'' training. This type of training is characterized by brief (15 minute) workplace safety lessons. Despite the popularity of toolbox safety talks, research is needed to identify the most effective format for this medium. NIOSH will investigate the impact of using a narrative, case-study instructional approach versus a more typical, didactic ''learn the facts'' approach. Comparative analyses will examine differences in knowledge gain, safety attitudes and beliefs, and workplace behaviors. Findings from this research will help identify the conditions critical to effective toolbox safety training for mining and construction. The materials developed and evaluated during this

study will be made available to the public at the conclusion of the evaluation.

Construction and mining companies who participate in the study will be randomly assigned to receive eight weekly toolbox safety training sessions that use either a case-study narrative or conventional instructional approach. The training sessions are designed to last fifteen minutes. The impact of these materials will be evaluated through the examination of changes in employee knowledge gains, attitudes toward safety practices, and the use of safety behaviors prior to and following their participation in the safety training program. Trainers will complete brief response cards each week. A sample of trainers will participate in structured interviews. Findings of the study will be reported to participants and in the literature. The total annual burden for this data collection is 233 hours.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)
Worker Pre-training Survey (attitude survey)	412	1	15/60
Worker Post-training Survey (attitude survey)	412	1	15/60
Instructor Feedback Cards	41	8	5/60

Dated: January 27, 2003.

Thomas Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–2277 Filed 1–30–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifiers: CMS–R–242, CMS–10069, CMS–10078, CMS–R–52, and CMS–R–30]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Refinement of RHC Certification and QAPI and Supporting Regulations in 42 CFR 491.8 and 491.11; *Form No.:* CMS–R–242 (OMB# 0938–0792); *Use:* This collection contains information collection requirements concerning requests for additional waivers of staffing requirements and documentation of quality assessment and performance improvement programs; *Frequency:* Annually; *Affected Public:* Business or other for-profit; *Number of Respondents:* 3,528; *Total Annual Responses:* 3,573; *Total Annual Hours:* 3,663.

(2) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Waiver Demonstration Application; *Form No.:* CMS–10069 (OMB# 0938–0880); *Use:* The Medicare Waiver Demonstration Application will be used to collect standard information needed to implement Congressionally mandated and administration high priority demonstrations. The application will be used to gather information about the characteristics of the applicant's organization, benefits, and services they propose to offer, success in operating the model, and evidence that the model is likely to be successful in the Medicare program. The standard application will be used for all waiver demonstrations and will reduce the burden on applicants, provide for consistent and timely information collections across demonstration, and provide a user-friendly format for respondents; *Frequency:* On occasion; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 75; *Total Annual Responses:* 75; *Total Annual Hours:* 1600.

(3) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Matching Grants to States for the Operation of High Risk Pools; *Form No.:* CMS–10078 (OMB# 0938–0887); *Use:* HHS/CMS is requiring this information as a condition of eligibility for grants that were authorized in the Trade Act of 2002 (Pub. L. 107–210). The information is necessary to determine if a state applicant meets the necessary eligibility criteria for a grant as required by the law. The respondents will be states that have a high risk pool as defined in section 2744(c)(2) of the Public Health Service Act. The grants will provide matching funds to states that incur losses in the operation of high risk pools. High risk pools are set up by states to provide heatlh insurance to individuals that cannot obtain health insurance in the private market because of a history of illness; *Frequency:* On occasion; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 20; *Total Annual Responses:* 20; *Total Annual Hours:* 800.

(4) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Conditions of Coverage of Suppliers of End Stage Renal Disease (ESRD); *Form No.:* CMS–R–52 (OMB# 0938–0386); *Use:* This package is needed to encourage proper distribution and effective utilization of ESRD treatment sources while maintaining and improving the efficient delivery of care by physicians and dialysis facilities; *Frequency:* Annually; *Affected Public:* Business or other for-profit and Federal Government; *Number of Respondents:* 4,297; *Total Annual Responses:* 4,297; *Total Annual Hours:* 148,785.

(5) *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in the Hospice Conditions Coverage. The following

regulations are affected: 42 CFR 418.22; 418.24; 418.28; 418.56(b), (e)(1), (e)(3); 418.58; 418.70(e); 418.83; 418.96(b); and 418.100(b); *Form No.:* CMS–R–30 (OMB# 0938–0302); *Use:* Establishes standards for hospices that wish to participate in the Medicare program. The regulations establish standards for eligibility, reimbursement standards and procedure, and delineate conditions that hospices must meet to be approved for participation in Medicare; *Frequency:* On occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 2,316; *Total Annual Responses:* 2,316; *Total Annual Hours:* 5,981,427.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://cms.hhs.gov/regulations/pra/default.asp,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attention: Dawn Willinghan, Room: C5–14–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 23, 2003.

John P. Burke III,

CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.

[FR Doc. 03–2239 Filed 1–30–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Filing of Annual Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings during fiscal year 2002.

ADDRESSES: Copies are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, 301–827–6860.

FOR FURTHER INFORMATION CONTACT: Theresa L. Green, Advisory Committee and Oversight Management Staff (HF–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1220.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (5 U.S.C. app.2) and 21 CFR 14.60(c), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period October 1, 2001 through September 30, 2002:

Center for Biologics Evaluation and Research:

Allergenic Products Advisory Committee,

Biological Response Modifiers Advisory Committee,

Blood Products Advisory Committee,

Transmissible Spongiform Encephalopathies Advisory Committee, and

Vaccines and Related Biological Products Advisory Committee.

Center for Drug Evaluation and Research:

Arthritis Drugs Advisory Committee,

Nonprescription Drugs Advisory Committee, and

Pulmonary-Allergy Drugs Advisory Committee.

Center for Food Safety and Applied Nutrition:

Food Advisory Committee.

Center for Devices and Radiological Health:

Medical Devices Advisory Committee (consisting of reports for the Circulatory System Devices Panel, Dental Products Panel, Ear Nose and Throat Devices Panel, Microbiology Devices Panel, Obstetrics Devices Panel, Ophthalmic Devices Panel, General and Plastic Surgery Devices Panel, Orthopedic and Rehabilitation Devices Panel).

National Center for Toxicological Research:

Science Advisory Board to the National Center for Toxicological Research.

Annual Reports are available for public inspections between 9 a.m. and 4 p.m., Monday through Friday at the following locations:

(1) The Library of Congress, Madison Bldg., Newspaper and Current Periodical Reading Room, 101 Independence Ave. SE., rm. 133, Washington, DC; and

(2) The Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Dated: January 16, 2003.

Linda Arey Skladany,

Associate Commissioner for External Relations.

[FR Doc. 03–2294 Filed 1–30–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03D–0007]

Draft Guidance for Industry on Estrogen and Estrogen/Progestin Drug Products to Treat Vasomotor Symptoms and Vulvar and Vaginal Atrophy Symptoms—Recommendations for Clinical Evaluation; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Estrogen and Estrogen/Progestin Drug Products to Treat Vasomotor Symptoms and Vulvar and Vaginal Atrophy Symptoms—Recommendations for Clinical Evaluation.'' The agency is revising its guidance for industry entitled ''Guidance for Clinical Evaluation of Combination Estrogen/Progestin-Containing Drug Products Used for Hormone Replacement Therapy of Postmenopausal Women,'' which was issued in March 1995 (the 1995 guidance). Once finalized, this guidance will replace the 1995 guidance.

DATES: Submit written or electronic comments on the draft guidance by April 1, 2003. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send on self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft 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 draft guidance document.

FOR FURTHER INFORMATION CONTACT: Margaret Kober, Center for Drug Evaluation and Research (HFD–580), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4243.

SUPPLEMENTARY INFORMATION:

I. Background

In March 1995, the agency issued a guidance entitled ''Guidance for Clinical Evaluation of Combination Estrogen/Progestin-Containing Drug Products Used for Hormone Replacement Therapy of Postmenopausal Women''. The agency was revising the 1995 guidance when the results of a substudy of the National Institutes of Health (NIH) Women's Health Initiative (WHI) trial were made available to the public.[1] In light of the interim results of the WHI substudy, on September 10, 2002 (67 FR 57432), the agency withdrew the 1995 guidance. Once finalized, this guidance will replace the 1995 guidance.

In the WHI substudy, postmenopausal women who took conjugated estrogen 0.625 milligram (mg) combined with medroxyprogesterone acetate 2.5 mg had higher risks of several serious adverse events relative to those women who took placebo. Conjugated estrogens alone also increased the rates of cardiovascular disease compared to placebo. Other doses of conjugated estrogens and medroxyprogesterone acetate and other combinations of estrogens and progestins were not studied in the WHI. However, in the absence of comparable data, the risks of serious adverse events should be assumed to be similar because other studies show that estrogens and progestins are associated with these types of events.

This draft guidance revises the 1995 guidance in several ways. For example, the draft guidance no longer uses the phrase ''hormone replacement'' because neither estrogen alone nor estrogen/progestin treatments for symptoms of menopause should be considered replacement hormones. The guidance only addresses two indications (moderate to severe vasomotor symptoms and moderate to severe vulvar and vaginal atrophy symptoms) and explains under what conditions both indications can be studied concurrently in a single trial. For other indications, such as the prevention of osteoporosis, sponsors are asked to direct inquiries to the appropriate review division in the Center for Drug Evaluation and Research. A section entitled Primary Endpoints has been added for each indication, and the Study Analysis section has been modified to clarify analyses of the primary endpoints. The Monitoring section for drug products containing estrogen plus progestin has been expanded. The additions to this section were made to address diagnostic ambiguities in the efficacy evaluation for protection of the endometrium.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the agency's current thinking on recommendations for clinical evaluation of estrogen and estrogen/progestin drug products to treat vasomotor symptoms and vulvar and vaginal atrophy symptoms. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding the draft guidance. Submit a single copy of electronic comments to http://www.fda.gov/dockets/ecomments or two hard copies of any written comments, except that individuals may submit one hard copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft document at either http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: January 23, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–2213 Filed 1–30–03; 8:45 am]

BILLING CODE 4160–01–S

[1] The results of the NIH Women's Health Initiative trial were reported in the *Journal of the American Medical Association*, 288: 321–333, 2002.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0488]

Guidance for Industry on Food-Effect Bioavailability and Fed Bioequivalence Studies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Food-Effect Bioavailability and Fed Bioequivalence Studies.'' This guidance provides recommendations to sponsors and/or applicants planning to conduct food-effect bioavailability (BA) and fed bioequivalence (BE) studies for orally administered drug products as part of investigational new drug applications (INDs), new drug applications (NDAs) and abbreviated new drug applications (ANDAs), and supplemental applications.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Ameeta Parekh, Center for Drug Evaluation and Research (HFD–870), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5919.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Food-Effect Bioavailability and Fed Bioequivalence Studies.'' This guidance document is intended to provide information to sponsors and/or applicants planning to include food-effect BA and fed BE studies for orally

administered drug products in INDs, NDAs, ANDAs, and supplemental applications. This guidance provides recommendations for when studies are appropriate, as well as recommendations on study design, data analysis, and product labeling.

In the **Federal Register** of November 28, 2001 (66 FR 59433), FDA published a draft guidance entitled ''Food-Effect Bioavailability and Fed Bioequivalence Studies: Study Design, Data Analysis, and Labeling.'' Based on comments received on the draft guidance and the refinement of agency thinking on the conduct of such studies, FDA has revised the guidance.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on submitting food-effect BA and fed BE information as part of INDs, NDAs, and ANDAs. 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 statute and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on the guidance at any time. Two copies of mailed 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 examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: January 21, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–2214 Filed 1–30–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement for the opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Ryan White CARE Act: Title III Client-level Demonstration Project (CDP)—New

The CDP was originally established in 1994 to collect information from grantees and their subcontracted service providers funded under Titles I and II of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, as amended by the Ryan White CARE Act Amendments of 1996 (codified under Title XXVI of the Public Health Service (PHS) Act). This new effort will collect client level data from a sample of Ryan White CARE Act Title III Grantees. The HRSA's HIV/AIDS Bureau administers funds for all titles of the CARE Act. The Title III program is authorized by Section 2651 of the PHS Act.

The PHS Act specifies that HRSA is responsible for the administration of grant funds, the allocation of funds, the evaluation of programs for the population served, and the improvement of the quantity and quality of care. Accurate records on the grantees receiving CARE Act funding, the services provided, and the clients served are critical to the implementation of the legislation and thus are necessary for HRSA to fulfill its responsibilities.

Client level information will be collected from a sample of Title III CARE Act funded grantees regarding the number of clients served, services provided, demographic information about clients served, and health status of clients served. In addition, client level information will be collected that measures mortality status and additional indicators of health status and whether standards of care are being followed by providers.

The primary purposes of the CDP are to examine client level demographic and service data on HIV/AIDS infected/affected clients being served by the Ryan White CARE Act and demonstrate the usefulness of these data for planning and evaluation purposes at both the local and national levels. Through this system, HRSA seeks to supplement the information collected in the CARE Act Data Report (CADR). Because there is no nationwide acceptance of client level reporting for HIV/AIDS services, the CADR collects data aggregated at the grantee level and contains duplicated counts of clients who have received services from more than one provider during a given reporting period.

Based on data from eligible grantees, the number of clients that a grantee serves ranges from 125 to 2748, with 422 being the median number of clients. About 30 minutes is required to respond to these questions and the data are collected 4 times a year.

The burden estimate for this project is as follows:

Grantee	Number of respondents	Responses per respondent	Total responses	Burden hour per respondent	Total burden hours
<500 Clients	15	250	3,750	2	7,500
500+ Clients	10	1,232	12,320	2	24,640
Total	25		16,070		32,140

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–45, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Written comments should be received within 60 days of this notice.

Dated: January 23, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–2215 Filed 1–30–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Uniform Data System (OMB No. 0915–0193)—Revision

This is a request for a revision of approval of the Uniform Data System (UDS), which contains the annual reporting requirements for the cluster of primary care grantees funded by the Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA). Authorizing Legislation is Section 330 of the Public Health Service Act. The UDS includes reporting requirements for grantees of the following primary care programs: Community Health Centers, Migrant Health Centers, Health Care for the Homeless, Outreach and Primary Health Services for Homeless Children and Public Housing Primary Care, and Healthy Schools Healthy Communities. BPHC collects data on its programs to ensure compliance with legislative mandates and to report to Congress and policy makers on program accomplishments. To meet these objectives, BPHC requires a core set of information collected annually that is appropriate for monitoring and evaluating performance and reporting on annual trends. The UDS includes two components: the Universal Report, completed by all grantees, provides data on services, staffing, and financing; and the Grant Report, completed by grantees funded under the Homeless, Public Housing Program or Healthy Schools Healthy Communities as well as one of the other programs, provides data on characteristics of users whose services fall within the scope of the Homeless, Public Housing Program, Healthy Schools Healthy Communities grant. Grantees are also asked to provide information on the charges, collections, bad debt write off and contractual disallowances by payor sources (Medicaid, Medicare, self pay and private insurance).

Estimated annualized reporting burden are as follows:

Type of report	Number of respondents	Hours per response	Total burden hours
Universal Report	982	27	26,514
Grant Report	184	18	3,312
Total	982		29,826

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–45, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: January 27, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–2349 Filed 1–30–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Voluntary Partner Surveys To Implement Executive Order 12862 in the Health Resources and Services Administration—(OMB 0915–0212)—Extension

In response to Executive Order 12862, the Health Resources and Services Administration (HRSA) is proposing to conduct voluntary customer surveys of its ''partners'' to assess strengths and weaknesses in program services. A generic approval is being requested from OMB to conduct the partner surveys. HRSA partners are typically State or local governments, health care facilities, health care consortia, health care providers, and researchers.

Partner surveys to be conducted by HRSA might include, for example, mail or telephone surveys of grantees to

determine satisfaction with a technical assistance contractor, or in-class evaluation forms completed by providers who receive training from HRSA grantees, to measure satisfaction with the training experience. Results of these surveys will be used to plan and redirect resources and efforts as needed to improve service. Focus groups may also be used to gain partner input into the design of mail and telephone surveys. Focus groups, in-class evaluation forms, mail surveys, and telephone surveys are expected to be the preferred methodologies.

A generic approval will permit HRSA to conduct a limited number of partner surveys without a full-scale OMB review of each survey. If generic approval is granted, information on each individual partner survey will not be published in the **Federal Register**.

The estimated response burden is as follows:

Type of survey	Number of respondents	Responses per respondent	Hours per response	Total hour burden
In-class evaluations	40,000	1	.05	2,000
Mail/Telephone surveys	2,000	1	.25	3,000
Focus groups	50	1	1.5	75
Total	52,050			5,075

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 27, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–2348 Filed 1–30–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Environmental Factors in the Development of Polycystic Ovary Syndrome

Summary: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Environmental Health Sciences (NIEHS), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 25, 2002, pages 56690–56691 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Environmental Factors in the Development of Polycystic Ovary Syndrome. *Type of Information Collection Request:* Revision of OMB No. 0925–0483 and expiration date 2/28/2003. *Need and Use of Information Collection:* The purpose of this study is to identify a cohort of living female twin pairs in which at least one member is likely to have Polycystic Ovary Syndrome (PCOS) for future study. Potential participants (~3,700) will come from the Mid-Atlantic Twin Registry (MATR) and were chosen based on their answers to several questions (in a preliminary MATR survey) concerning irregular periods and a history of polycystic cystic ovaries. The instrument to be used here will be administered by telephone by professional interviewers at the MATR. It contains 15 simple and direct questions and will take about 10 minutes to complete. Its contents deal with the frequency of menstrual periods, a history of polycystic ovaries, obesity, excess facial hair and other evidence of hyperandrogenism. Since this is such a short telephone survey, participants will receive no prior notification. Informed consent will be asked for verbally over the phone at the time of the interview. All participants will be asked about their willingness to participate in future studies if their answers meet certain criteria. The major objectives of future studies using this cohort are to determine more reliable concordance rates for PCOS in monozygotic and dizygotic twins, establish baseline heritability estimates, and develop hypotheses concerning possible pathogenetic and/or environmental factors. The findings from this study will aid in developing: (1) Genetic tests to identify high risk women; (2) preventative strategies; and (3) more effective therapies for PCOS and related syndromes such as type 2 diabetes, obesity, idiopathic, hyperandogenism, and male pattern baldness. *Frequency of Response:* One time. *Affected Public:* Individuals or households. *Type of Respondents:* Adult women. The annual reporting burden is as follows: *Estimated Number of Respondents:* 3,700; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 0.167; and *Estimated Total Annual Burden Hours Requested:* 205.9 hours. The annualized cost to respondents is estimated at $3,449.94. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) 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) 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) Ways to enhance the quality,utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated

public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Patricia C. Chulada, Clinical Research Scientist, Clinical Research Office, NIEHS, PO Box 12233, Research Triangle Park, NC 27709 or call non-toll-free number (919) 541–7736 or E-mail your request, including your address to: *chulada@niehs.nih.gov.*

Comments Due Date: Comments regarding this information are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: January 17, 2003.

Francine Little,

Associate Director for Management.

[FR Doc. 03–2228 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Prevention Research and Epidemiology.

Date: March 18–20, 2003.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Marcy Jane Slesinski, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8045, Bethesda, MD 20892, (301) 594–1566.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 24, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2225 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, SPORES in Prostate and GU Cancer.

Date: February 26–28, 2003.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Bratin K. Saha, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8123, Bethesda, MD 20892, (301) 402–0371, sahab@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 24, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2227 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Independent Scientist Awards (K02s).

Date: March 4, 2003.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, Building 4401, T.W. Alexander Drive, Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Mentored Clinical Scientist Development Awards (K08s).

Date: March 4, 2003.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, Building 4401, T.W. Alexander Drive, Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30,

Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Mentored Quantitative Research Career Development Awards (K25s).

Date: March 4, 2003.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, Building 4401, T.W. Alexander Drive, Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: January 23, 2003.

Laverne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2220 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, SEP Review Meeting (1 R01).

Date: February 18, 2003.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, Willco Building, 6000 Executive Blvd., 409 Bethesda, MD 20852–7003, (Telephone Conference Call).

Contact Person: Elsie D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787 *etaylor@niaaa.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: January 23, 2003.

LaVerne Y. Stringfield

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2221 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, NIAAA SEP Application (R13) Review Meeting.

Date: February 26, 2003.

Time: 9 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Willco, 6000 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol, Abuse and Alcoholism, 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, (301) 443–2926, *skandasa@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: January 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2222 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Immune Epitope Database and Analysis Program.

Date: February 19, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Katherine L. White, PhD, Scientific Review Administrator, AIDS Preclinical Research Review Branch, Scientific Review Program, National Institutes of Allergy and, Infectious Diseases, 6700 B Rockledge Drive, Room 3119, Bethesda, MD 20892, (301) 435–1615, *kw174b@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology,

and Transplantation Research, 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 24, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2223 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 03–30, Review of R13 Grants.

Date: February 4, 2003.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 03–50, Review of Clinical Trial applications.

Date: February 24, 2003.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.12, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2224 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Immunological Sciences Integrated Review Group, Experimental Immunology Study Section.

Date: February 6–7, 2003.

Time: 8:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, (301) 435–3566, *cooperc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bridges to the Future.

Date: February 11, 2003.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, Department of Health and Human Services, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, (301) 435–3566, *cooperc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Oncological Sciences Integrated Review Group, Pathology B Study Section.

Date: February 12–14, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6212, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Visual Sciences B Study Section.

Date: February 12–13, 2003.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Christine Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176 MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Pathophysiological Sciences Integrated Review Group, Alcohol and Toxicology Subcommittee 4.

Date: February 12–13, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Medicinal Chemistry Study Section.

Date: February 12–13, 2003.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Robert Lees, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7806, Bethesda, MD 20892, (301) 435–2684, *leesro@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN2 (01) Neuroendocrinology, Neuroimmunology, and Behavior.

Date: February 12–13, 2003.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, (301) 435–1245, *richard.marcus@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SRB (50) R:PAR–02–010: Bioengineering Partnerships.

Date: February 12, 2003.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Eileen W. Bradley, DSC, Chief and Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 RNM 01: Diagnostic Imaging Member Conflict.

Date: February 12, 2003.

Time: 7 p.m. to 9:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 DMG 01M Diagnostic Radiology Member Conflict.

Date: February 12, 2003.

Time: 7 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 RNM 02: Diagnostic Imaging Member Conflict.

Date: February 12, 2003.

Time: 9:30 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Experimental Virology Study Section.

Date: February 13–14, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7808, Bethesda, MD 20892, (301) 435–1050, *freundr@csr.nih.gov*.

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group, Endocrinology Study Section.

Date: February 13–14, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Syed M. Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1043 *amirs@csr.nih.gov*.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.

Date: February 13–14, 2003.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Tropical Medicine and Parasitology Study Section.

Date: February 13–14, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3194, MSC 7808, Bethesda, MD 20892, (301) 435–1146 *hickman@csr.nih.gov*.

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group, Biochemical Endocrinology Study Section.

Date: February 13, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Michael Knecht, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Radiology Study Section.

Date: February 13–14, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BECM–01 Bioanalytical Engineering and Chemistry Panel.

Date: February 13–14, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand, 2350 M Street, NW., Washington, DC 20037.

Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, (301) 435–1217, *byrnesn@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Risk, Prevention and Health Behavior 1.

Date: February 13–14, 2003.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, *levinv@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 2, Biobehavioral Mechanisms of Emotion, Stress, and Health.

Date: February 13–14, 2003.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, *tathamt@csr.nih.gov.*

Name of Committee: Genetic Sciences Integrated Review Group, Mammalian Genetics Study Section.

Date: February 13–14, 2003.

Time: 9 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Cheryl M. Corsaro, PhD, Scientific Review Administrator, Genetic Sciences IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Epidemiology and Disease Control Subcommittee 1.

Date: February 13–14, 2003.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Scott Osborne, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782.

Name of Committee: Genetic Sciences Integrated Review Group, Genetics Study Section.

Date: February 13–15, 2003.

Time: 9 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038, *remondid@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Gene and Radiation Therapy.

Date: February 13, 2003.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Shen K. Yang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 435–1213, *yangsh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Collaborative Projects: Neglect.

Date: February 13, 2003.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7848, Bethesda, MD 20892, (301) 594–6836, *tathamt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Collaborative Projects: Hostility.

Date: February 13, 2003.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7848, Bethesda, MD 20892, (301) 594–6836, *tathamt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Basic and Clinical Studies of Anterior Eye Diseases.

Date: February 18–19, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sofitel Lafayette Square, 806, 15th Street, NW., Washington, DC 20005.

Contact Person: Mary Custer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 4.

Date: February 18–19, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington, DC, 1400 M Street, NW., Washington, DC 20005.

Contact Person: Dan Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Virology Study Section.

Date: February 18–19, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Joanna M. Pyper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–1151, *pyperj@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 5.

Date: February 18–19, 2003.

Time: 8:30 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington,DC 20036.

Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Malarial Transmission.

Date: February 18, 2003.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marian Wachtel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3208, MSC 7858, Bethesda, MD 20892, (301) 435–1148, *wachtelm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–X (10)B Ultrasound.

Date: February 18, 2003.

Time: 7 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–X 12B Ultrasound.

Date: February 18, 2003.

Time: 9 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333,

93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2219 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Prognosis and Prediction.

Date: March 4, 2003.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Lalita D Palekar, PHD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8105, Bethesda, MD 20892–7405, (301) 496–7575.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Canter Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 24, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–2226 Filed 1–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Protection and Advocacy for Individuals with Mental Illness (PAIMI) Annual Program Performance Report (OMB No. 0930–0169, Revision)—The Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act (42 USC. 10801 *et seq.*) authorized funds to support protection and advocacy services on behalf of individuals with severe mental illness and severe emotional impairment who are at risk for abuse and neglect and other civil rights violations while under treatment in a residential facility. This program is managed by SAMHSA's Center for Mental Health Services (CMHS).

Under the PAIMI Act, formula grant awards are made to protection and advocacy (P&A) systems designated by the governors of the 50 states and 6 territories, and the District of Columbia to ensure that the rights of individuals with severe mental illness and severe emotional disturbance are not violated. In October 2000, the PAIMI Act was amended to create a 57th P&A system—the American Indian Consortium in Shiprock, New Mexico. Whenever the annual PAIMI appropriation reaches $30 million or more, State P&A systems may serve eligible individuals with serious mental illness or severe emotional impairments, as defined under the Act, residing in the community, including their own homes. However, PAIMI eligible persons residing in public and private residential care or treatment facilities have priority for all P&A system services.

The PAIMI Act requires P & A systems to file an annual report on their activities and accomplishments and to provide information on such topics as: numbers of individuals served, types of complaints addressed, and the number of intervention strategies used to resolve the presenting issues. Under the Act, there is an Advisory Council which is also required to submit an annual report that assesses the effectiveness of the services provided to, and the activities conducted by, the P&A systems on behalf of PAIMI eligible individuals and their family members. In this submission, CMHS is reinstating information on fiscal year actual budget expenditures and making primarily minor changes to the annual reports. The revised report formats will be effective for the report due on January 1, 2004. The annual burden estimate is as follows:

	Number of respondents	Number of responses per respondent	Hours per response	Total hour burden
Annual Program Performance Report	57	1	28	1,596
Activities & Accomplishments			(20)	(1,140)
Performance outcomes			(3)	(171)
Expenses			(2)	(114)
Budget			(2)	(114)
Priority statements & objectives			(1)	(57)
Advisory Council Report	57	1	10	570
Total	114			2,166

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Herron Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 15, 2003.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 03–2273 Filed 1–30–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4529–N–03]

Notice of Proposed Information; Collection: Comment Request; Applicant/Recipient Disclosure/Update Report—HUD 2880

AGENCY: Office of the General Counsel, 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: April 1, 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: Patricia A. Wash, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 10245, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Paula A. Lincoln, Assistant General Counsel, Ethics Law Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 2130, Washington, DC 20410 telephone (202 708–3815) (this is not a toll-free number). For copies of the proposed form and other available documents.

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 from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 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: Applicant/Recipient Disclosure/Update Report.

OMB Control Number, if applicable: 2510–0011.

Description of the need for the information and proposed use: Section 102 of The HUD Reform Act of 1989 requires the Department to ensure greater accountability and integrity in the provision of assistance administered by the Department. One feature of the statute requires certain disclosures by applicants seeking assistance from HUD. The disclosure includes the financial interests of persons involved in the activities, the sources of funds to be made available for the activities, and the proposed uses of the funds.

Each applicant who submits an application for assistance, within the jurisdiction of the Department, to HUD, to a State or to a unit of general local government for a specific project or activity, must disclose this information whenever the dollar threshold is met ($200,000 during the Fiscal Year in which the application is submitted). This information must be kept updated during the application review process and while the assistance is being provided.

Agency form numbers, if applicable: HUD–2880.

Members of affected public: Applicants for HUD competitive assistance.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of disclosures (including updates)	Burden hours	Frequency of response	Total burden hours
16,900	2.0	1.2	40,560

Status of the proposed information collection: Extension of expiration date.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 28, 2003.

Richard A. Hauser,

General Counsel.

[FR Doc. 03–2350 Filed 1–30–03; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

U.S. Coral Reef Task Force Meeting

Time and Date: 8:30 a.m. to 5 p.m. EST, February 26 and 27, 2003.

Place: Departmental Auditorium, Department of the Interior, 1849 C Street, NW, Washington, DC 20240.

Status: The Department of the Interior, as co-chair with the Department of Commerce, on behalf of the U.S. Coral Reef Task Force (CRTF), announces a public meeting of the Task Force. Composed of the heads of eleven federal agencies and the Governors of seven states, territories, and commonwealths, the Task Force has helped lead U.S. efforts to address the coral reef crisis and sustainably manage the nation's valuable coral reef ecosystems.

Matters to be Considered: The CRTF will discuss implementation of the National Plan for Coral Reef Conservation Action, improvements in Task Force operations, and accept public comments. The agenda will be available from the contact person below and published on the web at *http://coralreef.gov/* when finalized.

Individuals and organizations will have opportunities to register for exhibit space and register to provide public comments limited to less that 5 minutes. Wherever possible, those with similar viewpoints or messages are encouraged to make joint statements. Testimony will be received on the afternoon of February 26. Written statements may also be submitted to the Task Force up to March 14, 2003.

Contact Person for More Information: Organizations and individuals desiring to register for public comments or to obtain additional information should contact Patty Myatt, c/o the Assistant Secretary for Fish and Wildlife Parks, Department of the Interior, 1849 C Street NW., MS–MIB–3156, Washington, DC 20240, telephone 202–208–6621, email *patty_myatt@ios.doi.gov.*

Dated: January 23, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–2129 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by March 3, 2003.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax (703) 358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone (703) 358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–066885

Applicant: Secor Dustin, St. Petersburg, FL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–066886

Applicant: Norman L. Delan, Jr., Fleetwood, PA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–066978

Applicant: Dennis Mark Friend, Gladewater, TX.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–066574

Applicant: University of Idaho, Moscow, ID.

The applicant requests a permit to import biological samples from European brown bear (*Ursus arctos arctos*) collected in the wild in Italy, for scientific research. This notification covers activities conducted by the applicant over a five year period.

PRT–066901

Applicant: Wheeling Park Commission, Ogelbay's Good Zoo, Wheeling, WV.

The applicant requests a permit to acquire through interstate commerce one male captive-born Komodo monitor (Varanus komodoensis) from Miami Metrozoo for the purpose of enhancement of the survival of the species through conservation education.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: January 17, 2003.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–2115 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). We, the U.S. Fish and Wildlife Service, solicit review and comment from local, State, and Federal agencies, and the public on the following permit requests.

DATES: Comments on these permit applications must be received on or before March 3, 2003, to receive our consideration.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181 (fax: 503–231–6243). Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above (telephone: 503–231–2063). Please refer to the respective permit number for each application when requesting copies of documents.

SUPPLEMENTARY INFORMATION:

Permit No. TE–062907

Applicant: Andrew Forde, Costa Mesa, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–066146

Applicant: Hugh Vance, Palm Springs, California.

The applicant requests a permit to take (collect and captively propagate) the desert pupfish (*Cyprinodon macularius*) in Riverside County, California for the purpose of enhancing its survival.

Permit No. TE–065925

Applicant: Raphael Mazor, Berkeley, California.

The applicant requests a permit to take (survey, collect, and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*) and the vernal pool fairy shrimp (Branchinecta lynchi), and take (capture and release) the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with genetic research, and dispersal and population demographics throughout the range of each species in California for the purpose of enhancing their survival.

Permit No. TE–066318

Applicant: Brian Knaus, Corvallis, Oregon.

The applicant requests a permit to reduce to possession the *Astragalus lintiginosus* var. *coachellae* (Coachella Valley milk-vetch) in conjunction with research in Riverside County, California for the purpose of enhancing its survival.

Permit No. TE–054802

Applicant: Anthony Adkins, Durango, Colorado.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–004939

Applicant: Gordon Pratt, Riverside, California.

The permittee requests an amendment to take (survey by pursuit, capture, captively propagate, and release) the Lotus blue butterfly (*Lycaeides argyrognomon lotis*) in conjunction with recovery efforts in Mendocino and Sonoma Counties, California for the purpose of enhancing its survival.

Permit No. TE–066455

Applicant: Scot A. Chandler, Murrieta, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–053777

Applicant: David Bise, Pasadena, California.

The permittee requests an amendment to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–066457

Applicant: Kingsinger Environmental Consultants, Carlsbad, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

We solicit public review and comment on each of these recovery permit applications.

Dated: January 9, 2003.

William F. Shake,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 03–2278 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Information Collection to Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for the Application for Training or Employment Assistance Form, OMB Control No. 1076–0062, has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995.

DATES: Submit your comments and suggestions on or before March 3, 2003.

ADDRESSES: Written comments should be sent directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, 725 17th Street NW., Washington, DC 20503.

Send a copy of your comments to Lynn Forcia, Bureau of Indian Affairs, Office of Economic Development, 1849 C Street NW., Mailstop 2412 MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection may be obtained by contacting Lynn Forcia at 202–219–5270. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is necessary to assess the need to help adult Indians who reside on or near Indian reservations to obtain reasonable and satisfactory employment. The information collection documents provide information necessary to administer the program for Employment Assistance or Vocational Training. The Department is authorized to undertake a program of vocational training that provides vocational counseling, guidance, and training in any recognized vocation, apprenticeship, trade, or on-the-job training. The program is available to Indians who are not less than 18 years old and not more than 35 years old who reside on or near an Indian reservation. Public Law 84–959 and Public Law 88–230 authorize the BIA to enter into contracts or agreements with Federal, State, local government agencies or associations with apprenticeship programs or on-the-job training that leads to skilled employment. The same application form is used for both 25 CFR parts 26 and 27. Information of a confidential nature is protected by the Privacy Act. A request for comments on this information collection was published in the **Federal Register** on November 15, 2002 (67 FR 69238). No comments were received.

II. Request for Comments

Comments are invited on (a) whether the information collection 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 (hours and cost) of the 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 the information on the respondents, including through the use of automated collection techniques or other forms of information technology.

The Office of Management and Budget has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, comments submitted in

response to this notice should be submitted to OMB within 30 days in order to assure their maximum consideration.

Please note that all comments are available for public review during regular office hours. If you wish to have your name and/or address withheld, you must state this prominently at the beginning of your comments. We will honor your request to the extent allowed by law. All comments from businesses or representatives of businesses will be open for public review.

III. Data

Title: The Adult Vocational Training and Employment Assistance Program Application Form.

OMB approval number: 1076–0062.

Summary of Collection of Information: The collection of information provides pertinent data concerning the individual's training and employment background to determine eligibility for program services.

Frequency: Annually.

Description of respondents: Individual tribal members residing on or near reservations seeking training and employment assistance services.

Estimated completion time: ½ hour.

Number of Annual responses: 4,900.

Annual Burden hours: 2,450 hours.

Dated: January 17, 2003.

Aurene M. Martin,

Assistant Secretary—Indian Affairs.

[FR Doc. 03–2216 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–4M–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–010–1990–EX]

Notice of Availability of Final Supplemental Environmental Impact Statement; Betze Project Dewatering, Eureka and Elko Counties, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability (NOA) of final Supplemental Environmental Impact Statement (SEIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act, 40 CFR parts 1500–1508 and 43 CFR part 3809, notice is given that the Elko Field Office of the Bureau of Land Management has prepared a final SEIS for Barrick Goldstrike's dewatering operations for the Betze/Post Project in northeastern Nevada.

EFFECTIVE DATE: The final SEIS will be distributed and made available to the public following publication of this notice in the **Federal Register**. The period of availability for public review for the final SEIS ends 30 days after publication of this notice in the **Federal Register**.

ADDRESSES: A copy of the final SEIS can be obtained from: Bureau of Land Management, Elko Field Office; Attn: Kirk Laird, SEIS Coordinator; 3900 E. Idaho Street; Elko, NV 89801. The final SEIS may also be downloaded from the Elko Field Office Internet site at *http://www.nv.blm.gov/elko.*

FOR FURTHER INFORMATION CONTACT: Kirk Laird, SEIS Coordinator, at the above Elko Field Office address or telephone (775) 753–0200.

SUPPLEMENTARY INFORMATION: The SEIS supplements the analysis of dewatering for the Betze Project originally analyzed for an Environmental Impact Statement completed in 1991. The SEIS analysis is based on updated data, changes in the dewatering program, and improved hydrogeologic modeling. The draft SEIS analyzed a proposed additional water pipeline, which has been canceled, is no longer subject to analysis, and thus is not part of the final SEIS. The SEIS analyzes the potential impact of ongoing dewatering by Barrick's Goldstrike Mine, approved by the State of Nevada, and proposed dewatering by other mines along the Carlin Trend and analyzes updated mitigation measures. An abbreviated final SEIS has been produced. The abbreviated final SEIS contains copies of comment letters received on the draft SEIS, responses to those comments, and an errata section with specific modifications and corrections to the draft in response to the comments.

Dated: January 10, 2003.

Helen Hankins,

Field Manager.

[FR Doc. 03–1073 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, the Department of Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR part 1320, this notice announces the National Park Service (NPS) intention to request an extension for a currently approved information collection used in the Historic Preservation Tax Incentives Program administered by the NPS. The NPS also is asking for comments on the practical utility of the information being gathered; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information being collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. This program will measure performance in meeting goals as required by the 1995 Government Performance and Results Act (GPRA).

DATES: Public comments on this notice will be accepted on or before April 1, 2003, to be assured of consideration.

ADDRESSES: *Send Comments to:* Sharon C. Park, Heritage Preservation Services, National Park Service, 1849 C St., NW., Org. code 2255, Washington, DC 20240–0001.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of the information collection can be obtained from Sharon C. Park, Chief, Technical Preservation Services, National Park Service, 1849 C St., NW., Org. code 2255, Washington, DC 20240–0001.

FOR FURTHER INFORMATION CONTACT: Sharon C. Park, (202)–354–2033.

SUPPLEMENTARY INFORMATION:

Title: Historic Preservation Certification Application.

OMB Number: 1024–0009.

Expiration Date of Approval: May 31, 2003.

Type of Request: Extension of a currently approved information collection.

Abstract: Section 47 of the Internal Revenue Code requires that the Secretary of the Interior certify to the Secretary of the Treasury upon application by owners of historic properties for Federal tax benefits, (a) the historic character of the property, and (b) that the rehabilitation work is consistent with that historic character. The NPS administers the program in partnership with the Internal Revenue Service. The Historic Preservation Certification Application is used by the NPS to evaluate the condition and historic significance of buildings undergoing rehabilitation for continued use, and to evaluate whether the rehabilitation work meets the Secretary of the Interior's Standards for Rehabilitation.

Respondents: Individuals or households, business or other for-profit entities.

Estimated Annual Burden on Respondents: 7,500 hours.

Estimated average burden hours per response: 2.5 hours.

Estimated average number of respondents: 3,000 annually.

Estimate frequency of response: 3,000 annually.

Dated: January 6, 2003.

Leonard E. Stowe,

Acting Information Collection Clearance Officer, National Park Service, WAPC.

[FR Doc. 03–2325 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: National Park Service.

ACTION: Notice and request for comments on information collection regarding National Park Service mining regulations.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Park Service's (NPS) intention to request that the Office of Management and Budget (OMB) extend and revise the currently approved information collection budget for the NPS's minerals management regulatory program inside park boundaries. Under 36 CFR part 9, the NPS regulates mineral development activities in parks associated with mining claims located under the 1872 Mining Law, and with non-Federal oil and gas rights.

Under the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites public comments on (1) the need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Comments on this notice must be received by April 1, 2003.

ADDITIONAL INFORMATION OR COMMENTS: Contact Edward Kassman, Jr., Regulatory Specialist, Policy and Regulations Branch, Geologic Resources Division, National Park Service, P.O. Box 25287, Lakewood, Colorado 80225, (303) 969–2146.

SUPPLEMENTARY INFORMATION:

Title: NPS/Minerals Management Program/Mining Claims and Non-federal Oil and Gas Rights.

OMB Number: 1024–0064.

Expiration Date of Approval: June 30, 2003.

Type of Request: Extension and revision of a currently approved information collection budget for NPS minerals management regulatory program.

Abstract: While surprising, outstanding mineral rights exist in many units of the National Park System. In most cases, these rights predate the establishment of the units. Currently, 1,749 mining claims, which were located under the 1872 Mining Law, 30 U.S.C. 21, *et seq.*, exist in a total of 19 park units. The majority of these claims are located in Mojave National Preserve that was added to the National Park System through the California Desert Protection Act of 1994, 16 U.S.C. 410aaa. With respect to non-Federal oil and gas rights in park units, 703 non-Federal oil and gas operations exist in 12 park units. The potential for additional hardrock mining and non-Federal oil and gas operations in additional units is tied to market forces and the quality and quantity of hardrock minerals and oil and gas reserves in park boundaries that coincide with the presence of private rights.

The NPS regulates mineral development activities inside park boundaries on mining claims and on non-Federal oil and gas rights under regulations codified at 36 CFR part 9, subpart A (''9A regulations''), and 36 CFR part 9, subpart B (''9B regulations''), respectively. The NPS promulgated both sets of regulations in the late 1970's. In the case of mining claims, the NPS promulgated the 9A regulations pursuant to congressional authority granted under the Mining in the Parks Act of 1976, 16 U.S.C. 1901 *et seq.*,and individual park enabling statutes. For non-Federal oil and gas rights, the NPS regulates development activities pursuant to authority under the NPS Organic Act of 1916, 16 U.S.C. 1 *et seq.*, and individual enabling statutes. As directed by Congress, the NPS developed the regulations in order to protect park resources and visitor values from the adverse impacts associated with mineral development in park boundaries.

The heart of the regulations is the approved ''plan of operations'' requirement. Essentially, a plan of operations is a prospective operator's blueprint setting forth all intended activities from access to extraction to reclamation related to developing a particular mineral right in a given park unit. The information required in a plan of operations is set forth in NPS regulations. Before an operator can commence development activities in a park unit, the NPS must approve the plan of operations and the operator must secure a bond in an amount sufficient to cover the cost of reclamation to the Federal Government in the event the operator defaults on his/her obligations.

Usually, an approved plan of operations covers the life of the mine or well, from development and production to reclamation. Under NPS regulations, such plans may be revised. No set form is required for a plan of operations. Each plan is tailored to the intended activities of an operator and the particulars of the environment, *e.g.,* hardwood forest or desert, presence of endangered species or cultural resources, location and extent of water resources including wetlands.

Because of the variability among plans of operations and the duration of such plans, assessing the annual paperwork burden of complying with the NPS's mining regulations is difficult. Below is the NPS's best estimate, pro-rated on an annual basis, as to the number of respondents and number of hours involved in complying with the Service's regulations governing mining claims and non-Federal oil and gas rights.

Respondents: ¼ medium to large publicly owned companies and ¾ private entities.

Estimate of Number of Respondents: On an annual basis, the NPS estimates that it receives a range of between 13 to 20 plans of operations under its regulations: 3 to 5 plans of operations for mining claims, and 10 to 15 plans of operations for non-Federal oil and gas rights. For analysis purposes, the NPS used an overall estimate of 17 plans of operations per year: 4 plans of operations for mining claims, and 13 plans of operations for non-Federal oil and gas rights.

Estimated Number of Responses per Respondent: to conduct mineral development operations in park units, a prospective operator must submit a proposed plan of operations to the NPS for review and approval. Once approved, such a plan covers the life of the operation. If the plan is for geophysical work associated with private oil and gas rights it may only cover a period of a few months. In contrast, a plan for an oil and gas well

or a hardrock mine may cover a period of 10 or more years.

Estimate of Burden Per Respondent: Public reporting burden for this collection of information is estimated to average 176 hours per response.

Estimated total Annual Burden: 2992 hours. This number breaks down to 704 total hours to comply with the information requirements of the 9A regulations governing mining claim operations in parks, and 2288 total hours to comply with the information requirements of the 9B regulations governing non-Federal oil and gas operations in parks.

Methodology and Assumptions Underlying the Hour Estimate: Under the Service's 9A regulations and the 9B regulations, a complete plan may consist of 10 pages of text plus 2–10 pages of illustrations inclusive of location maps, site plans and cross-sections, and up to 100 pages of text plus several volumes of supporting material depending on the complexity of the proposed operations. The latter type of plan for hardrock mining is a rarity in the NPS. The time to prepare a plan could range from 24 hours to 6 months for a very complicated plan. Because the content of each plan is specific to the operation and site, and each operation and site present a unique set of circumstances, it is difficult to identify an ''average'' plan on which to base an estimate of preparation time. The NPS thus chose to use 160 hours (4 weeks) plus 10% for purposes of this analysis. In the case of the 9A regulations where an average of 4 complete proposed plans are expected per year, the estimated total amount of time involved to prepare plans of operations is 704 hours (*i.e.,* 176 hours × 4 complete proposed plans). In the case of the 9B regulations where an average of 13 complete proposed plans are expected per year, the estimated total amount of time involved to prepare plans of operations is 2288 hours (*i.e.* 176 hours × 13 complete proposed plans).

Estimated Cost Per Respondent to Comply with the Paperwork Requirements: The NPS estimates that the annualized cost to all respondents to comply with the 9A regulations ranges from $7,040 to $70,400. The NPS estimated the cost per plan at $1,760 to $17,600. In the case of the 9B regulations, the NPS estimates the annualized cost to all respondents ranges from $65,000 to $260,000 based on a likely individual compliance cost range of $5,000 to $20,000.

Methodology and Assumptions Underlying the Cost Estimate: For the 9A regulations, the annualized estimated cost to all the respondents was determined as follows:

(1) Nationwide, 4 plans of operations and associated information (*e.g.,* bond, commercial vehicle registration) are expected annually from different operators;

(2) Using an estimate of 160 hours to prepare a plan complete with attachments at a costs of $10 to $100 per hour (assuming the use of consultants for some or all parts of the plan requirements), the costs to prepare a plan could range from $1600 to $16,000.

(3) The NPS added ten percent (*i.e.,* $160 to $1,600) of the cost to prepare a plan of operations to account for administrative costs associated with changes in claim ownership, *etc.*

An operator with experience in preparing plans of operations likely can prepare an acceptable plan for a moderately complex operation in a few weeks, since most of the components of the plan are compiled during the course of normal business activities. Many of the information requirements of the regulations should be compiled by a responsible operator as part of normal business activities, to minimize liabilities, maintain business records for tax and other purposes, obtain financial backing, and ensure a safe, efficient, and well-planned operation. Under the regulations, information may be submitted in the manner in which is it customarily maintained in the industry. The reclamation plan and environmental report requirements, 36 CFR 9.9(b)(6) and (9), respectively, comprise the bulk of the information collection burden associated with these regulations. There is no standard form for submitting information. The NPS makes pertinent environmental information in park files available to prospective operators to aid in the preparation of proposed plans of operations.

For the 9B regulations, the NPS used a likely individual compliance cost range of $5,000 to $20,000. The range reflects the differences in types and numbers of operations that may be included in a single plan, the wide variations in the environmental settings in which non-Federal oil and gas development occurs in parks whether an applicant prepares the documents in house or uses a consultant, and the availability of pre-existing environmental data from parks. Much of the information required by 36 CFR 9.36 should be compiled by a responsible operator as part of his/her normal business activities to minimize liabilities, maintain business records for tax and other purposes, obtain financial backing, and ensure a safe, efficient, and well-planned operation. The information may be submitted in the manner in which it is customarily maintained in the industry. The NPS does not require conformance with a standardized format. The reclamation plan and environmental report requirements, 36 CFR 9.36(a)(12) and (16), respectively, comprise the bulk of the information collection burden associated with these regulations. The NPS makes pertinent environmental information in park files available to prospective operators to aid in the preparation of proposed plans of operations.

Dated: January 7, 2003.

Leonard E. Stowe,

Acting Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 03–2326 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Pursuant to 36 CFR 51.23, public notice is hereby given that the National Park Service proposes to extend the following expiring concession contracts for a period of up to one year, or until such time as a new contract is extended, whichever occurs sooner.

SUPPLEMENTARY INFORMATION: All of the listed concession authorizations will expire by their terms on or before December 31, 2002. The National Park Service has determined that the proposed short-term extensions are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. These extensions will allow the National Park Service to complete and issue prospectuses leading to the competitive selection of concessioners for new long-term concession contracts covering these operations.

Conc ID No.	Concessioner name	Park
ACAD010–95	National Park Tours	Acadia National Park.
ACAD011–95	Oli's Trolley	Acadia National Park.
ASIS001–99	Eastern National	Assateague Island National Seashore.
CACO002–96	Benz Corporation	Cape Cod National Seashore.
CACO005–97	Highland Museum & LH	Cape Code National Seashore.
COLO005–95	Eastern National	Colonial National Historic Park.
DEWA004–98	Pepsi-Cola Co	Delaware Water Gap NRA.
FOMC001–96	Evelyn Hill, Inc	Fort McHenry NM & Historical Shrine.
GATE002–88	Shields & Dean (JB)	Gateway National Recreation Area.
GATE013–88	Shields & Dean (RP)	Gateway National Recreation Area.
GATE017–99	JEN Marine	Gateway National Recreation Area.
GEWA001–95	GW Birthplace Natl. Mem. Gift Shop	George Washington Birthplace NM.
SAHI001–97	Friends of SAHI	Sagamore Hill National historic Site.
SHEN002–90	Potomac Appalachian Trail Club	Shenandoah National Park.
STEA001–96	Steamtown Museum Association	Steamtown National Historic Site.
VAFO001–97	Valley Forge Tours	Valley Forge National Historic Park.

EFFECTIVE DATE: January 2, 2003.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC 20240, Telephone 202/513–7156.

Dated: December 13, 2002.

Richard G. Ring,

Associate Director, Administration, Business Practices and Workforce Development.

[FR Doc. 03–2322 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Public Notice

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to 36 CFR 51.23, public notice is hereby given that the National Park Service proposes to extend the following expiring concession contracts for a period of up to one year, or until such time as a new contract is executed, whichever occurs sooner.

SUPPLEMENTARY INFORMATION: All of the listed concession authorizations will expire by their terms on or before December 31, 2002. The National Park Service has determined that the proposed short-term extensions are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. These extensions will allow the National Park Service to complete and issue prospectuses leading to the competitive selection of concessioners for new long-term concession contracts covering these operations.

Concessioner ID No.	Concessioner name	Park
CC–FOSU001–86	Fort Sumter Tours, Inc.	Fort Sumter.

EFFECTIVE DATE: January 2, 2003.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC 20240, Telephone 202/513–7156.

Dated: December 13, 2002.

Richard G. Ring,

Associate Director, Administration, Business Practices and Workforce Development.

[FR Doc. 03–2323 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to the terms of existing concession contracts, public notice is hereby given that the National Park Service intends to request a continuation of visitor services for a period not-to-exceed one year from the date of contract expiration.

SUPPLEMENTARY INFORMATION: The contracts listed below have been extended to the maximum allowable under 36 CFR 51.23. Under the provisions of current concession contracts and pending the development and public solicitation of a prospectus for a new concession contract, the National Park Service authorizes continuation of visitor services for a period not-to-exceed one year under the terms and conditions of current contracts as amended. The continuation of operations does not affect any rights with respect to selection for award of a new concession contract.

Concessioner ID No.	Concessioner name	Park
CP–BISC002–87	Biscayne National Underwater Park, Inc	Biscayne National Park.
CP–BISC006–89	Florida National Parks & Monuments Assoc	Biscayne National Park.
CP–EVER006–89	Florida National Parks & Monuments Assoc	Big Cypress National Preserve.
TCC–BISO002–99	Bobby Gene and Gretta York	Big South Fork NRRA NRRA.
CP–BISO002–89	Eastern National	Big South Fork NRRA NRRA.
CP–BISO001–98	LeConte Lodge Limited Partnership	Big South Fork NRRA.
CP–BISO006–96	The View, Bear Creek Horse Camp	Big South Fork NRRA.
CP–BISO005–95	The View, Station Camp	Big South Fork NRRA.
CP–BLRI009–87	Parkway Inn	Blue Ridge Parkway.

Concessioner ID No.	Concessioner name	Park
CP–BLRI002–83	Northwest Trading Post	Blue Ridge Parkway.
CP–BLRI001–93	Southern Highland Handcraft Guild	Blue Ridge Parkway.
CP–BUIS001–98	Southern Seas, Inc	Buck Island Reef NM.
CP–BUIS006–98	Teroro, Inc	Buck Island Reef NM.
CP–BUIS008–98	Llewellyn Westerman	Buck Island Reef NM.
CP–BUIS014–98	Francis J. Waters	Buck Island Reef NM.
CP–BUIS015–98	Milemark, Inc	Buck Island Reef NM.
CP–BUIS019–98	Carl Punzenberger	Buck Island Reef NM.
CC–CAHA001–98	Avon-Thornton Limited Partnership	Cape Hatteras National Seashore.
CC–CAHA002–98	Cape Hatteras Fishing Pier, Inc	Cape Hatteras National Seashore.
CC–CAHA003–84	Hatteras Island Motel Limited Partnership	Cape Hatteras National Seashore.
CC–CALO004–98	Oregon Inlet Fishing Center, Inc	Cape Hatteras National Seashore.
CC–CALO003–98	Morris Marina, Kabin Kamps and Ferry Service, Inc.	Cape Lookout NS.
CC–CALO005–98	Alger G. Willis Fishing Camp, Inc	Cape Lookout NS.
CC–CUIS001–88	Lang Seafood, Inc	Cumberland Island NS.
CP–EVER006–89	Florida National Parks & Monuments Assoc	Everglades National Park.
CC–EVER001–80	Xanterra Parks and Resorts	Everglades National Park.
CI–FOFR001–98	Fort Frederica Association	Fort Frederica National Monument.
CP–GRSM004–98	Cades Cove Riding Stables, Inc	Great Smoky Mountains.
CP–GRSM005–98	Cherokee Boys Club	Great Smoky Mountains.
CP–GRSM010–98	Great Smokey Mountains NHA	Great Smoky Mountains.
CP–GRSM002–83	Leconte Lodge Limited	Great Smoky Mountains.
CP–GRSM003–98	Tammy Shular	Great Smoky Mountains.
CP–GRSM007–94	Smokemont Riding Stables of North Carolina, Inc.	Great Smoky Mountains.
CC–GUIS001–98	Dudley Food and Beverage, Inc	Gulf Island National Seashore.
CC–GUIS003–89	Pan Isles, Inc	Gulf Island National Seashore.
CP–NATR004–98	Craftmen's Guild of Mississippi, Inc	Natchez Trace Parkway.
CP–SERO001–92	Eastern National	South East Region.
CC–VIIS001–71	Caneel Bay, Inc	Virgin Islands NP.
CP–VIIS008–96	Caneel Bay, Inc	Virgin Islands NP.
CO–VIIS007–98	Maho, Inc	Virgin Islands NP.
CP–WRBR001–98	Kitty Hawk Aero Tours, Inc	Wright Brothers National Monument.

EFFECTIVE DATE: January 2, 2003.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC, 20240, Telephone 202/513–7156.

Dated: December 13, 2002.

Richard G. Ring,

Associate Director, Administration, Business Practices and Workforce Development.

[FR Doc. 03–2324 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Golden Gate National Recreation Area; Notice of Public Meetings for Calendar Year 2003

Notice is hereby given that six public meetings of the Golden Gate National Recreation Area (GGNRA) will be scheduled bimonthly for calendar year 2003 to hear presentations on issues related to management of the Golden Gate National Recreation Area. These public meetings are scheduled for the following dates at San Francisco and at locations yet to be determined in San Mateo County and Marin County, California:

Tuesday, January 28—San Francisco, CA

Tuesday, March 18—San Mateo County, CA location

Tuesday, May 20—San Francisco, CA

Tuesday, July 15—Marin County, CA location

Tuesday, September 16—San Francisco, CA

Tuesday, November 18—San Francisco, CA

Some public meetings may be joint meetings with the Presidio Trust. All public meetings will be held at 7 p.m. at GGNRA Park Headquarters, Building 201, Fort Mason, Bay and Franklin Streets, San Francisco, except those on Tuesday, March 18 and Tuesday, July 15, which will be held at 7 p.m. at locations to be announced in San Mateo County and Marin County, California. Information confirming the time and location of all public meetings or cancellations of any meeting can be received by calling the Office of the Public Affairs at (415) 561–4733 or (415) 561–4730.

Anticipated possible agenda items at meetings during calendar year 2003 may include:

- Scoping and workshops for the Comprehensive Transportation Management Plan
- Updates on Advanced Notice of Proposed Rulemaking (ANPR)
- Updates on Planning Issues for Fort Baker
- Updates on schematic and program design process for Fort Baker Waterfront
- Environmental Impact Statement (EIS) and scoping for Park Site Ferry Planning
- Updates on Cliff House Reconstruction Project
- Environmental Assessment (EA) for Easkoot Creek
- Fort Mason Officer's Club Interim Use
- Public comment on Revision of 5-Year Plan
- Review of San Francisco environmental documents for the San Francisco Marina Small Yacht Harbor Master Plan
- Reports and updates on the Cliff House Restoration Plan and other elements of the Sutro Design Plan, including the Merrie Way Visitor Center design presentation
- Report on Haypress Pond Project
- Alternatives review and NEPA scoping for Tennessee Valley Tamalpais Transportation Initiative

(TTI) bridge redesign and trail extension
- Fort Mason—Pier I Construction Project Environmental Assessment (EA) and update reports on Fort Mason Center Pier One and Pier 2 seismic work
- Alcatraz construction/Laundry Building stabilization and adaptive use
- Draft Environmental Impact Statement (EIS) for Big Lagoon Alternatives
- Review of Marin County plans for Bolinas Lagoon
- Marin County Cape-Ivy removal
- Doyle Drive planning update
- Fort Mason—Pier 1 Construction and Reuse Update
- NEPA scoping for Fort Mason Center 50-year Lease
- Fort Mason FHLP project reconfigure front entrance
- Scoping for GGNRA General Management Plan Amendment (GMPA)
- Headlands Institute Landscape Environmental Assessment
- Marin Headlands / Fort Baker Transportation Management Plan (TMP) Alternatives
- Marine Mammal Center Environmental Assessment (EA)—Scoping Alternatives
- Presidio Trails Plan (1) Public Comment (2) Staff Report—Final Plan
- Update on Redwood Creek Watershed planning
- Updates on GGNRA's 5-Year Strategic Plan
- Update reports on Golden Gate Bridge Seismic Upgrade Project and Park Impacts
- Update reports on Fort Mason Center Pier One and Pier 2 Seismic Work
- GGNPA annual briefing
- Redwood Creek Watershed Planning
- Reports on Alcatraz Historic Preservation and Safety Construction
- Update on park expansion legislation
- Update on transfer of properties in GGNRA boundary to NPS
- Issues affecting San Mateo County national park lands
- Update on Slide Ranch site improvements
- Updates on Fort Mason Reuse projects and Upper Fort Mason planning
- Update on issues concerning areas managed by the Presidio Trust 4.

These meetings will also contain GGNRA Superintendent's Report and a report of the Presidio Trust Director.

Specific final agendas for these meetings will be made available to the public at least 20 days prior to each meeting and can be received by contacting the Office of Public Affairs, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or by calling (415) 561–4733. They are also noticed on the Golden Gate National Recreation Area Web site *http://nps.gov/goga* under the section ''Public Meetings'' and will posted throughout the park.

These meetings are open to the public. They will be recorded for documentation and transcribed for dissemination. Sign language interpreters are available by request at least one week prior to a meeting. The TDD phone number for these requests is (415) 556–2766. A verbatim transcript will be available three weeks after each meeting.

Dated: December 19, 2002.

Mai-Liis Bartling,

General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 03–2319 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Kaloko-Honokohau National Historical Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Na Hoapili O Kaloko Honokohau, Kaloko-Honokohau National Historical Park Advisory Commission will be held at 9 a.m., February 21, 2003, at Kaloko-Honokohau National Historical Park headquarters, 73–4786 Kanalani St., Suite 14, Kailua-Kona, Hawaii.

The agenda will include Park Brochure and Illustration, Visitor Contact Station, Status of Hawaii Natural History Association Budget, Letter from Senator Akaka, Report on Alu Like Training Program, FY2003 Budget Plan.

The meeting is open to the public. Minutes will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. Transcripts will be available after 30 days of the meeting.

For copies of the minutes, contact Kaloko-Honokohau National Historical Park at (808) 329–6881.

Dated: December 19, 2002.

Geraldine K. Bell,

Superintendent, Kaloko-Honokohau National Historical Park.

[FR Doc. 03–2320 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 11, 2003. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–354–2229. Written or faxed comments should be submitted by February 18, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places.

CALIFORNIA

Mariposa County

Camp 4, Northside Dr., Yosemite National Park, Yosemite, 03000056

San Bernardino County

First Christian Church of Rialto, 201 N. Riverside Ave., Rialto, 03000037

Ventura County

Camarillo Ranch House, 201 Camarillo Ranch Rd., Camarillo, 03000039

COLORADO

Lincoln County

Limon Railroad Depot (Railroads in Colorado, 1858–1948 MPS), 897 First St., Limon, 03000038

FLORIDA

Pinellas County

North Shore Historic District, Bounded by 4th St. N, 5th Ave., N, Tampa Bay, and 30th Ave., N, St. Petersburg, 03000040

LOUISIANA

West Feliciana Parish

Red Hat Cell Block, Louisiana State Penitentiary, Louisiana State Penitentiary, Angola, 03000041

NEW MEXICO

Valencia County

Otero's 66 Service (Route 66 through New Mexico MPS), 100 Main St., Los Lunas, 03000051

NEW YORK

Broome County

Ouaquaga Lenticular Truss Bridge, Dutchman Rd. over Susquehanna R, Ouaquaga, 03000048

Chautauqua County

Erie Railroad Station, 211–217 W. Second St., Jamestown, 03000045

Delaware County

Jackson-Aitken Farm, 3240 Fall Clove Rd., Andes, 03000044

Steuben County

Adsit House, 34 Main St., Hornell, 03000047

Sullivan County

Masten-Quinn House, 59 First St., Wurtsboro, 03000046

OHIO

Cuyahoga County

East Ohio Gas Company Building, 1403 E. Sixth St., Cleveland, 03000043
First Church of Christ, Scientist, 2200 Overlook Rd., Cleveland, 03000042

OREGON

Lake County

Mitchell Recreation Area, Forest Service Rd. 34, Bly, 03000050

Wasco County

Mosier Mounds Complex, Address Restricted, Mosier, 03000053

UTAH

Weber County

Ogden Central Bench Historic District, 20th St. to 30th St., Adams Ave. to Harrison Blvd., Ogden, 03000055

VIRGINIA

Winchester Independent City

Winchester Historic District (Boundary Increase), 120 and 126 N. Kend St., Winchester (Independent City), 03000054

WISCONSIN

Kenosha County

Simmons Island Beach House, 5001 Simmons Island, Kenosha, 03000057

[FR Doc. 03–2327 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 18, 2002. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by the United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–343–1836. Written or faxed comments should be submitted by February 18, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places.

CALIFORNIA

Los Angeles County

Superior Oil Company Building, 550 S. Flower St., Los Angeles, 03000059

IDAHO

Ada County

Anduiza Hotel, 619 Grove St., Boise, 03000064

ILLINOIS

Jo Daviess County

Millville Town Site, Apple River Canyon State Park, 8663 E. Canyon Rd., Apple River, 03000066

Montgomery County

Manske-Niemann Farm, 13 Fransk Ln., Litchfield, 03000065

IOWA

Polk County

Des Moines Art Center, 4700 Grand Ave., Des Moines, 03000063
Newens Sanitary Dairy Historic District, 2300–2312 University Ave., and 2225 University Ave., Des Moines, 03000062
Watkins, Augustus, Blacksmith Shop, 2314 University Ave., Des Moines, 03000060

Webster County

First National Bank Building, 629 Central Ave., Fort Dodge, 03000061

MICHIGAN

Wayne County

Crescent Brass and Pin Company Building, 5766 Trumball Ave., Detroit, 03000067
Sugar Hill Historic District, Bounded by Woodwar, Forest, John R. and Canfield, Detroit, 03000068

OREGON

Jefferson County

Camp Sherman Community Hall, 13025 SW Camp Sherman Rd., Camp Sherman, 03000070

Multnomah County

Martin, George W. and Hannah—John B. and Minnie Hosford House, 2004 NE 9th Ave., Oregon, 03000073
Peck Bros. and Bartle Tire Service Company Building, 900 SW 13th Ave., Portland, 03000072

PENNSYLVANIA

Chester County

Garrett Farmstead, 808 and 816 Warren Ave., Newtown Square, 03000076

Dauphin County

Quarries of the Hummelstown Brownstone Company, Roughly N of Brookline Dr., Amber Dr., Derry Township, 03000075

Delaware County

Crosley-Garrett Mill Workers' Housing, Store and Mill Site, Paper Mill Rd. and St. David's Rd., Newtown Township, 03000074
Tyler, John J., Arboretum, 515 Painter Rd., Lima, 03000080

Philadelphia County

Boekel Building, 505–515 Vine St., Philadelphia, 03000078
Hajoca Corporation Headquarters and Showroom, 3025 Walnut St., Philadelphia, 03000079
Larkin-Belber Building, 2200–2218 Arch St., Philadelphia, 03000077
Pennsylvania Railroad Office Building, 3175 John F. Kennedy Blvd., Philadelphia, 03000071

RHODE ISLAND

Providence County

Brown and Sharpe Manufacturing Company Complex, Promenade, Bath, Calverly, West Park, Holden, and Brownell Sts, and I–95, Providence, 03000081

UTAH

Box Elder County

Jeppson-Reeder House (Brigham City MPS), 631 North Main, Brigham City,03000082

WYOMING

Fremont County

Jackson Park Town Site Addition Brick Row, 615, 635 and 677 S. Third St., Lander, 03000083

Uinta County

Wyoming State Insane Asylum, 831 WY 150 S, Evanston, 03000084

In an effort to assist in the preservation of the following resource the comment period has been shortened to five (5) days:

NEBRASKA

Lancaster County

University Place Historic Residential District, Roughly Walker Ave. (51st–54 Sts), Leighton Ave. (49th–53rd Sts), Lincoln, 03000069

[FR Doc. 03–2328 Filed 1–30–03; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–752 (Review)]

Crawfish Tail Meat From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the antidumping duty order on crawfish tail meat from China.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on crawfish tail meat from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: January 24, 2003.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION:

Background—On November 4, 2002, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (67 FR 69557, November 18, 2002). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the review and public service list—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report—The prehearing staff report in the review will be placed in the nonpublic record on May 14, 2003, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on June 3, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 28, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 30, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is May 23, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is June 12, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before June 12, 2003. On July 3, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 8, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means except to the extent provided by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: January 27, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–2263 Filed 1–30–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–460]

Certain Sortation Systems, Parts Thereof, and Products Containing Same; Notice of Violation of Section 337 of the Tariff Act of 1930 and Issuance of Limited Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation and issued a limited exclusion order.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3041. Copies of the limited exclusion order, the public version of the Commission's opinion, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION: The Commission voted to institute this investigation on July 19, 2001, based upon a complaint filed on June 25, 2001, by Rapistan Systems Advertising Corp. and Siemens Dematic Corp., both of Grand Rapids, Michigan. 66 FR 38741 (July 25, 2001). Named as respondents were Vanderlande Industries Nederland BV of the Netherlands, and Vanderlande Industries of Atlanta, Georgia (collectively referred to as ''Vanderlande''). Vanderlande Industries Nederland BV of the Netherlands designs and manufactures the accused sortation systems, and Vanderlande Industries of Atlanta imports, sells, and installs the accused sortation systems.

Complainants alleged that respondents had violated section 337 by importing into the United States, selling for importation, and selling within the United States after importation certain sortation systems, or components thereof, covered by independent claims 1, 13, 23, 30, and 42 and dependent claims 2, 3, 4, 8, 9, 17, 18, 20, 22, 24, 27, 29, 33, 35, 36, 37, 39, 43, 45, 46, 47, and 49 of U.S. Patent No. 5,127, 510 (''the ''510 patent''), owned by Rapistan Systems and exclusively licensed to Siemens Dematic. On April 5, 2002, complainants filed an unopposed motion asking for the termination of the investigation with respect to claims 2, 3, 8, 9, 18, 24, 36, 37, 29, 46, 47, and 49. On May 16, 2002, the presiding administrative law judge (ALJ) granted the motion in an ID (Order No. 32) and the Commission determined not to review that ID. The claims of the ''510 patent at issue were therefore claims 1, 4, 13, 17, 20, 22, 23, 27, 29, 30, 33, 35, 42, 43, and 45. The complaint further alleged that an industry in the United States exists, as required by subsection (a)(2) of section 337.

An evidentiary hearing was held on June 4–17, 2002. On October 22, 2002, the ALJ issued his final initial determination (ID), in which he determined that respondents' sortation systems, and parts thereof, infringe claims 1 and 4 of the ''510 patent, and that the ''510 patent is valid and enforceable. Based upon these findings and the finding that there is a domestic industry, he found a violation of section 337.

The ALJ recommended issuance of a limited exclusion order barring importation of the respondents' accused Mark 2 Posisorter sortation system and its parts and components. He recommended exempting spare parts destined for UPS's Hub 2000 facility in Louisville, Kentucky from the scope of the limited exclusion order. He also recommended a bond during the Presidential review period in the amount of 100 percent of the entered value of the infringing products.

On November 4, 2002, Vanderlande and the Commission investigative attorney (IA) petitioned for review of portions of the ALJ's final ID, and Rapistan submitted a contingent petition for review asking that the Commission review certain issues if it decided to review the ID. On November 12, 2002, Vanderlande, Rapistan, and the IA filed reply submissions.

The Commission determined to review the ID on the following issues: (1) The ID's construction of the claim limitation ''contiguous, generally planar surfaces sloping downward from an upper extent of said diverting surface laterally inward and longitudinally forward or rearward'' in independent claim 30, and dependent claims 33, and 35, and the infringement findings related to this claim element; and (2) the ID's findings regarding the affirmative defense of equitable estoppel.

Rapistan, Vanderlande, and the IA filed submissions on December 23, 2002, and reply submissions on December 30, 2002, addressing the two issues under review and remedy, the public interest, and bonding.

The Commission reviewed these issues and the parties' submissions and determined: (1) To modify the ALJ's construction of the limitation in claim 30 quoted above, and to find that the accused product does not meet this limitation; (2) that the elements of equitable estoppel have not been established.

The Commission also determined that the appropriate remedy consists of a limited exclusion order prohibiting the importation of the infringing sortation systems, and shoes and slats thereof, manufactured abroad by Vanderlande Industries. The Commission determined to include an exemption in the limited exclusion order for importations of spare parts for United Parcel Service's Hub 2000 facility in Louisville, Kentucky. The Commission further determined that the statutory public interest factors do not preclude the issuance of such relief. Finally, the Commission determined that during the Presidential review period importation should be permitted pursuant to a bond requirement in the amount of 100 percent of the entered value of the infringing products.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.50 of the Commission's rules of practice and procedure (19 CFR 210.50).

By order of the Commission.

Issued: January 27, 2003.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–2262 Filed 1–30–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 007–2003]

Privacy Act of 1974; System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Immigration and Naturalization Service (INS). The Nonimmigrant Information System (NIIS), JUSTICE/INS–036, is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a (e)(4) and (11) has been published.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment on proposed new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments by (insert date 30 days from the publication date of this notice). The public, OMB, and the Congress are invited to submit any comments to Mary Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1400, National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on this system.

Dated: January 21, 2003.

Paul R. Corts,

Assistant Attorney General for Administration.

JUSTICE/INS–036

SYSTEM NAME:

Nonimmigrant Information System (NIIS).

SYSTEM LOCATION:

The NIIS database and application is maintained at the Department of Justice Data Center (JDC–D) in Dallas, Texas. The system is accessible at Immigration and Naturalization Service (INS) offices at Headquarters, Regional and District offices, Service Centers, sub-offices, Ports-of-entry and foreign offices as detailed in JUSTICE/INS–999, last published in the **Federal Register** on October 17, 2002 (67 FR 64136) and at *http://www.INS.gov.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Immigrants and nonimmigrants entering and departing the United States. Please note that this system primarily pertains to nonimmigrants, who are generally not protected by the Privacy Act. However, as some nonimmigrants change status and become lawful permanent residents and United States citizens, information pertaining to them may incidentally remain in this system. Accordingly, the purpose of this notice is to cover only the United States citizens (USCs) and lawful permanent residents (LPRs) who are included in this information system.

CATEGORIES OF RECORDS IN THE SYSTEM:

NIIS is a centralized mainframe INS application designed to create, update, and report nonimmigrant arrivals and departures to and from the United States. The system may also contain change of address information for non-immigrants and immigrants. (**Please note:** this notice covers only USCs and LPRs whose information is contained in this system.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1103 and 8 U.S.C. 1184.

PURPOSE(S):

NIIS is a repository of records tracking persons arriving in or departing from the United States as nonimmigrant visitors. The system may also provide a central repository of baseline address information. Data in the system assists INS and other government agencies in law enforcement, intelligence, and counter-terrorism activities. NIIS is vital to the core mission of the INS in supporting immigration inspection at United States ports-of-entry and in capturing information used to evaluate nonimmigrant travel trends. (**Please note:** this notice covers only USCs and LPRs whose information is contained in this system.)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSE OF SUCH USES:

(**Please note:** this notice covers only USCs and LPRs whose information is contained in this system.)

A. In an appropriate proceeding before a court, grand jury, or administrative or regulatory body when records are determined by the Department of Justice to be arguably relevant to the proceeding.

B. To the appropriate agencyorganizationtask force, regardless of whether it is federal, state, local, foreign, or tribal, charged with the enforcement (*e.g.*, investigation and prosecution) of a law (criminal or civil), regulation, or treaty, of any record contained in this system of records which indicates either on its face, or in conjunction with other information, a violation or potential violation of that law, regulation, or treaty.

C. To a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

D. To the General Services Administration (GSA) and the National Archives and Records Administration (NARA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

E. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

F. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

G. To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information andor consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

H. To a federal, state, tribal, local or foreign government agency in response to its request, in connection with the hiring or retention by such agency of an employee, the issuance of a security clearance, the reporting of an investigation of such an employee, the letting of a contract, or the issuance of a license, grant, loan or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in a mainframe computer database.

RETRIEVABILITY:

These records may be searched on a variety of data elements including name, place and date of entry or

departure, or country of citizenship as listed in the travel documents used at the time of entry to the United States. An admission number, issued at each entry to the United States to track the particular admission, may also be used to identify a database record.

SAFEGUARDS:

Most INS offices are located in buildings under security guard, and access to premises is by official identification. Access to records in this system is by restricted password.

RETENTION AND DISPOSAL:

The following INS proposal for retention and disposal is pending approval by NARA. INS arrival and departure records will be sent to a remote contractor facility where the information from the data fields is keyed into the NIIS database. Hard copies are stored at the facility for 180 calendar days and then destroyed. Electronic records will remain in the database until the system is obsolete or superceded. Form AR–11 (''Alien's Change of Address Card'') is maintained for five years and then is destroyed.

SYSTEM MANAGER (S) AND ADDRESS:

Assistant Commissioner, Office of Inspections, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager identified above.

RECORDS ACCESS PROCEDURE:

(**Please note:** this notice covers only USCs and LPRs whose information is contained in this system; only USCs and LPRs have records access rights under the Privacy Act.) Make all requests for access in writing to the Freedom of Information Act/Privacy Act (FOIA/PA) Officer at the nearest INS office, or the INS office maintaining the desired records (if known) by using the INS web page that contains a list of principal offices. Clearly mark the envelope and letter ''Privacy Act Request.'' Provide the A-file number and/or the full name, nationality, and date of birth, with a notarized signature or pursuant to 28 U.S.C. 1746, make a dated statement under penalty of perjury as a substitute for notarization, of the individual who is the subject of the record, and a return address.

CONTESTING RECORDS PROCEDURES:

(**Please note:** this notice covers only USCs and LPRs whose information is contained in this system.) Direct all requests to contest or amend information in the record to the FOIA/PA Officer at one of the addresses identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope ''Privacy Act Request.'' The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE CATEGORIES:

Basic information is obtained from individuals, the individual's attorney/representative, INS officials, and other federal, state, local, and foreign agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 03–2253 Filed 1–30–03; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 23, 2003.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Optional Use Payroll Form Under the Davis-Bacon Act.

OMB Number: 1215–0149.

Affected Public: Business or other-for-profit; Individual or households; Federal government; and State, Local or Tribal Government.

Frequency: Weekly.

Number of Respondents: 100,880.

Number of Annual Responses: 9,280,960.

Estimated Time Per Response: Average of 56 minutes.

Total Burden Hours: 8,700,000.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $371,238.00.

Description: The Copeland Act (40 U.S.C. 276c) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to ''furnish weekly a statement with respect to the wages paid each employee during the preceding week.'' Section 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, provides that contractors submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed ''Statement of Compliance'' indicating that the payrolls are correct and complete and that each laborer or mechanic had been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. The Wh–347 is an optional form that may be used by contractors and subcontractors to certify payrolls, attesting that proper wage rates and fringe benefits have been paid to their employees performing work on contracts covered by the Davis-Bacon and related Acts and the Copeland Act.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–2284 Filed 1–30–03; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request; Correction

January 23, 2003.

On Thursday, January 23, 2003, the Department of Labor (DOL) published a notice in the **Federal Register** (Vol. 68, No. 15, page 3276) announcing an opportunity to comment on an information collection request (ICR) that was submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). The notice announced an opportunity to comment on the ICR for ESA's Black Lung Provider Environment Form (OMB control number 1215–0137).

The corrections are as follows:

On page 3276, the Title should read ''Provider Enrollment form'' instead of ''Black Lung Provider Enrollment Form''.

The Description, paragraph one should read:

''The Office of Workers' Compensation Program (OWCP) administers the Federal Employees' Compensation program (FECA), the Coal Mine Workers' Compensation Program (DCMWC), the Energy Employees Occupational Illness Compensation Program (EEOICPA) and the Long shore and Harbor Workers Compensation Program (DLHWC). As part of their benefit structure, the four programs pay for medical services rendered for the diagnosis and treatment of conditions(s) compensable under the acts.''

Instead of:

''The Division of Coal Mine Workers' (DCMWC) is responsible for maintaining a list of authorized treating physicians and medical facilities in the area of the miner's residence and for payment of certain medical bills for services and supplies provided to the miner under the Black Lung Benefits Act (30 U.S.C. 901 *et seq.,* 20 CFR 725.704(a) and 725.705(b)).''

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–2285 Filed 1–30–03; 8:45 am]

BILLING CODE 4510–CK–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 22, 2003.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13 44 U.S.C. chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4158) or Email *Howze-Marlene@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics (BLS).

Title: Job Openings and Labor Turnover Survey (JOLTS).

OMB Number: 1220–0170.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government and State, local or tribal government.

Frequency: Monthly.

Number of Respondents: 16,000.

Number of Annual Responses: 129,600.

Estimated Time Per Response: 10 minutes.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Job Openings and Labor Turnover Survey will collect data on job vacancies, labor hires, and labor separations. The data can be used as demand-side indicators of labor shortage. These indicators of labor shortages at the national level would greatly enhance policy makers' understanding of imbalances between the demand and supply of labor. Presently there is no economic indicator of labor demand with which to assess the presence of labor shortages in the U.S. labor market. The availability of unfilled jobs is an important measure of tightness of job markets, symmetrical to unemployment measures.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 03–2286 Filed 1–30–03; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 23, 2003.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Notice of Final Payment or Suspension of Compensation Benefits.

OMB Number: 1215–0024.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Number of Respondents: 500.

Number of Annual Responses: 18,950.

Estimated Time Per Response: 15 minutes.

Total Burden Hours: 4,738.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): $10,620.00.

Description: The Office of Workers' Compensation Program (OWCP) administers the Longshore and Harbor Workers' Compensation Act. This Act provides benefits to workers inquired in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. Under section 14(g) of the Act, the employer or its insurance carrier must file a report of the compensation paid to a claimant at the time final payment is made. The Act requires that the report (Form LS–208) be filed within 16 days of the final payment of compensation with the District Director in the compensation district in which the injury occurred. Filing of the report is mandatory as failure to do so is subject to a civil penalty.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–2287 Filed 1–30–03; 8:45 am]

BILLING CODE 1510–CF–M

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Reestablishment

In accordance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A–63 and after consultation with the General Services Administration (GSA), the Secretary of Labor has determined that the reestablishment of the Advisory Council on Employee Welfare and Pension Benefit Plans is in the public interest in connection with the performance of duties imposed on the Department by section 512(a)(1) of the Employee Retirement Income Security Act of 1974 (ERISA).

The Advisory Council on Employee Welfare and Pension Benefit Plans shall advise the Secretary of Labor on technical aspects of the provisions of ERISA and shall provide reports and/or recommendations by November 14 of each year on its findings to the Secretary of Labor.

The Council shall be composed of 15 members appointed by the Secretary. Not more than eight members of the Council shall be of the same political party. Three of the members shall be representatives of employee organizations, (at least one of whom shall be representative of any organization members of which are participants in a multiemployer plan); three of the members shall be representatives of employers (at a multiemployer plan); three of the members shall be representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); three members shall be representatives appointed from the general public (one of whom shall be a person representing those receiving benefits from a pension plan); and there shall be one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and the accounting field.

The Advisory Council will report to the Secretary of Labor. It will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act, and its charter will be filed under the Act. For further information, contact Sharon K. Morrissey, Executive Secretary, Advisory Council on Employee Welfare and Pension Benefit Plans, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–8322.

Signed in Washington, DC, this 23rd day of January, 2003.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 03–2288 Filed 1–30–03; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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NV020009 (Mar. 1, 2002)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

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When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 23rd day of January 2003.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 03–2008 Filed 1–30–03; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Leadership Initiatives Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Leadership Initiatives Advisory Panel, Media Arts section (Arts on Radio and Television category) to the National Council on the Arts will be held from February 12–14, 2003 in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting, from 1 p.m. to 2 p.m. on February 14th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 6:30 p.m. on February 12th and 13th, and from 9 a.m. to 1 p.m. and 2 p.m. to 5 p.m. on February 14th, will be closed.

The closed portions of these meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 2, 2002, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: January 27, 2003.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 03–2217 Filed 1–30–03; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213–OLA, ASLBP No. 01–787–02–OLA]

Atomic Safety and Licensing Board; Before Administrative Judges: Ann Marshall Young, Chair, Dr. Peter S. Lam, Thomas D. Murphy; In the Matter of Connecticut Yankee Atomic Power Company (Haddam Neck Plant)

January 27, 2003.

Notice of Evidentiary Hearing and Opportunity To Make Limited Appearance Statements

This Atomic Safety and Licensing Board hereby gives notice that, beginning on Monday, March 10, 2003, it will convene an evidentiary hearing in New Britain, Connecticut, to receive testimony and exhibits and to allow the cross-examination of witnesses on certain matters at issue in this proceeding. In addition, the Board gives notice that, in accordance with 10 CFR 2.715(a), it will also entertain oral limited appearance statements from members of the public, as specified in Section B below.

This proceeding involves certain challenges of Intervenor Citizens Awareness Network (CAN) to a license amendment request by Connecticut Yankee Atomic Power Company (CYAPCO or Connecticut Yankee), seeking approval of a License Termination Plan (LTP) for its Haddam Neck Plant. (Intervenor Connecticut Department of Public Utility Control (CDPUC) has settled all its admitted contentions with CYAPCO, but continues to participate in the proceeding as an interested state.) On January 31, 2001, this Licensing Board was established to preside over this proceeding. 66 FR 9111 (Feb. 6, 2001). By Memorandum and Order dated July 9, 2001, the Licensing Board granted CAN's and CDPUC's requests for a hearing, and on July 12, 2001, issued a Notice of Hearing. 66 FR 37494 (July 18, 2001).

At the evidentiary hearing, the Board will receive evidence on CAN's challenges to the adequacy of certain aspects of the LTP to assure the protection of the public health and safety, relating to Connecticut Yankee's site characterization and methodology for detection and cleanup of transuranic, hard-to-detect-nuclide, and ''hot particle'' contamination; and to its dose modeling calculation methodology.

A. Timing and Location of Evidentiary Hearing

The evidentiary hearing will commence on the afternoon of March 10, 2003, at 1:30 p.m. in Hearing Room One, located on the first floor of the Connecticut Department of Public Utility Control Building, at Ten Franklin Square, New Britain, Connecticut.

The hearing will continue from day to day until concluded. At the conclusion of each day, the Board will announce when the hearing will reconvene, which will generally be at 9 a.m. each day (although the hearing may not start until 10 a.m. on Wednesday, March 12). Hearings will extend until approximately 5 p.m. each day (except that on Friday, March 14, the hearing will likely adjourn at approximately 12 noon). The Board may make changes in the schedule, lengthening or shortening each day's session or canceling a session as deemed necessary or appropriate to allow for witnesses' availability and other matters arising during the course of the proceeding.

Members of the public are encouraged to attend any and all sessions of the evidentiary hearing, but should note that these sessions are adjudicatory proceedings open to the public for observation only. Those who wish to participate are invited to offer limited appearance statements as provided in Section B, below.

B. Participation Guidelines for Oral Limited Appearance Statements

On *the evening of March 11, 2003, starting at 6 p.m. and continuing until 9 p.m. as necessary, in the same location as the evidentiary hearing,* any persons who are not parties to the proceeding will be permitted to make oral statements setting forth their positions on matters of concern relating to this proceeding. Although these statements do not constitute testimony or evidence, they may nonetheless help the Board and/or the parties in their consideration of the issues in this proceeding.

The time allotted for each statement will normally be no more than five minutes, but may be further limited depending on the number of written requests to make oral statements that are submitted in accordance with section C below, and/or on the number of persons present the evening of March 11, 2003. Persons who submit timely written requests to make oral statements will be given priority over those who have not filed such requests. If all scheduled and unscheduled speakers present have made their oral statements prior to 9 p.m., the Licensing Board may terminate the session before 9 p.m.

C. Submitting Requests To Make an Oral Limited Appearance Statements

To be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by e-mail so as to be received by close of business (4:30 p.m. EST) on *Friday, February 28, 2003.* Written requests should be submitted to:

Mail: Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
Fax: (301) 415–1101 (verification (301) 415–1966).
E-mail: *hearingdocket@nrc.gov.*

In addition, using the same method of service, a copy of the written request to make an oral statement should be sent to the Chair of this Licensing Board as follows:

Mail: Administrative Judge Ann Marshall Young, Atomic Safety and Licensing Board Panel, Mail Stop T–3F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
Fax: 301/415–5599 (verification 301/415–7550).
E-mail: AMY@nrc.gov.

D. Submitting Written Limited Appearance Statements

A written limited appearance statement may be submitted at any time. Such statements should be sent to the Office of the Secretary using any of the methods prescribed above, with a copy to the Licensing Board Chair by the same method.

E. Availability of Documentary Information Regarding the Proceeding

Documents relating to this proceeding are available for public inspection at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland; or electronically through the publicly available records component of the NRC Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible through the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html.* The PDR and many public libraries have terminals for public access to the Internet. Persons who do not have access to ADAMS or who encounter problems in obtaining access to the documents located in ADAMS may contact the NRC PDR reference staff by telephone at 1–800/397–4209 or 301/415–4737, or by e-mail to *pdr@nrc.gov.*

Dated in Rockville, Maryland, on January 27, 2003.

For the Atomic Safety and Licensing Board.

Ann Marshall Young,

Chair, Administrative Judge.

[FR Doc. 03–2311 Filed 1–30–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369 and 50–370]

Duke Energy Corporation, McGuire Nuclear Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering the re-issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. NPF–9 and NPF–17, issued to the Duke Power Company (the licensee), for operation of the McGuire Nuclear Station (McGuire), Units 1 and 2, located in Mecklenberg County, North Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed action would continue to authorize an exemption that was granted to the licensee on July 31, 1997, from the requirements of 10 CFR 70.24, which requires a monitoring system that will energize clear audible alarms if accidental criticality occurs in each area in which special nuclear material is handled, used, or stored. The proposed action would also continue to exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations.

The proposed action is in response to the licensee's application for an exemption from 10 CFR 70.24 dated February 4, 1997, as supplemented by letter dated March 19, 1997, and reflects the licensee's letters dated April 18, August 7 and October 9, 2002, and January 15, 2003, wherein the licensee revised a portion of the technical basis supporting its request for the exemption.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that, if a criticality were to occur

during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant, the provisions of 10 CFR 70.24 relate to an inadvertent criticality event that could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored on site is small enough to preclude achieving a critical mass.

By letter dated April 18, 2002, as supplemented by letters dated August 7 and October 9, 2002, and January 15, 2003, the licensee submitted an application for revisions to the McGuire Technical Specifications (TSs) to address the spent fuel pool Boraflex degradation issues. The analysis supporting this application proposed to take partial credit for boron in the spent fuel pool water. Therefore, a part of the technical basis for the granting of the exemption from 10 CFR 70.24 on July 31, 1997, is revised. Accordingly, the exemption and the associated environmental assessment are being reissued to reflect the revision in the design basis assumptions for the spent fuel pool in the calculation of the limiting value of the criticality parameter, k-effective. Because the fuel is not enriched beyond 4.75 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and features designed to prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the McGuire TSs, the design of the fuel storage racks that provide geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. The TS requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR part 50, ''General Design Criteria for Nuclear Power Plants,'' Criterion 62, requires that criticality in the fuel storage and handling system be prevented by physical systems or processes, preferably by use of geometrically safe configurations. This is met at McGuire, as identified in the TS Section 4.3 and in the Updated Final Safety Analysis Report (UFSAR), Section 9.1, by detailed procedures that must be available for use by refueling personnel. Therefore, as stated in theTSs, these procedures, the TS requirements, and the design of the fuel handling equipment with built-in interlocks and safety features, provide assurance that it is unlikely that an inadvertent criticality could occur during refueling. In addition, the design of the facility does not include provisions for storage of spent fuel in a dry location within the fuel storage building.

UFSAR Section 9.1.1, ''New Fuel Storage,'' states that new fuel is stored in the New Fuel Storage Racks located within a New Fuel Storage Vault at each McGuire unit. The new fuel storage racks are arranged to provide dry storage. The racks consist of vertical cells grouped in parallel rows, 6 rows wide and 16 cells long, which provide support for the new fuel assemblies and maintain a minimum center-to-center distance of 21 inches between assemblies. (Note that in none of these locations would criticality be possible.)

The proposed exemption would not result in any significant radiological impacts. The proposed exemption would not affect radiological plant effluents nor cause any significant occupational exposures since the TSs, design controls (including geometric spacing and design of fuel assembly storage spaces) and administrative controls preclude inadvertent criticality. The amount of radioactive waste would not be changed by the proposed exemption.

The proposed exemption does not result in any significant nonradiological environmental impacts. The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in NUREG–0063, ''Final Environmental Statement Related to the Operation of William B. McGuire Nuclear Station, Units 1 and 2,'' April 1976, and the Addendum to NUREG–0063 issued in January 1981.

Agencies and Persons Contacted

In accordance with its stated policy, on January 27, 2003, the staff consulted with the North Carolina State official, Mr. Johnny James of the Division of Environmental Health, Radiation Protection Section, North Carolina Department of Environment and Natural Resources, regarding the environmental impact of the proposed amendments. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter requesting an exemption that was dated February 4, 1997, and supplemented by letter dated March 19, 1997, and the licensee's letters dated April 18, August 7, October 9, 2002, and January 15, 2003, proposing a revision in certain design basis assumptions related to the issuance of the exemption from 10 CFR 70.24. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by

telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, MD, this 27th day of January, 2003.

For the Nuclear Regulatory Commission.

Allen G. Howe,

Chief, Section 2 , Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–2310 Filed 1–30–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corp.; Notice of Withdrawal of Environmental Assessment

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Florida Power Corporation (the licensee) to withdraw its November 18, 2002, application for exemption for the Crystal River Nuclear Plant, Unit 3, located in Citrus County, Florida.

The proposed exemption would have allowed the licensed operator requalification examinations for Crystal River Unit 3 to be rescheduled due to a possible labor action.

The Commission had previously issued an Environmental Assessment and Finding of No Significant Impact published in the **Federal Register** on December 11, 2002 (67 FR 76198) for the proposed exemption as required by 10 CFR 51.21. However, by letter dated December 19, 2002, the licensee withdrew the proposed change. Therefore, the Commission is withdrawing its previously issued Environmental Assessment and Finding of No Significant Impact.

For further details with respect to this action, see the request for exemption dated November 18, 2002, and the licensee's letter dated December 19, 2002, which withdrew the request for exemption. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams/html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 27th day of January 2003.

For the Nuclear Regulatory Commission.

Matthew McConnell,

Acting Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–2308 Filed 1–30–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–05295]

Environmental Assessment and Finding of No Significant Impact

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Environmental Assessment and Finding of no Significant Impact related to license amendment of Byproduct Material License No. 29–03761–01, Warner-Lambert Company, Morris Plains, New Jersey.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Material License No. 29–03761–01 to authorize release of its facility in Morris Plains, New Jersey, for unrestricted use and has prepared an Environmental Assessment in support of this action. Based upon the Environmental Assessment, the NRC has concluded that a Finding of No Significant Impact is appropriate, and, therefore, an Environmental Impact Statement is unnecessary.

FOR FURTHER INFORMATION CONTACT: Betsy Ullrich, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406; telephone (610) 337–5040 or e-mail *exu@nrc.gov.*

SUPPLEMENTARY INFORMATION: The U. S. Nuclear Regulatory Commission is considering terminating Byproduct Materials License No. 29–03761–01 and authorizing the release of the licensee's facilities in Morris Plains, New Jersey, for unrestricted use and has prepared an Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) in support of this action.

SUMMARY: The U. S. Nuclear Regulatory Commission (NRC) reviewed the results of the decommissioning of the Warner-Lambert Company (Warner-Lambert) facility in Morris Plains, New Jersey. Warner-Lambert was authorized by NRC from 1963 to 2002 to use radioactive materials for research and development purposes at the site. In 2002, Warner-Lambert ceased operations with licensed materials at the Morris Plains site, and requested that NRC terminate its license. Warner-Lambert has conducted surveys of the facility and determined that the facility meets the license termination criteria in subpart E of 10 CFR part 20. The NRC staff has evaluated Warner-Lambert's request and results of the surveys, and has developed an Environmental Assessment (EA) in accordance with the requirements of 10 CFR part 51. Based on the staff evaluation, the conclusion of the EA is a Finding of No Significant Impact (FONSI) on human health and the environment for the proposed licensing action.

Introduction

Warner-Lambert Company (Warner-Lambert) requested release for unrestricted use of the buildings at 170 and 182 Tabor Road, Morris Plains, New Jersey as authorized by the NRC License No. 29–03761–01, and termination of the license. License No. 29–03761–01 was issued in 1963 and amended periodically since that time. It authorizes Warner-Lambert to perform activities at 170, 175 and 182 Tabor Road, Morris Plains, New Jersey. The building at 175 Tabor Road, although authorized on the license, was not used for licensed activities. NRC-licensed activities performed at the Morris Plains site were limited to laboratory procedures typically performed on bench tops and in hoods. A variety of radionuclides were used primarily for research and development, but past activities also included manufacture and distribution of radio-labeled pharmaceuticals for medical research. No outdoor areas were affected by the use of licensed materials.

Licensed activities ceased completely in June 2002, and the licensee requested termination of the license and release of the facilities for unrestricted use. Based on the licensee's historical knowledge of the site and the conditions of the facility, the licensee determined that only routine decontamination activities, in accordance with licensee radiation safety procedures, were required. A decommissioning plan was not required to be submitted to the NRC. The licensee surveyed the facilities, decontaminated or remediated areas as needed, and provided documentation that the facilities meet the license termination criteria specified in subpart E of 10 CFR part 20, and do not require additional decommissioning activities

to be performed. The licensee subsequently requested that the facilities be released for unrestricted use.

The Proposed Action

The proposed action is to terminate Byproduct Materials License No. 29–03761–01 and release the facilities at 170 and 182 Tabor Road, Morris Plains, New Jersey for unrestricted use. Warner-Lambert provided survey results which demonstrate that the Morris Plains site is in compliance with the radiological criteria for license termination in subpart E, 10 CFR part 20, ''Radiological Criteria for License Termination.''

Purpose and Need for the Proposed Action

The purpose of the proposed action is to terminate Byproduct Materials License No. 29–03761–01 and release the Warner-Lambert site in Morris Plains, New Jersey, for unrestricted use. NRC is fulfilling its responsibilities under the Atomic Energy Act to make a decision on a proposed license amendment for termination of a license and release of facilities for unrestricted use that ensures protection of public health and safety and the environment.

Alternative to the Proposed Action

The only alternative to the proposed action of termination of the license and release of the Morris Plains site for unrestricted use is no action. The no-action alternative is not acceptable because the licensee does not plan to perform any activities with licensed materials at those locations and does not plan to maintain staff to perform licensed activities.

The Affected Environment and Environmental Impacts

The NRC staff has reviewed the surveys performed by Warner-Lambert to demonstrate compliance with the 10 CFR 20.1402 license termination criteria. Based on its review, the staff has determined that the affected environment and environmental impacts associated with the release for unrestricted use of the Warner-Lambert Morris Plains facilities are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496). The staff also finds that the proposed release for unrestricted use of the Warner-Lambert facilities is in compliance with Title 10, Code of Federal Regulations, 10 CFR 20.1402, ''Radiological Criteria for Unrestricted Use.''

Agencies and Persons Consulted

This Environmental Assessment was prepared entirely by the NRC staff. The State Office of Historical Preservation, the State Fish and Wildlife Service, and the U. S. Fish and Wildlife Service were not contacted because release of the Warner-Lambert facilities for unrestricted use does not affect historical or cultural resources, nor will it affect threatened or endangered species. No other sources were used beyond those referenced in the EA.

NRC provided a draft of its Environmental Assessment to the State of New Jersey Department of Environmental Protection (NJDEP) for review. On January 9, 2003, NJDEP responded by letter, provided editorial comments and agreed with the conclusions of the EA.

Finding of No Significant Impact

The NRC staff concluded that the completed action complies with 10 CFR part 20. NRC has prepared this EA in support of the proposed license amendment to terminate the license and release the facilities for unrestricted use. On the basis of the EA, NRC has concluded that the environmental impacts from the proposed action are expected to be insignificant and has determined not to prepare an environmental impact statement for the proposed action.

List of Preparers

Betsy Ullrich, Senior Health Physicist, Division of Nuclear Materials Safety, Region 1.

List of References

1. NRC License No. 29–03761–01 inspection and licensing records.

2. Letter dated September 5, 2002, with enclosures, from Pfizer Consumer Healthcare for Warner-Lambert Company. [ADAMS Accession No. ML022670617]

3. Letter dated November 18, 2002, with attachments, from Pfizer Consumer Healthcare for Warner-Lambert Company. [ADAMS Accession No. ML023250206]

The application for the license amendment and supporting documentation are available for inspection at NRC's Public Electronic Reading Room at *http://www.nrc.gov/reading-rm/ADAMS.html*. Any questions with respect to this action should be referred to Betsy Ullrich, Nuclear Materials Safety Branch 2, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, telephone (610) 337–5040, fax (610) 337–5269.

Dated at King of Prussia, Pennsylvania this 23rd day of January, 2002.

For the Nuclear Regulatory Commission.

John D. Kinneman,

Chief, Nuclear Materials Safety Branch 2, Division of Nuclear Materials Safety, Region I.

[FR Doc. 03–2309 Filed 1–30–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27641]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

January 27, 2003.

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 February 18, 2003, 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 February 18, 2003, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

CenterPoint Energy, Inc. et al. (70–9895)

CenterPoint Energy, Inc. (''CenterPoint''), 1111 Louisiana, Houston, TX 77002, a registered public-utility holding company, and its direct wholly owned registered holding company subsidiary, Utility Holding, LLC, 200 West Ninth Street Plaza, Suite 411, Wilmington, DE 19801 (together, ''Applicants''), have filed a post-effective amendment to their

application-declaration in this filing under sections 6(a) and 7 of the Act and rules 44 and 54 under the Act.

CenterPoint is a registered public-utility holding company, created on August 31, 2002, as part of a corporate restructuring of Reliant Energy, Inc. On September 30, 2002, CenterPoint completed the distribution (''Distribution'') to shareholders of the remaining stock of Reliant Resources, Inc. (''Reliant Resources''). The Distribution completed the separation from CenterPoint of the merchant power generation and energy trading and marketing business of Reliant Resources.

CenterPoint has three public-utility subsidiary companies that are wholly owned (except as indicated below), that own and operate electric generation plants, electric transmission and distribution facilities, natural gas distribution facilities and natural gas pipelines. CenterPoint Energy Houston Electric LLC (''T&D Utility'') engages in the electric transmission and distribution business in a 5,000-square mile area of the Texas Gulf Coast that includes Houston.

Texas Genco Holdings, Inc. (''Texas Genco'') is a section 3(a)(1) exempt holding company that indirectly owns the Texas generating plants formerly owned by the integrated electric utility that was a part of Reliant Energy, Inc. (''Texas Genco Assets'').[1]

CenterPoint Energy Resources Corp. (''GasCo'') owns gas distribution systems that together form one of the United States' largest natural gas distribution operations in terms of customers served. Through unincorporated divisions, GasCo provides natural gas distribution services in Louisiana, Mississippi and Texas (Entex Division), Arkansas, Louisiana, Oklahoma and Texas (Arkla Division) and Minnesota (Minnegasco Division). Through wholly owned subsidiaries, GasCo owns two interstate natural gas pipelines and gas gathering systems and provides various ancillary services.

Utility Holding, LLC is a Delaware limited liability company and an intermediate holding company that is registered under the Act. Utility Holding, LLC directly holds approximately 81% of the outstanding common stock of Texas Genco. Applicants state that Utility Holding, LLC is otherwise a conduit entity formed solely to minimize tax liability.

For the nine months ended September 30, 2002, CenterPoint had revenues of $5.8 billion and operating income of $1.1 billion. As of September 30, 2002, CenterPoint had assets totaling $19.0 billion.

By order dated July 5, 2002, in this filing (''July Order''),[2] the Commission authorized the formation of CenterPoint as a registered holding company and approved various financing proposals. Among other things, the July Order authorized CenterPoint to issue up to $5 billion in long-term debt and $6 billion in short-term debt, subject to an overall limit of no more than $6 billion in financings at any one time outstanding through June 30, 2003 (''Authorization Period''). In the July Order, CenterPoint committed that debt issued by it pursuant to such authorization would be unsecured.

CenterPoint seeks a modification of the July Order to permit CenterPoint to issue and sell during the Authorization Period up to $4 billion of debt that is secured by the stock of Texas Genco, including the assets and securities of its indirect subsidiary company, Texas Genco, LP (the entity that directly owns the Texas Genco Assets), to the extent permitted by and consistent with contractual restrictions and applicable law.[3]

The proceeds of this financing will be used to refinance the existing indebtedness of CenterPoint. The proposed financing will otherwise be subject to the terms and conditions as set forth in the July Order.

CenterPoint also seeks authority to issue warrants or other stock purchase rights, subject to the terms and conditions of the July Order. CenterPoint states that it may be required to issue debt securities convertible into common stock or debt securities with warrants or other stock purchase rights. CenterPoint further states that the proceeds of such financing will be used to refinance the existing indebtedness of CenterPoint. CenterPoint notes that the July Order grants CenterPoint the authority to issue convertible debt securities. CenterPoint now seeks authority to issue warrants to purchase the common stock of CenterPoint or other stock purchase rights subject to the terms and conditions of the July Order.

On October 10, 2002, CenterPoint entered into a $3.85 billion, 364-day credit facility (''CenterPoint Facility'') to replace a similar facility that had expired. The CenterPoint Facility requires, among other things, mandatory commitment reductions of $600 million each by February 28, 2003, and June 30, 2003.

CenterPoint states that it is negotiating with its lenders to extend the maturity date of the CenterPoint Facility into 2005, by which time CenterPoint expects to have sold its generation assets and recovered its stranded costs as provided by Texas law.[4] CenterPoint asserts that deteriorating market conditions have made it difficult to refinance CenterPoint's debt on reasonable terms without providing some security. CenterPoint states that with the ability to provide collateral, an adequate financing arrangement may be implemented. As set forth above, CenterPoint seeks authorization pursuant to sections 6(a) and 7 of the Act to issue and sell during the Authorization Period up to $4 billion of debt that is secured by the stock of Texas Genco, including the assets and securities of its indirect subsidiary company, Texas Genco, LP.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2255 Filed 1–30–03; 8:45 am]

BILLING CODE 8010–01–P

[1] On January 6, 2003, CenterPoint distributed to its shareholders approximately 19% of the common stock of Texas Genco. CenterPoint indirectly owns the remaining approximately 81% of the common stock of Texas Genco.

[2] Holding Co. Act Release No. 27548.

[3] Applicants anticipate that the term of the financing would be from three to five years.

[4] Reliant Resources has an option that may be exercised in January 2004 to purchase all of the shares of Texas Genco common stock then owned by CenterPoint. Applicants state that if Reliant Resources does not exercise the option, CenterPoint plans to sell or otherwise monetize its interest in Texas Genco. Applicants state that proceeds from the sale, plus proceeds from the securitization in 2004 or 2005 of stranded costs related to generating assets of Texas Genco and generation related regulatory assets, are expected to aggregate in excess of $5 billion.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 3, 2003: Open meetings will be held on Tuesday, February 4, 2003, at 10 a.m., and Thursday, February 6, 2003, at 10 a.m. in Room 1C30, the William O. Douglas Room, and a closed meeting will be held on Wednesday, February 5, 2003, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries

will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the open meeting scheduled for Tuesday, February 4, 2003, will be the following:

1. The Commission will consider whether to adopt Regulation Analyst Certification, a new rule that would require analysts to provide certifications regarding the views they express in research reports and public appearances and to provide disclosures regarding any compensation they may have received related to those views and recommendations.

2. The Commission will consider whether to adopt amendments to rule 17f-4 under the Investment Company Act of 1940, the rule that governs investment companies' use of securities depositories. The amendments are designed to update and simplify the rule in response to changes in business practices and commercial law that have occurred since the rule was adopted in 1978. The amendments eliminate unnecessary restrictions in the rule, to reduce compliance burdens on funds and fund boards, without jeopardizing investor protections.

3. The Commission will consider a recommendation to propose for public comment new rule 38a–1 under the Investment Company Act of 1940, new rule 206(4)–7 under the Investment Advisers Act, and amendments to rule 204–2 under the Investment Advisers Act. The recommended proposals would require each investment company and investment adviser registered with the Commission to (i) adopt and implement policies and procedures reasonably designed to prevent violation of the federal securities laws, (ii) review those policies and procedures annually for their adequacy and the effectiveness of their implementation, and (iii) appoint a chief compliance officer to be responsible for administering the policies and procedures. The Commission also will consider a recommendation to seek comment on other ways to involve the private sector in fostering compliance by investment companies and investment advisers with the federal securities laws.

The subject matter of the closed meeting scheduled for Wednesday, February 5, 2003, will be:

Formal orders of investigation;
Institution and settlement of administrative proceedings of an enforcement nature;
Institution and settlement of injunctive actions;
Adjudicatory matters;
Opinions.

The subject matter of the open meeting scheduled Thursday, February 6, 2003, will be the following:

1. The Commission will consider whether to adopt amendments to the definition of terms used in the exception from the definition of dealer for banks under section 3(a)(5) of the Securities Exchange Act of 1934. The Commission will consider whether to adopt amendments to the related exemptions for banks, savings associations, and savings banks as well as adopt a new exemption concerning securities lending. These proposals relate to the implementation of the specific exceptions for banks from the definitions of ''broker'' and ''dealer'' that were amended by the Gramm-Leach-Bliley Act.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: January 28, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–2403 Filed 1–29–03; 11:40 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47216; File No. SR–Amex–2002–114]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to the Addition of a Fee for the Automatic Execution of Broker-Dealer Options Orders

January 17, 2003.

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 December 23, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. On January 14, 2003, Amex filed Amendment No. 1 to its proposal with the Commission.[3] The Commission is publishing this notice as amended to solicit comments on the proposed rule change from interested persons.[4]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to modify its options fee schedule adding a fee for the automatic execution of broker-dealer orders. The text of the proposed rule change is available at the Office of the Secretary, Amex, 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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 24, 2002, the Exchange filed with the SEC a proposal to permit broker-dealer orders to be executed through Auto-Ex (the ''BD Auto-Ex Proposal'').[5] The Commission approved the BD Auto-Ex Proposal on September 10, 2002.[6] The Amex is now proposing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jeffery P. Burns, Assistant General Counsel, Amex, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated January 13, 2003. In Amendment No. 1, the Amex made technical corrections to the proposed rule change.

[4] On September 20, 2002, the Exchange submitted a proposed rule change (SR–Amex–2002–75) to adopt a broker-dealer Auto-Ex fee. The Commission returned the filing for failure to comply with the requirements of Section 19(b) of the Act and Form 19b–4, thereunder. *See* letter from Kelly Riley, Senior Special Counsel, Division, Commission to Jeffery P. Burns, Assistant General Counsel, Amex, dated October 16, 2002. The Exchange submitted a new Form 19b–4 (SR–Amex–2002–93) to comply with the filing requirements of Section 19(b) of the Act and Form 19b–4 on November 8, 2002. Because the proposed fee in SR–Amex–2002–93 did not accurately reflect the intention of the Exchange, Amex has withdrawn the filing. The instant proposal (SR–Amex–2002–114) corrects the prior inaccuracies.

[5] *See* Securities Exchange Act Release No. 46479 (September 10, 2002), 67 FR 58654 (September 17, 2002) (SR–Amex–2002–57).

[6] *See* Securities Exchange Act Release No. 46479 (September 10, 2002), 67 FR 58654 (September 17, 2002) (SR–Amex–2002–57). The Commission has also approved similar proposals by other options exchanges to permit the execution of broker-dealer orders through automatic execution systems that previously were limited to public customer orders. Securities Exchange Act Release Nos. 45032 (November 6, 2001), 66 FR 57145 (November 14, 2001) (SR–PCX–2000–05) and 45967 (May 20,

Continued

to add new Section VII entitled ''Broker-Dealer Auto-Ex Fee'' to the Options Fee Schedule for the purpose of adopting a $0.50 transaction fee per contract side for all broker-dealer orders [7] executed via the Exchange's automatic execution system (''Auto-Ex''). [8] Broker-dealer orders executed through Auto-Ex would also be subject to the Exchange's existing options comparison fee and options floor brokerage fee. For firms and broker-dealers, the comparison fee and floor brokerage fee is $0.04 and $0.03 per contract side, respectively, while for specialists and market makers these charges per contract side are each $0.05.

The Exchange represents that broker-dealer orders subject to the proposed fee, include without limitation, firm orders, specialist orders, market maker orders and orders for the account of registered broker-dealers. The Amex notes that it will only charge this fee to member firms through the customary monthly billing that occurs shortly after the close of each trading month. The Amex represents that non-members will not be subject to this proposed fee. Accordingly, the Amex will assess this fee solely against firms executing orders for the accounts of broker-dealers.

Broker-dealers who want to access the Exchange's markets without paying this additional fee may continue to send their orders to a floor broker for manual execution. However, broker-dealer orders that are automatically executed through Auto-Ex are not subject to fees otherwise imposed by an Amex floor broker in connection with a manual execution. The Amex believes that the benefits of automatic execution outweigh the potential burden of paying the proposed fee.

The Exchange submits that the proposed fee will provide additional revenue and recoup the costs associated with permitting the automatic execution of broker-dealer orders. In addition, the Amex submits that this fee will help to allocate to broker-dealer orders a fair share of the related costs of operating Auto-Ex and related Exchange systems. The Exchange further asserts that permitting the Auto-Ex system to accept and execute broker-dealer orders requires design modification, programming and testing. Accordingly, the Exchange believes that the proposed fee is reasonable.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[9] in general, and with Section 6(b)(4)[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

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.

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

The foregoing rule change establishes or changes a due, fee, or other charge and, therefore, has become effective immediately pursuant to Section 19(b)(3)(A)(ii) of the Act [11] and Rule 19b–4(f)(2) thereunder.[12] At any time within 60 days of the filing of such 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 the 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 Amex. All submissions should refer to File No. SR–Amex–2002–114 and should be submitted by February 21, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2291 Filed 1–30–03; 8:45 am]

BILLING CODE 8010–01–P

2002), 67 FR 37888 (May 30, 2002) (SR–CBOE–2002–22) (CBOE six-month pilot program permitting broker-dealer orders for QQQ options to be Executed on RAES); and 46113 (June 25, 2002), 67 FR 44486 (SR–CBOE–2002–35) (July 2, 2002) (extending CBOE pilot to all index products).

[7] A broker-dealer order is an order for the account of a registered broker-dealer.

[8] The Commission has approved the adoption of broker-dealer automatic execution fees for other options exchanges. *See* Securities Exchange Act Release Nos. 45662 (March 27, 2001), 67 FR 16786 (April 8, 2002) (SR–PCX–2002–10); 46212 (July 16, 2002), 67 FR 48235 (July 23, 2002) (SR–Phlx–2002–36); and 46455 (September 3, 2002), 67 FR 57468 (September 10, 2002) (SR–CBOE–2002–42).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47229; File No. SR–Amex–00–30]

Self-Regulatory Organizations; Notice of Filing of Amendments to Proposed Rule Change by the American Stock Exchange LLC Relating to the Allocation of and Participation in Options Trades

January 22, 2003.

On May 30, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the allocation of and participation in options trades on the Exchange. The proposed rule change was published for comment in the **Federal Register** on June 28, 2000.[3] On August 25, 2000, August 30, 2001, February 19, 2002, April 22, 2002, September 16, 2002, and December 20, 2002, respectively, the Amex filed Amendment Nos. 1, 2, 3, 4, 5, and 6 to the proposed rule change.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 42964 (June 20, 2000), 65 FR 39972 (June 28, 2000).

[4] *See* letters from Claire P. McGrath, Vice President and Special Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated August 24, 2000 (Amendment No. 1) and August 29, 2001 (Amendment No. 2); and from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Elizabeth King, Associate Director, Division, Commission, dated February 15, 2002 (Amendment No. 3), April 22, 2002 (Amendment

The proposed rule change, in its amended version, is 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, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to codify in Rule 933(d), Rule 950(d), Commentary .06, and Rule 950(n), Commentary .03 current practices regarding the participation in option trades executed on the Exchange by registered options traders and specialists and the allocation of those trades to the appropriate party. The text of the proposed rule change is set forth below. Deleted language is in brackets. Proposed new language is *italicized.*

* * * * *

Rule 933 Automatic Execution of Options Orders

(a)–(c) No change.

(d) Options orders executed through Auto-Ex shall be automatically allocated on a rotating basis to the specialist and to each trader that has signed on to Auto-Ex. Auto-Ex trades of ten contracts or less are allocated to each Auto-Ex participant as set forth below. If an Auto-Ex trade is greater than ten contracts, the Auto-Ex system divides the execution into lots of ten or fewer contracts and allocates a lot to each Auto-Ex participant. Each lot is considered a separate trade for purposes of allocating trades within Auto-Ex. The rotation is designed to provide that the allocation of Auto-Ex trades between the specialist and traders signed on to Auto-Ex in a given option class is as follows:

Number of traders signed on to Auto-Ex	*Approximate number of trades allocated to the specialist (percent)*	*Approximate number of trades allocated to the traders signed on to Auto-Ex (as a group) (percent)*
1	*60*	*40*
2–4	*40*	*60*
5–7	*30*	*70*
8–15	*25*	*75*
16 or more	*20*	*80*

* * * Commentary

.01–.02 No change.

* * * * *

Rules of General Applicability

Rule 950

(a)–(c) No change.

(d) The provisions of Rule 126, with the exception of subparagraphs (a) and (b) thereof, shall apply to Exchange option transactions and the following additional commentary shall also apply.

* * * Commentary

.01–.05 No change.

.06 (i) When two or more bids (offers) are made simultaneously by the specialist dealing for his own account and by registered options traders, all such bids (offers) shall be on parity and any contracts sold (bought) in execution of such bids (offers) shall be divided among the specialist and registered options trader(s) so that the specialist shall receive the following percentage of contracts executed and the registered options traders shall divide the remainder in accordance with Rule 950(n), Commentary .03(a)(iii):

Number of traders on parity	*Approximate number of contracts allocated to the specialist (percent)*	*Approximate number of contracts allocated to the traders (as a group) (percent)*
1	*60*	*40*
2–4	*40*	*60*
5–7	*30*	*70*
8–15	*25*	*75*
16 or more	*20*	*80*

Notwithstanding the foregoing, neither the specialist nor a registered options trader will be allocated more executed contracts than the number of contracts representing the specialist's or registered options trader's portion of the aggregate quotation size, as that term is used in Rule 958A, except, when the number of executed contracts to be allocated exceeds the aggregate quotation size disseminated for that options series.

(ii) The above provision applies only when the specialist and registered options trader(s) are on parity and does not include situations where a customer order is also on parity with the specialist and registered options traders. When a customer is on parity with the specialist and registered options traders, the specialist will allocate executed contracts (1) to the customer and to those registered options traders or specialist on parity with the customer on an equal basis subject to Rule 950(n), Commentary .03(a)(v); and then (2) to the specialist and the registered options traders in accordance with Rule 950(n), Commentary .03(a)(iii). The following rules set forth provisions regarding priority and parity of registered options traders and specialists when customer orders are involved: Rule 111, Commentary .07, which is made applicable to options trading by Rule 950(c), provides that registered options traders in establishing or increasing a position may not retain priority over or have parity with a customer order, and Rule 155, which is made applicable to options trading by Rule 950(a), requires a specialist to yield precedence to orders entrusted to him as agent before executing a purchase or sale at the same price for an account in which he has an interest.

(e)–(m) No change.

(n) The provisions of Rule 170 and Commentaries .03 and .04 thereto, shall apply to [e]Exchange option transactions. In addition, the following Commentary shall also apply:

* * * Commentary

[.10] *.01* A specialist in the course of maintaining a fair and orderly market shall adhere to the maximum permissible bid/ask differentials set forth in Rule 958(c).

.02 No change.

.03 (a) It is the responsibility of the specialist to allocate executed contracts among all participants to a trade.

(i) *In order for specialists to fulfill this function, registered options traders must announce either at the start of the trading day, upon entry into the trading crowd or prior to the dissemination of a quotation, the number of contracts for each option series in which they are willing to participate. The specialist may not assume a size for any registered options trader and only those registered options traders that have announced their sizes as discussed above will be allocated any executed contracts.*

(ii) The registered options traders announced sizes shall be promptly

No. 4), September 13, 2002 (Amendment No. 5), and December 19, 2002 (Amendment No. 6).

Amendment No. 1 added proposed rule text concerning the allocation of an incoming order when a customer is on parity with the specialist and registered options traders. Amendment No. 2 provided further explanation of the interaction of existing and proposed rules in this situation. Amendment Nos. 03, 4, and 5 further clarified how options trades on the Exchange are allocated, and were submitted by Amex in compliance with Section IV.B.j. of the Commission's Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) (''Order''). Section IV.B.j. of the Order requires that respondent options exchanges adopt new, or amend existing, rules to set forth any practice or procedure ''whereby market makers trading any particular option class determine by agreement the spreads or option prices at which they will trade any option class, or the allocation of orders in that option class.'' Amendment No. 6 made minor modifications and non-substantive changes to the proposal.

communicated to the Exchange as required by Rule 958A(c)(i).

(iii) As transactions occur the specialist shall allocate to the extent mathematically possible (A) the portion of the executed contracts that the customer is entitled to and the portion of the executed contracts to those on parity with the customer on an equal basis subject to subparagraph (v) of this paragraph (a); (B) the portion of the executed contracts that the specialist is entitled to pursuant to the participation percentages set forth in Rule 950(d), Commentary .06; and then (C) the portion of the executed contracts participating registered options traders are entitled to individually. The allocation pursuant to (C) is subject to the following provisions:

1. *where all participants have equal stated sizes, their participations shall be equal;*

2. *where participants' stated sizes are not equal, their participations will depend upon whether the number of executed contracts left to be allocated exceeds the participants' aggregate stated sizes;*

3. *if the number of executed contracts left to be allocated does not exceed the participants' aggregate stated sizes, the specialist will allocate the executed contracts equally, unless a participant's stated size is for an amount less than an equal allocation, then the smallest sizes will be allocated first, until the number of executed contracts remaining to be allocated requires an equal allocation.*

4. *if the number of executed contracts left to be allocated does exceed the participants' aggregate stated sizes, the specialist will allocate the executed contracts by first allocating to each participant the number of executed contracts equal to each participant's stated size with the remainder being allocated based on the percentage a participant's stated size is of the participants' aggregate stated size.*

5. *The following chart illustrates how different numbers of executed contracts will be allocated to participants whose aggregate stated size is 100 contracts:*

NUMBER OF EXECUTED CONTRACTS TO BE ALLOCATED

Each participant's stated size	200	90	70	50
50	100	40	25	17
30	60	30	25	17
20	40	20	20	16

(iv) In the event a specialist or registered options trader declines to accept any portion of the available contracts, any remaining contracts shall be apportioned among the remaining participants who bid or offered at the best price at the time the market was established in accordance paragraph (iii) above, until all contracts have been allocated.

(v) Specialists may direct some or all of their participation amount to competing public orders in the trading crowd.

(b) Notwithstanding the foregoing, when the transaction occurs without the participation of the specialist (either as principal or agent), the floor broker representing the contra-side of the trade shall distribute the executed contracts equally among the participating registered options traders, unless a registered options trader's portion of the disseminated size is less than an equal distribution. That registered options trader will be given a less than equal distribution and the remaining contracts will allocated equally among the remaining participants to the trade. In addition, if neither the specialist nor a floor broker representing a customer is participating in the trade, the participating registered options traders shall allocate the executed contracts among themselves in accordance with subparagraph (a)(iii) above.

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, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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

Since the inception of options trading at the Exchange in 1975, both specialists and registered options traders (''traders'') have had the responsibility of making markets in options. Exchange rules require that both specialists' and traders' transactions constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market and they should not enter into transactions or make bids or offers that are inconsistent with such a course of dealings. Specialists and traders shall engage, to a reasonable degree under the existing circumstances, in dealings for their own accounts when there exists a lack of price continuity, a temporary disparity between the supply of and demand for option contracts of a particular series, or a temporary distortion of the price relationships between option contracts of the same class. As the Commission stated in its Order announcing the effectiveness of the Exchange's plan to list and trade options, the Amex's ''* * * registered floor traders will be expected to trade in a way that *assists* the specialist in maintaining a fair and orderly market * * *''[5] (emphasis supplied). Specialists do, however, have additional obligations which include, among other things, the obligation to (1) assure that disseminated market quotations are accurate; (2) assure that each disseminated market quotation in appointed options classes is honored up to the disseminated size; (3) determine any formula for generating the automatically updated market quotations and disclosing the elements of that formula to the members of the trading crowd; (4) be present at the trading post throughout every business day; (5) participate at all times in the automated execution system for each assigned option class; and (6) resolve trading disputes, subject to Floor Official review upon the request of any party to the dispute.

In the course of making markets, specialists are often on parity with registered options traders, that is, bidding and offering simultaneously to provide liquidity. Generally, Exchange Rule 126 (made applicable to options

[5] *See* Securities Exchange Act Release No. 11144 (December 19, 1974), 40 FR 3258 (January 20, 1975).

trading by Rule 950 (d)) provides that when bids (offers) are made simultaneously, all such bids (offers) are on parity, and any securities sold (bought) in execution of such bids (offers) shall be divided as equally as possible between those on parity up to the participants' stated or generally known sizes. In addition, as further discussed below, the trading crowds in many option classes give the specialist a greater than equal share when on parity with registered options traders. This proposal seeks to codify in the Exchange's rules these current allocation practices.

Although this rule proposal seeks to codify specifically the participation in and allocation of trades among specialists and registered options traders on parity, the Exchange notes that the Commission staff has requested a general description of the Exchange's rules regarding customer priority and parity. The following is a discussion of those rules: Exchange Rules 155 and 111[6] set forth the obligations and responsibilities of specialists and registered options traders, respectively, when they handle or interact with customer orders. Rule 155 requires a specialist to yield precedence to orders entrusted to him as agent before executing a purchase or sale at the same price for an account in which he has an interest. Rule 111, Commentary .07 provides that registered options traders in establishing or increasing a position may not retain priority over or have parity with a customer order. Thus, Rules 155 and 111 require that, when the specialist as agent receives a customer marketable limit order, he and any registered options trader establishing or increasing a position must yield precedence to the customer order. Registered options traders closing or reducing a position and specialists not acting in an agency capacity can be on parity with a customer order.

Amendment No. 2 to the proposed rule change, which was submitted to the Commission in response to a specific question from the staff, sought to further describe how customer orders are handled when they are on parity with registered options traders. The example given in Amendment No. 2 stated the general proposition that if a customer order can be filled completely, it will be, before the specialist and registered options traders participate for their own accounts. The example is a correct description of what generally occurs on the Exchange's trading floor as the specialist and traders comply with the requirement that they generally deal for their own account only when there is a disparity between the supply of or demand for option contracts of the same series. Exchange priority and parity rules do not require the specialist and registered options trader to yield priority or parity in all circumstances to completely fill a customer order. Thus, if Exchange rules were strictly applied to the two examples posed in Amendment No. 2, the following would result:

(1) The specialist, one registered options trader (closing) and a customer (represented by a floor broker) are all bidding the same price, at the same time, for the same series of XYZ options and are, therefore, on parity. An incoming order to sell 300 XYZ contracts would be split evenly among the three participants.

(2) The specialist and a customer (represented by a floor broker) are bidding the same price, at the same time, for the same series of ABC options, and a registered options trader (opening) is also bidding at that same price and, thus, is not on parity. An incoming order for 300 ABC contracts would be split evenly between the specialist and the customer up to the size of the customer's order with the specialist receiving the same amount as the customer. Any remaining contracts would be split between the specialist and trader according to the percentages set forth in the proposed rules.

Notwithstanding the foregoing, specialists and registered options traders often do accommodate customer orders beyond what is required by Exchange rules as a means for attracting and retaining order flow in the increasingly competitive options markets. As a result, proposed Rule 950(n), Commentary .03(a)(v) would provide that the specialist and/or registered options traders may direct some or all of their participation to competing public orders (*i.e.*, competing orders for the accounts of non-broker-dealers) in the crowd. The Amex believes that this proposed provision would help to result in customers receiving allocations as described in Amendment No. 2, *i.e.*, an allocation beyond what is required by Exchange rules. In addition, specialists and registered options traders must comply with the requirement, noted above, that they trade for their own accounts only when there is a lack of supply and demand.

It is the specialist's responsibility to allocate executed contracts among all participants to a trade. This is generally a manual process involving the inputting of participant information into the Amex Order Display Book (''AODB'').[7] However, as provided in proposed Commentary .03(b) to Rule 950(n), whenever a trade occurs without the participation of the specialist (*e.g.*, the order is represented by a floor broker with registered options traders as contra-parties to the trade), the Floor Broker representing the contra-side of the trade would distribute the executed contracts equally among the participating registered options traders, unless a registered options trader's portion of the disseminated quote size is less than an equal distribution. That registered options trader would be given a less than equal distribution and the remaining contracts would be allocated equally among the remaining participants to the trade. In addition, when only registered options traders are on both sides of a trade (*i.e.*, neither the specialist nor a customer is participating in the trade), the registered options traders would allocate the executed contracts among themselves in accordance with the same provisions setting forth allocations by the specialist. (*See* proposed Rule 950(n), Commentary .03(a)(iii) 1.–5.) In these situations, as well as others, registered options traders are only required to participate up to their portion of the Exchange's disseminated quote size. (*See* Amex Rule 958A).

Depending upon the level of activity and volatility of a particular option series, the level of participation of an individual registered options trader in each options series will vary. Registered options traders who regularly or only occasionally trade a particular option series are currently expected to and will be required under the proposed codification in Rule 950 (n), Commentary .03(a), to announce, either at the start of the trading day, upon entry into the trading crowd, or prior to the dissemination of a quotation, the number of contracts for which they are willing to participate. These generally known sizes will be aggregated into the size disseminated by the Exchange pursuant to the firm quote rule (see Exchange Rule 958A and Rule 11Ac1–1 under the Act, 17 CFR 240.11Ac1–1) so that the disseminated quote in each option series would reflect the level of participation by the specialist and each registered options trader. While the specialist would not be required to

[6] Rule 155 is made applicable to options trading by Rule 950(a) and Rule 111 is made applicable by Rule 950(c).

[7] The Exchange recently implemented Quick Trade, an enhancement to the Amex Order File (AOF) and AODB, which automates in certain situations the process of allocating trades to participating registered options traders. *See* Securities Exchange Act Release No. 45974 (May 22, 2002) 67 FR 37886 (May 30, 2002).

announce his size to the trading crowd, his size could be determined from the disseminated quote size.

The Exchange states that over the years, it, as well as registered options traders and specialists, have recognized that, given their role, specialists should be entitled to a greater than equal share when on parity with registered options traders. As a result, a practice has developed in Amex trading crowds for many option classes to give the specialist a greater than equal share when on parity with registered options traders. The Exchange now seeks to codify this practice.

The Exchange believes that it is appropriate to provide a greater participation to specialists because they have responsibilities that registered options traders do not have. For example, they have a continuous obligation to the market; to update and disseminate quotes in all securities; to reflect all market interest in the displayed quotes; and to act as contra-party on Auto-Ex at all times.[8] In addition, specialists incur costs that registered options traders do not, such as the fixed staffing costs committed to market making in a particular option whether it is actively traded or not, and the costs associated with participating in educational and marketing functions to attract order flow. In order to attract to the Exchange specialist units that are willing to accept these responsibilities, the Amex believes that it is necessary to provide specialists with an enhanced participation. The Exchange also believes that it must provide these enhanced participations in order to be competitive with other options exchanges that currently offer enhanced participation to their specialists and primary market makers.[9] In the Exchange's view, the enhanced participation would also give specialists the ability to attract order flow to the Exchange and its customers with tighter, more competitive markets. The Exchange states that, as a result, it would be able to attract new specialist units and retain the services of existing units.

The adoption of Commentary .06 to Rule 950(d) would provide that a specialist's participation in the number of option contracts executed varies depending upon the number of traders on parity. The proposed distribution of option contracts between the specialist and the traders on parity is as follows:

Number of traders on parity	Approximate number of option contracts allocated to the specialist (percent)	Approximate number of option contracts allocated to the traders (as a group) (percent)
1	60	40
2–4	40	60
5–7	30	70
8–15	25	75
16 or more	20	80

It should be emphasized that the above percentages would apply only when the specialist and/or registered options traders are on parity and would not include situations where a customer order is also on parity with the specialist and registered options traders. It should be noted, however, that a specialist cannot be on parity with an order for which he is acting as agent, and registered options traders (who never act as agents and trade only for their own accounts) cannot be on parity with a customer when either establishing or increasing their position in the option. In such situations, as provided in proposed subparagraph (a)(iii)(A) of Commentary .03 to Rule 950(n), the specialist would first allocate executed contracts to the customer and to the specialist and/or those registered options traders on parity with the customer. Any contracts that remain would be allocated among the specialist and registered options traders in accordance with proposed subparagraph (a)(iii)(B) of Commentary .03 to Rule 950(n), which would provide that the specialist would receive a participation in the remaining contracts in accordance with the table set forth above and in proposed Commentary .06(i) to Rule 950(d).

In addition, as specified in Commentary .06(i) to Rule 950(d), neither the specialist nor a registered options trader would be allocated more executed contracts than the number of contracts representing the specialist's or registered options trader's portion of the aggregate quotation size that the responsible broker or dealer would be obligated to communicate to the Exchange pursuant to Exchange Rule 958A(c), except when the number of executed contracts to be allocated exceeded the aggregate quotation size disseminated for that options series. Thus, for the following two examples, assume that the aggregate quotation size is 100 contracts, the specialist's portion is 25 contracts and the registered options trader's portion is 75 contracts.

First example. An off-floor to sell 80 contracts is submitted for execution at the disseminated bid. Pursuant to the chart set forth above, the specialist would be entitled to 60% of the executed contracts. The specialist, however, would only be allocated 25 executed contracts and the registered options trader would be allocated 55 executed contracts.

Second example. An off-floor order to sell 200 contracts is submitted for execution at the disseminated bid. The specialist and registered options trader would first be allocated 25 contracts and 75 contracts respectively, plus the specialist would receive 60% of the remaining 100 contracts for a total of 85 contracts, and the registered options trader would receive 40% for a total of 115 contracts.

Once the specialist determined his portion of the trade depending upon the number of traders on parity, he would deduct his portion and allocate the remaining contracts to the registered options traders based upon: (i) An equal distribution, as described in the first example below; (ii) filling the smallest size(s) first, as described in the second example below; (iii) a combination based on filling the smallest size first and equal distribution, as described in the third example below; or (iv) prorated based on the registered options traders' generally known sizes and the percentage those sizes represent of their aggregate disseminated size, as described in the fourth example below. The number of contracts in the incoming order would determine which of the methods would be used in the allocation.

Assume the following information for each of the following four examples: The disseminated bid for a particular option series has an aggregate size of 1,000 contracts. The specialist is bidding for 650 contracts, and four registered options traders' generally known sizes are as follows: Trader A—200 contracts; Trader B—100 contracts; Trader C—30 contracts; and Trader D—20 contracts. There are no customer orders participating in the bid.

First example. An off-floor order to sell 100 contracts is submitted for execution at the disseminated bid. The specialist would allocate the executed contracts as follows: The specialist would receive 40 contracts (or 40%), and would allocate the remaining executed contracts equally to each of the four traders 15 contracts (or 25% of the remaining 60 contracts).

Second example. An off-floor order to sell 500 contracts is submitted for execution at the disseminated bid. The executed contracts would be allocated by the specialist as follows: (i) The specialist would receive 40% (200 contracts) of the 500 executed contracts

[8] *See also* Amex Rule 26.

[9] *See* Chicago Board Options Exchange Rule 8.80; Pacific Exchange Rule 6.82, and Philadelphia Stock Exchange Rule 1014(g).

pursuant to the participation rates set forth above; and (ii) the remaining 60% (300 contracts) would be divided among the registered options traders based upon their generally known sizes with an attempt to completely fill the smallest size(s) first, which in this example would be 20 contracts for Trader D, 30 contracts for Trader C, and 100 contracts for Trader B. A total of 150 contracts would be deducted, leaving 150 contracts to be allocated to Trader A.

Third example. An off-floor order to sell 200 contracts is submitted for execution at the disseminated bid. The executed contracts would be allocated by the specialist as follows: (i) The specialist would receive 40% (80 contracts) of the 200 executed contracts pursuant to the participation rates set forth above; and (ii) the remaining 60% (120 contracts) would be divided among the registered options traders based upon their generally known sizes with an attempt to completely fill the smallest size(s) first and an equal distribution of any remainder. Thus, the smallest sizes would be filled first—20 contracts for Trader D and 30 contracts for Trader C—and the remaining 110 contracts would be divided equally, with 55 contracts distributed each to Trader A and Trader B. Trader B would not receive 100 contracts (its generally known size) because such size would be more than an equal share of the remaining 110 contracts.

Fourth example. An off-floor order to sell 2,000 contracts is submitted for execution at the disseminated bid. Pursuant to the firm quote rule, the specialist and registered options traders, as the responsible broker or dealers, would be obligated to execute order(s) at the disseminated bid up to their disseminated size. The specialist and traders would be able to execute the first 1,000 contracts at the disseminated bid and execute the remaining contracts at a lower bid or bids. If, however, the specialist and registered options traders have determined, either individually or collectively (pursuant to Amex Rules 950(n), Commentary .02(b) and 958(h)(ii)), to execute the entire order at their disseminated bid, the executed contracts will be allocated as follows: (i) the specialist would receive 650 executed contracts representing his portion of the aggregate quotation size, plus 40% of the remaining 1,000 executed contracts pursuant to the participation rates set forth above for a total of 1,050 executed contracts; and (ii) the remaining 950 contracts would be divided among the registered options traders proportionally based upon their generally known sizes, the aggregate of which, in this example is 350 contracts: Trader A would receive an allocation of approximately 542 contracts (200/350=57% of the 950); Trader B would receive an allocation of approximately 275 contracts (100/350=29% of the 950 contracts); Trader C would receive an allocation of approximately 81 contracts (30/350=8.5% of the 950 contracts); and Trader D would receive an allocation of approximately 52 contracts (20/350=5.5% of the 950 contracts).[10]

In addition, the proposed rule text sets forth a chart that illustrates how various numbers of executed contracts would be allocated to registered options traders after the specialist has allocated portions to the customer and to the specialist. In each example, the chart assumes the aggregate stated size is 100 contracts:

NUMBER OF EXECUTED CONTRACTS TO BE ALLOCATED

Each participant's stated size	200	90	70	50
50	100	40	25	17
30	60	30	25	17
20	40	20	20	16

The first column illustrates the situation when the number of executed contracts exceeded the registered options traders' aggregate stated size and each registered options trader had determined either individually or collectively to participate for a larger size. The rest of the columns illustrate situations when the number of executed contracts was less than the registered options traders' aggregate stated size: The second column illustrates the situation when two of the three registered options traders' smaller sizes would be filled first and the third registered options trader would be allocated the remainder; the third column illustrates the situation when only one registered options trader's smallest size would be filled and the remaining executed contracts would be allocated equally between the two remaining registered options traders; and the fourth column illustrates the situation when all executed contracts would be allocated equally among the participating registered options traders.

The Exchange notes that the Commission staff has also asked whether a specialist or registered options trader can decline an allocation of executed contracts. As noted above, the firm quote rule requires specialists and registered options traders to be ''firm'' up to their disseminated size unless one of the exceptions set forth in the rule applies. If a specialist or registered options trader declined an allocation or ''backed away'' from his disseminated size in whole or in part, he would be in violation of the firm quote rule, investigated, and sanctioned accordingly. If the other participants to the disseminated quote size determined to increase the size of their participation to cover for the declining specialist or registered options trader, the executed contracts would be allocated based upon the principles discussed above, that is, the specialist's participation would be based upon one less registered options trader participating and the allocation among the registered options traders would be increased proportionately. Moreover, if the size of the incoming order was greater than the disseminated size and one or more registered options traders were not willing to participate in a size larger than their disseminated size, then the additional executed contracts would be allocated to the remaining participants based upon their participation rights as set forth in proposed Rule 950(d), Commentary .06 and the principles set forth in proposed Rule 950(n),

[10] The Commission notes that the allocation to each trader, calculated above as a percentage of 950 contracts, is essentially equivalent to the number of contracts each trader would receive by allocating the contracts as follows: First, each trader would receive his or her portion of the first 1000 contracts, based on the size each trader was quoting. In addition to these contracts, each trader would receive a percentage of the 600 contracts that would remain out of the second 1000 contracts after the specialist's percentage of 40% was allocated. The percentage each trader would receive of those 600 contracts would be based on the percentage that that trader's quote had represented out of the 350 contracts that the traders were quoting in the aggregate originally.

Commentary .03 which sets forth the participation percentages allocated to the specialist and registered options traders based upon the number of registered options traders participating on the trade.

In addition, the Exchange proposes to codify in Rule 933(d) its procedures regarding the allocation of Auto-Ex executed options trades [11], which are automatically allocated on a rotating basis to the specialist and to each trader that has signed on to Auto-Ex [12]. Auto-Ex trades of ten contracts or fewer would be allocated to each Auto-Ex participant as set forth below.

If an Auto-Ex trade is greater than ten contracts, the Auto-Ex system divides the execution into lots or ten or fewer contracts and allocates a lot to each Auto-Ex participant [13]. Each lot is considered a separate trade for purposes of allocating trades within Auto-Ex. The rotation is designed to provide that the allocation of Auto-Ex trades between the specialist and traders signed on to Auto-Ex in a given option class is as follows:

Number of trades signed on to auto-ex	Approximate number of trades allocated to the specialist throughout the day (percent)	Approximate number of traders allocated to the traders signed on to auto-ex throughout the day (as a group)
1	60	40
2–4	40	60
5–7	30	70
8–15	25	75
16 or more	20	80

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act [14] in general and furthers the objectives of Section 6(b)(5) of the Act [15] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change or the amendments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the Amex. All submissions should refer to File No. SR–Amex–00–30 and should be submitted by February 21, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

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[11] Auto-Ex automatically executes public customer market and marketable limit orders of a minimum of 10 and a maximum of 500 option contracts or less. Both the specialist and registered options traders are contra-parties to the trades executed on the Auto-Ex system.

[12] At the start of each trading day, the order in which trades are allocated to the specialist and traders signed on to Auto-Ex is randomly determined.

[13] For example, an option class that allows up to 50 contracts to be executed through Auto-Ex would have a trade of 25 contracts divided into lots of 10, 10 and 5.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47243; File No. SR–ISE–2003–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, Inc., Relating to Fee Changes

January 24, 2003.

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 January 9, 2003, the International Securities Exchange, Inc. (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 is proposing to establish a $.10 surcharge for non-public customer transactions [3] in options on Select Sector SPDR Funds.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Telephone conversation between Joseph W. Ferraro, Assistant General Counsel, ISE, and Jennifer Colihan, Special Counsel, Division of Market Regulation (''Division''), Commission, January 16, 2003.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has entered into a license agreement to use various indexes and trademarks of Standard & Poor's, a division of The McGraw-Hill Companies, Inc. (''S&P''), in connection with the listing and trading of options on certain Select Sector SPDR Funds. The purpose of this proposed rule change is to adopt a fee for trading in three of these options that the Exchange has listed.[4] The ISE believes that charging the participants that trade in options on these instruments is the most equitable means of recovering the costs of the license. However, because competitive pressures in the industry have resulted in the waiver of all transaction fees for customers, we propose to exclude Public Customer Orders (as defined in Exchange Rule 100) from this additional fee. This additional fee will only be charged with respect to non-Public Customer Orders.

For example, if broker A has a Public Customer Order that broker A gives to broker B (an ISE electronic access member) to execute on the ISE, broker B will not be charged the proposed $.10 fee. On the other hand, if broker A gives broker B (an ISE electronic access member) an order for the account of broker A (or another broker-dealer), broker B will be charged the $.10 fee.[5]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(4) of the Act that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.[6]

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does 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 on this 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

The foregoing rule change establishes or changes a due, fee, or other charge and, therefore, has become effective immediately pursuant to section 19(b)(3)(A)(ii) of the Act[7] and rule 19b–4(f)(2) thereunder.[8] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 21, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2258 Filed 1–30–03; 8:45 am]

BILLING CODE 8010–01–P

[4] The proposed fee will apply to options on the Financial Select Sector SPDR Fund (''XLF''), Technology Select Sector SPDR Fund (''XLK'') and Utilities Select Sector SPDR Fund (''XLU''). Telephone conversation between Joseph W. Ferraro, Assistant General Counsel, ISE, and Jennifer Colihan, Special Counsel, Division, Commission, January 16, 2003.

[5] Telephone conversation between Joseph W. Ferraro, Assistant General Counsel, ISE, and Jennifer Colihan, Special Counsel, Division, Commission, January 16, 2003.

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47206; File No. SR–NSCC–2002–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Modification of Fixed Income Transaction System in Preparation for the Implementation of Real Time Trade Processing

January 16, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on November 5, 2002, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NSCC–2002–10) as described in items I, II, and III below, which items have been prepared primarily by NSCC. 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

NSCC proposes to modify its Trade Comparison Service rules to modify its Fixed Income Transaction System (''FITS'') in order to begin the move to real time trade matching processing (''RTTM'') for fixed income securities that are eligible for processing by NSCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries set forth in sections A, B,

[1] 15 U.S.C. 78s(b)(1).

and C below of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

RTTM[3] was implemented by the Government Securities Clearing Corporation (''GSCC''), an NSCC affiliate, in the fourth quarter of 2000 for the processing of government securities. It was designed with a vision to also use the platform for other fixed income securities. Once RTTM was deployed for government securities, GSCC and MBS Clearing Corporation (''MBSCC'') worked together to adapt RTTM to support the requirements of mortgage-backed securities and was implemented by MBSCC on September 27, 2002. The next logical extension of RTTM is its further adaptation for fixed income securities that are eligible for processing by NSCC. NSCC currently plans to implement RTTM for corporate bonds, municipal bonds, and Unitary Investment Trusts (''UIT'') in the fourth quarter of 2003. RTTM will eventually replace NSCC's current FITS.

One of NSCC's main objectives will be to ensure an orderly transition to RTTM. In order to prepare participants for the new RTTM functionality, NSCC proposes that certain modifications be made to FITS during March 2003. These modifications will enable participants to become familiar with RTTM-type processing. In addition, some lesser-utilized FITS functionality that will not be incorporated into RTTM will be eliminated from FITS. The proposed modifications have been endorsed by the RTTM Working Group, which consists of representatives of participants who maintain key positions in The Bond Market Association, the Securities Industry Association, and the Regional Municipal Operations Association.

The following is a summary of the proposed modifications to FITS:

- FITS will automatically compare a trade even if the counterparties submit data on the trade in different pieces, a process known as ''trade summarization.''[4]
- Except for trades where the settlement date is the same business day as or the business day after the trade date,[5] FITS will be modified to accept (instead of reject) trade submissions with a contractual settlement date of the day of input or of prior dates and will automatically assign a settlement date of the next business day to the trades.
- Corporate bond trades in quantities of other than multiples of a thousand (round-lots) must be divided into separate data submissions of the round lot quantity and the odd-lot quantity (multiples of less than one thousand).

The following is a summary of functions that NSCC proposes to eliminate from FITS:

- Demand As Of processing.[6]
- One Sided Deletes for compared, secondary market municipal security trades. In order to delete these trades, both counterparties will be required to submit Withholds that match in all respects.[7]
- Trade Submit and Carry Forward Totals will not be reported on the Supplemental and Added Trade Contracts.
- Regular Way Extended Settlement Carry Forward Totals.[8]

Along with these proposed changes, NSCC proposes to change the current cutoff time for trade submission and will require the submission of certain additional trade data.[9] Finally, NSCC wishes to make a technical correction to the use of the term ''business day'' in its rules. During the preparation of this filing, NSCC realized that the use of upper and lower case letters for the term is inconsistent in the rules. In order to carry out the intention of the drafters of the rules, NSCC proposes that each use of the term throughout its rules be ''business day'' (lower case) as specified in the definition of that term in NSCC rule 1–1.

NSCC believes that the proposed rule change is consistent with the provisions of the Act and the rules and regulations thereunder because it would prepare its participants for the new RTTM functionality that will enable NSCC to process trades in the efficient manner that is currently utilized by GSCC and MBSCC in connection with other fixed-income trades.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a 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 relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments it receives.

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 such longer period (i) as the Commission may delegate up to ninety days of such date if it finds such longer period to be appropriate and published its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0069. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–NSCC–2002–10. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] RTTM provides firms with the ability to compare trades shortly after execution. It will facilitate Straight Through Processing by utilizing a single pipeline with one communications link for all fixed income products. Standardized message formats are utilized for all inbound and outbound interactive transmissions.

[4] For example, Firm A submits one trade for $30 million and Firm B ''breaks down'' the trade into three $10 million pieces. Alternatively, Firm A and Firm B may execute five separate trades each worth $10 million. Firm A submits each trade separately while Firm B ''bunches'' the five trades into one $50 million piece. In both of these examples, the trades will be compared.

[5] NSCC will continue to reject trades where the settlement date is the same business day as or the business day after the trade date regardless of the date of submission.

[6] The As Of capability will still be available to compare trades that do not initially compare in FITS. The As Of capability requires the submission by each counterparty of data that matches in all respects whereas the Demand As Of capability permitted a trade to be ''force compared'' on the submitter's terms even if the counterparty did not respond.

[7] One Sided Deletes functionality will be retained for syndicate takedown transactions and for uncompared municipal bond, corporate bond, and UIT trades.

[8] Carry Forward Totals will be retained on New Issue Contracts.

[9] The details for these technical changes can be found in Exhibit C to NSCC's proposed rule change, which is an important notice that was distributed to NSCC's participants on October 2, 2002.

with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at NSCC's principal office. All submissions should refer to File No. SR–NSCC–2002–10 and should be submitted by February 21, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2256 Filed 1–30–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47245; File No. SR–Phlx–2002–88]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Equity Transaction Charge

January 24, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 31, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its schedule of dues, fees and charges to clarify the definition of a trade that utilizes the Phlx's Automated Communication and Execution System (''PACE'') as it relates to the imposition of the Exchange's equity transaction value charge.[3] Currently, the Exchange's equity transaction value charge is assessed based on total shares per transaction,[4] with the exception of specialist trades and PACE trades.[5] The Exchange proposes to define with greater specificity a PACE trade in order to clarify the imposition of the equity transaction value charge, as it relates to PACE trades only.

First, the Exchange proposes to clarify that the equity transaction value charge applies in situations where an order, after being delivered to the Exchange by the PACE system, is executed by way of an outbound Intermarket Trading System (''ITS'') commitment,[6] when such outbound ITS commitment reflects the PACE order's clearing information (and not the specialist's clearing information).[7] In this situation, the trade is not considered to be a PACE trade for purposes of the equity transaction value charge and thus, becomes subject to this charge.

Secondly, the Exchange proposes to clarify that the equity transaction value charge does not apply where a PACE trade was executed against an inbound ITS commitment. The execution (on the Phlx) against an inbound ITS commitment is considered a PACE trade and therefore, the equity transaction value charge does not apply to these transactions.

Thirdly, the Exchange proposes to rebate to any members who were charged an equity transaction value charge for PACE trades that were executed against an inbound ITS commitment for the months of September, October, November and December 2002.

Lastly, the Exchange proposes to rename the title of the ''equity transaction value charge'' to the ''equity transaction charge,'' (hereinafter referred to as ''equity transaction charge'') because it is now a share-based charge and not a value-based charge.

The text of the proposed rule change is available at the principal offices of the Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and the 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 purpose of the proposed rule change is to clarify the Exchange's Summary of Equity Charges as it relates to the Exchange's equity transaction charge. The Exchange believes that not charging members the equity transaction charge for PACE trades that are executed against an inbound ITS commitment should encourage greater use of the PACE system, which in turn should promote a more active and liquid equities market. Also, this clarification should help to avoid any member confusion.

The Exchange believes that, for the purposes of this fee, a PACE trade executed by way of an outbound ITS commitment, when such ITS commitment reflects the PACE order's clearing information, does not receive a PACE execution, and therefore the equity transaction charge should apply.[8]

Previously, the Exchange's billing system charged an equity transaction value charge for PACE trades executed against an inbound ITS commitment due to the difficulties in identifying executions of orders in this manner. Due to advances in billing, the Exchange can now more readily identify PACE trades that are executed against inbound ITS commitments. The Exchange believes that by not charging an equity transaction value charge and by providing a rebate, as described above, for the months of September through

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] PACE is the Exchange's order routing, delivery, execution, and reporting system for its equity-trading floor. *See* Exchange rules 229, Philadelphia Stock Exchange Automated Communication and Execution System, and 229A, Operation of PACE System When Competing Specialists Are Trading.

[4] *See* Securities Exchange Act Release No. 46874 (November 21, 2002), 67 FR 71226 (November 29, 2002).

[5] *See* Securities Exchange Act Release No. 44381 (June 1, 2001), 66 FR 31264 (June 11, 2001).

[6] The ITS means the application of the System that permits intra-day trading in Eligible Listed Securities between Participant markets as set forth in the ITS Plan. *See* Exchange rule 2001, Intermarket Trading System.

[7] If the outbound ITS commitment reflects the specialist's clearing information, the equity transaction value charge does not apply because it does not apply to specialist trades.

[8] Charging an equity transaction charge for PACE orders sent over ITS with the PACE order's clearing information attached is consistent with the Exchange's Outbound ITS Fee. See Securities Exchange Act Release No. 45388 (February 4, 2002), 67 FR 6310 (February 11, 2002).

December 2002 should encourage future use of the PACE system and will reimburse members who were charged the equity transaction value charge when the application of this charge may not have been clear, as it relates to PACE trades and inbound ITS commitments. Also, the Exchange believes that going forward, for trades settling on or after January 2, 2003, there should be no charge for these PACE trades due to the fact that the method of execution of these trades is outside of the customer's control.

The purpose of renaming the equity transaction charge is to make the title of the charge consistent with recent changes to this fee.[9]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[10] in general, and furthers the objectives of section 6(b)(4) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[12] and rule 19b–4(f)(2) thereunder,[13] as establishing or changing a due, fee, or other charge. At any time within 60 days of the filing of such 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.[14]

[9] See supra note 4.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] *See* section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2002–88 and should be submitted by February 21, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2257 Filed 1–30–03; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Small Business Administration, Region IX Regulatory Fairness Board

The Small Business Administration Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Thursday, February 6, 2003 at 1:30 p.m. (Local Time) at the Cameron Center, 95 Mahalani Street, Wailuku, Maui, HI 96793, 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 Ann Murata in writing or by fax, in order to be put on the agenda. Ann Murata, U.S. Small Business Administration, Hawaii District Office, 300 Ala Moana Boulevard, Room 2–235, Honolulu, HI 96850, phone (808) 541–2992, fax (202) 481–0267, e-mail *ann.murata@sba.gov.*

For more information, see our Web site at *http://www.sba.gov/ombudsman.*

Dated: January 24, 2003.

C. Edward Rowe III,

Counsel, Office of the National Ombudsman.

[FR Doc. 03–2271 Filed 1–30–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINSTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Small Business Administration, Region IX Regulatory Fairness Board

The Small Business Administration Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Tuesday, February 4, 2003 at 9 a.m. (Local Time) at the Prince Jonah Kuhio Kalanianaole (PJKK) Federal Building, 300 Ala Moana Boulevard, Room 5–208, Honolulu, HI 96850–4981, 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 Ann Murata in writing or by fax, in order to be put on the agenda. Ann Murata, U.S. Small Business Administration, Hawaii District Office, 300 Ala Moana Boulevard, Room 2–235, Honolulu, HI 96850, phone (808) 541–2992, fax (202) 481–0267, e-mail *ann.murata@sba.gov.*

For more information, see our Web site at *http://www.sba.gov/ombudsman.*

Dated: January 24, 2003.

C. Edward Rowe III,

Counsel, Office of the National Ombudsman.

[FR Doc. 03–2272 Filed 1–30–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4257]

30-Day Notice of Proposed Information Collection: Form DS–158, Contact Information and Work History for Nonimmigrant Visa Applicant; OMB Control Number 1405–0144

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for

approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of currently approved collection.

Originating Office: Bureau of Consular Affairs, Department of State (CA/VO).

Title of Information Collection: Contact Information And Work History For Nonimmigrant Visa Applicant.

Frequency: Once per respondent.

Form Number: DS–158.

Respondents: All nonimmigrant visa applicants seeking to study in the United States and other nonimmigrant visa applicants as determined to be appropriate by the Department of State.

Estimated Number of Respondents: 2,500,000.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 2,500,000 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Brendan Mullarkey of the Office of Visa Services at 202–663–1163, 2401 E St., NW., U.S. Department of State, Washington, DC 20520. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: January 18, 2003.

Janice L. Jacobs,

Deputy Assistant Secretary for Visa Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 03–2313 Filed 1–30–03; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 4)]

Railroad Cost Recovery Procedures—Productivity Adjustment

AGENCY: Surface Transportation Board.

ACTION: Proposed adoption of a Railroad Cost Recovery Procedures productivity adjustment.

SUMMARY: The Surface Transportation Board proposes to adopt 1.019 (1.9%) as the measure of average change in railroad productivity for the 1997–2001 (5-year) period. The current value of 4.2% was developed for the 1996 to 2000 period.

DATES: Comments are due by February 17, 2003.

EFFECTIVE DATE: The proposed productivity adjustment is effective 30 days after the date of service.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 290 (Sub-No. 4) to: Office of the Secretary, Case Control Branch, 1925 K Street, NW., Washington, DC 20423–0001. Parties should submit all pleading and attachments on a 3.5-inch diskette in WordPerfect 6.0 or 6.1 compatible format.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site *http://www.stb.dot.gov.* To purchase a copy of the full decision, write to, call, or pick up in person from the Board's contractor, Dā-To-Dā Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006, phone (202) 293–7776. [Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.]

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

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: January 24, 2003.

By the Board, Chairman Nober, Vice Chairman Burkes, and Commissioner Morgan.

Vernon A. Williams,

Secretary.

[FR Doc. 03–2194 Filed 1–30–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

Operation Safe Commerce Cooperative Agreement Program; Request for Application and Establishing the Closing Date for Receipt of Applications Under the Operation Safe Commerce Cooperative Agreement Program

AGENCY: Transportation Security Administration, Department of Transportation.

ACTION: Notice inviting applications for the Operation Safe Commerce Cooperative Agreement Program

SUMMARY: The Transportation Security Administration working in conjunction with an interagency Executive Steering Committee for Operation Safe Commerce (OSC) requests applications for the OSC Cooperative Agreement Program to fund business drive initiatives to enhance security for the movement of cargo through the supply chain. The goal of OSC is to explore business processes and technology prototypes that protect commercial shipments from threat of terrorist attack, illegal immigration, and contraband while minimizing the economic impact upon the transportation system. The Ports of Los Angeles, Long Beach, Seattle, Tacoma, and the Port Authority of New York and New Jersey are invited to submit proposals for funding consideration under this initiative. Persons and entities representing components of the supply chain may seek funding through these ports. The ports are encouraged to maximize their eligibility for funding by including representatives from all components of the supply chain, including major and minor load centers and feeder locations, their overseas customers and port partners, and the shipping lines serving these locations.

Authority for this program is contained in the fiscal year 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, Pub. L. 107–206, 116 Stat. 820.

DATES: The program announcement and application forms for the Operation Safe Commerce Cooperative Agreement Program are expected to be available on or about January 31, 2003. Applications must be received on or before 4 p.m. e.s.t., Marcy 20, 2003.

ADDRESSES: Program Announcement #02MLPA0001 for the Operation Safe Commerce Cooperative Agreement Program will be available through the

TSA Internet at *http://www.tsa.dot.gov* under Business Opportunities.

FOR FURTHER INFORMATION CONTACT: For OSC technical information contact: Walter (Bud) Hunt, Office of Maritime and Land Security, Transportation Security Administration, 400 Seventh Street, SW., TSA–8, Washington, DC 20590; email: *OSC@tsa.dot.gov,* telephone 571–227–1200. For OSC Cooperative Agreement Program contact: Ronald Ouellet, Office of Maritime and Land Security, Transportation Security Administration, 400 Seventh Street, SW., TSA–8, Washington, DC 20590; email: *OSC@tsa.dot.gov,*; telephone 571–227–1200.

SUPPLEMENTARY INFORMATION: 64 FR 70110, November 20, 2002, provided background information and requested comments on the proposed project criteria for Operation Safe Commerce.

Total anticipated funding available for Operation Safe Commerce Cooperative Agreement Program is $26,040,000. Awards under this program are subject to availability of funds.

In addition, the OSC Executive Steering Committee and the Transportation Security Administration announces a non-funded federal program under OSC. This non-funded OSC Associates program seeks to capture lessons learned from private and public efforts to secure the supply chain. This program will be open to organizations that accept certain minimal requirements to be set forth by the ESC. In return, the ESC and TSA will review their efforts and, if appropriate, will include them in the final report on OSC.

Dated: January 23, 2003.

J.M. Loy, Adm,

Under Secretary of Transportation for Security.

[FR Doc. 03–1918 Filed 1–30–03; 8:45 am]

BILLING CODE 4110–62–M

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of a National Customs Automation Program Test To Eliminate the Submission of the Paper Master Air Waybill Document

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to conduct a test under the National Customs Automation Program (NCAP) under which a participating air carrier must electronically transmit, through the Air Automated Manifest System, master air waybill data prior to arrival of the aircraft in the United States and will not have to submit a copy of the master air waybill as an attachment to the air cargo manifest upon arrival in the United States. Under the test, the participant still will be required to submit all other documentation as required and be capable of retrieving and printing a copy of the information contained in the master air waybill upon demand by Customs.

DATES: The test will commence no earlier than March 3, 2003, and will run for approximately one year. Comments concerning this notice and all aspects of the announced test must be received on or before February 20, 2003. Applications will be accepted throughout the duration of the test.

ADDRESSES: Written comments may be submitted to the U.S. Customs Service, Office of Field Operations, Manifest and Conveyance Branch, 1300 Pennsylvania Avenue, NW., Room 5.2B, Washington, DC 20229. Interested parties may apply to participate in the test by submitting a written request to the U. S. Customs Service, Office of Field Operations, Trade Compliance and Facilitation, 1300 Pennsylvania Avenue, NW., Room 5.2B, Washington, DC 20229, ATTN: Paperless Master AWB Test.

FOR FURTHER INFORMATION CONTACT: David King, Manifest and Conveyance Branch, Office of Field Operations (202–927–1133).

SUPPLEMENTARY INFORMATION:

Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Pub. L. 103–182, 107 Stat. 2057, 2170 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of title VI establishes the National Customs Automation Program (NCAP), an automated and electronic system for the processing of commercial importations. Section 631 of the Act creates sections 411 through 414 of the Tariff Act of 1930 (19 U.S.C. 1411 through 1414), as amended, which define and list the existing and planned components of the NCAP (19 U.S.C. 1411), establish program goals (19 U.S.C. 1412), provide for the implementation and evaluation of the program (19 U.S.C. 1413), and provide for the remote location filing of entries (19 U.S.C. 1414).

Requirements for conducting an approved test program or procedure designed to evaluate planned components of the NCAP are set forth in § 101.9 of the Customs Regulations (19 CFR 101.9). These regulations, in part, enable the Commissioner of Customs to impose requirements different from those specified in the Customs Regulations, provided that the different requirements do not affect the collection of revenue, the public health and safety, or law enforcement. This test is established pursuant to that regulatory provision.

I. Description of Test Program

Air Cargo Manifest

Section 122.42(c) of the Customs Regulations (19 CFR 122.42(c)) requires that the commander of an aircraft arriving in the United States from a foreign area, or his agent, must deliver upon arrival any required forms to the Customs officer at the place of entry. (Among these forms are the general declaration (§ 122.43), crew baggage declaration (§ 122.44), crew list (§ 122.45), stores list (§ 122.47), air cargo manifest (§ 122.48), and the passenger and crew manifests (§ 122.49a).) Section 122.48 of the Customs Regulations (19 CFR 122.48) provides that an air cargo manifest is required for all cargo on board a flight arriving in the United States from a foreign area, except for cargo arriving from and departing for a foreign country on the same through flight. Section 122.48(c), Customs Regulations (19 CFR 122.48(c)), provides that the air cargo manifest must be on Customs Form (CF) 7509, that it must contain all required information, and that a more complete description of the cargo shipped under air waybills may be provided by attaching to the cargo manifest a copy of each air waybill and, if a consolidated shipment, copies of the house air waybills.

Electronic Submission of the Air Waybill Information

In an attempt to facilitate cargo processing and release, Customs has accepted, on a voluntary basis, the electronic transmission of air waybill information from qualified air carriers, through the Air Automated Manifest System (AAMS), either before or upon arrival of the aircraft in the United States. However, air carriers submitting air waybill information in this way are still required to submit the paper documents, even though the data is transmitted electronically. Now, to further facilitate the control, processing, and release of air cargo, Customs, via this test program, will relieve AAMS air carriers participating in the test from the requirement of submitting a copy of the master air waybill as an attachment to

the air cargo manifest when they electronically transmit master air waybill information to Customs prior to arrival of the aircraft in the United States. Test participants still must submit all other documentation as required under the regulations and be capable of retrieving and printing a copy of the master air waybill information upon demand by Customs.

It is anticipated that the test will run for one year. In the event, however, that Customs determines that a longer test program period is warranted, Customs will announce an extension of the test by publication of a notice in the **Federal Register**.

It is noted that Customs previously announced a NCAP test program regarding submission to Customs of electronic air cargo manifest information through publication of a notice in the **Federal Register** (65 FR 58840) on October 2, 2000 (Announcement of a National Customs Automated Program Test Regarding Submission to Customs of Electronic Air Cargo Manifest Information). This October 2000 test is distinct from the test announced today in this document and remains in effect for any qualified air carriers who may wish to submit electronic air cargo manifest information to Customs prior to arrival of the aircraft in the United States without having to submit upon arrival a CF 7509 (Air Cargo Manifest). (*See* the cited notice for eligibility and application instructions.) Submission of the CF 7509 is required under the test announced in this document.

Regulatory Provision Suspended

As noted above, § 122.48(c) provides that a more complete description of the cargo shipped under air waybills may be provided by attaching to the cargo manifest a copy of each air waybill and, if a consolidated shipment, copies of the house air waybills. Thus, when an air carrier opts to provide cargo information in this manner, copies of the master air waybill and any house air waybills must be submitted with the air cargo manifest. Under the test, this requirement to submit a copy of the master air waybill in paper form will be suspended when the test participant electronically transmits to Customs the air waybill information prior to the aircraft's arrival in the United States. Participants will not be required to submit copies of these air waybills with the cargo manifest but must be capable of providing Customs required air waybill information, electronically or otherwise, upon demand by Customs. Participation in this test program does not relieve carriers from compliance with applicable requirements of other government agencies.

II. Test Program Eligibility Criteria

To be eligible to participate in the test program, an air carrier must meet the following eligibility criteria:

1. A carrier must be a qualified AAMS carrier in the port where it will operate under the test. A qualified AAMS carrier has been tested and certified by Customs to possess the technical capability to transmit and receive AAMS data. Technical requirements for AAMS carriers are specified in the Customs publication entitled, ''Customs Automated Manifest Interface Requirements —Air (CAMIR—Air).'' Any carrier not currently AAMS qualified may submit a written request to become an AAMS participant to the Customs Client Representative Branch closest to the applicant's operational location. A list of Customs Client Representatives may be obtained from the United States Customs Service, Office of Information and Technology, Client Representatives Branch, 7501 Boston Blvd., Springfield, VA 22153 (703/921–7500).

2. A carrier must be a participant in the Customs-Trade Partnership Against Terrorism (C–TPAT) program. C–TPAT is a joint Customs-business initiative to build cooperative relationships that strengthen overall supply chain and border security. Application instructions for air carriers wishing to participate in the C–TPAT program may be found on the Internet at *www.Customs.gov* or may be requested in writing from the United States Customs Service, Office of Field Operations, Industry Partnership Programs, 1300 Pennsylvania Avenue, NW., Room 5.4C, Washington, DC 20229, ATTN: C–TPAT.

III. Test Program Application and Selection Process

Application Process

Any air carrier that satisfies the eligibility criteria may apply to participate in the test program by submitting a written request to the United States Customs Service, Office of Field Operations, Trade Compliance and Facilitation, 1300 Pennsylvania Avenue, NW., Room 5.2B, Washington, D.C. 20229, ATTN: Paperless Master AWB Test. Customs will accept applications from eligible air carriers throughout the duration of the test. The request must be signed by an authorized official, designate the Customs port where the participant will operate under the test, and designate a point of contact and telephone number within the applicant's organization.

Upon review, Customs will issue written notification regarding the approval or denial of the application. If denied, Customs will inform the applicant of the reasons for denial and the right to reapply after any deficiencies identified in the notice of denial have been corrected. Any air carrier that applies for permission to participate in the test program will be given due consideration by Customs and will be evaluated based on its ability to meet the requirements set forth in the notice.

Participation in this test program will not be considered confidential information, and the identity of participants will be made available to the public upon written request.

IV. Test Program Procedures

Test program procedures will be coordinated with all participating and affected parties. The following procedures apply to all participant air carriers and will be in effect for the duration of the test program:

1. The participant air carrier must transmit the master air waybill information to AAMS with all the necessary data elements as set forth in the CAMIR-Air publication prior to the arrival of the aircraft. Where the carrier transfers the freight to a deconsolidator that participates in the AAMS program, the deconsolidator must electronically transmit the house air waybill information. Where the carrier transfers the freight to a non-automated deconsolidator or releases the freight from its own facility, the carrier must supply through AAMS complete house air waybill details including piece count, weight, cargo description, shipper, and consignee information.

2. The participant must be able to print a paper copy of the master air waybill with the required data elements and submit it to Customs personnel upon demand by Customs.

3. If for any reason, the electronic data interchange system between Customs and the participant becomes inoperative or Customs is unable to receive electronic transmissions, the participant will print a copy of the master air waybill, attach it to the air cargo manifest, and submit it to Customs at the port of arrival.

V. Suspension/Termination From the Test Program and Administrative Review

Suspension/Termination Process

The failure of a participant to comply with the procedural requirements or to

maintain participation in the programs required for eligibility (AAMS and C–TPAT), or failure to adhere to all applicable laws and regulations, may result in the suspension or termination of the participant from the test program. Except in instances of willfulness on the part of the participant, or where public health, interest, or safety is at issue, the port director will issue a written notice of proposed suspension to the participant. The notice will inform the participant of the following:

1. The basis of the proposed action and all applicable terms and conditions regarding implementation of the proposed action and the administrative review process.

2. The right to seek administrative review of the action, pursuant to the terms set forth in the notice. A request for review must be received by Customs on or before the 10th calendar day from the date the notice of proposed suspension was issued.

3. That any action will be held in abeyance for a period of 10 calendar days from the date of the notice or, if the participant timely seeks administrative review of the matter pursuant to the terms set forth in the notice, pending conclusion of Customs review of the matter.

4. That failure to seek administrative review of the matter pursuant to the terms set forth in the notice will constitute acceptance of the terms and conditions set forth in the notice, preclude any further administrative review of the matter, and automatically commence the suspension at midnight of the 10th calendar day from the date of the notice.

Where there is willfulness on the part of the participant, or where public health, interest, or safety is concerned, suspension from the test program may go into effect immediately upon issuance of an electronic notice by the port director that sets forth the basis of the action and any related information. Within 5 calendar days from the date the electronic notice was issued, Customs will issue a written notice of immediate suspension to the participant. A notice of immediate action, whether electronic or in paper form, will provide the same kind of information as that contained in a notice of proposed suspension. An immediate suspension will remain in effect pending conclusion of any administrative review of the action by Customs.

Administrative Review

To seek administrative review of any suspension from the test program, the participant must submit documentation to the port director that issued the suspension notice within 10 calendar days from the date the notice of proposed suspension or an electronic notice of immediate suspension was issued. The documentation must establish, to the satisfaction of Customs, that the alleged deficiencies which led to the action did not occur or have been corrected.

The port director will review the documentation and issue a written final notice of decision to the participant within 30 days from the date the documentation was received by Customs, unless the time period is extended upon due notice. In the case of a participant seeking review of a proposed suspension, the final notice will either impose a suspension that is effective upon the date of the final notice or indicate that no suspension will be imposed. In the case of a participant seeking administrative review of an immediate suspension, the final notice will inform the participant that the suspension has been affirmed, modified, or revoked upon the date of the final notice.

If a suspension is imposed, the suspended participant may seek a second level of administrative review to appeal the final notice of suspension by submitting documentation to the Assistant Commissioner, Office of Field Operations, within 10 calendar days of the final notice. The Assistant Commissioner or its designee will issue to the suspended participant a written decision within 30 calendar days from the date the documentation was received, unless this time period is extended upon due notice. The decision will affirm, modify, or revoke the suspension and will set forth the basis for the determination, as well as any applicable terms and conditions.

VI. Test Evaluation Criteria

During the course of the test, Customs and the participants will evaluate the test, and the results of the evaluation will be published in the **Federal Register** and the Customs Bulletin as required by § 101.9(b) of the Customs Regulations (19 CFR 101.9(b)). The test will be evaluated through an analysis of questionnaires completed by affected participants and Customs personnel. Evaluation criteria for Customs and other government agencies include workload impact, policy and procedural accommodation, and trade compliance impact. Criteria for participants include cost benefits and operational efficiency.

Dated: January 28, 2003.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 03–2280 Filed 1–30–03; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register

Vol. 68, No. 21

Friday, January 31, 2003

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

International Trade Administration

[A–823–808]

Ammendment to the Agreement Between the United States Department of Commerce and the Government of Ukraine Suspending the Antidumping Investigation on Cut-to-Length Carbon Steel Plate from Ukraine

Correction

In notice document 03–526 beginning on page 1438 in the issue of Friday, January 10, 2003, make the following corrections:

1. On page 1439, in the first column, in the sixth line from the bottom, ''December 20, 2002'' should read, ''January 2, 2003''.

2. On the same page, in the same column, after the signature section, please insert the following text:

Amendment to the Antidumping Suspension Agreement on Certain Cut-to-Length Carbon Steel Plate Between the United States Department of Commerce and the Government of Ukraine

The United States Department of Commerce (the Department) and the Government of Ukraine hereby amend section XII of the Agreement Suspending the Antidumping Investigation on Certain Cut-to-Length Carbon Steel Plate from Ukraine, signed October 24, 1997, by adding the following language immediately after the first sentence of section XII:

In order to provide for the continuation of exports of cut-to-length plate from Ukraine to the United States during and immediately following the five-year review by the Department and the International Trade Commission pursuant to section 751(c) of the Tariff Act, the export limits provided for in section III of this Agreement shall remain in force through November 1, 2003.

If, after said date, the underlying proceeding remains suspended, the Government of Ukraine and the Department will enter into consultations to agree upon export limits in order to permit future shipments under the Agreement. If, prior to said date, the underlying proceeding is terminated as a result of the sunset review or the administrative review, the Agreement, this Amendment and the export limits contained therein will be terminated. the United States Department of Commerce.

Dated: December 20, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration. For the Ministry of Economy and European Integration of Ukraine.

Dated: December 20, 2002.

Andriy I. Goncharuk,

State Secretary on Trade,Ministry of Economy and European Integration of Ukraine.

[FR Doc. C3–526 Filed 1–30–03; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 2002–26]

Bipartisan Campaign Reform Act of 2002 Reporting

Correction

In rule document 03–91 beginning on page 421 in the issue of Friday, January 3, 2003, make the following correction:

§104.20 [Corrected]

On page 419, in the third column, in §104.20 (a)(5), ''11 CFR 100.29(a)(3)'', should read ''11 CFR 100.29 (b)(3)''.

[FR Doc. C3–91 Filed 1–30–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

[AAG/A Order No. 003–2003]

Privacy Act of 1974; System of Records

Correction

In notice document 03–1671 beginning on page 3894 in the issue of Monday, January 27, 2003, make the following correction:

On page 3894, in the third column, in the first three lines ''[insert date 30 days after publication in the **Federal Register**]'', should read ''February 26, 2003''.

[FR Doc. C3–1671 Filed 1–30–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of the Comptroller o fthe Currency

12 CFR Part 19

[Docket No. 02–15]

RIN 1557–AB43

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Part 263

[Docket No. R–1139]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

RIN 3064–AC57

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 513

[No. 2002–58]

RIN 1550–AB53

Removal, Suspension, and Debarment of Accountants From Performing Audit Services

Correction

In proposed rule document 03–98 beginning on page 1116 in the issue of Wednesday, January 8, 2003, make the following correction:

On page 1117, in the third column, above the footnotes, in the last line, after ''effective;[11]'', add ''engages''.

[FR Doc. C3–98 Filed 1–30–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday
January 31, 2003

Part II

Reader Aids

Cumulative List of Public Laws
107th Congress, Second Session

CUMULATIVE LIST OF PUBLIC LAWS

This is the cumulative list of public laws for the 107th Congress, Second Session. Other cumulative lists (1993-2001) are available online at http://www.nara.gov/fedreg/plawcurr.html. Comments may be addressed to the Director, Office of the Federal Register, Washington, DC 20408 or send e-mail to info@nara.fedreg.gov.

The text of laws may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.acess.gpo.gov/nara/nara005.html. Some laws may not yet be available online or for purchase.

Public Law	Title	Approved	116 Stat.
107–137	To authorize the Secretary of the Interior to establish the Ronald Reagan Boyhood Home National Historic Site, and for other purposes.	Feb. 6, 2002	3
107–138	To require the valuation of nontribal interest ownership of subsurface rights within the boundaries of the Acoma Indian Reservation, and for other purposes.	Feb. 6, 2002	6
107–139	To amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.	Feb. 8, 2002	8
107–140	To amend title 18 of the United States Code to correct a technical error in the codification of title 36 of the United States Code.	Feb. 8, 2002	12
107–141	Asian Elephant Conservation Reauthorization Act of 2002	Feb. 12, 2002	13
107–142	Pacific Northwest Feasibility Studies Act of 2002	Feb. 12, 2002	16
107–143	Recognizing the 91st birthday of Ronald Reagan	Feb. 14, 2002	17
107–144	To designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the ''Joseph E. Dini, Jr. Post Office''.	Feb. 14, 2002	18
107–145	To designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the ''Horatio King Post Office Building''.	Feb. 14, 2002	19
107–146	To designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the ''Pat King Post Office Building''.	Feb. 14, 2002	20
107–147	Job Creation and Worker Assistance Act of 2002	Mar. 9, 2002	21
107–148	Radio Free Afghanistan Act	Mar. 11, 2002	64
107–149	Appalachian Regional Development Act Amendments of 2002	Mar. 12, 2002	66
107–150	Family Sponsor Immigration Act of 2002	Mar. 13, 2002	74
107–151	To revise certain grants for continuum of care assistance for homeless individual and families	Mar. 13, 2002	76
107–152	Congratulating the United States Military Academy at West Point on its bicentennial anniversary, and commending its outstanding contributions to the Nation.	Mar. 14, 2002	77
107–153	To encourage the negotiated settlement of tribal claims	Mar. 19, 2002	79
107–154	To extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.	Mar. 25, 2002	80
107–155	Bipartisan Campaign Reform Act of 2002	Mar. 27, 2002	81
107–156	To extend the authority of the Export-Import Bank until April 30, 2002	Mar. 31, 2002	117
107–157	District of Columbia College Access Improvement Act of 2002	Apr. 4, 2002	118
107–158	To amend Public Law 107-10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes.	Apr. 4, 2002	121
107–159	To amend the Act entitled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955, to provide for binding arbitration clauses in leases and contracts related to reservation lands of the Gila River Indian Community.	Apr. 4, 2002	122
107–160	To designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the ''Major Lyn McIntosh Post Office Building''.	Apr. 18, 2002	123
107–161	To designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the ''Tom Bliley Post Office Building''.	Apr. 18, 2002	124
107–162	To designate the facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, as the ''Herbert H. Bateman Post Office Building''.	Apr. 18, 2002	125
107–163	To designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the ''Bob Davis Post Office Building''.	Apr. 18, 2002	126
107–164	To designate the facility of the United States Postal Service located in Harlem, Montana, as the ''Francis Bardanouve United States Post Office Building''.	Apr. 18, 2002	127
107–165	To designate the facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, as the ''Norman Sisisky Post Office Building''.	Apr. 18, 2002	128
107–166	To designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the ''Vernon Tarlton Post Office Building''.	Apr. 18, 2002	129
107–167	To designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the ''Raymond M. Downey Post Office Building''.	Apr. 18, 2002	130
107–168	To extend the authority of the Export-Import Bank until May 31, 2002	May 1, 2002	131
107–169	To make technical amendments to section 10 of title 9, United States Code	May 7, 2002	132
107–170	To extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.	May 7, 2002	133
107–171	Farm Security and Rural Investment Act of 2002	May 13, 2002	134
107–172	Hematological Cancer Research Investment and Education Act of 2002	May 14, 2002	541
107–173	Enhanced Border Security and Visa Entry Reform Act of 2002	May 14, 2002	543
107–174	Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002	May 15, 2002	566
107–175	To designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the ''Ron de Lugo Federal Building.''.	May 17, 2002	576
107–176	To designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the ''Donald J. Pease Federal Building''.	May 17, 2002	577
107–177	To designate the Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, as the ''William L. Beatty Federal Building and United States Courthouse''.	May 17, 2002	578

Public Law	Title	Approved	116 Stat.
107–178	To designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the ''Mike Mansfield Federal Building and United States Courthouse''.	May 17, 2002	579
107–179	To require a report on the operations of the State Justice Institute	May 20, 2002	580
107–180	Criminal Justice Coordinating Council Restructuring Act of 2002	May 20, 2002	581
107–181	Clergy Housing Allowance Clarification Act of 2002	May 20, 2002	583
107–182	To redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, as the ''Paul Simon Chicago Job Corps Center''.	May 21, 2002	584
107–183	To name the chapel located in the national cemetery in Los Angeles, California, as the ''Bob Hope Veterans Chapel''.	May 29, 2002	585
107–184	To name the Department of Veterans Affairs Medical and Regional Office Center in Wichita, Kansas, as the ''Robert J. Dole Department of Veterans Affairs Medical and Regional Office Center''.	May 29, 2002	586
107–185	To extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees.	May 30, 2002	587
107–186	To extend the authority of the Export-Import Bank until June 14, 2002	May 30, 2002	589
107–187	Gerald B. H. Solomon Freedom Consolidation Act of 2002	June 10, 2002	590
107–188	Public Health Security and Bioterrorism Preparedness and Response Act of 2002	June 12, 2002	594
107–189	Export-Import Bank Reauthorization Act of 2002	June 14, 2002	698
107–190	To designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the ''Hector G. Godinez Post Office Building''.	June 18, 2002	710
107–191	To designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the ''Philip E. Ruppe Post Office Building''.	June 18, 2002	711
107–192	To designate the facility of the United States Postal Service located at 2829 Commercial Way in Rock Springs, Wyoming, as the ''Teno Roncalio Post Office Building''.	June 18, 2002	712
107–193	To designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the ''Joseph W. Westmoreland Post Office Building''.	June 18, 2002	713
107–194	To designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the ''Clarence B. Craft Post Office Building''.	June 18, 2002	714
107–195	Auction Reform Act of 2002	June 19, 2002	715
107–196	Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002	June 24, 2002	719
107–197	To implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.	June 25, 2002	721
107–198	Small Business Paperwork Relief Act of 2002	June 28, 2002	729
107–199	To amend title 31 of the United States Code to increase the public debt limit	June 28, 2002	734
107–200	Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.	July 23, 2002	735
107–201	Support of American Eagle Silver Bullion Program Act	July 23, 2002	736
107–202	Benjamin Franklin Tercentenary Commission Act	July 24, 2002	739
107–203	To provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.	July 24, 2002	744
107–204	Sarbanes-Oxley Act of 2002	July 30, 2002	745
107–205	Nurse Reinvestment Act	Aug. 1, 2002	811
107–206	2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States.	Aug. 2, 2002	820
107–207	Born-Alive Infants Protection Act of 2002	Aug. 5, 2002	926
107–208	Child Status Protection Act	Aug. 6, 2002	927
107–209	Conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette.	Aug. 6, 2002	931
107–210	Trade Act of 2002	Aug. 6, 2002	933
107–211	To amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act.	Aug. 21, 2002	1050
107–212	Guam Foreign Investment Equity Act	Aug. 21, 2002	1051
107–213	To redesignate certain lands within the Craters of the Moon National Monument, and for other purposes.	Aug. 21, 2002	1052
107–214	Long Walk National Historic Trail Study Act	Aug. 21, 2002	1053
107–215	Booker T. Washington National Monument Boundary Adjustment Act of 2002	Aug. 21, 2002	1054
107–216	James Peak Wilderness and Protection Area Act	Aug. 21, 2002	1055
107–217	To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, ''Public Buildings, Property, and Works''.	Aug. 21, 2002	1062
107–218	Tumacacori National Historical Park Boundary Revision Act of 2002	Aug. 21, 2002	1328
107–219	To rename Wolf Trap Farm Park as ''Wolf Trap National Park for the Performing Arts'', and for other purposes.	Aug. 21, 2002	1330
107–220	To amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes.	Aug. 21, 2002	1332
107–221	Fort Clatsop National Memorial Expansion Act of 2002	Aug. 21, 2002	1333
107–222	To amend title X of the Energy Policy Act of 1992, and for other purposes	Aug. 21, 2002	1336
107–223	To authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park.	Aug. 21, 2002	1338
107–224	John F. Kennedy Center Plaza Authorization Act of 2002	Sept. 18, 2002	1340
107–225	To redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., as the ''Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center''.	Sept. 24, 2002	1344
107–226	Flight 93 National Memorial Act	Sept. 24, 2002	1345
107–227	To designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the ''Thomas E. Burnett, Jr. Post Office Building''.	Sept. 24, 2002	1349

Public Law	Title	Approved	116 Stat.
107–228	Foreign Relations Authorization Act, Fiscal Year 2003	Sept. 30, 2002	1350
107–229	Making continuing appropriations for the fiscal year 2003, and for other purposes	Sept. 30, 2002	1465
107–230	To provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes.	Oct. 1, 2002	1469
107–231	National Construction Safety Team Act	Oct. 1, 2002	1471
107–232	To amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes.	Oct. 1, 2002	1478
107–233	To amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.	Oct. 1, 2002	1480
107–234	To extend the Irish Peace Process Cultural and Training Program	Oct. 4, 2002	1481
107–235	Making further continuing appropriations for the fiscal year 2003, and for other purposes	Oct. 4, 2002	1482
107–236	Santa Monica Mountains National Recreation Area Boundary Adjustment Act	Oct. 9, 2002	1483
107–237	Burnt, Malheur, Owyhee, and Powder River Basin Water Optimization Feasibility Study Act	Oct. 11, 2002	1485
107–238	Vicksburg National Military Park Boundary Modification Act of 2002	Oct. 11, 2002	1486
107–239	To ratify an agreement between The Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.	Oct. 11, 2002	1488
107–240	Making further continuing appropriations for the fiscal year 2003, and for other purposes	Oct. 11, 2002	1492
107–241	To amend the charter of the AMVETS organization	Oct. 16, 2002	1496
107–242	To amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes.	Oct. 16, 2002	1497
107–243	Authorization for Use of Military Force Against Iraq Resolution of 2002	Oct. 16, 2002	1498
107–244	Making further continuing appropriations for the fiscal year 2003, and for other purposes	Oct. 18, 2002	1503
107–245	Sudan Peace Act	Oct. 21, 2002	1504
107–246	Russian Democracy Act of 2002	Oct. 23, 2002	1511
107–247	Veterans' Compensation Cost-of-Living Adjustment Act of 2002	Oct. 23, 2002	1517
107–248	Department of Defense Appropriations Act, 2003	Oct. 23, 2002	1519
107–249	Military Construction Appropriation Act, 2003	Oct. 23, 2002	1578
107–250	Medical Device User Fee and Modernization Act of 2002	Oct. 26, 2002	1588
107–251	Health Care Safety Net Amendments of 2002	Oct. 26, 2002	1621
107–252	Help America Vote Act of 2002	Oct. 29, 2002	1666
107–253	Inland Flood Forecasting and Warning System Act of 2002	Oct. 29, 2002	1731
107–254	To authorize the duration of the base contract of the Navy-Marine Corps Intranet contract to be more than five years but not more than seven years.	Oct. 29, 2002	1733
107–255	Recognizing the contributions of Patsy Takemoto Mink	Oct. 29, 2002	1734
107–256	Niagara Falls National Heritage Area Study Act	Oct. 29, 2002	1735
107–257	To designate the United States courthouse to be constructed at 8th Avenue and Mill Street in Eugene, Oregon, as the ''Wayne Lyman Morse United States Courthouse''.	Oct. 29, 2002	1737
107–258	Persian Gulf War POW/MIA Accountability Act of 2002	Oct. 29, 2002	1738
107–259	To identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System.	Oct. 29, 2002	1741
107–260	Benign Brain Tumor Cancer Registries Amendment Act	Oct. 29, 2002	1743
107–261	To designate the facility of the United States Postal Service located at 127 Social Street in Woonsocket, Rhode Island, as the ''Alphonse F. Auclair Post Office Building''.	Oct. 30, 2002	1745
107–262	To designate the facility of the United States Postal Service located at 7 Commercial Street in Newport, Rhode Island, as the ''Bruce F. Cotta Post Office Building''.	Oct. 30, 2002	1746
107–263	To redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the ''Frank Sinatra Post Office Building''.	Oct. 30, 2002	1747
107–264	To designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the ''Herbert Arlene Post Office Building''.	Oct. 30, 2002	1748
107–265	To designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the ''Rev. Leon Sullivan Post Office Building''.	Oct. 30, 2002	1749
107–266	To designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the ''William A. Cibotti Post Office Building''.	Oct. 30, 2002	1750
107–267	To designate the facility of the United States Postal Service located at 120 North Maine Street in Fallon, Nevada, as the ''Rollan D. Melton Post Office Building''.	Oct. 30, 2002	1751
107–268	To designate the facility of the United States Postal Service located at 1199 Pasadena Boulevard in Pasadena, Texas, as the ''Jim Fonteno Post Office Building''.	Oct. 30, 2002	1752
107–269	To designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the ''Clarence Miller Post Office Building''.	Oct. 30, 2002	1753
107–270	To designate the facility of the United States Postal Service located at 1895 Avenida Del Oro in Oceanside, California, as the ''Ronald C. Packard Post Office Building''.	Oct. 30, 2002	1754
107–271	To redesignate the facility of the United States Postal Service located at 265 South Western Avenue, Los Angeles, California, as the ''Nat King Cole Post Office''.	Oct. 30, 2002	1755
107–272	To redesignate the facility of the United States Postal Service located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, as the ''Robert Wayne Jenkins Station''.	Oct. 30, 2002	1757
107–273	21st Century Department of Justice Appropriations Authorization Act	Nov. 2, 2002	1758
107–274	Border Commuter Student Act of 2002	Nov. 2, 2002	1923
107–275	Black Lung Consolidation of Administrative Responsibility Act	Nov. 2, 2002	1925
107–276	To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.	Nov. 2, 2002	1929
107–277	Enterprise Integration Act of 2002	Nov. 5, 2002	1936
107–278	To amend the International Organizations Immunities Act to provide for the applicability of that Act to the European Central Bank.	Nov. 5, 2002	1939

Public Law	Title	Approved	116 Stat.
107–279	To provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes.	Nov. 5, 2002	1940
107–280	Rare Diseases Act of 2002	Nov. 6, 2002	1988
107–281	Rare Diseases Orphan Product Development Act of 2002	Nov. 6, 2002	1992
107–282	Clark County Conservation of Public Land and Natural Resources Act of 2002	Nov. 6, 2002	1994
107–283	To designate the facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, as the ''Barney Apodaca Post Office''.	Nov. 6, 2002	2020
107–284	To designate the facility of the United States Postal Service located at 4 East Central Street in Worcester, Massachusetts, as the ''Joseph D. Early Post Office Building''.	Nov. 6, 2002	2021
107–285	To designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the ''Peter J. Ganci, Jr. Post Office Building''.	Nov. 6, 2002	2022
107–286	To designate the facility of the United States Postal Service located at 5805 White Oak Avenue in Encino, California, as the ''Francis Dayle 'Chick' Hearn Post Office''.	Nov. 6, 2002	2023
107–287	Department of Veterans Affairs Emergency Preparedness Act of 2002	Nov. 7, 2002	2024
107–288	Jobs for Veterans Act	Nov. 7, 2002	2033
107–289	Accountability of Tax Dollars Act of 2002	Nov. 7, 2002	2049
107–290	To amend the District of Columbia Retirement Protection Act of 1997 to permit the Secretary of the Treasury to use estimated amounts in determining the service longevity component of the Federal benefit payment required to be paid under such Act to certain retirees of the Metropolitan Police Department of the District of Columbia.	Nov. 7, 2002	2051
107–291	To designate the facility of the United States Postal Service located at 206 South Main Street in Glennville, Georgia, as the ''Michael Lee Woodcock Post Office''.	Nov. 7, 2002	2052
107–292	Native American Housing Assistance and Self-Determination Reauthorization Act of 2002	Nov. 13, 2002	2053
107–293	To reaffirm the reference to one Nation under God in the Pledge of Allegiance	Nov. 13, 2002	2057
107–294	Making further continuing appropriations for the fiscal year 2003, and for other purposes	Nov. 23, 2002	2062
107–295	Maritime Transportation Security Act of 2002	Nov. 25, 2002	2064
107–296	Homeland Security Act of 2002	Nov. 25, 2002	2135
107–297	Terrorism Risk Insurance Act of 2002	Nov. 26, 2002	2322
107–298	Real Interstate Driver Equity Act of 2002	Nov. 26, 2002	2342
107–299	National Sea Grant College Program Act Amendments of 2002	Nov. 26, 2002	2345
107–300	Improper Payments Information Act of 2002	Nov. 26, 2002	2350
107–301	To facilitate the use of a portion of the former O'Reilly General Hospital in Springfield, Missouri, by the local Boys and Girls Club through the release of the reversionary interest and other interests retained by the United States in 1955 when the land was conveyed to the State of Missouri.	Nov. 26, 2002	2352
107–302	Court Services and Offender Supervision Agency Interstate Supervision Act of 2002	Nov. 26, 2002	2353
107–303	Great Lakes and Lake Champlain Act of 2002	Nov. 27, 2002	2355
107–304	To amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over; to reauthorize the Merit Systems Protection Board and the Office of Special Counsel; and for other purposes..	Nov. 27, 2002	2363
107–305	Cyber Security Research and Development Act	Nov. 27, 2002	2367
107–306	Intelligence Authorization Act for Fiscal Year 2003	Nov. 27, 2002	2383
107–307	Product Packaging Protection Act of 2002	Dec. 2, 2002	2445
107–308	North American Wetlands Conservation Reauthorization Act	Dec. 2, 2002	2446
107–309	To amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.	Dec. 2, 2002	2449
107–310	Dam Safety and Security Act of 2002	Dec. 2, 2002	2450
107–311	Armed Forces Domestic Security Act	Dec. 2, 2002	2455
107–312	To reduce the preexisting PAYGO balances, and for other purposes	Dec. 2, 2002	2456
107–313	Mental Health Parity Reauthorization Act of 2002	Dec. 2, 2002	2457
107–314	Bob Stump National Defense Authorization Act for Fiscal Year 2003	Dec. 2, 2002	2458
107–315	Approving the location of the commemorative work in the District of Columbia honoring former President John Adams.	Dec. 2, 2002	2763
107–316	Paul and Sheila Wellstone Center for Community Building Act	Dec. 2, 2002	2764
107–317	Dot Kids Implementation and Efficiency Act of 2002	Dec. 4, 2002	2766
107–318	Anton's Law	Dec. 4, 2002	2772
107–319	To amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act.	Dec. 4, 2002	2776
107–320	To direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia	Dec. 4, 2002	2778
107–321	Small Webcaster Settlement Act of 2002	Dec. 4, 2002	2780
107–322	To extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina.	Dec. 4, 2002	2786
107–323	POW/MIA Memorial Flag Act of 2002	Dec. 4, 2002	2787
107–324	To direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon	Dec. 4, 2002	2789
107–325	Old Spanish Trail Recognition Act of 2002	Dec. 4, 2002	2790
107–326	FHA Downpayment Simplification Act of 2002	Dec. 4, 2002	2792
107–327	Afghanistan Freedom Support Act of 2002	Dec. 4, 2002	2797
107–328	Relative to the convening of the first session of the One Hundred Eighth Congress	Dec. 4, 2002	2814
107–329	To provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to American Fork Canyon, Utah, and for other purposes.	Dec. 6, 2002	2815
107–330	Veterans Benefits Act of 2002	Dec. 6, 2002	2820
107–331	Indian Financing Amendments Act of 2002	Dec. 13, 2002	2834
107–332	Homestead National Monument of America Additions Act	Dec. 16, 2002	2871
107–333	Guam War Claims Review Commission Act	Dec. 16, 2002	2873
107–334	Mount Nebo Wilderness Boundary Adjustment Act	Dec. 16, 2002	2876
107–335	Lease Lot Conveyance Act of 2002	Dec. 16, 2002	2878
107–336	To authorize the Secretary of the Interior to make adjustments to the boundary of the National Park of American Samoa to include certain portions of the islands of Ofu and Olosega within the park, and for other purposes.	Dec. 16, 2002	2882
107–337	Buffalo Bayou National Heritage Area Study Act	Dec. 16, 2002	2883
107–338	Metacomet-Monadnock-Mattabesett Trail Study Act of 2002	Dec. 16, 2002	2886
107–339	Fallon Rail Freight Loading Facility Transfer Act	Dec. 16, 2002	2887

Public Law	Title	Approved	116 Stat.
107–340	Pu'uhonua o Honaunau National Historical Park Addition Act of 2002	Dec. 16, 2002	2889
107–341	To direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, and for other purposes.	Dec. 16, 2002	2890
107–342	To amend the Omnibus Parks and Public Lands Management Act of 1996 to provide adequate funding authorization for the Vancouver National Historic Reserve.	Dec. 17, 2002	2891
107–343	To authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach Park in Biscayne Bay, Florida, for possible inclusion in the National Park System.	Dec. 17, 2002	2892
107–344	To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington.	Dec. 17, 2002	2893
107–345	To amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves.	Dec. 17, 2002	2894
107–346	Virgin River Dinosaur Footprint Preserve Act	Dec. 17, 2002	2896
107–347	E-Government Act of 2002	Dec. 17, 2002	2899
107–348	Muscle Shoals National Heritage Area Study Act of 2002	Dec. 17, 2002	2971
107–349	Klamath Basin Emergency Operation and Maintenance Refund Act of 2002	Dec. 17, 2002	2973
107–350	To provide for the conveyance of certain public land in Clark County, Nevada, for use as a shooting range.	Dec. 17, 2002	2975
107–351	Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2002	Dec. 17, 2002	2978
107–352	To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact	Dec. 17, 2002	2981
107–353	California Five Mile Regional Learning Center Transfer Act	Dec. 17, 2002	2982
107–354	To revise the boundaries of the George Washington Birthplace National Monument, and for other purposes.	Dec. 17, 2002	2984
107–355	Pipeline Safety Improvement Act of 2002	Dec. 17, 2002	2985
107–356	New River Gorge Boundary Act of 2002	Dec. 17, 2002	3013
107–357	To amend the Act entitled ''An Act to authorize the Establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes'', to provide for the addition of certain donated lands to the Andersonville National Historic Site.	Dec. 17, 2002	3014
107–358	Holocaust Restitution Tax Fairness Act of 2002	Dec. 17, 2002	3015
107–359	Civil War Battlefield Preservation Act of 2002	Dec. 17, 2002	3016
107–360	To amend the Public Health Service Act with respect to special diabetes programs for Type I diabetes and Indians.	Dec. 17, 2002	3019
107–361	To authorize the Secretary of the Interior to convey certain public land within the Sand Mountain Wilderness Study Area in the State of Idaho to resolve an occupancy encroachment dating back to 1971.	Dec. 17, 2002	3020
107–362	Russian River Land Act	Dec. 19, 2002	3021
107–363	Bainbridge Island Japanese-American Memorial Study Act of 2002	Dec. 19, 2002	3024
107–364	Gunn McKay Nature Preserve Act	Dec. 19, 2002	3026
107–365	Caribbean National Forest Wild and Scenic Rivers Act of 2002	Dec. 19, 2002	3027
107–366	To amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment.	Dec. 19, 2002	3030
107–367	To reauthorize the Mni Wiconi Rural Water Supply Project	Dec. 19, 2002	3033
107–368	National Science Foundation Authorization Act of 2002	Dec. 19, 2002	3034
107–369	Allegheny Portage Railroad National Historic Site Boundary Revision Act	Dec. 19, 2002	3069
107–370	Big Sur Wilderness and Conservation Act of 2002	Dec. 19, 2002	3071
107–371	To direct the Secretary of the Interior to disclaim any Federal interest in lands adjacent to Spirit Lake and Twin Lakes in the State of Idaho resulting from possible ommission of lands from an 1880 survey.	Dec. 19, 2002	3076
107–372	To reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes	Dec. 19, 2002	3078
107–373	Cedar Creek and Belle Grove National Historical Park Act	Dec. 19, 2002	3104
107–374	To direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road.	Dec. 19, 2002	3111
107–375	To extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins.	Dec. 19, 2002	3113
107–376	To extend the deadline for commencement of construction of a hydroelectric project in the State of Oregon.	Dec. 19, 2002	3114
107–377	Protection of Family Farmers Act of 2002	Dec. 19, 2002	3115

Federal Register

Friday,
January 31, 2003

Part III

Department of Housing and Urban Development

Federal Property Suitable as Facilities to Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4809–N–05]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Shirley Kramer, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Ms. Julie Jones-Conte, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM–MD, Room 1E677, 600 Army Pentagon, Washington, DC 20310–600; (703) 692–9223 (These are not toll-free numbers).

Dated: January 23, 2003.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 1/31/03

Suitable/Available Properties

Buildings (by State)

Alabama

Bldg. 02915
Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 21200310050
Status: Excess
Comment: 1224 sq. ft., most recent use—bath house, off-site use only

Alaska

Bldgs. 09100, 09104–09106
Fort Richardson
Ft. Richardson Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21200020158
Status: Unutilized
Comment: various sq. ft., concrete, most recent use—hazard bldg., off-site use only

5 Bldgs.
Fort Richardson
09108, 09110–09112, 09114
Ft. Richardson Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21200020159
Status: Unutilized
Comment: various sq. ft., concrete, most recent use—hazard bldg., off-site use only

Bldgs. 09128, 09129
Fort Richardson
Ft. Richardson Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21200020160
Status: Unutilized
Comment: various sq. ft., concrete, most recent use—hazard bldg., off-site use only

Bldgs. 09151, 09155, 09156
Fort Richardson
Ft. Richardson Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21200020161
Status: Unutilized
Comment: various sq. ft., concrete, most recent use—hazard bldg., off-site use only

Bldg. 09158
Fort Richardson
Ft. Richardson Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21200020162
Status: Unutilized
Comment: 672 sq. ft., most recent use—storage shed, off-site use only

Bldgs. 09160–09162
Fort Richardson
Ft. Richardson Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21200020163
Status: Unutilized
Comment: 11520 sq. ft., concrete, most recent use—NCO-ENL FH, off-site use only

Bldgs. 09164, 09165

Fort Richardson
Ft. Richardson Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21200020164
Status: Unutilized
Comment: 2304 & 2880 sq. ft., most recent use—storage, off-site use only

Bldg. 10100
Fort Richardson
Ft. Richardson Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21200020165
Status: Unutilized
Comment: 4688 sq. ft., concrete, most recent use—hazard bldg., off-site use only

Bldg. 00390
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030067
Status: Excess
Comment: 13,632 sq. ft., off-site use only

Bldgs. 01200, 01202
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030068
Status: Excess
Comment: 4508 & 6366 sq. ft., most recent use—hazard bldg., off-site use only

Bldg. 01204
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030069
Status: Excess
Comment: 5578 sq. ft., most recent use—VOQ transient, off-site use only

Bldgs. 01205–01207
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030070
Status: Excess
Comment: various sq. ft., most recent use—hazard bldg., off-site use only

Bldgs. 01208, 01210, 01212
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030071
Status: Excess
Comment: various sq ft., most recent use—hazard bldg., off-site use only

Bldgs. 01213, 01214
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030072
Status: Excess
Comment: 11964 & 13740 sq. ft., most recent use—transient UPH, off-site use only

Bldgs. 01218, 01230
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030073
Status: Excess
Comment: 480 & 188 sq. ft., most recent use—hazard bldgs., off-site use only

Bldgs. 01231, 01232
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030074
Status: Excess
Comment: 458 & 4260 sq. ft., most recent use—hazard bldgs., off-site use only

Bldg. 01234
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030075
Status: Excess
Comment: 615 sq. ft., most recent use—admin., off-site use only

Bldg. 01237
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030076
Status: Excess
Comment: 408 sq. ft., most recent use—fuel/pol bldg., off-site use only

Bldg. 01272
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030077
Status: Excess
Comment: 308 sq. ft., most recent use—storage, off-site use only

Bldg. 08109
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030080
Status: Excess
Comment: 1920 sq. ft., most recent use—storage, off-site use only

Bldg. 21001
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030081
Status: Excess
Comment: 3200 sq. ft., most recent use—family housing, off-site use only

Bldg. 22001
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030082
Status: Excess
Comment: 1448 sq. ft., most recent use—family housing, off-site use only

Bldg. 22002
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21200030083
Status: Excess
Comment: 1508 sq. ft., most recent use—family housing, off-site use only

Armory
NG Noorvik
Noorvik Co: AK 99763–
Landholding Agency: Army
Property Number: 21200110075
Status: Unutilized
Comment: 1200 sq. ft., most recent use—armory, off-site use only

Bldg. 00229
Fort Richardson
Ft. Richardson Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21200120085
Status: Excess
Comment: 13,056 sq. ft., off-site use only

Arizona

Bldg. 30012, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21199310298
Status: Excess
Comment: 237 sq. ft., 1-story block, most recent use—storage

Bldg. S–306
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365–9104
Landholding Agency: Army
Property Number: 21199420346
Status: Unutilized
Comment: 4103 sq. ft., 2-story, needs major rehab, off-site use only

Bldg. 503, Yuma Proving Ground
Yuma Co: Yuma AZ 85365–9104
Landholding Agency: Army
Property Number: 21199520073
Status: Underutilized
Comment: 3789 sq. ft., 2-story, major structural changes required to meet floor loading & fire code requirements, presence of asbestos, off-site use only

2 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 15542, 15546
Landholding Agency: Army
Property Number: 21200010082
Status: Unutilized
Comment: 552 & 400 sq. ft., presence of asbestos/lead paint, most recent use—restrooms, off-site use only

2 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 15544, 15552
Landholding Agency: Army
Property Number: 21200010083
Status: Unutilized
Comment: 9713 & 2895 sq. ft., presence of asbestos/lead paint, most recent use—classrooms, off-site use only

Bldg. 15543
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21200010084
Status: Unutilized
Comment: 416 sq. ft., presence of asbestos/lead paint, most recent use—rec. shelter, off-site use only

California

Bldgs. 204–207, 517
Presidio of Monterey
Monterey Co: CA 93944–5006
Landholding Agency: Army
Property Number: 21200020167
Status: Unutilized
Comment: 4780 & 10950 sq. ft., presence of asbestos/lead paint, most recent use—classroom/admin/storage, off-site use only

Bldgs. 18026, 18028
Camp Roberts
Monterey Co: CA 93451–5000
Landholding Agency: Army
Property Number: 21200130081
Status: Excess
Comment: 2024 sq. ft. & 487 sq. ft., concrete, poor condition, off-site use only

Colorado

Bldg. F–107
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130082
Status: Unutilized
Comment: 10,126 sq. ft., poor condition, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–108
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130083
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–209
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130084
Status: Unutilized
Comment: 400 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. T–217
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130085
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint., off-site use only

Bldg. T–218
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130086
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint., off-site use only

Bldg. T–220
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130087
Status: Unutilized
Comment: 690 sq. ft., poor condition, possible asbestos/lead paint, most recent use—heat plant, off-site use only

Bldg. T–6001
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130088
Status: Unutilized
Comment: 4372 sq. ft., poor condition, possible asbestos/lead paint, most recent use—vet clinic, off-site use only

Bldg. S6263
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310051
Status: Unutilized
Comment: 24,902 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—offices, off-site use only

Bldg. S6265
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310052
Status: Unutilized
Comment: 19,499 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—child development center, off-site use only

Bldg. S6266
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310053
Status: Unutilized
Comment: 27,286 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. S6267
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310054
Status: Unutilized
Comment: 20,075 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—child development center, off-site use only

Bldg. S6286
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310055
Status: Unutilized
Comment: 13,128 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—armory, off-site use only

Georgia

Bldg. 2285
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199011704
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.

Bldg. 1252
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220694
Status: Unutilized
Comment: 583 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only

Bldg. 4881
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220707
Status: Unutilized
Comment: 2449 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only

Bldg. 4963
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220710
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only

Bldg. 2396
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220712
Status: Unutilized
Comment: 9786 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only

Bldg. 4882, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220727
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only

Bldg. 4967, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220728
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only

Bldg. 4977, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220736
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—offices, need repairs, off-site removal only

Bldg. 4944, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220747
Status: Unutilized
Comment: 6400 sq. ft., 1 story, most recent use—vehicle maintenance shop, need repairs, off-site removal only

Bldg. 4960, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220752
Status: Unutilized
Comment: 3335 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only

Bldg. 4969, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220753
Status: Unutilized
Comment: 8416 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only

Bldg. 4884, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220762
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4964, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220763
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4966, Fort Benning

Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220764
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4965, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220769
Status: Unutilized
Comment: 7713 sq. ft., 1 story, most recent use—supply bldg., need repairs, off-site removal only

Bldg. 4945, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220779
Status: Unutilized
Comment: 220 sq. ft., 1 story, most recent use—gas station, needs major rehab, off-site removal only

Bldg. 4979, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220780
Status: Unutilized
Comment: 400 sq. ft., 1 story, most recent use—oil house, need repairs, off-site removal only

Bldg. 4023, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199310461
Status: Unutilized
Comment: 2269 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 4024, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199310462
Status: Unutilized
Comment: 3281 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 11813
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410269
Status: Unutilized
Comment: 70 sq. ft.; 1 story; metal; needs rehab.; most recent use—storage; off-site use only

Bldg. 21314
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410270
Status: Unutilized
Comment: 85 sq. ft.; 1 story; needs rehab.; most recent use—storage; off-site use only

Bldg. 12809
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410272
Status: Unutilized
Comment: 2788 sq. ft.; 1 story; wood; needs rehab.; most recent use—maintenance shop; off-site use only

Bldg. 10306
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410273
Status: Unutilized
Comment: 195 sq. ft.; 1 story; wood; most recent use—oil storage shed; off-site use only

Bldg 4051, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199520175
Status: Unutilized
Comment: 967 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. 322
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720156
Status: Unutilized
Comment: 9600 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 1737
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720161
Status: Unutilized
Comment: 1500 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 2593
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720167
Status: Unutilized
Comment: 13644 sq. ft., needs rehab, most recent use—parachute shop, off-site use only

Bldg. 2595
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720168
Status: Unutilized
Comment: 3356 sq. ft., needs rehab, most recent use—chapel, off-site use only

Bldgs. 2865, 2869, 2872
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720169
Status: Unutilized
Comment: approx. 1100 sq. ft. each, needs rehab, most recent use—shower fac., off-site use only

Bldg. 4476
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720184
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—vehicle maint. shop, off-site use only

8 Bldgs.
Fort Benning
4700–4701, 4704–4707, 4710–4711
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720189
Status: Unutilized
Comment: 6433 sq. ft. each, needs rehab, most recent use—unaccompanied personnel housing, off-site use only

Bldg. 4714
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720191
Status: Unutilized
Comment: 1983 sq. ft., needs rehab, most recent use—battalion headquarters bldg., off-site use only

Bldg. 4702
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720192
Status: Unutilized
Comment: 3690 sq. ft., needs rehab, most recent use—dining facility off-site use only

Bldgs. 4712–4713
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720193
Status: Unutilized
Comment: 1983 sq. ft. and 10270 sq. ft., needs rehab, most recent use—company headquarters bldg., off-site use only

Bldg. 305
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810268
Status: Unutilized
Comment: 4083 sq. ft., most recent use—recreation center, off-site use only

Bldg. 318
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810269
Status: Unutilized
Comment: 374 sq. ft., poor condition, most recent use—maint. shop, off-site use only

Bldg. 1792
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810274
Status: Unutilized
Comment: 10,200 sq. ft., most recent use—storage, off-site use only

Bldg. 1836
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810276
Status: Unutilized
Comment: 2998 sq. ft., most recent use—admin., off-site use only

Bldg. 4373
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810286
Status: Unutilized
Comment: 409 sq. ft., poor condition, most recent use—station bldg. off-site use only

Bldg. 4628
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810287

Status: Unutilized
Comment: 5483 sq. ft., most recent use—admin., off-site use only

Bldg. 92
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830278
Status: Unutilized
Comment: 637 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 2445
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830279
Status: Unutilized
Comment: 2385 sq. ft., needs rehab, most recent use—fire station, off-site use only

Bldg. 4232
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830291
Status: Unutilized
Comment: 3720 sq. ft., needs rehab, most recent use—maint. bay, off-site use only

Bldg. 39720
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199930119
Status: Unutilized
Comment: 1520 sq. ft., concrete block, possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. 492
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930120
Status: Unutilized
Comment: 720 sq. ft., most recent use—admin/maint, off-site use only

Bldg. 880
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930121
Status: Unutilized
Comment: 57,110 sq. ft., most recent use—instruction, off-site use only

Bldg. 1370
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930122
Status: Unutilized
Comment: 5204 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 2288
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930123
Status: Unutilized
Comment: 2481 sq. ft., most recent use—admin., off-site use only

Bldg. 2290
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930124
Status: Unutilized
Comment: 455 sq. ft., most recent use—storage, off-site use only

Bldg. 2293
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930125
Status: Unutilized
Comment: 2600 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 2297
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930126
Status: Unutilized
Comment: 5156 sq. ft., most recent use—admin.

Bldg. 2505
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930127
Status: Unutilized
Comment: 10,257 sq. ft., most recent use—repair shop, off-site use only

Bldg. 2508
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930128
Status: Unutilized
Comment: 2434 sq. ft., most recent use—storage, off-site use only

Bldg. 2815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930129
Status: Unutilized
Comment: 2578 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 3815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930130
Status: Unutilized
Comment: 7575 sq. ft., most recent use—storage, off-site use only

Bldg. 3816
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930131
Status: Unutilized
Comment: 7514 sq. ft., most recent use—storage, off-site use only

Bldg. 5886
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930134
Status: Unutilized
Comment: 67 sq. ft., most recent use—maint/storage, off-site use only

Bldgs. 5974–5978
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930135
Status: Unutilized
Comment: 400 sq. ft., most recent use—storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930136
Status: Unutilized
Comment: 960 sq. ft., most recent use—storage, off-site use only

Bldg. 5994
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930137
Status: Unutilized
Comment: 2016 sq. ft., most recent use—storage, off-site use only

Bldg. T–1003
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030085
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—admin., off-site use only

Bldgs. T–1005, T–1006, T–1007
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030086
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1015, T–1016, T–1017
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030087
Status: Excess
Comment: 7496 sq ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1018, T–1019
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030088
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1020, T–1021
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030089
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—storage, off-site use only

Bldg. T–1022
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030090
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—supply center, off-site use only

Bldg. T–1027
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030091
Status: Excess
Comment: 9024 sq ft., poor condition, most recent use—storage, off-site use only

Bldg. T–1028
Fort Stewart

Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030092
Status: Excess
Comment: 7496 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1035, T–1036, T–1037
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030093
Status: Excess
Comment: 1626 sq ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1038, T–1039
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030094
Status: Excess
Comment: 1626 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1040, T–1042
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030095
Status: Excess
Comment: 1626 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1086, T–1087, T–1088
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030096
Status: Excess
Comment: 7680 sq. ft., poor condition, most recent use—storage, off-site use only

Bldg. 223
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040044
Status: Unutilized
Comment: 21,556 sq. ft., most recent use—gen. purpose

Bldg. 228
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040045
Status: Unutilized
Comment: 20,220 sq. ft., most recent use—gen. purpose

Bldg. 2051
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040046
Status: Unutilized
Comment: 6077 sq. ft., most recent use—storage

Bldg. 2053
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040047
Status: Unutilized
Comment: 14,520 sq. ft., most recent use—storage

Bldg. 2677
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040048
Status: Unutilized
Comment: 19,326 sq. ft., most recent use—maint. shop

Bldg. 02301
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200140075
Status: Unutilized
Comment: 8484 sq. ft., needs major rehab, potential asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T0130
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230041
Status: Excess
Comment: 10,813 sq. ft., off-site use only

Bldg. T0157
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230042
Status: Excess
Comment: 1440 sq. ft., off-site use only

Bldg. T0251
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230043
Status: Excess
Comment: 27,254 sq. ft., off-site use only

Bldgs. T291, T292
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230044
Status: Excess
Comment: 5220 sq. ft. each, off-site use only

Bldg. T0295
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230045
Status: Excess
Comment: 5220 sq. ft., off-site use only

Bldg. T0470
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230046
Status: Excess
Comment: 27,254 sq. ft., off-site use only

Bldg. T1191
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230047
Status: Excess
Comment: 9386 sq. ft., off-site use only

Bldg. T1192
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230048
Status: Excess
Comment: 3992 sq. ft., off-site use only

Hawaii

P–88
Aliamanu Military Reservation
Honolulu Co: Honolulu HI 96818–
Location: Approximately 600 feet from Main Gate on Aliamanu Drive.
Landholding Agency: Army
Property Number: 21199030324
Status: Unutilized
Comment: 45,216 sq. ft. underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations

Bldg. T–337
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 21199640203
Status: Unutilized
Comment: 132 sq. ft., most recent use—storage, off-site use only

Bldg. 01227
Schofield Barracks
Wahiawa Co: HI 96786–
Landholding Agency: Army
Property Number: 21200220104
Status: Unutilized
Comment: 525 sq. ft., poor condition, most recent use—storage, off-site use only

Bldg. 4334
Schofield Barracks
Wahiawa Co: HI 96786–
Landholding Agency: Army
Property Number: 21200220105
Status: Unutilized
Comment: 7402 sq. ft., concrete, needs repair, most recent use—housing, off-site use only

Bldg. 06508
Schofield Barracks
Wahiawa Co: HI 96786–
Landholding Agency: Army
Property Number: 21200220106
Status: Unutilized
Comment: 1140 sq. ft., most recent use—office, off-site use only

Bldg. 02605
Schofield Barracks
Wahiawa Co: Honolulu HI 96786–
Landholding Agency: Army
Property Number: 21200310056
Status: Unutilized
Comment: 320 sq. ft., most recent use—storage, off-site use only

Illinois

Bldg. 54
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 21199620666
Status: Unutilized
Comment: 2000 sq. ft., most recent use—oil storage, needs repair, off-site use only

Bldg. AR112
Sheridan Reserve
Arlington Heights Co: IL 60052–2475
Landholding Agency: Army
Property Number: 21200110081
Status: Unutilized
Comment: 1000 sq. ft., off-site use only

Kansas

Bldg. S–830
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820161
Status: Unutilized

Comment: 5789 sq. ft., most recent use—underground storage, off-site use only

Bldg. S–831
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820162
Status: Unutilized
Comment: 5789 sq. ft., most recent use—underground storage, off-site use only

Bldg. P–243
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830321
Status: Unutilized
Comment: 242 sq. ft., most recent use—industrial, off-site use only

Bldg. P–469
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21200210031
Status: Unutilized
Comment: 625 sq. ft., most recent use—storage, off-site use only

Bldg. S–471
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21200210032
Status: Unutilized
Comment: 4535 sq. ft., most recent use—repair shop, off-site use only

Bldg. P–485
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21200210033
Status: Unutilized
Comment: 2006 sq. ft., most recent use—instructional, off-site use only

Bldg. S–486
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21200210034
Status: Unutilized
Comment: 960 sq. ft., most recent use—instructional, off-site use only

Bldg. S–496
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21200210035
Status: Unutilized
Comment: 7134 sq. ft., most recent use—vocational, off-site use only

Bldg. 00493
Fort Leavenworth
Ft. Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21200230049
Status: Unutilized
Comment: 1020 sq. ft., most recent use—storage, off-site use only

Bldg. 00498
Fort Leavenworth
Ft. Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21200230050
Status: Unutilized
Comment: 208 sq. ft., most recent use—shed, off-site use only

Louisiana

Bldg. 8423, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640528
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8449, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640539
Status: Underutilized
Comment: 2093 sq. ft., most recent use—office

Maryland

Bldg. 907
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200120092
Status: Unutilized
Comment: 2306 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 930
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200120097
Status: Unutilized
Comment: 3108 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 938
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200120098
Status: Unutilized
Comment: 1676 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2837
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200120101
Status: Unutilized
Comment: 7670 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 0310A
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120103
Status: Unutilized
Comment: 120 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 00313
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120104
Status: Unutilized
Comment: 983 sq. ft., most recent use—storage, off-site use only

Bldg. 00340
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120105
Status: Unutilized
Comment: 384 sq. ft., most recent use—storage, off-site use only

Bldg. 0459B
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120106
Status: Unutilized
Comment: 225 sq. ft., poor condition, most recent use—equipment bldg., off-site use only

Bldg. 00785
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120107
Status: Unutilized
Comment: 160 sq. ft., poor condition, most recent use—shelter, off-site use only

Bldg. E3728
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120109
Status: Unutilized
Comment: 2596 sq. ft., presence of asbestos/lead paint, most recent use—testing facility, off-site use only

Bldg. 05213
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120112
Status: Unutilized
Comment: 200 sq .ft., poor condition, most recent use—storage, off-site use only

Bldg. E5239
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120113
Status: Unutilized
Comment: 230 sq. ft., most recent use—storage, off-site use only

Bldg. E5317
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120114
Status: Unutilized
Comment: 3158 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. E5637
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120115
Status: Unutilized
Comment: 312 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. 503
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130092
Status: Unutilized
Comment: 14,244 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—training, off-site use only

Bldg. 2478
Fort George G. Meade

Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130097
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—medical clinic, off-site use only

Bldg. 8481
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130098
Status: Unutilized
Comment: 7718 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—heat plant, off-site use only

Bldg. 219
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140078
Status: Unutilized
Comment: 8142 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 229
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140079
Status: Unutilized
Comment: 2250 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 287
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140080
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 294
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140081
Status: Unutilized
Comment: 3148 sq. ft., presence of asbestos/lead paint, most recent use—entomology facility, off-site use only

Bldg. 949
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140083
Status: Unutilized
Comment: 2441 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 979
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140084
Status: Unutilized
Comment: 2331 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1007
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140085
Status: Unutilized
Comment: 3108 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2212
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140086
Status: Unutilized
Comment: 9092 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 3000
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140087
Status: Unutilized
Comment: 10,663 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 00546
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220109
Status: Unutilized
Comment: 5659 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 00939
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220110
Status: Unutilized
Comment: 8185 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 02206
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220111
Status: Unutilized
Comment: 3075 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 02207
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220112
Status: Unutilized
Comment: 6855 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 02271
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220114
Status: Unutilized
Comment: 10,080 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 04675
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220115
Status: Unutilized
Comment: 1710 sq. ft., possible asbestos/lead paint, most recent use—rental store, off-site use only

Bldg. 2050A
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230051
Status: Unutilized
Comment: 200 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. 2211, 2213
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230053
Status: Unutilized
Comment: 6936 & 8386 sq ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. 2214
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230054
Status: Unutilized
Comment: 7740 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2217
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230055
Status: Unutilized
Comment: 7710 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—admin/warehouse, off-site use only

Bldg. 2253
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230056
Status: Unutilized
Comment: 18,912 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. 2275
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230057
Status: Unutilized
Comment: 10,080 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 2276
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230058
Status: Unutilized
Comment: 10,080 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 8880
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230060
Status: Unutilized
Comment: 2500 sq. ft., needs rehab, most recent use—storehouse/maint. shop, off-site use only

Massachusetts

Bldg. 76
Army Soldier Systems Center
Natick Co: Middlesex MA 01760–
Landholding Agency: Army
Property Number: 21200210037
Status: Unutilized
Comment: 1000 sq. ft., most recent use—storage, off-site use only

Missouri

Bldg. T2171
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199340212
Status: Unutilized
Comment: 1296 sq. ft., 1-story wood frame, most recent use—administrative, no handicap fixtures, lead base paint, off-site use only

Bldg. T1497
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420441
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2139
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420446
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T–2191
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199440334
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks

Bldg. T–2197
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199440335
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks

Bldg. T2385
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 21199510115
Status: Excess
Comment: 3158 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Bldg. 1650
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810311
Status: Unutilized
Comment: 1676 sq. ft., presence of asbestos/lead paint, most recent use—union hall, off-site use only

Bldg. 2170
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810313
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2167
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820179
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. 2169, 2181, 2182, 2183
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820180
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 2186
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820181
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2187
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820182
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—dayroom, off-site use only

Bldgs. 2192, 2196, 2198
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820183
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Montana

Bldg. 00405
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636–
Landholding Agency: Army
Property Number: 21200130099
Status: Unutilized
Comment: 3467 sq. ft., most recent use—storage, security limitations

Bldg. T0066
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636–
Landholding Agency: Army
Property Number: 21200130100
Status: Unutilized
Comment: 528 sq. ft., needs rehab, presence of asbestos, security limitations

New Hampshire

Bldg. KG001
Grenier Field USARC
Manchester Co: Rockingham NH 03103–7474
Landholding Agency: Army
Property Number: 21200030104
Status: Excess
Comment: 18,994 sq ft., presence of asbestos, most recent use—classroom, off-site use only

Bldg. KG002
Grenier Field USARC
Manchester Co: Rockingham NH 03103–7474
Landholding Agency: Army
Property Number: 21200030105
Status: Excess
Comment: 20,014 sq. ft., presence of asbestos, most recent use—storage/store, off-site use only

Bldg. KG003
Grenier Field USARC
Manchester Co: Rockingham NH 03103–7474
Landholding Agency: Army
Property Number: 21200030106
Status: Excess
Comment: 3458 sq. ft., presence of asbestos, most recent use—veh. maint., off-site use only

New Jersey

Bldg. 178
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740312
Status: Unutilized
Comment: 2067 sq. ft., most recent use—research, off-site use only

Bldg. 732
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740315
Status: Unutilized
Comment: 9077 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 816C
Armament R, D, & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21200130103
Status: Unutilized
Comment: 144 sq. ft., most recent use—storage, off-site use only

New Mexico

Bldg. 34198
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200230062
Status: Excess
Comment: 107 sq. ft., most recent use—security, off-site use only

New York

Bldg. T–181
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130129
Status: Unutilized
Comment: 3151 sq. ft., needs rehab, most recent use—housing mnt., off-site use only

Bldg. T–201
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130131
Status: Unutilized
Comment: 2305 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. T–203
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130132
Status: Unutilized
Comment: 2284 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. T–252
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130133
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldgs. T–253, T–256, T–257
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130134
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldgs. T–271, T–272, T–273
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130135
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldg. T–274
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130136
Status: Unutilized
Comment: 2750 sq. ft., needs rehab, most recent use—BN HQ, off-site use only

Bldgs. T–276, T–277, T–278
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130137
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldg. T–1030
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130139
Status: Unutilized
Comment: 15606 sq. ft., needs rehab, most recent use—simulator bldg., off-site use only

Bldg. P–2159
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130140
Status: Unutilized
Comment: 1948 sq. ft., needs rehab, most recent use—waste/water treatment, off-site use only

Bldg. T–2443
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130142
Status: Unutilized
Comment: 793 sq. ft., needs rehab, most recent use—vet facility, off-site use only

Bldgs. T–401, T–403
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210042
Status: Unutilized
Comment: 2305/2284 sq. ft., needs repair, most recent use—battalion hq bldg., off-site use only

Bldgs. T–404, T–406, T–407
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210043
Status: Unutilized
Comment: 2000/1144 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldg. T–430
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210044
Status: Unutilized
Comment: 2731 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

4 Bldgs.
Fort Drum
T–431, T–432, T–433, T–434
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210045
Status: Unutilized
Comment: 1144 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldg. T–435
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210046
Status: Unutilized
Comment: 2731 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldgs. T–437, T–438
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210047
Status: Unutilized
Comment: 1144 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldgs. T–439, T–460
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210048
Status: Unutilized
Comment: 2588/2734 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

4 Bldgs.
Fort Drum
T–461, T–462, T–463, T–464
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210049
Status: Unutilized
Comment: 1144 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldg. T–465
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210050
Status: Unutilized
Comment: 2734 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldgs. T–405, T–408
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210051
Status: Unutilized
Comment: 1296 sq. ft., needs repair, most recent use—storage, off-site use only

6 Bldgs.
Fort Drum
T–410, T–411, T–412, T–416, T–417, T–418
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210052
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

Bldgs. T421, T–422
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210053
Status: Unutilized
Comment: 2510 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

Bldgs. T–423, T–424
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210054
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

7 Bldgs.
Fort Drum
T–441, T–442, T–443, T–444, T–446–T–448
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210055
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

6 Bldgs.
Fort Drum
T–451, T–452, T–453, T–454, T–456, T–458
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210056
Status: Unutilized

Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

5 Bldgs.
Fort Drum
T–471, T–472, T–473, T–474, T–477
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210057
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

Bldgs. T–420, T–445, T–470
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210058
Status: Unutilized
Comment: 2510 sq. ft., needs repair, most recent use—dining facility, off-site use only

Bldgs. T–440, T–450
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210059
Status: Unutilized
Comment: 2360 sq. ft., needs repair, most recent use—dining facility, off-site use only

Bldg. T–478
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210060
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—classroom, off-site use only

North Carolina

Bldg. C5536
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Landholding Agency: Army
Property Number: 21200130150
Status: Unutilized
Comment: 600 sq. ft., single wide trailer w/ metal storage shed, needs major repair, presence of asbestos/lead paint, off-site use only

Oklahoma

Bldg. T–838, Fort Sill
838 Macomb Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199220609
Status: Unutilized
Comment: 151 sq. ft., wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable)

Bldg. T–954, Fort Sill
954 Quinette Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240659
Status: Unutilized
Comment: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop

Bldg. T–3325, Fort Sill
3325 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240681
Status: Unutilized
Comment: 8832 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—warehouse

Bldg. T1652, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199330380
Status: Unutilized
Comment: 1505 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only

Bldg. T–4226
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199440384
Status: Unutilized
Comment: 114 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only

Bldg. P–1015, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 21199520197
Status: Unutilized
Comment: 15402 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. P–366, Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199610740
Status: Unutilized
Comment: 482 sq. ft., possible asbestos, most recent use—storage, off-site use only

Building T–2952
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710047
Status: Unutilized
Comment: 4,327 sq. ft., possible asbestos and lead paint, most recent use—motor repair shop, off-site use only

Building P–5042
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710066
Status: Unutilized
Comment: 119 sq. ft., possible asbestos and lead paint, most recent use—heat plant, off-site use only

4 Buildings
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: T–6465, T–6466, T–6467, T–6468
Landholding Agency: Army
Property Number: 21199710086
Status: Unutilized
Comment: various sq. ft., possible asbestos and lead paint, most recent use—range support, off site use only

Bldg. T–810
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730350
Status: Unutilized
Comment: 7205 sq. ft., possible asbestos/lead paint, most recent use—hay storage, off-site use only

Bldgs. T–837, T–839
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730351
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–934
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730353
Status: Unutilized
Comment: 402 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1177
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730356
Status: Unutilized
Comment: 183 sq. ft., possible asbestos/lead paint, most recent use—snack bar, off-site use only

Bldgs. T–1468, T–1469
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730357
Status: Unutilized
Comment: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1470
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730358
Status: Unutilized
Comment: 3120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1940
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730360
Status: Unutilized
Comment: 1400 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1954, T–2022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730362
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2184
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730364
Status: Unutilized
Comment: 454 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2186, T–2188, T–2189
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army

Property Number: 21199730366
Status: Unutilized
Comment: 1656—3583 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. T–2187
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730367
Status: Unutilized
Comment: 1673 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2209
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730368
Status: Unutilized
Comment: 1257 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2291 thru T–2296
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730372
Status: Unutilized
Comment: 400 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–3001, T–3006
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730383
Status: Unutilized
Comment: approx. 9300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3314
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730385
Status: Unutilized
Comment: 229 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. T–4401, T–4402
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730393
Status: Unutilized
Comment: 2260 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5041
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730409
Status: Unutilized
Comment: 763 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–5420
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730414
Status: Unutilized
Comment: 189 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldgs. T–7290, T–7291
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730417
Status: Unutilized
Comment: 224/840 sq. ft., possible asbestos/lead paint, most recent use—kennel, off-site use only

Bldg. T–7775
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730419
Status: Unutilized
Comment: 1452 sq. ft., possible asbestos/lead paint, most recent use—private club, off-site use only

4 Bldgs.
Fort Sill
P–617, P–1114, P–1386, P–1608
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910133
Status: Unutilized
Comment: 106 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only

Bldg. P–746
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910135
Status: Unutilized
Comment: 6299 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. P–2581, P–2773
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910140
Status: Unutilized
Comment: 4093 and 4129 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–2582
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910141
Status: Unutilized
Comment: 3672 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. P–2912, P–2921, P–2944
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910144
Status: Unutilized
Comment: 1390 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–2914
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910146
Status: Unutilized
Comment: 1236 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–5101
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910153
Status: Unutilized
Comment: 82 sq. ft., possible asbestos/lead paint, most recent use—gas station, off-site use only

Bldg. S–6430
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910156
Status: Unutilized
Comment: 2080 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6461
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910157
Status: Unutilized
Comment: 200 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6462
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910158
Status: Unutilized
Comment: 64 sq. ft., possible asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. P–7230
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910159
Status: Unutilized
Comment: 160 sq. ft., possible asbestos/lead paint, most recent use—transmitter bldg., off-site use only

Bldg. S–4023
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200010128
Status: Unutilized
Comment: 1200 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–747
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120120
Status: Unutilized
Comment: 9232 sq. ft., possible asbestos/lead paint, most recent use—lab, off-site use only

Bldg. P–842
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120123
Status: Unutilized
Comment: 192 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–911
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120124
Status: Unutilized
Comment: 3080 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–1672
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120126
Status: Unutilized
Comment: 1056 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–2362
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120127
Status: Unutilized
Comment: 64 sq. ft., possible asbestos/lead paint, most recent use—gatehouse, off-site use only

Bldg. P–2589
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120129
Status: Unutilized
Comment: 3672 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3043
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120130
Status: Unutilized
Comment: 80 sq. ft., possible asbestos/lead paint, most recent use—guard shack, off-site use only

Bldg. S–4749
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200130152
Status: Unutilized
Comment: 1438 sq. ft., possible asbestos/lead paint, most recent use—weather station, off-site use only

Pennsylvania

Bldg. 00634
Carlisle Barracks
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 21200240089
Status: Unutilized
Comment: 113 sq. ft., presence of asbestos, most recent use—plant/utility bldg., off-site use only

South Carolina

Bldg. 3499
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199730310
Status: Unutilized
Comment: 3724 sq. ft., needs repair, most recent use—admin.

Bldg. 2441
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199820187
Status: Unutilized
Comment: 2160 sq. ft., needs repair, most recent use—admin.

Bldg. 3605
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199820188
Status: Unutilized
Comment: 711 sq. ft., needs repair, most recent use—storage

Bldg. 1765
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21200030109
Status: Unutilized
Comment: 1700 sq. ft., need repairs, presence of asbestos/lead paint, most recent use—training bldg., off-site use only

Texas

Bldg. 7137, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 21199640564
Status: Unutilized
Comment: 35,736 sq. ft., 3-story, most recent use—housing, off-site use only

Bldg. 919
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920212
Status: Unutilized
Comment: 11,800 sq. ft., needs repair, most recent use—Bde. Hq. Bldg., off-site use only

Bldg. 92043
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200020206
Status: Unutilized
Comment: 450 sq. ft., most recent use—storage, off-site use only

Bldg. 92044
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200020207
Status: Unutilized
Comment: 1920 sq. ft., most recent use—admin., off-site use only

Bldg. 92045
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200020208
Status: Unutilized
Comment: 2108 sq. ft., most recent use—maint., off-site use only

Bldg. 4469
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200030116
Status: Unutilized
Comment: 5310 sq. ft., most recent use—barracks, off-site use only

Bldg. 1281
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200110091
Status: Unutilized
Comment: 25,027 sq. ft., most recent use—cold storage, off-site use only

Bldg. 3656
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200110093
Status: Unutilized
Comment: 1806 sq. ft., most recent use—igloo str. inst., off-site use only

Bldg. 7113
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200110094
Status: Unutilized
Comment: 14,807 sq. ft., most recent use—nursery school, off-site use only

Bldg. 7133
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200110095
Status: Unutilized
Comment: 11,650 sq. ft., most recent use—storage, off-site use only

Bldg. 7136
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200110096
Status: Unutilized
Comment: 11,755 sq. ft., most recent use—vet facility, off-site use only

Bldg. 7146
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200110097
Status: Unutilized
Comment: most recent use—oil storage, off-site use only

Bldg. 7147
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200110098
Status: Unutilized
Comment: most recent use—oil storage, off-site use only

Bldg. 7153
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200110099
Status: Unutilized
Comment: 11924 sq. ft., most recent use—bowling center, off-site use only

Bldg. 7162
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200110100
Status: Unutilized
Comment: 3956 sq. ft., most recent use—development center, off-site use only

Bldg. 11116
Fort Bliss
El Paso Co: TX 79916–

Landholding Agency: Army
Property Number: 21200110101
Status: Unutilized
Comment: 20,100 sq. ft., most recent use—storage, off-site use only

Bldg. 7113
Fort Bliss
El Paso Co: TX 79916–
Landholding Agency: Army
Property Number: 21200220132
Status: Unutilized
Comment: 8855 sq. ft., presence of asbestos/lead paint, most recent use—child development center, off-site use only

Bldg. T5900
Camp Bullis
San Antonio Co: Bexar TX 78257–
Landholding Agency: Army
Property Number: 21200220133
Status: Excess
Comment: 9876 sq. ft., possible lead paint, most recent use—theater/training bldg., off-site use only

Bldg. T6111
Camp Bullis
San Antonio Co: Bexar TX 78257–
Landholding Agency: Army
Property Number: 21200220134
Status: Excess
Comment: 521 sq. ft., possible lead paint, most recent use—gas station, off-site use only

Bldg. T5002
Camp Bullis
San Antonio Co: Bexar TX 78257–
Landholding Agency: Army
Property Number: 21200220135
Status: Excess
Comment: 370 sq. ft., presence of lead paint, off-site use only

Bldgs. 107, 108
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220136
Status: Unutilized
Comment: 13,319 & 28,051 sq. ft., most recent use—admin., off-site use only

Bldg. 120
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220137
Status: Unutilized
Comment: 1450 sq. ft., most recent use—dental clinic, off-site use only

Bldg. 134
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220138
Status: Unutilized
Comment: 16,114 sq. ft., most recent use—auditorium, off-site use only

Bldg. 56305
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220143
Status: Unutilized
Comment: 2160 sq. ft., most recent use—admin., off-site use only

Bldg. 56402
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220144
Status: Unutilized
Comment: 2680 sq. ft., most recent use—recreation center, off-site use only

Bldgs. 56403, 56405
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220145
Status: Unutilized
Comment: 480 sq. ft., most recent use—shower, off-site use only

Bldgs. 56620, 56621
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220146
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldgs. 56626, 56627
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220147
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldg. 56628
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220148
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. 56630, 56631
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220149
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldgs. 56636, 56637
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220150
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldg. 56638
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220151
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. 56703, 56708
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220152
Status: Unutilized
Comment: 1306 sq. ft., most recent use—shower, off-site use only

Bldgs. 56750, 56751
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220153
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldg. 56758
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220154
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only

Bldg. P2789
Fort Sam Houston
San Antonio Co: Bexar TX 78234–
Landholding Agency: Army
Property Number: 21200220155
Status: Excess
Comment: 25,784 sq. ft., presence of asbestos/lead paint, provider responsible for hazard abatement, most recent use—dining, Historic Preservation requirement, off-site use only

Bldg. P6202
Fort Sam Houston
San Antonio Co: Bexar TX 78234–
Landholding Agency: Army
Property Number: 21200220156
Status: Excess
Comment: 1479 sq. ft., presence of asbestos/lead paint, provider responsible for hazard abatement, most recent use—officer's family quarters, off-site use only

Bldg. P6203
Fort Sam Houston
San Antonio Co: Bexar TX 78234–
Landholding Agency: Army
Property Number: 21200220157
Status: Excess
Comment: 1381 sq. ft., presence of asbestos/lead paint, provider responsible for hazard abatement, most recent use—military family quarters, off-site use only

Bldg. P6204
Fort Sam Houston
San Antonio Co: Bexar TX 78234–
Landholding Agency: Army
Property Number: 21200220158
Status: Excess
Comment: 1454 sq. ft., presence of asbestos/lead paint, provider responsible for hazard abatement, most recent use—military family quarters, off-site use only

Virginia

Bldg. T246
Fort Monroe
Ft. Monroe Co: VA 23651–
Landholding Agency: Army
Property Number: 21199940047
Status: Unutilized
Comment: 756 sq. ft., needs repair, possible lead paint, most recent use—scout meetings, off-site use only

Bldgs. 1516, 1517, 1552, 1567
Fort Eustis
Ft. Eustis Co: VA 23604–
Landholding Agency: Army
Property Number: 21200130154
Status: Unutilized
Comment: 2892 & 4720 sq. ft., most recent use—dining/barracks/admin, off-site use only

Bldg. 1559
Fort Eustis

Ft. Eustis Co: VA 23604–
Landholding Agency: Army
Property Number: 21200130156
Status: Unutilized
Comment: 2892 sq. ft., most recent use—storage, off-site use only

Bldg. T0058
Fort Monroe
Stillwell Dr.
Ft. Monroe Co: VA 23651–
Landholding Agency: Army
Property Number: 21200310057
Status: Excess
Comment: 7875 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Washington

Bldg. CO909, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630205
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1164, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630213
Status: Unutilized
Comment: 230 sq. ft., possible asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 1307, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630216
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1309, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630217
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2167, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630218
Status: Unutilized
Comment: 288 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 4078, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630219
Status: Unutilized
Comment: 10200 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 9599, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630220
Status: Unutilized
Comment: 12366 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. A1404, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199640570
Status: Unutilized
Comment: 557 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. A1419, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199640571
Status: Unutilized
Comment: 1307 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. EO347
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710156
Status: Unutilized
Comment: 1800 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. B1008, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199720216
Status: Unutilized
Comment: 7387 sq. ft., 2-story, needs rehab, possible asbestos/lead paint, most recent use—medical clinic, off-site use only

Bldgs. B1011–B1012, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199720217
Status: Unutilized
Comment: 992 sq. ft. and 1144 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. CO509, CO709, CO720
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199810372
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—storage, off-site use only

Bldg. 5162
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830419
Status: Unutilized
Comment: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 5224
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830433
Status: Unutilized
Comment: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—educ. fac., off-site use only

Bldg. U001B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920237
Status: Excess
Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U001C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920238
Status: Unutilized
Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

10 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U002B, U002C, U005C, U015I, U016E, U019C, U022A, U028B, 0091A, U093C
Landholding Agency: Army
Property Number: 21199920239
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U003A, U004B, U006C, U015B, U016B, U019B
Landholding Agency: Army
Property Number: 21199920240
Status: Unutilized
Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U004D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920241
Status: Unutilized
Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

Bldg. U005A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920242
Status: Unutilized
Comment: 360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

7 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U014A, U022B, U023A, U043B, U059B, U060A, U101A
Landholding Agency: Army
Property Number: 21199920245
Status: Excess
Comment: needs repair, presence of asbestos/lead paint, most recent use—ofc/tower/support, off-site use only

Bldg. U015J
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920246
Status: Excess
Comment: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U018B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920247

Status: Unutilized
Comment: 121 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U018C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920248
Status: Unutilized
Comment: 48 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U024D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920250
Status: Unutilized
Comment: 120 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—ammo bldg., off-site use only

Bldg. U027A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920251
Status: Excess
Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tire house, off-site use only

Bldg. U031A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920253
Status: Excess
Comment: 3456 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—line shed, off-site use only

Bldg. U031C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920254
Status: Unutilized
Comment: 32 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U040D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920255
Status: Excess
Comment: 800 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U052C, U052H
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920256
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U035A, U035B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920257
Status: Excess
Comment: 192 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U035C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920258
Status: Excess
Comment: 242 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U039A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920259
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U039B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920260
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—grandstand/bleachers, off-site use only

Bldg. U039C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920261
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. U043A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920262
Status: Excess
Comment: 132 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U052A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920263
Status: Excess
Comment: 69 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U052E
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920264
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. U052G
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920265
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

3 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U058A, U103A, U018A
Landholding Agency: Army
Property Number: 21199920266
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U059A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920267
Status: Excess
Comment: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U093B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920268
Status: Excess
Comment: 680 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

4 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U101B, U101C, U507B, U557A
Landholding Agency: Army
Property Number: 21199920269
Status: Excess
Comment: 400 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U110B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920272
Status: Excess
Comment: 138 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U111A, U015A, U024E, U052F, U109A, U110A
Landholding Agency: Army
Property Number: 21199920273
Status: Excess
Comment: 1000 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support/shelter/mess, off-site use only

Bldg. U112A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920274
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use-shelter, off-site use only

Bldg. U115A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920275
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U507A

Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920276
Status: Excess
Comment: 400 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. C0120
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920281
Status: Excess
Comment: 384 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—scale house, off-site use only

Bldg. A0334
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920284
Status: Excess
Comment: 1092 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 01205
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920290
Status: Excess
Comment: 87 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 01259
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920291
Status: Excess
Comment: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 01266
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920292
Status: Excess
Comment: 45 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. 1445
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920294
Status: Excess
Comment: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—generator bldg., off-site use only

Bldgs. 03091, 03099
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920296
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 4040
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920298
Status: Excess
Comment: 8326 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shed, off-site use only

Bldgs. 4072, 5104
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920299
Status: Excess
Comment: 24/36 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 4295
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920300
Status: Excess
Comment: 48 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 5170
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency:
Property Number: 21199920301
Status: Excess
Comment: 19,411 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—store, off-site use only

Bldg. 6191
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920303
Status: Excess
Comment: 3663 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—exchange branch, off-site use only

Bldgs. 08076, 08080
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920304
Status: Excess
Comment: 3660/412 sq .ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 08093
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920305
Status: Excess
Comment: 289 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—boat storage, off-site use only

Bldg. 8279
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920306
Status: Excess
Comment: 210 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—fuel disp. fac., off-site use only

Bldgs. 8280, 8291
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920307
Status: Excess
Comment: 800/464 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 8956
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920308
Status: Excess
Comment: 100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 9530
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920309
Status: Excess
Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 9574
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920310
Status: Excess
Comment: 6005 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—veh. shop., off-site use only

Bldg. 9596
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920311
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—gas station, off-site use only

Land (by State)

Georgia

Land (Railbed)
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199440440
Status: Unutilized
Comment: 17.3 acres extending 1.24 miles, no known utilities potential

South Carolina

One Acre
Fort Jackson
Columbia Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21200110089
Status: Underutilized
Comment: approx. 1 acre

Suitable/Unavailable Properties

Buildings (by State)

Alabama

Bldgs. 1001–1006, 1106–1107
Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 21200210027
Status: Unutilized
Comment: approx. 9000 sq. ft., poor condition, lead paint present, most recent use—warehouses, off-site use only

Bldg. 01433

Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 21200220098
Status: Excess
Comment: 800 sq. ft., most recent use—office, off-site use only

Georgia

Bldg. 4090
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199630007
Status: Underutilized
Comment: 3530 sq. ft., most recent use—chapel, off-site use only

Bldg. 2410
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200140076
Status: Unutilized
Comment: 8480 sq. ft., needs rehab, potential asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 20802
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200210078
Status: Unutilized
Comment: 740 sq. ft., needs repair, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–920
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200240083
Status: Excess
Comment: 13,337 sq. ft., most recent use—office, off-site use only

Maryland

Bldg. 2282C
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230059
Status: Unutilized
Comment: 46 sq. ft., needs rehab, most recent use—sentry tower, off-site use only

Missouri

Bldg. 2172
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–8994
Landholding Agency: Army
Property Number: 21200040059
Status: Unutilized
Comment: 2892 sq. ft., most recent use—operations, off-site use only

North Carolina

Bldgs. A2245, A2345
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200240084
Status: Excess
Comment: 3444 sq. ft. each, possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. A2544
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200240085
Status: Excess
Comment: 4000 sq. ft., possible asbestos/lead paint, most recent use—admin. facility, off-site use only

Bldg. D2826
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200240086
Status: Excess
Comment: 41,520 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. N4116
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200240087
Status: Excess
Comment: 3944 sq. ft., possible asbestos/lead paint, most recent use—community facility, off-site use only

103 Bldgs.
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Location: WS001–WS02A, PE001–PE031, 002F1–02F36, 00651, 1101, DT001–DT035, DT052–DT056, 09051
Landholding Agency: Army
Property Number: 21200240088
Status: Excess
Comment: multi-use structures, various sq ft., possible asbestos/lead paint, off-site use only

Tennessee

Bldgs. 01551, 01552
Fort Campbell
Ft. Campbell Co: Montgomery TN 42223–
Landholding Agency: Army
Property Number: 21200230076
Status: Unutilized
Comment: 2052 sq. ft.

Texas

Bldgs. 4219, 4227
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220139
Status: Unutilized
Comment: 8056 & 10,500 sq. ft., most recent use—admin., off-site use only

Bldgs. 4229, 4230, 4231
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220140
Status: Unutilized
Comment: 9000 sq. ft., most recent use—hq. bldg., off-site use only

Bldgs. 4244, 4246
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220141
Status: Unutilized
Comment: 9000 sq. ft., most recent use—storage, off-site use only

Bldgs. 4260, 4261, 4262
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220142
Status: Unutilized
Comment: 7680 sq. ft., most recent use—storage, off-site use only

Washington

Bldg. 03272
Fort Lewis
Tacoma Co: Pierce WA 98335–
Landholding Agency: Army
Property Number: 21200220160
Status: Unutilized
Comment: 21,373 sq. ft., most recent use—hangar, off-site use only

Bldg. 04180
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21200240091
Status: Excess
Comment: 72 sq. ft., most recent use—guard shack, off-site use only

Bldg. 05904
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21200240092
Status: Excess
Comment: 82 sq. ft., most recent use—guard shack, off-site use only

Bldgs. 9003, 9517
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21200240093
Status: Excess
Comment: 80 and 82 sq. ft., most recent use—guard shack, off-site use only

Land (by State)

North Carolina

.92 Acre—Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 21199610728
Status: Underutilized
Comment: municipal drinking waterwell, restricted by explosive safety regs., New Hanover County Buffer Zone

10 Acre—Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 21199610729
Status: Underutilized
Comment: municipal park, restricted by explosive safety regs., New Hanover County Buffer Zone

257 Acre—Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 21199610730
Status: Underutilized
Comment: state park, restricted by explosive safety regs., New Hanover County Buffer Zone

24.83 Acres—Tract of Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 21199620685
Status: Underutilized

Comment: 24.83 acres, municipal park, most recent use—New Hanover County explosive buffer zone

Unsuitable Properties

Buildings (by State)

Alabama

65 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Number: 21200040001–21200040012, 21200120018, 21200220002–21200220004, 21200240006–21200240023
Status: Unutilized
Reason: Secured Area; Extensive deterioration

25 Bldgs.
Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219740004, 219740006, 219830002, 21200010010, 21200040013, 21200220001, 21200230001, 21200240001–21200240005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 28152
Rucker
Hartford Co: Geneva AL 36344
Landholding Agency: Army
Property Number: 21200230002
Status: Unutilized
Reason: Extensive deterioration

Alaska

8 Bldgs., Fort Wainwright
Ft. Wainwright AK 99703
Landholding Agency: Army
Property Number: 219710090, 219710195–219710198, 219810002, 219810007, 21199920001
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured area; Floodway; (Some are extensively deteriorated)

Arizona

32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Number: 219014560–219014591
Status: Underutilized
Reason: Secured Area

10 properties: 753 earth covered igloos; above ground standard magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40.
Landholding Agency: Army
Property Number: 219014592–219014601
Status: Underutilized
Reason: Secured Area

7 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff on I–40
Landholding Agency: Army
Property Number: 219030273–219030274, 219120177–219120181
Status: Unutilized
Reason: Secured Area

9 Bldgs.
Camp Navajo
Bellemont Co: AZ 86015
Landholding Agency: Army
Property Number: 21200140002–21200140010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 15373, 15348
Fort Huachuca
Ft. Huachuca Co: Cochise AZ 85613
Landholding Agency: Army
Property Number: 21200220006, 21200240024
Status: Excess
Reason: Extensive deterioration

Arkansas

189 Bldgs.
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219630019, 219630021, 219630029, 219640462–219640477, 21200110001–21200110017, 21200140011–21200140014
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

11 Bldgs., Nos. 2–8, 156, 1, 120, 181
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219013582–219013588, 219013590, 219240444–219240446
Status: Underutilized
Reason: Secured Area

Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219120162–219120164
Status: Underutilized
Reason: Secured Area

39 Bldgs.
DDDRW Sharpe Facility
Tracy Co: San Joaquin CA 95331
Landholding Agency: Army
Property Number: 219610289, 21199930021, 21200030005–21200030015, 21200040015, 21200120029–21200120039, 21200130004, 21200240025–21200240030
Status: Unutilized
Reason: Secured Area

Bldgs. 29, 39, 73, 154, 155, 193, 204, 257
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219520040
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 1103, 1131, 1120, 341, 1160
Parks Reserve Forces Training Area
Dublin Co: Alameda CA 94568–5201
Landholding Agency: Army
Property Number: 219520056, 219830010, 21200110021–21200110022
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113
Landholding Agency: Army
Property Number: 21199840015, 21199920033–21199920036, 21199940052–21199940056
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

449 Bldgs.
Camp Roberts
Camp Roberts Co: San Obispo CA
Landholding Agency: Army
Property Number: 21199730014, 219820192–219820235
Status: Excess
Reason: Secured Area; Extensive deterioration

27 Bldgs.
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944
Landholding Agency: Army
Property Number: 21199940051, 21200130005
Status: Unutilized
Reason: Extensive deterioration

46 Bldgs.
Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Landholding Agency: Army
Property Number: 21199920037–21199920038, 21200030016–21200030018, 21200040014, 21200110018–21200110020, 21200130002–21200130003, 21200140015, 21200210001–21200210005, 21200240031–21200240033
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Colorado

Bldgs. T–317, T–412, 431, 433
Rocky Mountain Arsenal
Commerce Co: Adams CO 80022–2180
Landholding Agency: Army
Property Number: 219320013–219320016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration

40 Bldgs.
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219830020–219830030, 21199910008, 21199930022, 21199930025, 21200130006–21200130011
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 00087, 00088, 00096
Pueblo Chemical Depot
Pueblo CO 81006–9330
Landholding Agency: Army
Property Number: 21200030019–21200030021
Status: Unutilized
Reason: Extensive deterioration

Flatiron Facility

Colorado Army Natl Guard
Longmont Co: Weld CO 80504–9404
Landholding Agency: Army
Property Number: 21200230003
Status: Unutilized
Reason: Extensive deterioration

Georgia

Fort Stewart
Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314–
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment

Facility 12304
Fort Gordon
Augusta Co: Richmond GA 30905–
Location: Located off Lane Avenue
Landholding Agency: Army
Property Number: 219014787
Status: Unutilized
Reason: Wheeled vehicle grease/inspection rack

15 Bldgs.
Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219220269, 219410050–219410051, 219410071–219410072, 219410100, 219410109, 219630044–219630063, 219640011–219640024, 219830038–219830067, 21199910012, 21200210061–21200210073, 21200220007–21200220010, 21200230007–21200230015
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220335–219220337
Status: Unutilized
Reason: Detached lavatory

16 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219520150, 219610320, 219720017–219720019, 219810028, 219810030, 219810035, 219830073, 219830076, 21199930031–21199930037, 21200030023–21200030027
Status: Unutilized
Reason: Extensive deterioration

18 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army
Property Number: 219620815, 21199920044–21199920050, 21200140016, 21200220011–21200220012, 21200230005
Status: Unutilized
Reason: Extensive deterioration; Secured Area

Bldg. P8121, Fort Stewart
Hinesville Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21199940060
Status: Unutilized
Reason: Extensive Deterioration

3 Bldgs., Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219630034, 219830068, 21200120042
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs., Fort McPherson
Ft. McPherson Co: Fulton GA 30330–5000
Landholding Agency: Army
Property Number: 21200040016–21200040018, 21200230004
Status: Unutilized
Reason: Secured Area

Hawaii

13 Bldgs.
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219014836–219014837, 219030361, 21200230018
Status: Unutilized
Reason: Secured Area; (Most are extensively deteriorated)

Bldgs. T–1305, 01507
Wheeler Army Airfield
Wahiawa HI 96857
Landholding Agency: Army
Property Number: 219610348, 21200310003
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs.
Fort Shafter
Honolulu Co: HI 96819
Landholding Agency: Army
Property Number: 21200030029–21200030031, 21200230016, 21200240034, 21200310001–21200310002
Status: Unutilized
Reason: Extensive deterioration

12 Bldgs.
Dillingham Military Rsv
Waialua Co: HI 96791
Landholding Agency: Army
Property Number: 21200220014–21200220020, 21200310004–21200310005
Status: Unutilized
Reason: Extensive deterioration

Illinois

13 Bldgs.
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Number: 219110104–219110108, 219210100, 219620427, 219620428, 21200140043–21200140046
Status: Unutilized
Reason: Some are in a secured area; Some are extensively deteriorated; Some are within 2000 ft. of flammable or explosive material

15 Bldgs.
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040
Landholding Agency: Army
Property Number: 219820027, 21199930043–21199930053
Status: Unutilized
Reason: Secured Area; Extensive deterioration; Floodway

Indiana

170 Bldgs.
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149, 219430336, 219430338, 219530079–219530096, 219740021–219740026, 219820031–219820032, 21199920063, 21200310006
Status: Unutilized
Reason: Secured Area; (Some are extensively deteriorated.)

2 Bldgs.
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124–1096
Landholding Agency: Army
Property Number: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration

Iowa

103 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219012605–219012607, 219012609, 219012611, 219012613, 219012615, 219012620, 219012622, 219012624, 219013706–219013738, 219120172–219120174, 219440112–219440158, 219520002, 219520070, 219610414, 219740027, 21200220022, 21200230019–21200230023
Status: Unutilized
Reason: (Many are in a Secured Area); (Most are within 2000 ft. of flammable or explosive material.)

27 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638
Landholding Agency: Army
Property Number: 219230005–219230029, 219310017, 219340091
Status: Unutilized
Reason: Extensive deterioration

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357–
Landholding Agency: Army
Property Number: 219011909–219011945
Status: Unutilized
Reason: Secured Area; (Most are within 2000 ft. of flammable or explosive material)

121 Bldgs.
Kansas Army Ammunition Plant
Parsons Co: Labette KS 67357
Landholding Agency: Army
Property Number: 219620518–219620638
Status: Unutilized
Reason: Secured Area

Bldg. P–417
Fort Leavenworth
Leavenworth KS 66027
Landholding Agency: Army
Property Number: 219740029
Status: Unutilized
Reason: Extensive deterioration; Sewage pump station

29 Bldgs.
Fort Riley
Ft. Riley Co: Riley KS 66442
Landholding Agency: Army
Property Number: 21200310007–21200310016
Status: Unutilized
Reason: Extensive deterioration

Kentucky

Bldg. 126

Lexington—Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles northeast of Lexington, Kentucky.
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured Area; Sewage treatment facility

Bldg. 12
Lexington—Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles Northeast of Lexington Kentucky.
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant

469 Bldgs.
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 21200130026–21200130029, 21200220030–21200220055, 21200240035–21200240045
Status: Unutilized
Reason: Extensive deterioration

29 Bldgs.
Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 21200110030–21200110049, 21200140048, 21200140053, 21200220029, 21200230029–21200230030
Status: Unutilized
Reason: Extensive deterioration

Louisiana

528 Bldgs.
Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219011714–219011716, 219011735–219011737, 219012112, 219013863–219013869, 219110131, 219240138–219240147, 219420332, 219610049–219610263, 219620002–219620200, 219620749–219620801, 219820047–219820078
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material) (Some are extensively deteriorated)

41 Bldgs.
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 21199920070, 21199920078, 21199940074, 21199940075, 21200110050–21200110051, 21200120058, 21200130030–21200130043, 21200140054
Status: Unutilized
Reason: Extensive deterioration (Some are in Floodway.)

Maryland

45 Bldgs.
Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219011417, 219012610, 219012637–219012642, 219012658–219012662, 219013773, 219014711, 219610480, 219610489–219610490, 219730077–219730078, 219810070–219810121, 219820090–219820096, 21200120059–21200120060, 21200140055
Status: Unutilized
Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material) (Some are in a floodway) (Some are extensively deteriorated)

73 Bldgs.
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219710186, 219740068–219740076, 219810065, 21199910019, 21199940084, 21200140058–21200140060, 21200240046–21200240053, 21200310017
Status: Unutilized
Reason: Extensive deterioration

12 Bldgs.
Woodstock Military Rsv
Granite Co: Baltimore MD 22163
Landholding Agency: Army
Property Number: 21200130044–21200130052
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 00602, 00605
Adelphi Lab Center
Adelphi Co: MD 20783
Landholding Agency: Army
Property Number: 21200220056–21200220057
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Massachusetts

Bldg. 3462,
Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 024620–5003
Landholding Agency Army
Property Number: 219230095
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldg. 1211 Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219310020
Status: Unutilized
Reason: Secured Area

Facility No. 0G001
LTA Granby
Granby Co: Hampshire MA
Landholding Agency: Army
Property Number: 219810062
Status: Unutilized
Reason: Extensive deterioration

Michigan

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Number: 219310060–219310061
Status: Unutilized
Reason: Secured Area; Extensive deterioration

13 Bldgs.
Fort Custer Training Center 2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Number: 21200220058–21200220062
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Selfridge ANG Base
Selfridge Co: MI 48045
Landholding Agency: Army
Property Number: 21199930059, 21199940089–21199940093, 21200110052–21200110055
Status: Unutilized
Reason: Secured Area

Minnesota

160 Bldgs.
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
PropertyNumber:219120166, 219210014–219210015, 219220227–219220235, 219240328, 219310056, 219320152–219320156, 219330096–219330106, 219340015, 219410159–219410189, 219420198–219420283, 219430060–219430064, 21200130053–21200130054
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated)

Missouri

83 Bldgs.
Lake City Army Ammo. Plant
Independence Co: Jackson MO 64050–
Landholding Agency: Army
Property Number: 219013666–219013669, 219530134–219530138, 21199910023–21199910035, 21199920082, 21200030049
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

9 Bldgs.
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Number: 219120067–219120068, 219610469–219610475
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

8 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219430070–219430075, 21199910020–21199910021, 21200240056
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material (Some are extensively deteriorated.)

Bldgs. 218A, P4122
U.S. Army Reserve Center
St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200240054–21200240055
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 220, P4074, P4072, P4073
St. Louis Ordnance Plant
St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200310018–21200310019
Status: Unutilized
Reason: Extensive deterioration

Nevada

Bldg. 292

Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219013614
Status: Unutilized
Reason: Secured Area

Bldg. 396
Hawthorne Army Ammunition Plant
Bachelor Enlisted Qtrs W/Dining Facilities
Hawthorne Co: Mineral NV 89415–
Location: East side of Decatur Street—North of Maine Avenue
Landholding Agency: Army
Property Number: 219011997
Status: Unutilized
Reason: Within airport runway clear zone; Secured Area

39 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219012013, 219013615–219013643,
Status: Underutilized
Reason: Secured Area (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material)

Group 101, 34 Bldgs.
Hawthorne Army Ammunition Plant Co: Mineral NV 89415–0015
Landholding Agency: Army
Property Number: 219830132
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

New Jersey

128 Bldgs.
Picatinny Arsenal
Dover Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219010444–219010474, 219010639–219010664, 219010680–219010715, 219012428, 219012430, 219012433–219012465, 219012469, 219012475, 219012765, 219014306, 219014311, 219014317, 219140617, 219230123, 219420006, 219530147, 219540005, 219540007, 219740113–219740127, 21199940094–21199940099, 21200130057–21200130063, 21200220063, 21200230071–21200230075
Status: Excess
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated) (Some are in a floodway)

59 Bldgs.
Ft. Monmouth
Ft. Monmouth Co: NJ 07703
Landholding Agency: Army
Property Number: 21200110056, 21200310020–21200310025
Status: Unutilized
Reason: Extensive deterioration

19 Bldgs.
Fort Dix
Ft. Dix Co: Burlington NJ 08640–5506
Landholding Agency: Army
Property Number: 21200310026–21200310037
Status: Unutilized
Reason: Extensive deterioration

New York

Bldgs. 110, 143, 2084, 2105, 2110
Seneca Army Depot
Romulus Co: Seneca NY 14541–5001
Landholding Agency: Army
Property Number: 219240439, 219240440–219240443
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Parcel 19
Stewart Army Subpost, U.S. Military Academy
New Windsor Co: Orange NY 12553
Landholding Agency: Army
Property Number: 219730098
Status: Unutilized
Reason: Within airport runway clear zone

Bldgs. 12, 134
Watervliet Arsenal
Watervliet NY
Landholding Agency: Army
Property Number: 219730099, 21199840068
Status: Unutilized
Reason: Extensive deterioration; Secured Area

Bldgs. 4056, 4275
Stewart Army Subpost
New Windsor Co: Orange NY 12553
Landholding Agency: Army
Property Number: 21199930061
Status: Unutilized
Reason: sewage pump station1

3 Bldgs.
Youngstown Training Site
Youngstown Co: Niagara NY 14131
Landholding Agency: Army
Property Number: 21200220064–21200220069
Status: Unutilized
Reason: Extensive deterioration

North Carolina

75 Bldgs. Fort Bragg
Ft. Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219620480, 219640074,219710102–219710111, 219710224, 219810167, 21199930063–21199930066, 21200040035–21200140064
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 16, 139, 261, 273
Military Ocean Terminal
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219530155, 219810158–219810160
Status: Unutilized
Reason: Secured Area

North Dakota

Bldgs. 440, 455, 456, 3101, 3110
Stanley R. Mickelsen
Nekoma Co: Cavalier ND 58355
Landholding Agency: Army
Property Number: 21199940103–21199940107
Status: Unutilized
Reason: Extensive deterioration

Ohio

222 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219012476–219012507, 219012509–219012513, 219012515, 219012517–219012518, 219012520, 219012522–219012523, 219012525–219012528, 219012530–219012532, 219012534–219012535, 219012537, 219013670–219013677, 219013781, 219210148, 1199840069–21199840104, 21199930070–21199930072, 21200240064
Status: Unutilized
Reason: Secured Area

7 Bldgs.
Lima Army Tank Plant
Lima OH 45804–1898
Landholding Agency: Army
Property Number: 219730104–219730110
Status: Unutilized
Reason: Secured Area

Bldgs. 32–36, 38–40
Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 21200240059–21200240060
Status: Unutilized
Reason: Extensive deterioration

Oklahoma

548 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–5000
Landholding Agency: Army
Property Number: 219011674, 219011680, 219011684, 219011687, 219012113, 219013981–219013991, 219013994, 219014081–219014102, 219014104, 219014107–219014137, 219014141–219014159, 219014162, 219014165–219014216, 219014218–219014274, 219014336–219014559, 219030007–219030127, 219040004, 21199910039–21199910040
Status: Underutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

Bldg. M–1441
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219510023
Status: Unutilized
Reason: Extensive deterioration

34 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–
Landholding Agency: Army
Property Number: 219310050–219310052, 219320170–219320171, 219330149–219330160, 219430123–219430125, 219620485–219620490, 219630110–219630111, 219810174, 21200210023
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

Oregon

11 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured Area

34 Bldgs.

Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012177, 219012185–219012186, 219012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032, 21199840108–21199840110, 21199920084–21199920090
Status: Unutilized
Reason: Secured Area

Pennsylvania

59 Bldgs.
Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5011
Landholding Agency: Army
Property Number: 219640337, 219730122–219730128, 219740137, 219810178–219810193
Status: Unutilized
Reason: Extensive deterioration

31 Bldgs.
Defense Distribution Depot
New Cumberland Co: York PA 17070–5001
Landholding Agency: Army
Property Number: 219830135, 21199940108–21199940112, 21200030060, 21200110058–21200110063, 21200130070–21200130072, 21200140071, 21200220071–21200220073, 21200230028
Status: Unutilized
Reason: Secured Area

Rhode Island

Bldg. 104
Army Aviation
North Kingstown Co: Washington RI 02852
Landholding Agency: Army
Property Number: 21200120064
Status: Unutilized
Reason: Extensive deterioration

South Carolina

40 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Number: 219440237, 219440239, 219620312, 219620317, 219620348, 219620351, 219640138–219640139, 21199640148–21199640149, 219720095, 219720097, 219730130, 219730132, 219730145–219730157, 219740138, 219820102–219820111, 219830139–219830157
Status: Unutilized
Reason: Extensive deterioration

Tennessee

49 Bldgs.
Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012304–219012309, 219012311–219012312, 219012314, 219012316–219012317, 219012319, 219012325, 219012328, 219012330, 219012332, 219012334–219012335, 219012337, 219013789–219013790, 219030266, 219140613, 219330178, 219440212–219440216, 219510025–219510028, 21200040038, 21200230035–21200230036, 21200240066, 21200310038–21200310043
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

10 Bldgs.
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240447–219240449, 219320182–219320184, 219330176–219330177, 219520034, 219740139
Status: Unutilized
Reason: Secured Area

Bldg. Z–183A
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

10 Bldgs.
Fort Campbell
Ft. Campbell Co: Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200220023–21200220025, 21200230031–21200230034, 21200240065
Status: Unutilized
Reason: Extensive deterioration

Texas

20 Bldgs.
Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337–219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

225 Bldgs.
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661–
Location: State Highway 43 North
Landholding Agency: Army
Property Number: 219012546, 219012548, 219610555–219610584, 219610635, 219620244–219620287, 219620827–219620837, 21200020054–21200020070
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

16 Bldgs., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Number: 219420315–219420327, 219430095–219430097
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

81 Bldgs. Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 219730160–219730186, 219830161–219830197, 21200310044
Status: Unutilized
Reason: Extensive deterioration

Starr Ranch, Bldg. 703B
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661
Landholding Agency: Army
Property Number: 219640186, 219640494
Status: Unutilized
Reason: Floodway

Utah

Bldgs. 4555, 4554
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012166, 219030366
Status: Unutilized
Reason: Secured Area

Bldg. S–4301
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012751
Status: Underutilized
Reason: Secured Area

4 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Number: 219013997, 219130012, 219130015, 21200120065
Status: Underutilized
Reason: Secured Area

51 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Number: 219330181–219330182, 219330185, 219420328–219420329, 21199920091–21199920101
Status: Unutilized
Reason: Secured Area

Bldgs. 3102, 5145, 8030
Deseret Chemical Depot
Tooele UT 84074
Landholding Agency: Army
Property Number: 219820119–219820121
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Virginia

326 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Landholding Agency: Army
Property Number: 219010833, 219010836, 219010839, 219010842, 219010844, 219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 219140618–219140633, 219440219–219440225, 219510031–219510033, 219610607–219610608, 219830223–219830267, 21200020079–21200020081, 21200230038, 21200240071–21200240072
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

13 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Landholding Agency: Army
Property Number: 219010834–219010835, 219010837–219010838, 219010840–219010841, 219010843, 219010845–219010846, 219010891, 219011578–219011580
Status: Unutilized

Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Latrine, detached structure

36 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219240107, 219330210, 2129330219–219330220, 219330225–219330228, 219520062, 219610597, 219620497, 219620866–219620876, 219630115, 219740156, 219830208–219830210, 21199940129–21199940131, 21200030062, 21200040040, 21200110064, 21200120067, 21200230037, 21200240070
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)

16 Bldgs.
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219220210–219220218, 219230100–219230103, 219520037
Status: Unutilized
Reason: Secured Area

Bldg. B7103–01, Motor House
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219240324
Status: Unutilized
Reason: Secured Area; Within 2000 ft. of flammable or explosive material; Extensive deterioration

56 Bldgs.
Red Water Field Office
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219430341–219430396
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

15 Bldgs.
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427
Landholding Agency: Army
Property Number: 21200110069, 21200240067–21200240069, 21200310045
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldgs. 2013–00, B2013–00, A1601–00
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219520052, 219530194
Status: Unutilized
Reason: Extensive deterioration

11 Bldgs.
Fort Belvoir
Ft. Belvoir Co: Fairfax VA 22060–5116
Landholding Agency: Army
Property Number: 21199910050–21199910051, 21199920107, 21199940117–21199940120, 21200030063–21200030064, 21200130075–21200130077
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs., Fort Eustis
Ft. Eustis Co. VA 23604
Landholding Agency: Army
Property Number: 21200210025–21200210026
Status: Unutilized
Reason: Extensive deterioration

Bldg. 448, Fort Myer
Ft. Myer Co: Arlington VA 22211–1199
Landholding Agency: Army
Property Number: 21200010069
Status: Underutilized
Reason: Extensive deterioration

8 Bldgs.
Fort Monroe
Ft. Monroe Co: VA 23651
Landholding Agency: Army
Property Number: 21200220076–21200220079, 21200310047
Status: Excess
Reason: Extensive deterioration

19 Bldgs.
Fort Pickett
Blackstone Co: Nottoway VA 23824
Landholding Agency: Army
Property Number: 21200220087–21200220092
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00723, Fort Story
Ft. Story Co: Princess Ann VA 23459
Landholding Agency: Army
Property Number: 21200310046
Status: Unutilized
Reason: Extensive deterioration

Washington

660 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Number: 219610006, 219610009–219610010, 219610045–219610046, 219620512–219620517, 219640193, 219720142–219720151, 219810205–219810242, 219820132, 21199910063–21199910078, 21199920125–21199920174, 21199930080–21199930104, 21199940134, 21200120068, 21200140072–21200140073, 21200210075, 21200220097
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldg. HBC07, Fort Lewis
Huckleberry Creek Mountain Training Site
Co: Pierce WA
Landholding Agency: Army
Property Number: 219740166
Status: Unutilized
Reason: Extensive deterioration

Bldg. 415, Fort Worden
Port Angeles Co: Clallam WA 98362
Landholding Agency: Army
Property Number: 21199910062
Status: Excess
Reason: Extensive deterioration

Bldg. U515A, Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920124
Status: Excess
Reason: Gas chamber

Bldgs. 02401, 02402
Vancouver Barracks Cemetery
Vancouver Co: WA 98661
Landholding Agency: Army
Property Number: 21200310048
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs. Renton USARC 00460, 00485, 00480, 00411
Renton Co: WA 980058
Landholding Agency: Army
Property Number: 21200310049
Status: Unutilized
Reason: Extensive deterioration

Wisconsin

5 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011209–219011212, 219011217
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Friable asbestos; Secured Area

153 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–219011142, 219011144, 219011148–219011208, 219011213–219011216, 219011218–219011234, 219011236, 219011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011256, 19011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Friable asbestos; Secured Area

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured Area

906 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013876–219013878, 219210097–219210099, 219220295–219220311, 219510065, 219510067, 219510069–219510077, 219740184–219740271, 21200020083–21200020155, 21200240074–21200240080
Status: Unutilized
Reason: (Most are in a secured area); (Most are within 2000 ft. of flammable or explosive material); (Some are extensively deteriorated)

Land (by State)

Alabama

23 acres and 2284 acres
Alabama Army Ammunition Plant 110 Hwy. 235

Childersburg Co: Talladega AL 35044–
Landholding Agency: Army
Property Number: 219210095–219210096
Status: Excess
Reason: Secured Area

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

Maryland

Carroll Island, Graces Quarters
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012630, 219012632
Status: Underutilized
Reason: Floodway; Secured Area

Minnesota

Portion of R.R. Spur
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112
Landholding Agency: Army
Property Number: 219620472
Status: Unutilized
Reason: landlocked

New Jersey

Land
Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806–
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area

Spur Line/Right of Way
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219530143
Status: Unutilized
Reason: Floodway

2.0 Acres, Berkshire Trail
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910036
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Ohio

0.4051 acres, Lot 40 & 41
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219630109
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Oklahoma

McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–
Landholding Agency: Army
Property Number: 219014603
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Texas

Land—Approx. 50 acres
Lone Star Army Ammunition Plant
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219420308
Status: Unutilized
Reason: Secured Area

Training Land (3.764 acres)
Camp Swift Military Rsv.
Bastrop Co: TX
Landholding Agency: Army
Property Number: 21200130073
Status: Unutilized
Reason: Secured Area

Wisconsin

Land
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913—
Location: Vacant land within plant boundaries.
Landholding Agency: Army
Property Number: 219013783
Status: Unutilized
Reason: Secured Area

[FR Doc. 03–2092 Filed 1–30–03; 8:45 am]

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Federal Register

Friday,
January 31, 2003

Part IV

Securities and Exchange Commission

17 CFR Parts 228, 229, and 249

Disclosure Required by Sections 406 and 407 of the Sarbanes-Oxley Act of 2002; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 228, 229 and 249

[Release Nos. 33–8177; 34–47235; File No. S7–40–02]

RIN 3235–AI66

Disclosure Required by Sections 406 and 407 of the Sarbanes-Oxley Act of 2002

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; request for comment.

SUMMARY: We are adopting rules and amendments requiring companies, other than registered investment companies, to include two new types of disclosures in their annual reports filed pursuant to the Securities Exchange Act of 1934. First, the rules require a company to disclose whether it has at least one ''audit committee financial expert'' serving on its audit committee, and if so, the name of the expert and whether the expert is independent of management. A company that does not have an audit committee financial expert must disclose this fact and explain why it has no such expert. Second, the rules require a company to disclose whether it has adopted a code of ethics that applies to the company's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. A company disclosing that it has not adopted such a code must disclose this fact and explain why it has not done so. A company also will be required to promptly disclose amendments to, and waivers from, the code of ethics relating to any of those officers. These rules implement the requirements in Sections 406 and 407 of the Sarbanes-Oxley Act of 2002. We also request additional comments regarding the appropriate treatment of foreign private issuers in light of our proposed rules implementing Section 301 of the Act.

DATES: *Effective Date:* March 3, 2003.

Comment Date: Comments regarding treatment of certain foreign private issuers should be received on or before February 18, 2003.

Compliance Dates: Companies must comply with the code of ethics disclosure requirements promulgated under Section 406 of the Sarbanes-Oxley Act in their annual reports for fiscal years ending on or after July 15, 2003. They also must comply with the requirements regarding disclosure of amendments to, and waivers from, their ethics codes on or after the date on which they file their first annual report in which the code of ethics disclosure is required. Companies, other than small business issuers, similarly must comply with the audit committee financial expert disclosure requirements promulgated under Section 407 of the Sarbanes-Oxley Act in their annual reports for fiscal years ending on or after July 15, 2003. Small business issuers must comply with the audit committee financial expert disclosure requirements in their annual reports for fiscal years ending on or after December 15, 2003.

ADDRESSES: To help us process and review your comments more efficiently, comments should be sent by hard copy or e-mail, but not by both methods. Comments sent by hard copy should be submitted in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–40–02; if e-mail is used, this file number should be included in the subject line. Comment letters will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549–0102. Electronically submitted comment letters will be posted on the Commission's Internet Web site (*http://www.sec.gov*).[1]

FOR FURTHER INFORMATION CONTACT: Ray Be, Special Counsel, N. Sean Harrison, Special Counsel, or Kim McManus, Attorney-Advisor, Division of Corporation Finance, at (202) 942–2910, or with respect to accounting issues, Michael Thompson, Professional Accounting Fellow, Office of Chief Accountant, at (202) 942–4400, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are adopting amendments to Form 8–K,[2] Form 10–K,[3] Form 10–KSB,[4] Form 20–F[5] and Form 40–F[6] under the Securities Exchange Act of 1934,[7] Regulation S–B,[8] and Regulation S–K.[9]

I. Background

The strength of the U.S. financial markets depends on investor confidence. Recent events involving allegations of misdeeds by corporate executives, independent auditors and other market participants have undermined that confidence.[10] In response to this threat to the U.S. financial markets, Congress passed, and the President signed into law, the Sarbanes-Oxley Act of 2002 (the ''Sarbanes-Oxley Act''),[11] which effects sweeping corporate disclosure and financial reporting reform.

This release is one of several that the Commission is required to issue to implement provisions of the Sarbanes-Oxley Act. In this release, we adopt rules to implement the following two provisions of the Sarbanes-Oxley Act:

- Section 407, which directs us to adopt rules: (1) Requiring a company to disclose whether its audit committee includes at least one member who is a financial expert; and (2) defining the term ''financial expert''; and
- Section 406, which directs us to adopt rules requiring a company to disclose whether it has adopted a code of ethics for its senior financial officers, and if not, the reasons therefor, as well as any changes to, or waiver of any provision of, that code of ethics.

We received over 200 comment letters in response to our release proposing requirements to implement Sections 404, 406 and 407 of the Sarbanes-Oxley Act.[12] These comment letters came from corporations, professional associations, accountants, law firms, analysts, consultants, academics, investors and others. In general, the commenters favored the objectives of the proposed new requirements. Investors generally supported the manner in which we proposed to achieve these objectives and, in some cases, urged us to require additional disclosure from companies. Many other commenters, however, thought that we were requiring more disclosure than necessary to fulfill the mandates of the Sarbanes-Oxley Act and suggested modifications to the proposals. We have reviewed and considered all of the comments on the proposals. The adopted rules reflect many of these comments—we discuss our conclusions with respect to each

[1] We do not edit personal information, such as names or electronic mail addresses, from electronic submissions. You should submit only information that you wish to make available publicly.

[2] 17 CFR 249.308.

[3] 17 CFR 249.310.

[4] 17 CFR 249.310b.

[5] 17 CFR 249.220f.

[6] 17 CFR 249.240f.

[7] 15 U.S.C. 78a *et seq.*

[8] 17 CFR 228.10 *et seq.*

[9] 17 CFR 229.10 *et seq.*

[10] *See,* for example, John Waggoner and Thomas A. Fogarty, ''Scandals Shred Investors' Faith: Because of Enron, Andersen and Rising Gas Prices, the Public Is More Wary Than Ever of Corporate America,'' USA Today, May 5, 2002, and Louis Aguilar, ''Scandals Jolting Faith of Investors,'' Denver Post, June 27, 2002.

[11] Pub. L. 107–204, 116 Stat. 745 (2002).

[12] Release No. 33–8138 (October 22, 2002) [67 FR 66208] (''Proposing Release'').

topic and related comments in more detail throughout the release. We believe that the new rules and amendments are in the public interest and consistent with the protection of investors.

The Proposing Release also included requirements to implement Section 404 of the Act, relating to internal control reports and auditor attestations of those reports. We will set forth the final rules to implement Section 404 in a separate adopting release to be issued at a later date. The Sarbanes-Oxley Act does not mandate that we issue final rules to implement Section 404 by a specific date. In addition, in the Proposing Release, we proposed to defer effectiveness of those rules so that they would apply only to companies whose fiscal years end on or after September 15, 2003 to allow the Public Company Accounting Oversight Board sufficient time to adopt standards for attestation engagements, and to allow companies and auditors sufficient time to prepare for imposition of the new requirements.

We also will set forth the rules to implement the requirements of Sections 406 and 407 of the Sarbanes-Oxley Act with respect to registered investment companies in a subsequent release. We expect to consider implementing these requirements at the same time that we consider adopting proposed Form N–CSR [13] to be used by registered management investment companies to file certified shareholder reports with the Commission under Section 302 of the Sarbanes-Oxley Act.

II. Discussion

A. Audit Committee Financial Experts

1. Title of the Expert

In the Proposing Release, we solicited comment as to whether we should use the term ''financial expert'' in our rules consistent with its use in Section 407 of the Sarbanes-Oxley Act, or whether a different term such as ''audit committee financial expert'' would be more appropriate. A number of commenters expressed a concern that neither the term ''financial expert'' nor ''audit committee financial expert'' accurately reflects the required experience and expertise of the type of expert contemplated by Section 407 and our proposed rules. Some noted that many of the key characteristics included in our proposed definition of a financial expert relate to the expert's accounting knowledge and experience in an accounting or auditing position. One commenter therefore recommended that we use the term ''audit committee accounting expert.'' Other suggested terms included ''accounting expert,'' ''audit committee member financial lead'' and ''financially proficient director.''

We agree that the term ''financial'' may not completely capture the attributes referenced in Section 407, given the provision's focus on accounting and auditing expertise and the fact that traditional ''financial'' matters extend to capital structure, valuation, cash flows, risk analysis and capital-raising techniques. Furthermore, several recent articles on the proposals have noted that many experienced investors and business leaders with considerable financial expertise would not necessarily qualify as financial experts under the proposed definition.[14] We have decided to use the term ''audit committee financial expert'' in our rules implementing Section 407 instead of the term ''financial expert.'' [15] This term suggests more pointedly that the designated person has characteristics that are particularly relevant to the functions of the audit committee, such as: a thorough understanding of the audit committee's oversight role, expertise in accounting matters as well as understanding of financial statements, and the ability to ask the right questions to determine whether the company's financial statements are complete and accurate. The new rules include a definition of the term ''audit committee financial expert.'' [16]

2. Disclosure of the Number and Names of Audit Committee Financial Experts

A substantial number of commenters opposed our proposal to require a company to disclose the number and names of the persons that the company's board determined to be audit committee financial experts. Some were opposed on the ground that our proposed rules exceeded the mandates of the Sarbanes-Oxley Act.[17] Much of the opposition stemmed from a fear that the designation of an audit committee financial expert may inappropriately suggest that the expert bears greater responsibility, and therefore is subject to a higher degree of liability, for audit committee decisions than other audit committee members. Some commenters thought that identification of the audit committee financial expert in the company's annual report would exacerbate that problem and discourage qualified persons from serving as such experts.

We have modified the proposals that would have required disclosure of the number and names of audit committee financial experts serving on a company's audit committee to more closely track the language used in Section 407 of the Sarbanes-Oxley Act. Under the rules that we are adopting, a company must disclose that its board of directors has determined that the company either:

- Has at least one audit committee financial expert serving on its audit committee; or
- Does not have an audit committee financial expert serving on its audit committee.

A company disclosing that it does not have an audit committee financial expert must explain why it does not have such an expert. We continue to believe that disclosure of the name of the audit committee financial expert is necessary to benefit investors and to carry out the purpose of Section 407. Therefore, under the final rules, if a company discloses that it has an audit committee financial expert, it also must disclose the expert's name. We believe that, in general, omission of the expert's name ultimately would not result in the expert's identity remaining non-public. To the extent that there are liability concerns, we believe that they are best addressed by our inclusion of a safe harbor in our rules, as discussed below.

The final rules permit, but do not require, a company to disclose that it has more than one audit committee financial expert on its audit committee. Therefore, once a company's board determines that a particular audit committee member qualifies as an audit committee financial expert, it may, but is not required to, determine whether additional audit committee members also qualify as experts. Every company subject to the audit committee disclosure requirements would, however, have to determine whether or not it has at least one audit committee financial expert; a company will not

[13] *See* Release No. IC–25723 (Aug. 30, 2002) [67 FR 57298].

[14] *See* Andrew R. Sorkin, ''Back to School, but This One Is for Top Corporate Officials,'' NY Times, Sept. 3, 2002, Cassell Bryan-Low, ''Defining Moment for SEC: Who is a financial expert,'' Wall Street Journal, Dec. 9, 2002, and Geoffrey Colvin, ''Sarbanes & Co. Can't Want This: Under Reform Law, Alan Greenspan Would Not Qualify as a Board's Financial Expert,'' Fortune, Dec. 30, 2002.

[15] Throughout this release, we will refer to both ''audit committee financial experts'' and ''financial experts'' as appropriate in a particular context. For example, when discussing statutory provisions, we will continue to refer to financial experts. For purposes of the discussions in this release, the meanings of these terms are identical.

[16] *See* new Item 401(h)(2) of Regulation S–K, Item 401(e)(2) of Regulation S–B, Item 16A(b) of Form 20–F, and paragraph (8)(b) of General Instruction B to Form 40–F.

[17] The Sarbanes-Oxley Act required only that we adopt rules requiring disclosure of whether a company had at least one financial expert on its audit committee, and if not, the reasons why.

satisfy the new disclosure requirements by stating that it has decided not to make a determination or by simply disclosing the qualifications of all of its audit committee members. Furthermore, if the company's board determines that at least one of the audit committee members qualifies as an expert, the company must accurately disclose this fact. It will not be appropriate for a company to disclose that it does not have an audit committee financial expert if its board has determined that such an expert serves on the audit committee.

3. Disclosure of Independence of Audit Committee Financial Experts

We proposed to require a company to disclose whether its audit committee financial expert is independent of management. A number of commenters opposed this disclosure requirement as unnecessary, noting that Section 301 of the Sarbanes-Oxley Act mandates the Commission to direct the self-regulatory organizations to prohibit the listing of any company that does not require all of its audit committee members to be independent. However, not all Exchange Act reporting companies are listed on a national securities exchange or association.[18] We believe that investors in these companies would be interested in knowing whether the audit committee financial expert is independent of management. Therefore, the final rules require a company to disclose whether the person or persons identified as the audit committee financial expert is independent of management.

In the proposing release, we defined ''independent'' by reference to Section 10A(m)(3) of the Exchange Act.[19] Several commenters noted that this reference may cause some confusion because the securities laws include different definitions of the term ''affiliated,'' which is part of the definition used in Section 10A(m)(3).[20] Therefore, to provide clarity, the final rules refer to the definition of ''independent'' used in Item 7(d)(3)(iv) of Schedule 14A.[21] This revision ensures that the term ''independent'' is used consistently in our rules.[22]

4. Definition of ''Audit Committee Financial Expert''

a. Proposed definition of the term ''financial expert''. We proposed to define the term ''financial expert'' to mean a person who has, through education and experience as a public accountant, auditor, principal financial officer, controller or principal accounting officer, of a company that, at the time the person held such position, was required to file reports pursuant to Section 13(a) or 15(d) of the Exchange Act, or experience in one or more positions that involve the performance of similar functions (or that results, in the judgment of the company's board of directors, in the person's having similar expertise and experience),[23] the following attributes:

(1) An understanding of generally accepted accounting principles and financial statements;

(2) Experience applying such generally accepted accounting principles in connection with the accounting for estimates, accruals, and reserves that are generally comparable to the estimates, accruals and reserves, if any, used in the registrant's financial statements;

(3) Experience preparing or auditing financial statements that present accounting issues that are generally comparable to those raised by the registrant's financial statements;

(4) Experience with internal controls and procedures for financial reporting; and

(5) An understanding of audit committee functions.

In addition, the proposed rule would have provided guidance to companies by providing a list of factors to be considered in making that evaluation, including:

- The level of the person's accounting or financial education, including whether the person has earned an advanced degree in finance or accounting;
- Whether the person is a certified public accountant, or the equivalent, in good standing, and the length of time that the person actively has practiced as a certified public accountant, or the equivalent;
- Whether the person is certified or otherwise identified as having accounting or financial experience by a recognized private body that establishes and administers standards in respect of such expertise, whether that person is in good standing with the recognized private body, and the length of time that the person has been actively certified or identified as having this expertise;
- Whether the person has served as a principal financial officer, controller or principal accounting officer of a company that, at the time the person held such position, was required to file reports pursuant to Section 13(a) or 15(d) of the Exchange Act, and if so, for how long;
- The person's specific duties while serving as a public accountant, auditor, principal financial officer, controller, principal accounting officer or position involving the performance of similar functions;
- The person's level of familiarity and experience with all applicable laws and regulations regarding the preparation of financial statements that must be included in reports filed under Section 13(a) or 15(d) of the Exchange Act;
- The level and amount of the person's direct experience reviewing, preparing, auditing or analyzing financial statements that must be included in reports filed under Section 13(a) or 15(d) of the Exchange Act;
- The person's past or current membership on one or more audit committees of companies that, at the time the person held such membership, were required to file reports pursuant to Section 13(a) or 15(d) of the Exchange Act;
- The person's level of familiarity and experience with the use and analysis of

[18] As we note in our recent release proposing rules to implement Section 301 of the Sarbanes-Oxley Act, there are only 7,250 listed companies out of a total of approximately 17,000 reporting companies. *See* Release No. 33–8173 (Jan. 8, 2003).

[19] 15 U.S.C. 78j–1(m)(3).

[20] For example, Section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3)) defines an ''affiliated person'' as, among other things, any person owning with power to vote five percent of the outstanding voting securities of an entity. Rule 405 (17 CFR 230.405) under the Securities Act defines an ''affiliate'' as a person that controls or is controlled by, or is under common control with a specified person.

[21] 17 CFR 240.101. That item currently relies on the definitions of ''independent'' in the listing standards of the New York Stock Exchange, the American Stock Exchange and the NASD. Under Section 10A(m) of the Exchange Act (as amended by Section 301 of the Sarbanes-Oxley Act), we recently proposed rules directing the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that, among other things, does not have an independent audit committee as that term is used in Section 10A(m)(3). *See* Release No. 33–8173 (Jan. 8, 2003). As a result of those proposals, the current references in Item 7(d)(3)(iv) of Schedule 14A may be amended. *See id.*

[22] For domestic issuers, the audit committee independence standard is found in new Regulation S–K Item 401(h)(1)(ii) (17 CFR 229.401(h)(1)(ii)) and Regulation S–B Item 401(e)(1)(ii) (17 CFR 228.401(e)(1)(ii)). *See* Part II.C, below for further discussion of the audit committee financial expert disclosure requirements for foreign issuers.

[23] The proposed definition would have broadened the types of persons listed in Section 407 of the Sarbanes-Oxley Act as qualified to serve as experts by enabling the board of directors to conclude that a person is a financial expert if, in lieu of having experience as a public accountant, auditor, principal financial officer, principal accounting officer, or controller, or experience in a position involving the performance of similar functions, the person has experience in a position that results, in the judgment of the board of directors, in the person having similar expertise and experience. Under the proposals, if the board made such a determination, the company would have been required to disclose the basis for that determination.

financial statements of public companies; and

• Whether the person has any other relevant qualifications or experience that would assist him or her in understanding and evaluating the registrant's financial statements and other financial information and to make knowledgeable and thorough inquiries whether:

• The financial statements fairly present the financial condition, results of operations and cash flows of the company in accordance with generally accepted accounting principles; and

• The financial statements and other financial information, taken together, fairly present the financial condition, results of operations and cash flows of the company.

b. Comments on Proposed Definition. The proposed definition of the term ''financial expert'' proved to be the most controversial aspect of the proposals—more commenters remarked on it than on any other topic addressed by the proposed rules. Most of the commenters thought that the proposed definition was too restrictive. Several expressed concern that many companies, especially small ones, would have a difficult time attracting an audit committee member who would qualify as an expert under the proposed definition. Some of the corporate commenters were of the view that they already have exemplary audit committees, despite the fact that none of their current members would meet our proposed definition of an expert. A few complained that companies may have to sacrifice the diversity of their boards and nominate directors who satisfy the audit committee financial expert definition even if the company does not believe that these directors are best-suited for the position.

Furthermore, several commenters debated the merits of defining an audit committee financial expert as a person with strong accounting credentials, given that an audit committee member's role is one of oversight, rather than direct involvement in the company's accounting functions, and suggested that the emphasis on technical accounting expertise in the definition was misplaced. A few commenters further argued that it is unnecessary to have a financial expert serving on the audit committee because audit committee members should have the discretion to retain experts with specific financial expertise as they deem necessary or appropriate.

Other commenters asserted that the proposed definition was more restrictive than necessary to satisfy Congressional intent—they noted that Section 407 of the Sarbanes-Oxley Act requires us, in defining the term ''financial expert,'' only to ''consider'' whether a person has, through education and experience as a public accountant, auditor, principal financial officer, comptroller, principal accounting officer, or similar position, the four attributes specified in the Act.[24] These commenters argued that in light of the Congressional directive only to consider the four attributes, our proposed definition did not need to incorporate all of them, or even any of them. Some commenters believed that a single member of the audit committee should not have to possess all of the required financial expert attributes so long as the members of the audit committee collectively possess these attributes. Others suggested various permutations such as requiring the financial expert to have the first and fifth attributes in our proposed definition, but only two of the other three attributes.

Many commenters criticized specific provisions of the proposed financial expert definition as being too narrow. In particular, many commenters asserted that our proposed requirement that an expert have direct experience preparing or auditing financial statements was greatly, and needlessly, restrictive. Other commenters were concerned that the requirement that a person have had experience with financial statements presenting issues generally comparable to those raised by the company's financial statements might have anti-competitive effects if we interpreted this requirement to mean that a financial expert would need previous experience with financial statements of other companies in the same industry.

Several commenters sought clarification regarding the relevant body of generally accepted accounting principles, in particular for financial experts of foreign private issuers. Other commenters expressed concern over the possible lack of potential financial experts that would be knowledgeable about accounting for estimates and reserves in specific industries, such as the insurance and oil industries.

Numerous additional commenters were concerned that the proposed definition was too restrictive regarding the means by which a person could acquire the required expertise to qualify as a financial expert. They suggested that a requirement that an expert have experience as a public accountant, auditor, principal financial officer, controller, principal accounting officer or in a similar position, would severely limit the number of persons qualified to be financial experts. Some believed that there are a substantial number of highly qualified persons who have sufficient knowledge and experience to effectively and competently perform the activities required of a financial expert, but do not have experience in one of the listed positions. They questioned the relevance of the means by which a person acquires the necessary expertise, so long as the person in fact has such expertise.

c. Final Definition of ''Audit Committee Financial Expert''. The final rules define an audit committee financial expert as a person who has the following attributes:

• An understanding of generally accepted accounting principles and financial statements;

• The ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;

• Experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the registrant's financial statements, or experience actively supervising one or more persons engaged in such activities;

• An understanding of internal controls and procedures for financial reporting; and

• An understanding of audit committee functions.[25]

Under the final rules, a person must have acquired such attributes through any one or more of the following:

(1) Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;

(2) Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions;

[24] The attributes listed in Section 407 of the Sarbanes-Oxley Act include:

(1) An understanding of generally accepted accounting principles and financial statements;

(2) Experience in: (a) The preparation or auditing of financial statements of generally comparable issuers; and (b) the application of such principles in connection with the accounting for estimates, accruals, and reserves;

(3) Experience with internal accounting controls; and

(4) An understanding of audit committee functions.

[25] *See* new Item 401(h)(2) of Regulation S–K, Item 401(e)(2) of Regulation S–B, Item 16A(b) of Form 20–F and paragraph (8)(b) of General Instruction B to Form 40–F.

(3) Experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or

(4) Other relevant experience.[26]

d. Discussion of Significant Modifications to the Proposed Definition of ''Financial Expert''. We have made several changes to our proposed definition of a financial expert. As already discussed, we have decided to use the term audit committee financial expert rather than financial expert in the final rules. We also have reorganized the components of the definition to make it easier to read and to emphasize, by including them in the first part of the definition, the attributes that an audit committee financial expert must possess. The second part of the definition discusses the means by which a person must acquire the necessary attributes. We also have eliminated the proposed instruction listing several factors that a company's board of directors should consider in evaluating the education and experience of an audit committee financial expert candidate.

Proposed attributes of a financial expert. i. The financial expert must have an understanding of generally accepted accounting principles and financial statements. We are adopting this attribute substantially as proposed. However, in response to comments, we have added an instruction to clarify that, with respect to foreign private issuers, the audit committee financial expert's understanding must be of the generally accepted accounting principles used by the foreign private issuer in preparing its primary financial statements filed with the Commission.[27] Our rules require foreign private issuers that do not prepare their primary financial statements in accordance with U.S. generally accepted accounting principles to include a reconciliation to those principles in the financial statements that they file with the Commission. Although an understanding of reconciliation to U.S. generally accepted accounting principles would be helpful, we believe that the proper focus of audit committee financial expertise is on the principles used to prepare the primary financial statement. We also are sensitive to the fact that requiring an audit committee financial expert to possess expertise relating to U.S. generally accepted accounting principles could burden foreign private issuers who use home country accounting principles or international accounting standards to prepare their primary financial statements.

ii. The financial expert must have experience applying such generally accepted accounting principles in connection with the accounting for estimates, accruals and reserves that are generally comparable to the estimates, accruals and reserves, if any, used in the registrant's financial statements. Several commenters were concerned that potential audit committee financial experts would not have experience with the unique and complex accounting for estimates, accruals and reserves in certain industries, such as the insurance industry, unless they have had direct previous experience in these industries. The commenters further noted that there could be a very limited pool of audit committee financial expert candidates available with such experience that would not have ties to a competitor within the same industry. In light of these comments, we have revised this attribute by eliminating the clause ''that are generally comparable to the estimates, accruals and reserves, if any, used in the registrant's financial statements.'' We also have revised this attribute to state that the audit committee financial expert must have the ability to assess the general application of generally accepted accounting principles in connection with the accounting for estimates, accruals and reserves, rather than stating that the expert must have experience applying these principles.[28] We believe that this description of the attribute better satisfies the intent of the statute and better reflects the role to be played by audit committees. We recognize that the pool of persons possessing the highly specialized technical knowledge that some thought the proposals necessitated may be so small that a substantial percentage of companies in certain industries would be compelled to disclose that they could not retain an expert without recruiting a person associated with a competitor. We do not intend for the new requirements to lead to such a result. An audit committee financial expert must be able to assess the general application of generally accepted accounting principles in connection with accounting for estimates, accruals and reserves. This general attribute provides the necessary background for an audit committee when addressing more detailed industry-specific standards or other particular topics. Experience with such detailed standards or topics is not a necessary attribute of audit committee financial expertise.

iii. The financial expert must have experience preparing or auditing financial statements that present accounting issues that are generally comparable to those raised by the registrant's financial statements. The majority of commenters who thought that the proposed definition of ''financial expert'' was too restrictive focused on this attribute. We are convinced by the weight of the comments that the proposed requirement that an expert have direct experience preparing or auditing financial statements could impose an undue burden on some companies, especially small companies, that desire to have an audit committee financial expert. We also are persuaded by commenters' arguments that persons who have experience performing in-depth analysis and evaluation of financial statements should not be precluded from being able to qualify as audit committee financial experts if they possess the other four necessary attributes of an expert. We therefore have broadened this attribute by requiring an audit committee financial expert to have experience ''preparing, auditing, analyzing or evaluating'' financial statements.[29]

We believe that our revisions properly capture the clear intent of the statute that an audit committee financial expert must have experience actually working directly and closely with financial statements in a way that provides familiarity with the contents of financial statements and the processes behind them. We also believe that our revisions appropriately broaden the group of persons who are eligible to be audit committee financial experts. We recognize that many people actively engaged in industries such as investment banking and venture capital investment have had significant direct and close exposure to, and experience with, financial statements and related processes. Similarly, professional financial analysts closely scrutinize financial statements on a regular basis. Indeed, all of these types of individuals

[26] *See* new Item 401(h)(3) of Regulation S–K, Item 401(e)(3) of Regulation S–B, Item 16A(c) of Form 20–F and paragraph (8)(c) of General Instruction B to Form 40–F.

[27] *See* new Instruction 3 to Item 401(h) of Regulation S–K, Item 401(e) of Regulation S–B, Instruction 3 to Item 16A of Form 20–F, and Note 3 to paragraph (8) of General Instruction B to Form 40–F.

[28] *See* new Item 401(h)(2)(ii) of Regulation S–K, Item 401(e)(2)(ii) of Regulation S–B, Item 16A(b)(2) of Form 20–F and paragraph (8)(b)(2) of General Instruction B to Form 40–F.

[29] *See* new Item 401(h)(2)(iii) of Regulation S–K, Item 401(e)(2)(iii) on Regulation S–B, Item 16A(b)(3) of Form 20–F and paragraph (8)(b)(3) of General Instruction B to Form 40–F.

often hold positions that require them to inspect financial statements with a healthy dose of skepticism. They therefore would be well prepared to diligently and zealously question management and the company's auditor about the company's financial statements. Effective audit committee members must have both the ability and the determination to ask the right questions. Therefore, we have broadened this attribute to include persons with experience performing extensive financial statement analysis or evaluation.

We also are convinced by commenters that a potential audit committee financial expert should be considered to possess this attribute by virtue of his or her experience actively supervising a person who prepares, audits, analyzes or evaluates financial statements. The term ''active supervision'' means more than the mere existence of a traditional hierarchical reporting relationship between supervisor and those being supervised. Rather, we mean that a person engaged in active supervision participates in, and contributes to, the process of addressing, albeit at a supervisory level, the same general types of issues regarding preparation, auditing, analysis or evaluation of financial statements as those addressed by the person or persons being supervised. We also mean that the supervisor should have experience that has contributed to the general expertise necessary to prepare, audit, analyze or evaluate financial statements that is at least comparable to the general expertise of those being supervised. A principle executive officer should not be presumed to qualify. A principal executive officer with considerable operations involvement, but little financial or accounting involvement, likely would not be exercising the necessary active supervision. Active participation in, and contribution to, the process, albeit at a supervisory level, of addressing financial and accounting issues that demonstrates a general expertise in the area would be necessary.

Finally, we are retaining, with clarification, the requirement that an audit committee financial expert have experience with financial statements that present accounting issues that are ''generally comparable'' to those raised by the registrant's financial statements. We do not intend for this phrase to imply that a person must have previous experience in the same industry as the company that is evaluating the person as a potential audit committee financial expert, or that the person's experience must have been with a company subject to the Exchange Act reporting requirements. We therefore have modified the requirement to focus on the breadth and level of complexity of the accounting issues with which the person has had experience. We think that a company's board of directors will make the necessary assessment based on particular facts and circumstances. In making its assessment, the board should focus on a variety of factors such as the size of the company with which the person has experience, the scope of that company's operations and the complexity of its financial statements and accounting. We do not believe that familiarity with particular financial reporting or accounting issues, or any other narrow area of experience should be dispositive.

iv. A financial expert must have experience with internal controls and procedures for financial reporting. We are substituting the term ''understanding'' for the term ''experience.'' [30] In our view, it is necessary that the audit committee financial expert understand the purpose, and be able to evaluate the effectiveness, of a company's internal controls and procedures for financial reporting. It is important that the audit committee financial expert understand why the internal controls and procedures for financial reporting exist, how they were developed, and how they operate. Previous experience establishing or evaluating a company's internal controls and procedures for financial reporting can, of course, contribute to a person's understanding of these matters, but the attribute as rephrased properly focuses on the understanding rather than the experience.

v. A financial expert must have an understanding of audit committee functions. We are adopting this attribute as proposed.[31]

Means of obtaining expertise. We have revised the audit committee financial expert definition to state that a person must have acquired the five necessary attributes through any one or more of the following:

(1) Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;

(2) Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions;

(3) Experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or

(4) Other relevant experience.[32]

In response to commenters' remarks, we have eliminated the proposed requirement that an audit committee financial expert must have gained the relevant experience with a company that, at the time the person held such position, was required to file reports pursuant to Section 13(a) or 15(d) of the Exchange Act. Many private companies are contractually required to prepare audited financial statements that comply with generally accepted accounting principles. In addition, a potential expert may have gained relevant experience at a foreign company that is publicly traded in its home market but that is not registered under the Exchange Act.

We have added a provision in response to comments that experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements can provide a person with in-depth knowledge and experience of accounting and financial issues. For example, certain individuals serving in governmental, self-regulatory and private-sector bodies overseeing the banking, insurance and securities industries work on issues related to financial statements on a regular basis. We believe that such experience can constitute a very useful background for an audit committee financial expert.

In addition, we have revised the last provision of this part of the proposed definition. The original proposal stated that a person who had not served in one of the specified positions alternatively could have acquired the relevant attributes and experience in a position that results, in the judgment of the board of directors, in the person's having similar expertise and experience. The final rules state simply that a person may acquire the necessary attributes of an audit committee financial expert through other relevant experience, and no longer require the company to disclose the basis for the board's determination that a person has

[30] *See* new Item 401(h)(2)(iv) of Regulation S–K, Item 401(e)(2)(iv) on Regulation S–B, Item 16A(b)(4) of Form 20–F and paragraph (8)(b)(4) of General Instruction B to Form 40–F.

[31] *See* new Item 401(h)(2)(v) of Regulation S–K, Item 401(e)(2)(v) on Regulation S–B, Item 16A(b)(5) of Form 20–F and paragraph (8)(b)(5) of General Instruction B to Form 40–F.

[32] *See* new Item 401(h)(3) of Regulation S–K, Item 401(e)(3) on Regulation S–B, Item 16A(c) of Form 20–F and paragraph (8)(c) of General Instruction B to Form 40–F.

''similar expertise and experience.'' We also have eliminated the reference to the judgment of the board with respect to this provision because, as explicitly stated in the audit committee financial expert disclosure requirement, the board must make all determinations as to whether a person qualifies as an expert. Therefore, this reference is redundant.

This revision permitting a person to have ''other relevant experience'' recognizes that an audit committee financial expert can acquire the requisite attributes of an expert in many different ways. We do believe that this expertise should be the product of experience and not, for example, merely education. Under the final rules, if a person qualifies as an expert by virtue of possessing ''other relevant experience,'' the company's disclosure must briefly list that person's experience.[33]

Proposed factors to be considered in evaluating the education and experience of a financial expert. The proposed definition of ''financial expert'' included a non-exclusive list of qualitative factors for a company's board to consider in assessing audit committee financial expert candidates. These factors focused on the breadth and level of a potential audit committee financial expert's experience, understanding and involvement in relevant activities, including the person's length of experience in relevant positions, and the types of duties held by such person in those positions. We believe that the board should consider all the available facts and circumstances, including but certainly not limited to, qualitative factors of the type that we had identified, in its determination. Some commenters were concerned that some boards would use the list as a mechanical checklist rather than as guidance to be used in considering a person's knowledge and experience as a whole. In light of these comments, the definition does not include this list.

The fact that a person previously has served on an audit committee does not, by itself, justify the board of directors in ''grandfathering'' that person as an audit committee financial expert under the definition. Similarly, the fact that a person has experience as a public accountant or auditor, or a principal financial officer, controller or principal accounting officer or experience in a similar position does not, by itself, justify the board of directors in deeming the person to be an audit committee financial expert. In addition to determining that a person possesses an appropriate degree of knowledge and experience, the board must ensure that it names an audit committee financial expert who embodies the highest standards of personal and professional integrity. In this regard, a board should consider any disciplinary actions to which a potential expert is, or has been, subject in determining whether that person would be a suitable audit committee financial expert.

Requirement that an audit committee financial expert possess all five required attributes. We are not convinced by comments stating that an audit committee financial expert should not have to possess all of the attributes included in our definition. Although Congress did not explicitly require us to incorporate all of the attributes listed in Section 407 of the Sarbanes-Oxley Act, it also did not limit us to consideration of those attributes. Congress obviously considered each of the listed attributes to be important. A definition of ''audit committee financial expert'' that leaves the meaning of the term entirely to the judgment of the board of directors would be highly subjective and could constitute an abrogation of our responsibilities under Section 407.

The Sarbanes-Oxley Act clearly was intended to enhance corporate responsibility by effecting significant change; its purpose was not to perpetuate the status quo. Therefore, while many companies likely will be able to determine that they already have an audit committee financial expert serving on their audit committees, we believe that the fact that some companies will not be able to draw this conclusion unless they are able to attract a new director with the requisite qualifications is consistent with the Act.

Moreover, the Sarbanes-Oxley Act did not contemplate that a company could disclose that it has an audit committee financial expert by virtue of the fact that the audit committee members collectively possess all of the attributes of an expert; the statute directs us to issue rules to require a company to disclose whether or its audit committee is comprised of ''at least one member'' who is a financial expert. Due to the statute's use of this specific language, there is no doubt that Congress had in mind individual experts and did not contemplate a ''collective'' expert. We note, however, that it would be appropriate under the final rules for a company disclosing that it does not have an audit committee financial expert to explain the aspects of the definition that various members of the committee satisfy.

5. Safe Harbor From Liability for Audit Committee Financial Experts

Several commenters urged us to clarify that the designation or identification of an audit committee financial expert will not increase or decrease his or her duties, obligations or potential liability as an audit committee member. A few recommended a formal safe harbor from liability for audit committee financial experts. Unlike the provisions of the Act that impose substantive requirements,[34] the requirements contemplated by Section 407 are entirely disclosure-based. We find no support in the Sarbanes-Oxley Act or in related legislative history that Congress intended to change the duties, obligations or liability of any audit committee member, including the audit committee financial expert, through this provision.

In the proposing release, we stated that we did not believe that the mere designation of the audit committee financial expert would impose a higher degree of individual responsibility or obligation on that person. Nor did we intend for the designation to decrease the duties and obligations of other audit committee members or the board of directors.

We continue to believe that it would adversely affect the operation of the audit committee and its vital role in our financial reporting and public disclosure system, and systems of corporate governance more generally, if courts were to conclude that the designation and public identification of an audit committee financial expert affected such person's duties, obligations or liability as an audit committee member or board member. We find that it would be adverse to the interests of investors and to the operation of markets and therefore would not be in the public interest, if the designation and identification affected the duties, obligations or liabilities to which any member of the company's audit committee or board is subject. To codify this position, we are including a safe harbor in the new audit committee disclosure item to clarify that:

- A person who is determined to be an audit committee financial expert will not be deemed an ''expert'' for any purpose, including without limitation

[33] *See* new Instruction 2 to Item 401(h) of Regulation S–K, Item 401(e) of Regulation S–B and Item 16A of Form 20–F and Note 2 to paragraph (8) of General Instruction B to Form 40–F.

[34] For example, the Sarbanes-Oxley Act requires the Commission to direct the self-regulatory organizations by rule to mandate the independence of all audit committee members of companies listed on national securities exchanges and associations. *See* Section 301 of the Sarbanes-Oxley Act. As another example, Section 402 of the Sarbanes-Oxley Act prohibits certain loans made by companies to their directors and executive officers.

for purposes of Section 11 of the Securities Act,[35] as a result of being designated or identified as an audit committee financial expert pursuant to the new disclosure item;

• The designation or identification of a person as an audit committee financial expert pursuant to the new disclosure item does not impose on such person any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of the audit committee and board of directors in the absence of such designation or identification; and

• The designation or identification of a person as an audit committee financial expert pursuant to the new disclosure item does not affect the duties, obligations or liability of any other member of the audit committee or board of directors.[36]

This safe harbor clarifies that any information in a registration statement reviewed by the audit committee financial expert is not ''expertised'' unless such person is acting in the capacity of some other type of traditionally recognized expert. Similarly, because the audit committee financial expert is not an expert for purposes of Section 11,[37] he or she is not subject to a higher level of due diligence with respect to any portion of the registration statement as a result of his or her designation or identification as an audit committee financial expert.

In adopting this safe harbor, we wish to emphasize that all directors bear significant responsibility. State law generally imposes a fiduciary duty upon directors to protect the interests of a company's shareholders. This duty requires a director to inform himself or herself of relevant facts and to use a ''critical eye'' in assessing information prior to acting on a matter.[38] Our new rule provides that whether a person is, or is not, an audit committee financial expert does not alter his or her duties, obligations or liabilities. We believe this should be the case under federal and state law.

6. Determination of a Person's Status as an Audit Committee Financial Expert

The Sarbanes-Oxley Act does not explicitly state who at the company should determine whether a person qualifies as an audit committee financial expert. We believe that the board of directors in its entirety, as the most broad-based body within the company, is best-equipped to make the determination. We think that it is appropriate that any such determination will be subject to relevant state law principles such as the business judgment rule.

7. Location of Audit Committee Financial Expert Disclosure

The Sarbanes-Oxley Act expressly states that companies must include the financial expert disclosure in their periodic reports required pursuant to Section 13(a) or 15(d) of the Exchange Act. The final rules that we are adopting require companies to include the new disclosure in their annual reports on Forms 10–K, 10–KSB, 20–F or 40–F. The requirement to provide the new audit committee disclosure item is included in Part III of Forms 10–K and 10–KSB, enabling a domestic company that voluntarily chooses to include this disclosure in its proxy or information statement to incorporate this information by reference into its Form 10–K or 10–KSB if it files the proxy or information statement with the Commission no later than 120 days after the end of the fiscal year covered by the Form 10–K or 10–KSB.[39]

Although some commenters recommended that we require companies to include the audit committee financial expert disclosure in their proxy and information statements, registration statements and quarterly reports, as well as in their annual reports, we are not convinced that the benefits to investors would exceed the costs to companies of requiring this disclosure in additional documents or on a more frequent basis.

8. Change in Item Number

We proposed to designate the audit committee financial expert disclosure requirement as new Item 309 of Regulations S–K and S–B.[40] However, existing Item 401 seems to be a more logical location for this requirement. Item 401 currently requires, among other things, a brief description of the business experience of each director. Therefore, we are designating the new disclosure item as Item 401(h) of Regulation S–K and Item 401(e) of Regulation S–B. The new item specifies that a company may choose to include the audit committee financial expert disclosure in its proxy or information statement if the company incorporates such information into its annual report as permitted by the instructions to Forms 10–K and 10–KSB.[41]

B. Code of Ethics

1. Code of Ethics Disclosure Requirements

a. Proposed Disclosure Requirements. Section 406 of the Sarbanes-Oxley Act directs us to issue rules requiring a company that is subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act to disclose whether or not the company has adopted a code of ethics for its senior financial officers that applies to the company's principal financial officer and controller or principal accounting officer, or persons performing similar functions. The Act further directs us to require companies that have not adopted such a code of ethics to explain why they have not done so. In addition to requiring the disclosure mandated by Section 406, we proposed rules to require disclosure as to whether the company has a code of ethics that applies to its principal executive officer.

b. Commenters' Remarks. Some of the commenters thought that the required disclosure should be limited to a statement indicating whether the company has a code of ethics that applies to its senior financial officers, and if not, why not. Others stated that it was appropriate to expand the requirements of the Sarbanes-Oxley Act to also require a company to disclose whether it has a code of ethics that applies to its principal executive officer. A few commenters thought that we should extend the requirement even further to require a company to state whether it has a code of ethics that applies to other individuals, such as directors, all executive officers, and the company's employees generally.

[35] 15 U.S.C. 77k.

[36] *See* new Item 401(h)(4) of Regulation S–K, Item 401(e)(4) of Regulation S–B, Item 16A(d) of Form 20–F and paragraph (8)(d) of General Instruction B to Form 40–F. Although other audit committee members may look to the audit committee financial expert as a resource on certain issues that arise, audit committee members should work together to perform the committee's responsibilities. The safe harbor provides that other audit committee members may not abdicate their responsibilities.

[37] Section 11 of the Securities Act imposes liability for material misstatements and omissions in a registration statement, but provides a defense to liability for those who perform adequate due diligence. The level of due diligence required depends on the position held by a defendant and the type of information at issue. *Escott* v. *BarChris Construction Corp.,* 283 F. Supp. 643 (S.D.N.Y. 1968). The type of information can be categorized as either ''expertised,'' which means information that is prepared or certified by an expert who is named in the registration statement, or ''non-expertised.'' Similarly, a defendant can be characterized either as an ''expert'' or a ''non-expert.''

[38] *See,* for example, *Smith* v. *Van Gorkom,* 488 A.2d 858 (Del. 1985).

[39] *See* General Instruction E(3) to Form 10–KSB [17 CFR 249.310b] and General Instruction G(3) to Form 10–K [17 CFR 249.310].

[40] We had proposed to add new items to Forms 20–F and 40–F as well. Those item numbers have not changed.

[41] *See* new Instruction 1 to Item 401(h) of Regulation S–K and Item 401(e) of Regulation S–B.

After considering the comments, we continue to think that it is appropriate and consistent with the purposes of the Sarbanes-Oxley Act to extend the scope of our rules under Section 406 to include a company's principal executive officer, as proposed. It seems reasonable to expect that a company would hold its chief executive officer, an official superior to the company's senior financial officers, to at least the same standards of ethical conduct to which it holds its senior financial officers. Some commenters who are investors confirmed that they not only have an interest in knowing whether a company holds its senior financial officers to certain ethical standards, but whether the company holds its principal executive officer to ethical standards as well.

c. Final Disclosure Requirements. The final rules require a company to disclose whether it has adopted a code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. If the company has not adopted such a code of ethics, it must explain why it has not done so.[42]

2. Definition of the Term ''Code of Ethics''

a. Proposed Definition. We proposed to define the term ''code of ethics'' to mean written standards that are reasonably designed to deter wrongdoing and to promote:[43]

(1) Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) Avoidance of conflicts of interest, including disclosure to an appropriate person or persons identified in the code of any material transaction or relationship that reasonably could be expected to give rise to such a conflict;

(3) Full, fair, accurate, timely, and understandable disclosure in reports and documents that a company files with, or submits to, the Commission and in other public communications made by the company;

(4) Compliance with applicable governmental laws, rules and regulations;[44]

(5) The prompt internal reporting to an appropriate person or persons identified in the code of violations of the code; and

(6) Accountability for adherence to the code.

The second, fifth and sixth prongs of this proposed definition were broader than the requirements specified by Section 406 of the Sarbanes-Oxley Act, but were intended to supplement the requirements contained in the Act.

b. Commenters' Remarks. We received several comments on the proposed definition of a code of ethics. Some commenters recommended that we make the code of ethics cover more issues or general topics than proposed. Some of these recommendations identified very specific topics that the code of ethics should address. These topics included matters such as: personal participation in initial public offerings, the reporting of any items of value received as a result of the officer's position with the company, and change of control transactions.

c. Final Definition of ''Code of Ethics''. The final rule defines the term ''code of ethics'' as written standards that are reasonably designed to deter wrongdoing and to promote:

- Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
- Full, fair, accurate, timely, and understandable disclosure in reports and documents that a registrant files with, or submits to, the Commission and in other public communications made by the registrant;
- Compliance with applicable governmental laws, rules and regulations;
- The prompt internal reporting to an appropriate person or persons identified in the code of violations of the code;[45] and
- Accountability for adherence to the code.[46]

We eliminated the component of the definition requiring the code to promote the avoidance of conflicts of interest, including disclosure to an appropriate person or persons identified in the code of any material transaction or relationship that reasonably could be expected to give rise to such a conflict, because the conduct addressed by this component already is addressed by the first prong of the proposed definition, requiring honest and ethical conduct and the ethical handling of actual and apparent conflicts of interest.

We are not adopting commenters' suggestions that we set forth additional ethical principles that the code of ethics should address. We continue to believe that ethics codes do, and should, vary from company to company and that decisions as to the specific provisions of the code, compliance procedures and disciplinary measures for ethical breaches are best left to the company. Such an approach is consistent with our disclosure-based regulatory scheme. Therefore, the rules do not specify every detail that the company must address in its code of ethics, or prescribe any specific language that the code of ethics must include. They further do not specify the procedures that the company should develop, or the types of sanctions that the company should impose, to ensure compliance with its code of ethics. We strongly encourage companies to adopt codes that are broader and more comprehensive than necessary to meet the new disclosure requirements.

We have added an instruction to the code of ethics disclosure item indicating that a company may have separate codes of ethics for different types of officers. The instruction also clarifies that the provisions of the company's code of ethics that address the elements listed in the definition and apply to those officers may be part of a broader code that addresses additional issues and applies to additional persons, such as all executive officers and directors of the company.[47]

3. Filing of Ethics Code as an Exhibit

We proposed to require a company to file a copy of its ethics code as an exhibit to its annual report. We received several comment letters stating that the rules should not include this requirement. A common ground for objection was that some codes are extremely lengthy and therefore would be difficult to file electronically on our

[42] *See* new Items 406(a) of Regulation S–K, and S–B, Item 16B(a) of Form 20–F and paragraph (9)(a) of General Instruction B to Form 40–F.

[43] The Sarbanes-Oxley Act Section 406(c) definition of the term ''code of ethics'' does not include the phrase ''to deter wrongdoing'' that we have incorporated into proposed Item 406 of Regulations S–K and S–B, but we think that it is appropriate to expand the definition in this manner. Although codes of ethics typically are designed to promote high standards of ethical conduct, they also generally seek to instruct those to whom they apply as to improper or illegal conduct or activity and to prohibit such conduct or activity.

[44] We proposed to add ''laws'' to this prong of the proposed definition. The Sarbanes-Oxley Act Sectin 406(c) definition refers only to compliance with applicable governmental rules and regulations.

[45] Although the company retains discretion to determine the identity of the appropriate person or persons, such person should not be involved in the matter giving rise to the violation. Furthermore, we believe the person identified in the code should have sufficient status within the company to engender respect for the code and the authority to adequately deal with the persons subject to the code regardless of their stature in the company.

[46] *See* new Items 406(b) of Regulations S–K, and S–B, Item 16B(b) of Form 20–F and paragraph (9)(b) of General Instruction B to Form 40–F.

[47] *See* Instruction 1 to Items 406 of Regulations S–K and S–B, Instruction 2 to Item 16B of Form 20–F and Note 2 to paragraph (9) of General Instruction B to Form 40–F.

EDGAR system. Some also asserted that ethics codes may contain a significant amount of detailed information that would not be of particular interest to investors.

We are not entirely persuaded by the commenters that we should not require a company disclosing that it has a code of ethics that applies to its principal executive officer and senior financial officers to make those provisions of the code available. However, more flexibility seems appropriate in light of the fact that many companies already post their codes on their websites. We therefore are adopting rules that will allow companies to choose between three alternative methods of making their ethics codes publicly available. First, a company may file a copy of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and addresses the specified elements as an exhibit to its annual report.[48] Alternatively, a company may post the text of its code of ethics, or relevant portion thereof, on its Internet website, provided however, that a company choosing this option also must disclose its Internet address and intention to provide disclosure in this manner in its annual report on Form 10-K, 10-KSB, 20-F or 40-F.[49] As another alternative, a company may provide an undertaking in its annual report on one of these forms to provide a copy of its code of ethics to any person without charge upon request.[50]

If a company is complying with this disclosure item in its annual report, inclusion of the company's website address in the annual report will not, by itself, include or incorporate by reference the information on the company's website into the annual report, unless the company otherwise acts to incorporate the information by reference.[51] Also, we understand that a company may have multiple websites that it uses for various purposes, such as investor relations, product information and business-to-business activities. We intend the requirement to disclose the company's website address to mean the website the company normally uses for its investor relations functions.

4. Location of the Code of Ethics Disclosure

A company will have to include the new code of ethics disclosure in its annual report filed on Form 10–K, 10–KSB, 20–F or 40–F.

5. Form 8–K or Internet Disclosure Regarding Changes to, or Waivers From, the Code of Ethics

Section 406(b) of the Sarbanes-Oxley Act directs us to require a company to make ''immediate disclosure'' on Form 8–K or via Internet dissemination of any change to, or waiver from, the company's code of ethics for its senior financial officers. Consistent with this mandate, and in keeping with our decision to also require a company to disclose whether its principal executive officer is subject to a code of ethics, we are adding an item to the list of Form 8–K triggering events to require disclosure of:

- The nature of any amendment to the company's code of ethics that applies to its principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions;[52] and
- The nature of any waiver, including an implicit waiver, from a provision of the code of ethics granted by the company to one of these specified officers, the name of the person to whom the company granted the waiver and the date of the waiver.[53]

Only amendments or waivers relating to the specified elements of the code of ethics and the specified officers must be disclosed. This clarification is intended to allow and encourage companies to retain broad-based business codes. For example, if a company has a code of ethics that applies to its directors, as well as its principal executive officer and senior financial officers, an amendment to a provision affecting only directors would not require Form 8–K or Internet disclosure.

A company choosing to provide the required disclosure on Form 8–K must do so within five business days after it amends its ethics code or grants a waiver.[54] As an alternative to reporting this information on Form 8–K, a company may use its Internet Web site as a method of disseminating this disclosure, but only if it previously has disclosed in its most recently filed annual report on Form 10–K or 10–KSB:[55]

- Its intention to disclose these events on its Internet website, and
- Its Internet website address.[56]

The commenters were mixed in their reaction to our proposal to permit Internet disclosure of changes and waivers of the code of ethics in lieu of a Form 8–K filing. Some commenters did not believe that Internet disclosure would provide sufficiently broad dissemination. Others believed that such disclosure would be sufficient. The final rules retain the Internet disclosure option because the language in Section 406(b) of the Sarbanes-Oxley Act clearly indicates that Congress intended companies to have this option.

[48] See new Item 601(b)(14) of Regulations S–K and S–B. Although Section 406 of the Sarbanes-Oxley Act does not state that our rules must require a company to file a copy of the code of ethics as an exhibit to its annual report, some investors likely will be interested in examining the actual code itself, given that codes are likely to vary significantly from one company to another.

[49] See new Item 406(c)(2) of Regulations S–K and S–B, Item 16B(c)(2) of Form 20–F and paragraph (9)(c)(2) of General Instruction B to Form 40–F. We note that the NYSE has filed with the Commission a proposed rule change under Section 19(b)(1) of the Exchange Act[15 U.S.C. 78s(b)(1)] that, if adopted, would require listed companies to adopt codes of ethics and post them on their internet websites. See SR–NYSE–2002–33 (pending before the Commission). Therefore, this alternative would be consistent with the proposals of the NYSE, minimizing unnecessary duplication.

[50] *See* new Item 406(c)(3) of the Regulations S–K and S–B, Item 16B(c)(3) of Form 20–F and paragraph (9)(c)(3) of General Instruction B to Form 40–F.

[51] In Release No. 33–7856 (Apr. 28, 2000)[65 FR 25843], we provided interpretive guidance on the effect of including a Web site address in other situations. We are not changing that guidance for those other situations.

[52] The new rule includes an instruction clarifying that a company need not disclose technical, administrative or other non-substantive amendments to the code of ethics. See Instruction 1 to new Item 10 of Form 8–K, Instruction 6 to Item 16B of Form 20–F, and Note 6 to paragraph (9) of General Instruction B to Form 40–F.

[53] *See* new Form 8–K Item 10. In Release No. 33–8106 (June 17, 2002)[67 FR 42914], we proposed to reorganize and renumber the Form 8–K items as part of our Form 8–K proposals. In anticipation of such change, we had proposed to designate this item as Item 5.05. Because we are adopting it before we consider adoption of the reorganization of Form 8–K, we are designating this new item as Item 10 under the existing Form 8–K numbering system.

[54] We initially proposed a two business day filing period to be consistent with the accelerated Form 8–K filing deadlines that we proposed in Release No. 33–8106. Because we have not yet adopted those proposals, the five business day period will serve as an interim deadline for an Item 10 Form 8–K. The five business day period is the shorter of the two existing Form 8–K deadlines. When we address the Form 8–K proposals, we will consider whether to shorten the Item 10 deadline to two business days.

[55] *See* new Item 406(b) of Regulations S–K and S–B. Because investors may not expect these disclosures to be made on the company's Web site in lieu of a Form 8–K filing, we are requiring a company to provide investors with advance notice that it may choose to use this option to avoid confusion.

[56] If a company elects to disclose this information on its Web site, it must do so within the same five-business day period as required for a Form 8–K that includes this type of disclosure. In addition, a company electing to provide disclosure in this manner must make the disclosure available on its Web site for at least 12 months after it initially posts the disclosure. Although a company may remove information from its Web site after the 12-month posting period, the company must retain this disclosure for a period of not less than five years and make it available to the Commission or its staff upon request. New Item 10(c) of Form 8–K.

Several commenters remarked on the proposal to require a company to disclose ethics waivers. A number of these suggested that we provide guidance as to the meaning of the terms ''waiver'' and ''implicit waiver.'' In response, the final rules define the term ''waiver'' as the approval by the company of a material departure from a provision of the code of ethics.[57] They define the term ''implicit waiver'' as the registrant's failure to take action within a reasonable period of time regarding a material departure from a provision of the code of ethics that has been made known to an executive officer, as defined in Rule 3b–7,[58] of the registrant.[59]

C. Foreign Private Issuers and Request for Comments

We included foreign private issuers within the scope of the proposed rules implementing both Sections 406 and 407 of the Sarbanes-Oxley Act. Some commenters requested that we exempt foreign private issuers from the application of these rules on the ground that the rules would overlap or conflict with the audit committee requirements and corporate governance code of ethics provisions in the issuers' home jurisdictions. Other commenters stated that, for the sake of simplicity, any rule requiring a company, whether foreign or domestic, to disclose whether its audit committee financial expert is independent should reflect the standard of independence set forth in the rules that we will adopt to implement Section 301 of the Sarbanes-Oxley Act.

We have determined to include foreign private issuers within the scope of the final rules implementing Sections 406 and 407. Their inclusion comports both with the plain language of the above statutory sections, which applies broadly to issuers, as well as with the overarching purpose of the Sarbanes-Oxley Act, which is to restore investor confidence in U.S. financial markets, regardless of the origin of the market participants.

Accordingly, like a domestic issuer, a foreign private issuer will have to disclose whether it has an audit committee financial expert in its Exchange Act annual report. Because foreign private issuers are not subject to Regulation S–K, however, we have amended Forms 20–F and 40–F to require the audit committee financial expert disclosure.[60]

We agree with the commenters that urged us to adopt an independence standard for the required audit committee financial expert disclosure that will be the same as that embodied in the rules to be adopted under Section 301 of the Sarbanes-Oxley Act. Accordingly, we intend to revise the Section 407 rules to reflect the independence standard eventually adopted and set forth in the rules implementing Section 301.[61]

In the interim, we believe that it is not appropriate or necessary at this time to require foreign private issuers to disclose whether their audit committee financial experts are independent.[62] Unlike domestic issuers, foreign private issuers currently are not required to disclose whether their audit committee members are independent.[63] Imposing the independence disclosure requirement immediately may compel a foreign private issuer to disclose that its expert is not independent under our definition even though there has been no prior context in which that issuer has been required to consider our definition of the term. In addition, immediate imposition of our current definition of ''independent'' would require foreign private issuers to familiarize themselves with rules which we expect to revise within one annual reporting period. Such imposition may be unfair to foreign private issuers. Therefore, the final rules do not require a foreign private issuer to disclose whether its audit committee financial expert is independent. However, we reiterate that in conjunction with the adoption of our rules under Section 301, which will apply to foreign private issuers, we intend to amend Forms 20–F and 40–F to require such disclosure.

In the release implementing Section 301, we propose a special accommodation for certain audit committee requirements for foreign private issuers with a board of auditors or statutory auditors under home country legal or listing provisions, subject to certain conditions. Specifically, foreign private issuers with boards of auditors or similar bodies or statutory auditors meeting the requirements of our proposals would be exempt from the requirements regarding the independence of audit committee members. We request comment on whether the disclosure requirements related to audit committee financial experts should apply to such issuers. To the extent they should apply to such issuers, should the requirements apply to the board of auditors or similar body? Should we apply different standards or disclosure requirements for such issuers? For example, should audit committee financial experts of such issuers be subject to the same disclosure requirement regarding independence as other foreign private issuers? One of the proposed requirements for the listing exemption would be that home country legal or listing provisions set forth standards for the independence of such board or body. Should we permit these issuers to use those independence standards for their independence disclosure?

Like a domestic issuer, under the adopted Section 406 rules, a foreign private issuer will have to provide the new code of ethics disclosure in its Exchange Act annual report. However, in contrast to a domestic issuer, a foreign private issuer will not have to provide in a current report ''immediate disclosure'' of any change to, or waiver from, the company's code of ethics for its senior financial officers and principal executive officer. Instead, we are adopting as proposed the requirement that a foreign private issuer disclose any such change or waiver that has occurred during the past fiscal year in its Exchange Act annual report.[64] This differing treatment reflects the fact that, unlike domestic Exchange Act reporting companies, reporting foreign private issuers do not have any specific interim or current disclosure requirements mandated by the Commission.[65]

The adopted revisions to Forms 20–F and 40–F do state, however, that a foreign private issuer may disclose any change to or waiver from the code of ethics obligations of its senior officers

[57] *See* Instruction 3.a. to new Item 10 of Form 8–K.

[58] 17 CFR 240.3b–7.

[59] *See* Instruction 3.b. to new Item 10 of Form 8–K.

[60] *See* new Item 16A of Form 20–F and new paragraph (8) to General Instruction B of Form 40–F.

[61] *See* proposed Exchange Act Rule 10A–3 set forth in Release No. 33–8173 (Jan. 8, 2003).

[62] A domestic company must disclose whether its audit committee financial expert is independent under the existing dfinition of independence in Item 7 of Schedule 14A. Upon the expected revision of that item, a domestic company must disclose whether its audit committee financial expert is independent under the new definition of independence.

[63] Foreign private issuers generally are exempt from the requirements of Regulation 14A, including Item 7(d) of Schedule 14A which requires disclosure of whether audit committee members are independent. *See* 17 CFR 240.3a12–3(b).

[64] *See* Release No. 33–8138, the text before and after n. 84.

[65] Instead, a foreign private issuer must file under cover of Form 6–K copies of all information that it: Makes or is required to make public under the laws of its jurisdiction of incorporation, domicile or organization; files or is required to file under the rules of any stock exchange; or distributes or is required to distribute to its security holders. *See* General Instruction B to Form 6–K.

on a Form 6–K or its Internet Web site.[66] We strongly encourage foreign private issuers to use these alternative means of disclosure in the interest of promptness.

D. Asset-Backed Issuers

In several of our releases implementing provisions of the Sarbanes-Oxley Act, including the Proposing Release, we have noted the special nature of asset-backed issuers.[67] Because of the nature of these entities, such issuers are subject to substantially different reporting requirements. Most significantly, asset-backed issuers generally are not required to file the financial statements that other companies must file. Also, such entities typically are passive pools of assets, without an audit committee or board of directors or persons acting in a similar capacity. Accordingly, we are excluding asset-backed issuers from the new disclosure requirements.

E. Transition Periods

We received numerous comments urging us to adopt transition periods for compliance. Commenters noted that some companies desiring audit committee financial experts and codes of ethics that meet the definitions included in the new rules may need some time to adjust. Several commenters asserted that no special transition periods were necessary because the new rules only require disclosure. They noted that a company that has no audit committee financial expert or code of ethics would not be at risk of non-compliance with our rules as long as it makes appropriate disclosure. However, we recognize that a company that does not have an audit committee financial expert or a code of ethics that complies with these new definitions may be harmed by having to disclose these facts even if the company intends to obtain such expert or code. Therefore, we have decided to provide a limited transition period. Companies must comply with the code of ethics disclosure requirements promulgated under Section 406 of the Sarbanes-Oxley Act in their annual reports for fiscal years ending on or after July 15, 2003. They also must comply with the requirements regarding disclosure of amendments to, and waivers from, their ethics codes on or after the date on which they file their first annual report in which disclosure of their code of ethics is required. Companies, other than small business issuers, similarly must comply with the audit committee financial expert disclosure requirements promulgated under Section 407 of the Sarbanes-Oxley Act in their annual reports for fiscal years ending on or after July 15, 2003. Recognizing that smaller businesses may have the greatest difficulty attracting qualified audit committee financial experts, small business issuers must comply with the audit committee financial expert disclosure requirements in their annual reports for fiscal years ending on or after December 15, 2003.

III. Paperwork Reduction Act

The amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA''). We published a notice requesting comment on the collection of information requirements in the Proposing Release, and we submitted requests to the Office of Management and Budget (''OMB'') for approval in accordance with the PRA. These requests are pending before the OMB.

The titles for the collection of information are ''Form 10–K,'' ''Form 10–KSB,'' ''Form 20–F,'' ''Form 40–F'' and ''Form 8–K.'' 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.

Form 10–K (OMB Control No. 3235–0063) prescribes information that a registrant must disclose annually to the market about its business. Form 10–KSB (OMB Control No. 3235–0420) prescribes information that a ''small business issuer'' as defined under our rules must disclose annually to the market about its business. Form 20–F (OMB Control No. 3235–0288) prescribes information that a foreign private issuer must disclose annually to the market about its business. Form 40–F (OMB Control No. 3235–0381) prescribes information that certain Canadian issuers must disclose annually to the market about their businesses. Form 8–K (OMB Control No. 3235–0060) prescribes information about significant events that a registrant must disclose on a current basis. Form 8–K also may be used, at a registrant's option, to report any events that the registrant deems to be of importance to shareholders. Additionally, companies may use the form to disclose the nonpublic information required to be disclosed by Regulation FD.[68]

A. Summary of Amendments

The amendments require two new types of disclosure that must be included in Form 10–K, Form 10–KSB, Form 20–F and Form 40–F. A domestic company may, at its discretion, provide the new disclosures in its proxy or information statement on Schedule 14A or 14C and incorporate those disclosures by reference into its annual report. These new disclosure items require a company to disclose the following:

- Whether it has at least one ''audit committee financial expert'' serving on its audit committee, and if so, the name of the expert and whether the expert is independent of management. A company that does not have an audit committee financial expert must disclose this fact and explain why it has no such expert.
- Whether it has adopted a code of ethics that applies to the company's principal executive officer, principal financial officer, principal accounting officer, controller, or persons performing similar functions. A company disclosing that it has not adopted such a code must disclose this fact and explain why it has not done so. A company also will be required to promptly disclose amendments to, and waivers from, the code of ethics relating to any of those officers.

None of these amendments requires a company to have an audit committee financial expert or a code of ethics.

B. Summary of Comment Letters and Revisions to Proposals

We requested comment on the PRA analysis contained in the proposing release. Several commenters asserted that the benefits of a rule requiring a company to file its code of ethics do not justify the costs. In response to those comments, the final rules provide for two additional means by which a company may make copies of its code of ethics available to the public. Instead of filing the code, the rules permit a company to either post its code of ethics on the company's Web site if it discloses in its annual report that it intends to do so or to include a written undertaking in its annual report to provide any person with a copy of the code of ethics free of charge upon request. We include in this PRA analysis an adjustment to reflect the added disclosure required if a company intends to post its ethics code on its Web site and by the undertaking if a company elects to make copies available to the public without charge upon request. The purpose of these new disclosures is to provide flexibility for companies in making their

[66] *See* new Item 16B to Form 20–F and new paragraph (9) to General Instruction B of Form 40–F.

[67] The term ''asset-backed issuer'' is defined in Exchange Act Rules 13a–14(g) and 15d–14(g) [17 CFR 240.13a–14(g) and 240.15d–14(g)].

[68] 17 CFR 243.100–103.

codes of ethics available to the public and to ensure that interested investors will be able to obtain a copy of the code of ethics if the company does not otherwise make the code publicly accessible. At the same time, we assume that companies will choose the least burdensome means of providing the information.

Although we have made several other modifications to the proposals, they will not affect our estimates of the burden imposed on companies by the new disclosure requirements. These modifications clarify the definitions of certain terms, such as ''audit committee financial expert'' and ''code of ethics,'' used in the new disclosure items. Although the revision to the audit committee financial expert definition may increase the number of persons who would qualify as an audit committee financial expert, it will not affect the amount of disclosure necessary under the disclosure items. The change to the code of ethics definition similarly will not affect the amount of disclosure required under the new rules. Therefore, we do not believe that these changes affect our previous estimates of the burden on registrants associated with these new disclosure items.

C. Burden Estimates

All Form 10–K, 10–KSB, 20–F and 40–F respondents will be subject to the new audit committee financial expert and code of ethics disclosure requirements. In the Proposing Release, we estimated that the total burden imposed by the new disclosure items that we are adopting would be one burden hour per year per registrant, of which 75%, or ¾ hour, would be borne by the company internally and 25%, or ¼ hour, would be borne externally by outside counsel retained by the company at a cost of $300 per hour.[69] We also estimated in the Proposing Release that preparation of a Form 8–K to report changes to, or waivers from, provisions of the code of ethics would impose a burden of 5 hours per form. We estimated that a company will file such a report once every three years. This results in an estimate of 1⅔ hours per company per year, of which 75%, or 1¼ hours would be borne by the company internally and 25%, or 5/12 of an hour, would be reflected as an outside counsel cost of $300 per hour.

The new disclosures required when a company elects to post its code of ethics on its Web site or to undertake to provide copies to persons upon request will result in an additional one or two sentences in the company's annual report. We estimate that this disclosure will add a burden of 6 minutes, or 0.1 hour, per year per company choosing the posting or undertaking option. We do not have data to accurately estimate the number of companies that will make such elections. However, we believe that a significant number of companies currently make their ethics codes available to the public on their Web sites. Therefore, we estimate that 75% of companies subject to the requirements will choose to disclose this information on their Web sites. We further estimate that 10% of companies will choose to undertake to offer copies of its code of ethics upon request.

Compliance with the revised disclosure requirements is mandatory. Responses to the disclosure requirements will not be kept confidential.

IV. Costs and Benefits

The Sarbanes-Oxley Act requires us to adopt the new audit committee financial expert and code of ethics disclosure requirements. These changes will affect all companies reporting under Section 13(a) and 15(d) of the Exchange Act, including foreign private issuers and small business issuers. We recognize that these requirements will result in costs as well as benefits and that they will have an effect on the economy.

A. Benefits

One of the main goals of the Sarbanes-Oxley Act is to improve investor confidence in the financial markets. These rules are intended to achieve the Act's goals by providing greater transparency as to whether an audit committee financial expert serves on a company's audit committee and whether the company's principal executive officer and senior financial officers are subject to ethical standards. By increasing transparency regarding key aspects of corporate activities and conduct, the proposals are designed to improve the quality of information available to investors. Greater transparency should assist the market to properly value securities, which in turn should lead to more efficient allocation of capital resources.

The new rules require a company to disclose the name of the audit committee financial expert serving on the audit committee and whether that person is independent of management if the company discloses that it has a financial expert. Investors should benefit from this disclosure by being able to consider it when reviewing currently required disclosure about all directors' past business experience and making voting decisions.[70] The new rules also require a company to make copies of its code of ethics available to investors. This requirement will allow investors to better understand the ethical principles that guide executives of companies in which they invest.

B. Costs

The new disclosure items require companies to make disclosure about two matters. First, a company must disclose whether it has at least one ''audit committee financial expert'' serving on its audit committee, and if so, the name of the expert and whether the expert is independent of management. A company that does not have an audit committee financial expert must disclose this fact and explain why it has no such expert. Second, a company must disclose whether it has adopted a code of ethics that applies to the company's principal executive officer and senior financial officers. A company disclosing that it has not adopted such a code must disclose this fact and explain why it has not done so. A company also will be required to promptly disclose amendments to, and waivers from, the code of ethics relating to any of those officers. This information will be readily available to the company. For purposes of the Paperwork Reduction Act, we estimated these burdens to be $7,760,000.

As stated above, in limited instances, the new rules require more disclosure than mandated by the Sarbanes-Oxley Act. For example, we expect that companies will incur added costs to disclose the name of the audit committee financial expert, to disclose whether that person is independent and to file or otherwise make available copies of their codes of ethics to investors. Companies electing to disclose changes in, and waivers from, their codes of ethics via their websites in lieu of publicly filing such disclosure on Form 8-K must disclose this election in their annual reports.

The added burden associated with the requirements to name the audit committee financial expert and disclose whether the audit committee financial expert is independent should be minimal.[71] We have added a safe harbor provision to clarify that we do not intend to increase or decrease the current level of liability of audit

[69] Estimates regarding burden within the company, for third party services, and for professional costs were obtained by contacting a number of law firms and other persons regularly involved in completing the forms.

[70] *See* Item 401 of Regulations S–K and S–B (17 CFR 229.401 and 228.401).

[71] This added burden is included in the Paperwork Reduction Act estimate discussed above.

committee members, or the audit committee member determined to be the expert, by requiring disclosure as to whether an audit committee financial expert serves on the audit committee. We also do not think that the requirement to name the audit committee financial expert should affect the expert's potential liability as an audit committee member.

Several commenters noted that a company may incur costs if it has to disclose that it does not have an audit committee financial expert on its audit committee. For example, a negative market reaction to this type of disclosure could hamper a company's ability to raise capital. In response to commenters' remarks, we have broadened the definition of the term ''audit committee financial expert'' so that more individuals will be able to qualify under the definition. For example, the final rules allow persons with experience preparing, auditing, analyzing or evaluating financial statements, or active supervision over those activities, to qualify. The proposals only permitted those with experience preparing or auditing financial statements to qualify as experts. Similarly, we have broadened the permissible means by which a person may acquire the requisite expertise. For example, we have added a clause that would permit a person to have acquired the attributes through experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements. We have also added a clause that allows a person to acquire the attributes through other relevant experience. While more companies will be able to disclose that they have an audit committee financial expert under the revised definition, we believe that definition still is consistent with the Act's objective to require an Exchange Act reporting company to disclose whether it has a person with a high level of financial expertise on its audit committee.

With respect to the code of ethics provisions, a number of commenters stated that the benefits of filing copies of the code of ethics do not justify the anticipated costs. They argued that some companies have long codes which would be expensive to file. Moreover, many details in those codes may not be material to investors. They argued that it should be sufficient for a company to disclose whether it has a code satisfying the definition of the term ''code of ethics'' in our rule. Recognizing that a number of companies currently post copies of their code of ethics on their websites, we have revised the rule to provide two alternatives to the filing requirement. A company may either post its code of ethics on its website if it discloses that it intends to do so in its annual report or undertake in its annual report to provide investors with a copy of its code of ethics upon request. These alternatives should allow issuers to choose the most cost efficient method to meet the new requirements. We believe that these additional requirements benefit investors, impose minimal burden on companies, and are consistent with the objectives of the Sarbanes-Oxley Act.

V. Effect on Efficiency, Competition and Capital Formation

Section 23(a)(2) [72] of the Exchange Act requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. In addition, Section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Section 2(b) [73] of the Securities Act and Section 3(f) [74] of the Exchange Act require us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. The purpose of the amendments is to increase transparency of certain aspects of a company's corporate governance. This should improve the ability of investors to make informed investment and voting decisions. Informed investor decisions generally promote market efficiency and capital formation. As noted above, however, the new disclosure items could have certain indirect consequences, which could adversely impact a company's ability to raise capital. The possibility of these effects and their magnitude if they were to occur are difficult to quantify.

Much of the new disclosure required by the final rules discussed in this release is explicitly mandated by the Sarbanes-Oxley Act. The new disclosure items are intended to increase transparency as to whether an audit committee financial expert serves on a company's audit committee and whether the company has a code of ethics that applies to its principal executive officer and senior financial officers. We anticipate that these disclosures will enhance the proper functioning of the capital markets by giving investors greater insight into certain aspects of a company's corporate governance activities. These enhancements should, in turn, increase the competitiveness of companies participating in the U.S. capital markets. However, because only companies subject to the reporting requirements of Sections 13 and 15 of the Exchange Act must make the disclosures, competitors not subject to those reporting requirements potentially could gain an informational advantage.

We requested comment on whether the proposed amendments, if adopted, would impose a burden on competition or, conversely, promote efficiency, competition and capital formation. A number of commenters expressed concern that the definition of the term ''audit committee financial expert'' may have anti-competitive effects. Specifically, they were concerned that the definition was so narrow that it might cause some companies, desiring to have an expert on their board, to recruit persons associated with a competitor. In response to these comments, we have clarified that this provision does not require the audit committee financial expert to have experience with issuers in the same industry as the company, or that the person's experience must have been with a company subject to the Exchange Act reporting requirements. Rather, we have included this provision to focus on the level of sophistication of the accounting issues with which the person has had experience. We think that a company's board of directors will have to make the sophistication assessment based on particular facts and circumstances.

Other commenters expressed concern that the definition was so narrow that many companies would have trouble finding audit committee financial experts. They also feared that disclosure of the fact that a company does not have an audit committee financial expert could trigger an adverse market reaction. We have attempted to expand the definition of ''audit committee financial expert'' without sacrificing the quality of knowledge and experience required of such an expert. We believe that the revised definition, though expanded, is consistent with the purposes of the Act.

Commenters also expressed concern that requiring disclosure of the names of audit committee financial experts would further hamper their efforts to find qualified persons willing to serve on their audit committees as experts by

[72] 15 U.S.C. 78w(a)(2).

[73] 15 U.S.C. 77b(b).

[74] 15 U.S.C. 78c(f).

exposing such persons to increased liability. In response to these comments, we have created a safe harbor from liability for audit committee financial experts. This safe harbor states that an audit committee financial expert is not deemed an expert for any purpose, including for purposes of Section 11 of the Securities Act, which imposes, in private actions, a liability standard that is more strict than typically imposed by the anti-fraud provisions of the Securities Act and the Exchange Act. In addition, the safe harbor states that a person's potential liability as a director does not change as a result of being designated an audit committee financial expert. That person will be subject to the same duties, obligations and liability to which he or she would have been subject, absent such designation. The safe harbor also clarifies that the designation of an audit committee financial expert does not affect the duties, obligations and liability of other directors and audit committee members.

VI. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 603. It relates to revisions to Exchange Act Form 8–K, Form 10–K, Form 10–KSB, Form 20–F, Form 40–F, Regulation S–K and Regulation S–B.

A. Need for, and Objectives of, the Amendments

We are adopting these disclosure requirements to comply with the mandate of, and fulfill the purposes underlying the provisions of, the Sarbanes-Oxley Act of 2002. The new disclosure items are intended to enhance investor confidence in the fairness and integrity of the securities markets by increasing transparency as to whether a company has an audit committee financial expert on its audit committee and whether a company has adopted a code of ethics that applies to its principal executive officer and senior financial officers. We believe that these rules will help investors to understand and assess certain aspects of a company's corporate governance.

B. Significant Issues Raised by Public Comment

The Initial Regulatory Flexibility Analysis, or IRFA, appeared in the Proposing Release. We requested comment on any aspect of the IRFA, including the number of small entities that would be affected by the proposals, the nature of the impact, how to quantify the number of small entities that would be affected and how to quantify the impact of the proposals.

A number of commenters expressed concern that small business issuers, including small entities, would be particularly disadvantaged by the proposed definition of ''audit committee financial expert,'' which they thought was too restrictive. Commenters believed that such entities may be more likely to be unable to attract qualified persons to serve on their audit committees and that a higher percentage of small companies than large companies would be compelled to state that they had no audit committee financial expert. They suggested that this problem would be exacerbated for companies whose operations are primarily conducted in relatively small geographic regions in which such expertise may not be available.

C. Small Entities Subject to the New Disclosure Requirements

The new disclosure items affect issuers that are small entities. Exchange Act Rule 0–10(a)[75] defines an issuer, other than an investment company, to be a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year. We estimate that there are approximately 2,500 issuers, other than investment companies, that may be considered small entities. The new disclosure items apply to any small entity that is subject to Exchange Act reporting requirements.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The new disclosure items require companies to disclose information as to whether an audit committee financial expert serves on the company's audit committee and whether the company has adopted a code of ethics that applies to its principal executive officer and senior financial officers. All small entities that are subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act are subject to these disclosure requirements. Because reporting companies already file the forms being amended, no additional professional skills beyond those currently possessed by these filers are necessary to prepare the new disclosure. We expect that these new disclosure items will increase costs incurred by small entities by requiring them to compile and report new information. In addition, to the extent that some small entities may have difficulty attracting qualified audit committee financial experts, disclosure that they have no audit committee financial expert may have a negative impact on the market price of their securities. We have calculated for purposes of the Paperwork Reduction Act that each company, including a small entity, would be subject to an added annual reporting burden of approximately 2.1 hours and an estimated annual average cost of approximately $206 for disclosure assistance from outside counsel as a result of the amendments. These burden estimates reflect only the burden and cost of the required collection of information. They do not reflect any potential burden or cost associated with recruitment of a qualified audit committee financial expert or creation of a code of ethics, neither of which is required by our rules.

E. Agency Action To Minimize Effect on Small Entities and Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities. In connection with the new disclosure items, we considered the following alternatives: (a) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (b) the clarification, consolidation, or simplification of the reporting requirements for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the requirements, or any part thereof, for small entities.

We believe that different compliance or reporting requirements for small entities would interfere with the primary goal of increasing transparency of corporate governance. Although we generally believe that an exemption for small entities from coverage of the new disclosure requirements is not appropriate and would be inconsistent with the policies underlying the Sarbanes-Oxley Act, we have provided a deferred compliance date for small business issuers, including those that constitute small entities, with respect to the required audit committee financial expert disclosures.[76] Under the adopted

[75] 17 CFR 240.0–10(a).

[76] Item 10 of Regulation S–B (17 CFR 228.10) defines a small business issuer as a company that has revenues of less than $25 million, is a U.S. or Canadian issuer, is not an investment company, and has a public float of less than $25 million. Also, if it is a majority owned subsidiary, the parent corporation also must be a small business issuer. Rule 0–10 of the Exchange Act (17 CFR 240.10) defines a small entity for purposes of the Regulatory

rules, small business issuers need not make such disclosure until they file their annual reports for fiscal years ending December 15, 2003 or later. This deferral provides a small business issuer that does not currently have an audit committee member that would qualify as an audit committee financial expert under the new definition with more time to identify and recruit one. We note in this regard that our rules do not require any company to have an audit committee financial expert serving on its audit committee; they only require disclosure of whether such an expert serves on the company's audit committee.

As explained in this release, we also have significantly expanded the definition of the term ''audit committee financial expert'' for all companies. Several commenters noted that small businesses, in particular, would have difficulty attracting qualified persons. By expanding the definition, the rules increase the pool of available experts and ease the burden for all companies, including small entities, interested in recruiting qualified persons.

Also, we have revised our proposed requirement that all companies, including small entities, must file a copy of their code of ethics as an exhibit to their annual reports. As stated in the release, the adopted rules provide three different alternatives for a company to make its code of ethics publicly available. This revision allows companies to choose the least burdensome alternative.

We believe that the new disclosure requirements are clear and straightforward. The new rules require only brief disclosure. Therefore, it does not seem necessary to develop separate requirements for small entities. Similarly, we believe that applying a different definition of ''audit committee financial expert'' in a rule applicable only to small entities would not be appropriate. The final rules clarify that factors such as the complexity of a company's business and the accounting issues involved in a company's financial statements affect the level of experience and understanding that an audit committee financial expert should have. Because small entities tend to have less complex businesses and accounting issues than large companies, the definition provides significant flexibility to small entities. We have used design rather than performance standards in connection with the new disclosure items because we want this disclosure to appear in a specific type of disclosure filing so that investors will know where to find the information. We do not believe that performance standards for small entities would be consistent with the purpose of the new rules.

Flexibility Act as a company that, on the last day of its most recent fiscal year, had total assets of $5 million or less.

VII. Statutory Basis

We are adopting amendments to Securities Exchange Act Form 10–K, Form 10–KSB, Form 20–F, Form 40–F, Form 8–K, Regulation S–B and Regulation S–K pursuant to Sections 5, 6, 7, 10, 17, 19 and 28 of the Securities Act, as amended, Sections 12, 13, 15, 23 and 36 of the Securities Exchange Act, as amended, and Sections 3(a), 406 and 407 of the Sarbanes-Oxley Act of 2002.

Text of the Proposed Amendments

List of Subjects

17 CFR Part 228

Reporting and recordkeeping requirements, Securities, Small businesses.

17 CFR Parts 229 and 249

Reporting and recordkeeping requirements, Securities.

For the reasons set out above, we amend title 17, chapter II of the Code of Federal Regulations as follows:

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

1. The authority citation for Part 228 is amended by adding the following citations in numerical order to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78*l*, 78m, 78n, 78o, 78u–5, 78w, 78*ll*, 78mm, 80a–8, 80a–29, 80a–30, 80a–37 and 80b–11.

* * * * *

Section 228.401 is also issued under secs. 3(a) and 407, Pub. L. 107–204, 116 Stat. 745.

Section 228.406 is also issued under secs. 3(a) and 406, Pub. L. 107–204, 116 Stat. 745.

Section 228.601 is also issued under secs. 3(a) and 406, Pub. L. 107–204, 116 Stat. 745.

2. Amend § 228.401 by adding paragraph (e) to read as follows:

§ 228.401 (Item 401) Directors, Executive Officers, Promoters and Control Persons.

* * * * *

(e) *Audit committee financial expert.* (1)(i) Disclose that the small business issuer's board of directors has determined that the small business issuer either:

(A) Has at least one audit committee financial expert serving on its audit committee; or

(B) Does not have an audit committee financial expert serving on its audit committee.

(ii) If the small business issuer provides the disclosure required by paragraph (e)(1)(i)(A) of this Item, it must disclose the name of the audit committee financial expert and whether that person is *independent,* as that term is used in Item 7(d)(3)(iv) of Schedule 14A (240.14a–101 of this chapter) under the Exchange Act.

(iii) If the small business issuer provides the disclosure required by paragraph (e)(1)(i)(B) of this Item, it must explain why it does not have an audit committee financial expert.

Instruction to paragraph (e)(1) of Item 401. If the small business issuer's board of directors has determined that the small business issuer has more than one audit committee financial expert serving on its audit committee, the small business issuer may, but is not required to, disclose the names of those additional persons. A small business issuer choosing to identify such persons must indicate whether they are independent pursuant to Item 401(e)(1)(ii).

(2) For purposes of this Item, an *audit committee financial expert* means a person who has the following attributes:

(i) An understanding of generally accepted accounting principles and financial statements;

(ii) The ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;

(iii) Experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the small business issuer's financial statements, or experience actively supervising one or more persons engaged in such activities;

(iv) An understanding of internal controls and procedures for financial reporting; and

(v) An understanding of audit committee functions.

(3) A person shall have acquired such attributes through:

(i) Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;

(ii) Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions;

(iii) Experience overseeing or assessing the performance of companies

or public accountants with respect to the preparation, auditing or evaluation of financial statements; or

(iv) Other relevant experience.

(4) *Safe Harbor.* (i) A person who is determined to be an audit committee financial expert will not be deemed an *expert* for any purpose, including without limitation for purposes of section 11 of the Securities Act of 1933 (15 U.S.C. 77k), as a result of being designated or identified as an audit committee financial expert pursuant to this Item 401.

(ii) The designation or identification of a person as an audit committee financial expert pursuant to this Item 401 does not impose on such person any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of the audit committee and board of directors in the absence of such designation or identification.

(iii) The designation or identification of a person as an audit committee financial expert pursuant to this Item 401 does not affect the duties, obligations or liability of any other member of the audit committee or board of directors.

Instructions to Item 401(e). 1. The small business issuer need not provide the disclosure required by this Item 401(e) in a proxy or information statement unless that small business issuer is electing to incorporate this information by reference from the proxy or information statement into its annual report pursuant to general instruction E(3) to Form 10–KSB.

2. If a person qualifies as an audit committee financial expert by means of having held a position described in paragraph (e)(3)(iv) of this Item, the small business issuer shall provide a brief listing of that person's relevant experience. Such disclosure may be made by reference to disclosures required under paragraph (a)(4) of this Item 401 (§ 229.401(a)(4) or this chapter).

3. In the case of a foreign private issuer with a two-tier board of directors, for purposes of this Item 401(e), the term *board of directors* means the supervisory or non-management board. Also, in the case of a foreign private issuer, the term *generally accepted accounting principles* in paragraph (e)(2)(i) of this Item means the body of generally accepted accounting principles used by that issuer in its primary financial statements filed with the Commission.

4. A small business issuer that is an Asset-Backed Issuer (as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter) is not required to disclose the information required by this Item 401(e).

5. Following the effective date of the first registration statement filed under the Securities Act (15 U.S.C. 77a *et seq.*) or Securities Exchange Act (15 U.S.C. 78a *et seq.*) by a small business issuer, the small business issuer or successor issuer need not make the disclosures required by this Item in its first annual report filed pursuant to Section 13(a) or 15(d) (15 U.S.C. 78m(a) or 78o(d)) of the Exchange Act after effectiveness.

3. Add § 228.406 to read as follows:

§ 228.406 (Item 406) Code of ethics.

(a) Disclose whether the small business issuer has adopted a code of ethics that applies to the small business issuer's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. If the small business issuer has not adopted such a code of ethics, explain why it has not done so.

(b) For purposes of this Item 406, the term *code of ethics* means written standards that are reasonably designed to deter wrongdoing and to promote:

(1) Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) Full, fair, accurate, timely, and understandable disclosure in reports and documents that a small business issuer files with, or submits to, the Commission and in other public communications made by the small business issuer;

(3) Compliance with applicable governmental laws, rules and regulations;

(4) The prompt internal reporting of violations of the code to an appropriate person or persons identified in the code; and

(5) Accountability for adherence to the code.

(c) The small business issuer must:

(1) File with the Commission a copy of its code of ethics that applies to the small business issuer's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions, as an exhibit to its annual report;

(2) Post the text of such code of ethics on its Internet website and disclose, in its annual report, its Internet address and the fact that it has posted such code of ethics on its Internet website; or

(3) Undertake in its annual report filed with the Commission to provide to any person without charge, upon request, a copy of such code of ethics and explain the manner in which such request may be made.

(d) If the small business issuer intends to satisfy the disclosure requirement under Item 10 of Form 8–K regarding an amendment to, or a waiver from, a provision of its code of ethics that applies to the small business issuer's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and that relates to any element of the code of ethics definition enumerated in paragraph (b) of this Item by posting such information on its Internet website, disclose the small business issuer's Internet address and such intention.

Instructions to Item 406. 1. A small business issuer may have separate codes of ethics for different types of officers. Furthermore, a *code of ethics* within the meaning of paragraph (b) of this Item may be a portion of a broader document that addresses additional topics or that applies to more persons than those specified in paragraph (a). In satisfying the requirements of paragraph (c), a small business issuer need only file, post or provide the portions of a broader document that constitutes a *code of ethics* as defined in paragraph (b) and that apply to the persons specified in paragraph (a).

2. If a small business issuer elects to satisfy paragraph (c) of this Item by posting its code of ethics on its website pursuant to paragraph (c)(2), the code of ethics must remain accessible on its website for as long as the small business issuer remains subject to the requirements of this Item and chooses to comply with this Item by posting its code on its Web site pursuant to paragraph (c)(2).

3. A small business issuer that is an Asset-Backed Issuer (as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter) is not required to disclose the information required by this Item.

4. Amend § 228.601 by:

a. Removing the ''reserved'' designation for exhibit (14) and adding ''Code of ethics'' in its place in the Exhibit Table;

b. Removing ''N/A'' corresponding to exhibit (14) under all captions in the Exhibit Table;

c. Adding an ''X'' corresponding to exhibit (14) under the caption ''Exchange Act Forms'', ''8–K'' and ''10–KSB'' in the Exhibit Table; and

d. Adding the text of paragraph (b)(14).

The revisions and additions read as follows:

§ 228.601 (Item 601) Exhibits.

* * * * *

(b) *Description of exhibits.* * * *

(14) *Code of ethics.* Any code of ethics, or amendment thereto, that is the subject of the disclosure required by Item 406 of Regulation S–B (§ 228.406) or Item 10 of Form 8–K (§ 249.308 of this chapter), to the extent that the small business issuer intends to satisfy the Item 406 or Item 10 requirements through filing of an exhibit.

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

5. The authority citation for Part 229 is amended by adding the following citations in numerical order to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78o, 78u–5, 78w, 78*ll*(d), 78mm, 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a) and 80b–11, unless otherwise noted.

* * * * *

Section 229.401 is also issued under secs. 3(a) and 407, Pub. L. 107–204, 116 Stat. 745.

Section 229.406 is also issued under secs. 3(a) and 406, Pub. L. 107–204, 116 Stat. 745.

Section 229.601 is also issued under secs. 3(a) and 406, Pub. L. 107–204, 116 Stat. 745.

6. Amend § 229.401 by adding paragraph (h) to read as follows:

§ 229.401 (Item 401) Directors, executive officers, promoters and control persons.

* * * * *

(h) *Audit committee financial expert.* (1)(i) Disclose that the registrant's board of directors has determined that the registrant either:

(A) Has at least one audit committee financial expert serving on its audit committee; or

(B) Does not have an audit committee financial expert serving on its audit committee.

(ii) If the registrant provides the disclosure required by paragraph (h)(1)(i)(A) of this Item, it must disclose the name of the audit committee financial expert and whether that person is *independent,* as that term is used in Item 7(d)(3)(iv) of Schedule 14A (240.14a–101 of this chapter) under the Exchange Act.

(iii) If the registrant provides the disclosure required by paragraph (h)(1)(i)(B) of this Item, it must explain why it does not have an audit committee financial expert.

Instruction to paragraph (h)(1) of Item 401. If the registrant's board of directors has determined that the registrant has more than one audit committee financial expert serving on its audit committee, the registrant may, but is not required to, disclose the names of those additional persons. A registrant choosing to identify such persons must indicate whether they are independent pursuant to Item 401(h)(1)(ii).

(2) For purposes of this Item, an *audit committee financial expert* means a person who has the following attributes:

(i) An understanding of generally accepted accounting principles and financial statements;

(ii) The ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;

(iii) Experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the registrant's financial statements, or experience actively supervising one or more persons engaged in such activities;

(iv) An understanding of internal controls and procedures for financial reporting; and

(v) An understanding of audit committee functions.

(3) A person shall have acquired such attributes through:

(i) Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;

(ii) Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions;

(iii) Experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or

(iv) Other relevant experience.

(4) *Safe Harbor.* (i) A person who is determined to be an audit committee financial expert will not be deemed an *expert* for any purpose, including without limitation for purposes of section 11 of the Securities Act of 1933 (15 U.S.C. 77k), as a result of being designated or identified as an audit committee financial expert pursuant to this Item 401.

(ii) The designation or identification of a person as an audit committee financial expert pursuant to this Item 401 does not impose on such person any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of the audit committee and board of directors in the absence of such designation or identification.

(iii) The designation or identification of a person as an audit committee financial expert pursuant to this Item 401 does not affect the duties, obligations or liability of any other member of the audit committee or board of directors.

Instructions to Item 401(h). 1. The registrant need not provide the disclosure required by this Item 401(h) in a proxy or information statement unless that registrant is electing to incorporate this information by reference from the proxy or information statement into its annual report pursuant to general instruction G(3) to Form 10–K.

2. If a person qualifies as an audit committee financial expert by means of having held a position described in paragraph (h)(3)(iv) of this Item, the registrant shall provide a brief listing of that person's relevant experience. Such disclosure may be made by reference to disclosures required under paragraph (e) of this Item 401 (§ 229.401(e) or this chapter).

3. In the case of a foreign private issuer with a two-tier board of directors, for purposes of this Item 401(h), the term *board of directors* means the supervisory or non-management board. Also, in the case of a foreign private issuer, the term *generally accepted accounting principles* in paragraph (h)(2)(i) of this Item means the body of generally accepted accounting principles used by that issuer in its primary financial statements filed with the Commission.

4. A registrant that is an Asset-Backed Issuer (as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter) is not required to disclose the information required by this Item 401(h).

7. Add § 229.406 to read as follows:

§ 229.406 (Item 406) Code of ethics.

(a) Disclose whether the registrant has adopted a code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. If the registrant has not adopted such a code of ethics, explain why it has not done so.

(b) For purposes of this Item 406, the term *code of ethics* means written standards that are reasonably designed to deter wrongdoing and to promote:

(1) Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) Full, fair, accurate, timely, and understandable disclosure in reports and documents that a registrant files with, or submits to, the Commission and in other public communications made by the registrant;

(3) Compliance with applicable governmental laws, rules and regulations;

(4) The prompt internal reporting of violations of the code to an appropriate person or persons identified in the code; and

(5) Accountability for adherence to the code.

(c) The registrant must:

(1) File with the Commission a copy of its code of ethics that applies to the registrant's principal executive officer,

principal financial officer, principal accounting officer or controller, or persons performing similar functions, as an exhibit to its annual report;

(2) Post the text of such code of ethics on its Internet website and disclose, in its annual report, its Internet address and the fact that it has posted such code of ethics on its Internet Web site; or

(3) Undertake in its annual report filed with the Commission to provide to any person without charge, upon request, a copy of such code of ethics and explain the manner in which such request may be made.

(d) If the registrant intends to satisfy the disclosure requirement under Item 10 of Form 8–K regarding an amendment to, or a waiver from, a provision of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and that relates to any element of the code of ethics definition enumerated in paragraph (b) of this Item by posting such information on its Internet website, disclose the registrant's Internet address and such intention.

Instructions to Item 406. 1. A registrant may have separate codes of ethics for different types of officers. Furthermore, a *code of ethics* within the meaning of paragraph (b) of this Item may be a portion of a broader document that addresses additional topics or that applies to more persons than those specified in paragraph (a). In satisfying the requirements of paragraph (c), a registrant need only file, post or provide the portions of a broader document that constitutes a *code of ethics* as defined in paragraph (b) and that apply to the persons specified in paragraph (a).

2. If a registrant elects to satisfy paragraph (c) of this Item by posting its code of ethics on its website pursuant to paragraph (c)(2), the code of ethics must remain accessible on its Web site for as long as the registrant remains subject to the requirements of this Item and chooses to comply with this Item by posting its code on its Web site pursuant to paragraph (c)(2).

3. A registrant that is an Asset-Backed Issuer (as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter) is not required to disclose the information required by this Item.

8. Amend § 229.601 by:

a. Removing the ''reserved'' designation for exhibit (14) and adding ''Code of ethics'' in its place in the Exhibit Table;

b. Removing ''N/A'' corresponding to exhibit (14) under all captions in the Exhibit Table;

c. Adding an ''X'' corresponding to exhibit (14) under the caption ''Exchange Act Forms'', ''8–K'' and ''10–K'' in the Exhibit Table; and

d. Adding the text of paragraph (b)(14).

The revisions and additions read as follows:

§ 229.601 (Item 601) Exhibits.

* * * * *

(b) *Description of exhibits.* * * *

(14) *Code of ethics.* Any code of ethics, or amendment thereto, that is the subject of the disclosure required by Item 406 of Regulation S–K (§ 229.406) or Item 10 of Form 8–K (§ 249.308 of this chapter), to the extent that the registrant intends to satisfy the Item 406 or Item 10 requirements through filing of an exhibit.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

9. The authority citation for Part 249 is amended by revising the sectional authority for §§ 249.220f, 249.240f, 249.308, 249.310 and 249.310b to read as follows:

Authority: 15 U.S.C. 78a *et seq.*, unless otherwise noted.

Section 249.220f is also issued under secs. 3(a), 302, 306(a), 401(b), 406 and 407, Pub. L. 107–204, 116 Stat. 745.

Section 249.240f is also issued under secs. 3(a), 302, 306(a), 406 and 407, Pub. L. 107–204, 116 Stat. 745.

Section 249.308 is also issued under 15 U.S.C. 80a–29, 80a–37 and secs. 3(a), 306(a), 401(b) and 406, Pub. L. 107–204, 116 Stat. 745.

* * * * *

Section 249.310 is also issued under secs. 3(a), 302, 406 and 407, Pub. L. 107–204, 116 Stat. 745.

Section 249.310b is also issued under secs. 3(a), 302, 406 and 407, Pub. L. 107–204, 116 Stat. 745.

* * * * *

10. Amend Form 8–K (referenced in § 249.308) by:

a. Revising General Instruction B.1.; and

b. Adding Item 10.

The revision and addition read as follows:

Note: The text of Form 8–K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 8–K—Current Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

General Instructions

* * * * *

B. Events To Be Reported and Time for Filing of Reports

1. A report on this form is required to be filed upon the occurrence of any one or more of the events specified in Items 1–4, 6 and 10 of this form. A report of an event specified in Items 1–3 is to be filed within 15 calendar days after the occurrence of the event. A report of an event specified in Item 4, 6 or 10 is to be filed within 5 business days after the occurrence of the event; if the event occurs on a Saturday, Sunday, or holiday on which the Commission is not open for business then the 5 business day period shall begin to run on and include the first business day thereafter. A report on this form pursuant to Item 8 is required to be filed within 15 calendar days after the date on which the registrant makes the determination to use a fiscal year end different from that used in its most recent filing with the Commission. A registrant either furnishing a report on this form under Item 9 or electing to file a report on this form under Item 5 solely to satisfy its obligations under Regulation FD (17 CFR 243.100 and 243.101) must furnish such report or make such filing in accordance with the requirements of Rule 100(a) of Regulation FD (17 CFR 243.100(a)). A report on this form pursuant to Item 11 is required to be filed not later than the date prescribed for transmission of the notice to directors and executive officers required by Rule 104(b)(2) of Regulation BTR (§ 245.104(b)(2) of this chapter).

* * * * *

Information To Be Included in the Report

* * * * *

Item 10. Amendments to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics

(a) The registrant must briefly describe the nature of any amendment to a provision of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and that relates to any element of the code of ethics definition enumerated in Item 406(b) of Regulations S–K and S–B (§ 229.406(b) and § 228.406(b) of this chapter).

(b) If the registrant has granted a waiver, including an implicit waiver, from a provision of the code of ethics to one of these officers or persons that relates to one or more of the items set forth in Item 406(b) of Regulations S–K and S–B (§ 229.406(b) and § 228.406(b) of this chapter), the registrant must briefly describe the nature of the waiver, the name of the person to whom the waiver was granted, and the date of the waiver.

(c) The registrant does not need to provide any information pursuant to this Item if it discloses the required information on its Internet website within five business days following the date of the amendment or waiver and the registrant has disclosed in its most recently filed annual report its Internet address and intention to provide disclosure in this manner. If the registrant elects to disclose the information required by this Item through its website, such information must remain available on the website for at least a 12-month period. Following the 12-month period, the registrant must retain the information for a period of not less than five years. Upon request, the registrant must furnish to the Commission or its staff a copy of any or all information retained pursuant to this requirement.

Instructions. 1. The registrant does not need to disclose technical, administrative or other non-substantive amendments to its code of ethics.

2. For purposes of this Item: a. The term ''waiver'' means the approval by the registrant of a material departure from a provision of the code of ethics; and

b. The term ''implicit waiver'' means the registrant's failure to take action within a reasonable period of time regarding a material departure from a provision of the code of ethics that has been made known to an executive officer, as defined in Rule 3b-7 (§ 240.3b-7 of this chapter) of the registrant.

* * * * *

11. Amend Form 20–F (referenced in § 249.220f) by:

a. Redesignating Item 16 as Item 16A, adding text to Item 16A and adding Item 16B;

b. Redesignating paragraph 11 of ''Instructions as to Exhibits'' as paragraph 12; and

c. Adding new paragraph 11 to ''Instructions as to Exhibits.''

The additions and revisions read as follows:

Note: The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 20–F

* * * * *

Item 16A. Audit Committee Financial Expert

(a)(1) Disclose that the registrant's board of directors has determined that the registrant either: (i) Has at least one audit committee financial expert serving on its audit committee; or

(ii) Does not have an audit committee financial expert serving on its audit committee.

(2) If the registrant provides the disclosure required by paragraph (a)(1)(i) of this Item, it must disclose the name of the audit committee financial expert.

(3) If the registrant provides the disclosure required by paragraph (a)(1)(ii) of this Item, it must explain why it does not have an audit committee financial expert.

Instruction to paragraph (a) of Item 16A: If the registrant's board of directors has determined that the registrant has more than one audit committee financial expert serving on its audit committee, the registrant may, but is not required to, disclose the names of those additional persons.

(b) For purposes of this Item, an ''audit committee financial expert'' means a person who has the following attributes:

(1) An understanding of generally accepted accounting principles and financial statements;

(2) The ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;

(3) Experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the registrant's financial statements, or experience actively supervising one or more persons engaged in such activities;

(4) An understanding of internal controls and procedures for financial reporting; and

(5) An understanding of audit committee functions.

(c) A person shall have acquired such attributes through:

(1) Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;

(2) Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions;

(3) Experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or

(4) Other relevant experience.

(d) *Safe Harbor*

(1) A person who is determined to be an audit committee financial expert will not be deemed an ''expert'' for any purpose, including without limitation for purposes of section 11 of the Securities Act of 1933 (15 U.S.C. 77k), as a result of being designated or identified as an audit committee financial expert pursuant to this Item 16A.

(2) The designation or identification of a person as an audit committee financial expert pursuant to this Item 16A does not impose on such person any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of the audit committee and board of directors in the absence of such designation or identification.

(3) The designation or identification of a person as an audit committee financial expert pursuant to this Item 16A does not affect the duties, obligations or liability of any other member of the audit committee or board of directors.

Instructions to Item 16A: 1. Item 16A applies only to annual reports, and does not apply to registration statements, on Form 20–F.

2. If a person qualifies as an audit committee financial expert by means of having held a position described in paragraph (c)(4) of this Item, the registrant shall provide a brief listing of that person's relevant experience. Such disclosure may be made by reference to disclosures required under Item 6.A.

3. In the case of a foreign private issuer with a two-tier board of directors, for purposes of this Item 16A, the term ''board of directors'' means the supervisory or non-management board. Also, the term ''generally accepted accounting principles'' in paragraph (b)(1) of this Item means the body of generally accepted accounting principles used by the foreign private issuer in its primary financial statements filed with the Commission.

4. A registrant that is an Asset-Backed Issuer (as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter) is not required to disclose the information required by this Item 16A.

Item 16B. Code of Ethics

(a) Disclose whether the registrant has adopted a code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. If the registrant has not adopted such a code of ethics, explain why it has not done so.

(b) For purposes of this Item 16B, the term ''code of ethics'' means written standards that are reasonably designed to deter wrongdoing and to promote:

(1) Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) Full, fair, accurate, timely, and understandable disclosure in reports and documents that a registrant files with, or submits to, the Commission and in other public communications made by the registrant;

(3) Compliance with applicable governmental laws, rules and regulations;

(4) The prompt internal reporting of violations of the code to an appropriate person or persons identified in the code; and

(5) Accountability for adherence to the code.

(c) The registrant must:

(1) File with the Commission a copy of its code of ethics that applies to the registrant's principal executive officer,

principal financial officer, principal accounting officer or controller, or persons performing similar functions, as an exhibit to its annual report;

(2) Post the text of such code of ethics on its Internet Web site and disclose, in its annual report, its Internet address and the fact that it has posted such code of ethics on its Internet Web site; or

(3) Undertake in its annual report filed with the Commission to provide to any person without charge, upon request, a copy of such code of ethics and explain the manner in which such request may be made.

(d) The registrant must briefly describe the nature of any amendment to a provision of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and that relates to any element of the code of ethics definition enumerated in Item 16B(b), which has occurred during the registrant's most recently completed fiscal year.

(e) If the registrant has granted a waiver, including an implicit waiver, from a provision of the code of ethics to one of the officers or persons described in Item 16B(a) that relates to one or more of the items set forth in Item 16B(b) during the registrant's most recently completed fiscal year, the registrant must briefly describe the nature of the waiver, the name of the person to whom the waiver was granted, and the date of the waiver.

Instructions to Item 16B. 1. Item 16B applies only to annual reports, and does not apply to registration statements, on Form 20–F.

2. A registrant may have separate codes of ethics for different types of officers. Furthermore, a ''code of ethics'' within the meaning of paragraph (b) of this Item may be a portion of a broader document that addresses additional topics or that applies to more persons than those specified in paragraph (a). In satisfying the requirements of paragraph (c), a registrant need only file, post or provide the portions of a broader document that constitute a ''code of ethics'' as defined in paragraph (b) and that apply to the persons specified in paragraph (a).

3. If a registrant elects to satisfy paragraph (c) of this Item by posting its code of ethics on its website pursuant to paragraph (c)(2), the code of ethics must remain accessible on its website for as long as the registrant remains subject to the requirements of this Item and chooses to comply with this Item by posting its code on its website pursuant to paragraph (c)(2).

4. A registrant that is an Asset-Backed Issuer (as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter) is not required to disclose the information required by this Item.

5. The registrant does not need to provide any information pursuant to paragraphs (d) and (e) of this Item if it discloses the required information on its Internet website within five business days following the date of the amendment or waiver and the registrant has disclosed in its most recently filed annual report its Internet address and intention to provide disclosure in this manner. If the registrant elects to disclose the information required by paragraphs (d) and (e) through its website, such information must remain available on the website for at least a 12-month period. Following the 12-month period, the registrant must retain the information for a period of not less than five years. Upon request, the registrant must furnish to the Commission or its staff a copy of any or all information retained pursuant to this requirement.

6. The registrant does not need to disclose technical, administrative or other non-substantive amendments to its code of ethics.

7. For purposes of this Item 16B:

a. The term ''waiver'' means the approval by the registrant of a material departure from a provision of the code of ethics; and

b. The term ''implicit waiver'' means the registrant's failure to take action within a reasonable period of time regarding a material departure from a provision of the code of ethics that has been made known to an executive officer, as defined in Rule 3b–7 (§ 240.3b–7 of this chapter), of the registrant.

* * * * *

Instructions as to Exhibits

* * * * *

11. Any code of ethics, or amendment thereto, that is the subject of the disclosure required by Item 16B of Form 20–F, to the extent that the registrant intends to satisfy the Item 16B requirements through filing of an exhibit.

* * * * *

12. Amend Form 40–F (referenced in § 249.240f) by adding paragraphs (8) and (9) to General Instruction B to read as follows.

Note: The text of Form 40–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 40–F

* * * * *

General Instructions

* * * * *

B. Information To Be Filed on This Form

* * * * *

(8)(a)(1) Disclose that the registrant's board of directors has determined that the registrant either: (i) Has at least one audit committee financial expert serving on its audit committee; or

(ii) Does not have an audit committee financial expert serving on its audit committee.

(2) If the registrant provides the disclosure required by paragraph (8)(a)(1)(i) of this General Instruction B, it must disclose the name of the audit committee financial expert.

(3) If the registrant provides the disclosure required by paragraph (8)(a)(1)(ii) of this General Instruction B, it must explain why it does not have an audit committee financial expert.

Note to paragraph (8)(a) of General Instruction B: If the registrant's board of directors has determined that the registrant has more than one audit committee financial expert serving on its audit committee, the registrant may, but is not required to, disclose the names of those additional persons.

(b) For purposes of paragraph (8) of General Instruction B, an ''audit committee financial expert'' means a person who has the following attributes:

(1) An understanding of generally accepted accounting principles and financial statements;

(2) The ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;

(3) Experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the registrant's financial statements, or experience actively supervising one or more persons engaged in such activities;

(4) An understanding of internal controls and procedures for financial reporting; and

(5) An understanding of audit committee functions.

(c) A person shall have acquired such attributes through:

(1) Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;

(2) Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions;

(3) Experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or

(4) Other relevant experience.

(d) *Safe Harbor*

(1) A person who is determined to be an audit committee financial expert will not be deemed an ''expert'' for any purpose, including without limitation for purposes of section 11 of the Securities Act of 1933 (15 U.S.C. 77k), as a result of being designated or

identified as an audit committee financial expert pursuant to this paragraph (8) of General Instruction B.

(2) The designation or identification of a person as an audit committee financial expert pursuant to this paragraph (8) of General Instruction B does not impose on such person any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of the audit committee and board of directors in the absence of such designation or identification.

(3) The designation or identification of a person as an audit committee financial expert pursuant to this paragraph (8) of General Instruction B does not affect the duties, obligations or liability of any other member of the audit committee or board of directors.

Notes to Paragraph (8) of General Instruction B: 1. Paragraph (8) of General Instruction B applies only to annual reports, and does not apply to registration statements, on Form 40–F.

2. If a person qualifies as an audit committee financial expert by means of having held a position described in paragraph (8)(c)(4) of General Instruction B, the registrant shall provide a brief listing of that person's relevant experience. Such disclosure may be made by reference to disclosures in the annual report relating to the business experience of that director.

3. In the case of a foreign private issuer with a two-tier board of directors, for purposes of this paragraph (8) of General Instruction B, the term ''board of directors'' means the supervisory or non-management board. Also, the term ''generally accepted accounting principles'' in paragraph (8)(b)(1) of General Instruction B means the body of generally accepted accounting principles used by the foreign private issuer in its primary financial statements filed with the Commission.

4. A registrant that is an Asset-Backed Issuer (as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter) is not required to disclose the information required by this paragraph (8) of General Instruction B.

(9)(a) Disclose whether the registrant has adopted a code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. If the registrant has not adopted such a code of ethics, explain why it has not done so.

(b) For purposes of this paragraph (9) of General Instruction B, the term ''code of ethics'' means written standards that are reasonably designed to deter wrongdoing and to promote:

(1) Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) Full, fair, accurate, timely, and understandable disclosure in reports and documents that a registrant files with, or submits to, the Commission and in other public communications made by the registrant;

(3) Compliance with applicable governmental laws, rules and regulations;

(4) The prompt internal reporting of violations of the code to an appropriate person or persons identified in the code; and

(5) Accountability for adherence to the code.

(c) The registrant must:

(1) File with the Commission a copy of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions, as an exhibit to its annual report;

(2) Post the text of such code of ethics on its Internet Web site and disclose, in its annual report, its Internet address and the fact that it has posted such code of ethics on its Internet Web site; or

(3) Undertake in its annual report filed with the Commission to provide to any person without charge, upon request, a copy of such code of ethics and explain the manner in which such request may be made.

(d) The registrant must briefly describe the nature of any amendment to a provision of its code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions and that relates to any element of the code of ethics definition enumerated in paragraph (9)(b) of General Instruction B, which has occurred during the registrant's most recently completed fiscal year. File a copy of the amendment as an exhibit to the annual statement.

(e) If the registrant has granted a waiver, including an implicit waiver, from a provision of the code of ethics to one of the officers or persons described in paragraph (9)(a) that relates to one or more of the items set forth in paragraph (9)(b) of General Instruction B during the registrant's most recently completed fiscal year, the registrant must briefly describe the nature of the waiver, the name of the person to whom the waiver was granted, and the date of the waiver.

Notes to paragraph (9) of General Instruction B: 1. Paragraph (9) of General Instruction B applies only to annual reports, and does not apply to registration statements, on Form 40–F.

2. A registrant may have separate codes of ethics for different types of officers. Furthermore, a ''code of ethics'' within the meaning of paragraph (9)(b) of this General Instruction may be a portion of a broader document that addresses additional topics or that applies to more persons than those specified in paragraph (9)(a). In satisfying the requirements of paragraph (9)(c), a registrant need only file, post or provide the portions of a broader document that constitutes a ''code of ethics'' as defined in paragraph (9)(b) and that apply to the persons specified in paragraph (9)(a).

3. If a registrant elects to satisfy paragraph (9)(c) of this General Instruction by posting its code of ethics on its Web site pursuant to paragraph (9)(c)(2), the code of ethics must remain accessible on its Web site for as long as the registrant remains subject to the requirements of this paragraph (9) of General Instruction B and chooses to comply with this paragraph (9) of General Instruction B by posting its code on its Web site pursuant to paragraph (9)(c)(2).

4. A registrant that is an Asset-Backed Issuer (as defined in § 240.13a–14(g) and § 240.15d–14(g) of this chapter) is not required to disclose the information required by this paragraph (9) of General Instruction B.

5. The registrant does not need to provide any information pursuant to paragraphs (9)(d) and (9)(e) of General Instruction B if it discloses the required information on its Internet Web site within five business days following the date of the amendment or waiver and the registrant has disclosed in its most recently filed annual report its Internet address and intention to provide disclosure in this manner. If the registrant elects to disclose the information required by paragraphs (9)(d) and (9)(e) of General Instruction B through its Web site, such information must remain available on the Web site for at least a 12-month period. Following the 12-month period, the registrant must retain the information for a period of not less than five years. Upon request, the registrant must furnish to the Commission or its staff a copy of any or all information retained pursuant to this requirement.

6. The registrant does not need to disclose technical, administrative or other non-substantive amendments to its code of ethics.

7. For purposes of this paragraph (9) of General Instruction B:

a. The term ''waiver'' means the approval by the registrant of a material departure from a provision of the code of ethics; and

b. The term ''implicit waiver'' means the registrant's failure to take action within a reasonable period of time regarding a material departure from a provision of the code of ethics that has been made known to an executive officer, as defined in Rule 3b–7 (§ 240.3b–7 of this chapter), of the registrant.

* * * * *

13. Amend Form 10–K (referenced in § 249.310) by revising Item 10 in Part III to read as follows:

Note: The text of Form 10–K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–K—Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

Part III

* * * * *

Item 10. Directors and Executive Officers of the Registrant

Furnish the information required by Items 401, 405 and 406 of Regulation S–K (§§ 229.401, 229.405 and 229.406 of this chapter).

* * * * *

14. Amend Form 10–KSB (referenced in § 249.310b) by revising Item 9 in Part III to read as follows:

Note: The text of Form 10–KSB does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–KSB—[ ] Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

Part III

* * * * *

Item 9. Directors and Executive Officers of the Registrant

Furnish the information required by Items 401, 405 and 406 of Regulation S–B (§§ 228.401, 228.405, and 228.406 of this chapter).

* * * * *

By the Commission.

Dated: January 23, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–2018 Filed 1–30–03; 8:45 am]

BILLING CODE 8010–01–P

Federal Register

Friday,
January 31, 2003

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration
Small Business Administration

13 CFR Part 125 and 48 CFR Parts 2, 7, et al.

Small Business Government Contracting Programs; Federal Acquisition Regulation; Contract Bundling; Proposed Rules

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

RIN: 3245–AF07

Small Business Government Contracting Programs

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA) proposes to amend its regulations governing small business prime contracting assistance, to implement the recommendations of the Office of Management and Budget (OMB) in its report entitled ''Contract Bundling, A Strategy for Increasing Federal Contracting Opportunities for Small Businesses.'' The proposed changes would: revise the definition of bundling to expressly include multiple award contract vehicles and task and delivery orders under such contracting vehicles; require procuring activities to coordinate with the Small Business Specialist (SBS) proposed acquisition strategies or plans contemplating award of a contract or order above specified dollar thresholds and require the SBS to notify the agency Office of Small and Disadvantaged Business Utilization (OSDBU) when those strategies include contract bundling that is unnecessary, unjustified, or not identified as such by the procuring activity; reduce the threshold and revise the documentation required for ''substantial bundling;'' require contracting officers to provide bundling justification documentation to the agency OSDBU when ''substantial bundling'' is involved; and require agency OSDBUs to perform certain oversight functions.

DATES: Comments must be received on or before April 1, 2003.

ADDRESSES: Send Comments to Linda G. Williams, Associate Administrator for Government Contracting, 409 Third Street, SW., Mail Code 6530, Washington, DC, 20416, by email to *dean.koppel@sba.gov,* or by facsimile to (202) 205–6390. Upon request, SBA will make all public comments available.

FOR FURTHER INFORMATION CONTACT: Dean Koppel, Assistant Administrator, Office of Policy and Research, by telephone at (202) 401–8150, or by email at *dean.koppel@sba.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On March 19, 2002, the President unveiled a Small Business Agenda that proposed several substantive steps toward creating a dynamic environment where small businesses and entrepreneurs can flourish. Included in the President's plan were several proposals designed to improve the access of small businesses to Federal contracting opportunities. Among other things, the President called upon the Office of Management and Budget (OMB) to prepare a strategy for unbundling Federal contracts.

Contract bundling is defined in Section 3(o) of the Small Business Act to mean the consolidation of two or more requirements for goods and services into a single procurement that is ''unlikely to be suitable for award to a small business concern.'' 15 U.S.C. 632(o). Over the past decade, the number and size of bundled contracts have increased sharply and have resulted in a dramatic decline in small business Federal contracting opportunities.

In response to the President's call for a strategy to unbundle contracts, the Office of Federal Procurement Policy (OFPP), within OMB, created an interagency working group to develop a plan for increasing contracting opportunities for small businesses. As part of the working group's efforts, OFPP published a notice in the **Federal Register** soliciting public comments and held a public meeting on June 14, 2002, to provide interested parties an opportunity to express their views on contract bundling. By the end of the comment period, OFPP received 27 public comments and 14 individual presentations at the June 14 public meeting.

Based on the working group's analysis of available data and information, including the public comments received in writing and at the June 14, 2002, public meeting, OMB issued a report in October 2002, entitled ''Contract Bundling: A Strategy for Increasing Federal Contracting Opportunities for Small Business.'' *See http://www.acqnet.gov/Notes/contractbundlingreport.pdf* or *http://www.acqnet.gov/).* The report cites data indicating that for every 100 ''bundled'' contracts, 106 individual contracts are no longer available to small businesses. *See* OMB Report at 3. The report also notes that for every $100 awarded on a ''bundled'' contract, there is a $33 decrease to small businesses. *Id.*

To address the harmful effects of contract bundling on the Nation's small businesses, OMB's report offers a 9-point action item plan designed to hold agencies accountable for eliminating unnecessary contract bundling and mitigating the effects of necessary contract bundling. Several of these action items, such as the action items calling for greater accountability of senior agency management, and for the collection and dissemination of best practices for maximizing prime and subcontracting opportunities for small businesses, will be implemented through separate agency initiatives including OMB, SBA and agency Offices of Small and Disadvantaged Business Utilization (OSDBUs).

Other action items, however, require a series of amendments to SBA's regulations and applicable provisions of the Federal Acquisition Regulation (FAR), to ensure maximum compliance with current contract bundling laws. Specifically, to close the loophole that enables agencies to avoid bundling reviews of consolidated task and delivery orders, Action Item 3 dictates regulatory changes to expressly require bundling reviews of multiple award contract vehicles and task and delivery orders under such procurements. OMB's report notes that there has been a significant increase in the use of such contracting vehicles. Since neither the FAR nor SBA's regulations specifically require bundling reviews of orders under multiple award contracts, multi-agency contracts, Government-wide Acquisition Contracts and the General Services Administration (GSA) Multiple Award Schedule Program, an explicit regulatory amendment mandating such reviews is essential.

Action Item 4 proposes the establishment of agency-specific acquisition dollar thresholds, within the range of $2 million and $7 million, that would trigger bundling reviews by the agency OSDBU. In addition, to ensure that agencies explore alternative acquisition strategies before bundling contracts above those thresholds, Action Item 5 mandates that when an agency contemplates a bundled procurement above the established threshold, the agency must identify alternative acquisition strategies and justify the rationale for selecting a particular strategy over another that would involve less bundling.

Finally, as a means of mitigating contract bundling determined to be necessary and justified, Action Item 6 calls for measures to strengthen compliance with the plans of large business prime contractors for subcontracting with small businesses. In addition, Action Item 7 further requires measures to facilitate small business teams including joint ventures to effectively compete for bundled contracts. In connection with Action Item 7, the report requires that SBA determine whether regulatory changes are appropriate to encourage the

development of such small business teaming arrangements.

This rule proposes to amend part 125 of SBA's regulations to implement these specific Action Items. SBA invites comments on this proposed rule. The proposed amendments were drafted in conjunction with a companion proposal to amend applicable provisions of the FAR, which is also published for comment in the **Federal Register** as a separate rulemaking action.

B. Section-by-Section Analysis

SBA proposes to amend § 125.2(b) to assign additional responsibilities to SBA Procurement Center Representatives (PCRs) and procuring activities in the acquisition planning process. With respect to PCRs, the proposed rule would revise § 125.2(b)(1) to require that when a PCR reviews an acquisition not set-aside for small businesses, the PCR must also identify alternative strategies to maximize the participation of small businesses in the procurement. Currently, § 125.2(b)(1) provides only that PCRs must review acquisitions not set-aside for small businesses to determine whether a set-aside would be appropriate. This proposed change would further OMB's general recommendation for the identification of alternative acquisition strategies to increase small business participation in procurements.

As required in connection with Action Items 4 and 5 of OMB's report, the proposed rule would add a new § 125.2(b)(2) to require bundling reviews of proposed acquisition strategies or plans contemplating award of a contract or order above specified dollar thresholds. As proposed, § 125.2(b)(2) would require that if an agency's contemplated acquisition strategy or plan exceeds the applicable acquisition threshold established in the proposed § 125.2(b)(2)(i) and is not set-aside for small businesses, the agency must coordinate the acquisition strategy or plan with the cognizant Small Business Specialist (SBS). The proposed § 125.2(b)(2) would also require the SBS to notify the agency OSDBU if the proposed acquisition strategy or plan includes bundled requirements that the agency has not identified as bundled *or* includes unnecessary or unjustified bundling of requirements. To ensure that the procuring activity consults the SBS at the earliest practical stage of the acquisition planning process, the proposed § 125.2(b)(2) would require the agency to coordinate the acquisition strategy or plan with the SBS as early in the planning process as practicable, but no later than 30 days before the issuance of the solicitation.

The acquisition dollar thresholds established in the proposed § 125.2(b)(2)(i) consist of 3 separate agency-specific dollar thresholds: $7 million or more for the Department of Defense; $5 million or more for the National Aeronautics and Space Administration, the Department of Energy and GSA; and $2 million or more for all other agencies. The dollar amounts of the 3-tier acquisition threshold are based on a comparative analysis of the number and size of the contracting actions of the major procuring activities, and are intended to target contracting actions that would most likely involve contract bundling, while at the same time, minimize the extent to which the bundling reviews would disrupt the procurement process of the individual agency. SBA specifically invites public comment on the proposed 3-tier acquisition threshold and on alternatives that would best achieve the intended purposes of Action Items 4 and 5.

Consistent with OMB's Action Item 6 proposal to mitigate the effects of contract bundling by strengthening compliance with small business subcontracting plans, the proposed rule would clarify the language in § 125.2(b)(5)(iii)(C), redesignated as § 125.2(b)(5)(iii)(C), to make clear that as part of their responsibilities to ensure that small business participation is maximized through subcontracting opportunities, PCRs may review an agency's oversight of its subcontracting programs, including its overall and individual assessment of contractor compliance. As currently written, the existing § 125.2(b)(5)(iii)(C) suggests that PCRs need only review an agency's assessment of a contractor's subcontracting plan compliance under bundled contracts. Based on the findings of the General Accounting Office (GAO) that agency oversight of large business compliance with subcontracting plans has been inconsistent, this proposed change contemplates a more systemic review of an agency's general oversight as well as its individual assessment of contractor subcontracting plan compliance to facilitate greater consistency in agency oversight in the future. *See* GAO Report, ''Small Business Subcontracting Report Validation Can Be Improved,'' GAO–02–166R Subcontracting Data, December 13, 2001.

The proposed rule would also redesignate § 125.2(b)(7) as § 125.2(b)(8), and revise it to clarify that PCRs must work with the cognizant SBS and agency OSDBU as early in the acquisition process as practicable to identify acquisitions involving bundling and to revise acquisition strategies to increase the probability of small business participation through small business teams as prime contractors. The existing § 125.2(b)(7) does not expressly encourage early bundling reviews and does not specifically require OSDBU involvement. As a result, this proposed change will not only make early coordination among the appropriate small business contracting personnel more likely, but it will also further OMB's call for bundling reviews of proposed acquisition strategies.

Furthermore, since the proposed § 125.2(b)(8) specifically requires PCRs, the cognizant SBS and the agency OSDBU to recommend the restructuring of acquisitions as necessary to increase small business prime contract participation through small business teams, this provision also effectuates the recommendation in Action Item 7 for measures to encourage small business teams and joint ventures to mitigate the effects of contract bundling.

To implement OMB's Action Item 3 requirement for bundling reviews of task and delivery orders under multiple award contract vehicles, the proposed rule would add a new § 125.2(d)(1)(iii) to define a ''single contract'' to include: (1) An indefinite quantity contract awarded to two or more sources under a single solicitation for the same or similar supplies and services; and (2) an order under a Federal Supply Schedule contract or a task or delivery order contract awarded by another agency (*i.e.*, government-wide acquisition contract or multi-agency contract). This proposed rule would also add a new § 125.2(d)(1)(iv) to define an ''order'' to mean an order placed under a Federal Supply Schedule contract or a task or delivery order contract awarded by another agency. By adding these definitions of a ''single contract'' and an ''order,'' the regulations would make clear that task and delivery orders under multiple award contract vehicles may fall within the scope of the definition of contract bundling and are therefore subject to the applicable requirements for bundling reviews and justifications.

In an effort to streamline the requirements for reviewing and justifying bundled requirements, the proposed § 125.2(d)(1)(v) revises the existing § 125.2(d)(1)(iii) to define ''substantial bundling'' as any bundling that meets the dollar amounts specified in the proposed § 125.2(b)(2)(i). This change will simplify the application of § 125.2(b)(2)(i) and § 125.2(d)(7), by using the same dollar thresholds to trigger SBS reviews under the proposed § 125.2(b)(2)(i), and to require supporting documentation for

substantial bundling under § 125.2(d)(7).

In the nature of a technical amendment, this proposed rule would revise § 125.2(d)(2) to specify each category of small business concerns for which the Small Business Act requires agencies to foster participation in Federal procurements. This rule also proposes technical amendments to § 125.2(d)(5), to clarify that bundled orders are subject to the same benefits analysis for demonstrating that the bundling is necessary and justified.

In keeping with OMB's recommendation in Action Item 5 that agencies identify alternative acquisition strategies for proposed bundling of contracts and justify the reason for not selecting an alternative that would involve less bundling, the proposed rule would add a new § 125.2(d)(7)(i)(E). This section would require that in the event of substantial bundling, the agency must identify the alternative strategies that would reduce or minimize the scope of the bundling and the rationale for not selecting those alternatives. Further, under the proposed new § 125.2(d)(7)(ii), at least 30 days prior to the release of a solicitation, the procuring agency would be required to provide both the PCR and the agency OSDBU a copy of the proposed acquisition strategy, including the analysis required under § 125.2(b)(3) and (d)(7).

Finally, in connection with OMB's general call for strengthening OSDBU oversight and greater utilization of their resources, the proposed rule would add a new § 125.2(e) to impose a new OSDBU oversight function. Under this proposed § 125.2(e), OSDBUs would be required to conduct periodic reviews to assess: (1) The extent to which small businesses are receiving their fair share of Federal procurements; (2) the adequacy of bundling documentation and justification; and (3) the adequacy of actions taken to mitigate the effects of necessary and justified contracting bundling, including the agency's oversight of large business prime contractor compliance with their subcontracting plans. OSDBUs would also be required to submit a copy of their assessment to the Agency Head and SBA Administrator.

C. Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–602)

OMB has determined that this rule is a significant regulatory action under Executive Order 12866. The proposed rule implements the recommendations of the OMB report: ''Contract Bundling, A Strategy for Increasing Federal Contracting Opportunities for Small Business.'' This plan is part of the President's initiative for small business growth.

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

For purposes of Executive Order 13132, SBA has determined that this proposed rule has no federalism implications warranting the preparation of a Federalism Assessment.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA determines that this proposed rule imposes no new reporting or recordkeeping requirements.

The proposed rule may have a significant beneficial economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule proposes to implement the recommendations of OMB to increase Federal contracting opportunities for small businesses. Therefore, an Initial Regulatory Flexibility Analysis (IRFA) was prepared and is provided below.

Initial Regulatory Flexibility Analysis

13 CFR Revision—Contract Bundling

The proposed rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule proposes to implement the recommendations of the Office of Management and Budget to increase Federal contracting opportunities for small businesses. Therefore, an Initial Regulatory Flexibility Analysis has been prepared and is as follows:

1. Reasons for Proposed Rule

This rule proposes to amend 13 Codified Federal Regulation (CFR) Subpart 125.2 to implement the recommendations of the Office of Management and Budget (OMB) in its report entitled ''Contract Bundling, A Strategy for Increasing Opportunities for Small Business.'' The proposed CFR changes will: (1) Clarify the definition of ''bundling'' to expressly include task and delivery orders placed against Federal Supply Schedules, Government-wide Acquisition Contracts (GWACs), and multi-agency contracts when those orders meet the definition; (2) require procuring activities to coordinate acquisition strategies above specified dollar thresholds with the Small Business Specialist (SBS) and require the SBS to notify the agency Office of Small and Disadvantaged Business Utilization (OSDBU) when those strategies include contract bundling that is unnecessary, unjustified, or not identified as such by the procuring activity; (3) reduce the threshold and revise the documentation required for ''substantial bundling;'' (4) require contracting officers to provide bundling justification documentation to the agency OSDBU when ''substantial bundling'' is involved; (5) require agency OSDBUs to perform certain oversight functions.

The rule is expected to have a positive economic impact on small prime contractors and subcontractors by providing more Federal contracting opportunities for small businesses. It imposes no reporting, recordkeeping, or other compliance requirements. No relevant Federal rules duplicate, overlap, or conflict with the rule and currently, there are no practical alternatives that will accomplish the objectives of this proposed rule.

2. Objectives of and Legal Basis for This Rule

The objective of this proposed rule is to further the Administration's commitment of creating a Government strategy for unbundling Federal contracts to increase Federal contracting opportunities for small business. In order to accomplish the Administration's commitment, this proposed rule is to provide CFR coverage implementing the recommendations of the Office of Management and Budget (OMB) in its report entitled ''Contract Bundling, A Strategy for Increasing Opportunities for Small Business.''

3. Description of and Estimate of the Number of Small Entities to Which the Rule Will Apply, or an Explanation if Such Estimate Is Not Available

The proposed rule will indirectly apply to all large and small entities that seek award of Federal contracts. The rule is expected to have a positive economic impact on small prime contractors and subcontractors by providing more Federal contracting opportunities for small businesses. In the Small Business Administration's 2001 State of Small Business Report filed with the House and Senate Small Business Committees, using data obtained from the Federal Procurement Data Center, the Agency identified only 4 material bundling cases with a total value of $60 million for the first 3 quarters of Fiscal Year (FY) 2001. This represents 0.0004% of Federal contract

dollar activity ($60 million divided by $150 billion for the first 3 quarters of the fiscal year). Based on FY 2001 data, the proposed rule will impact approximately $3 billion in orders placed against Federal Supply Schedules (FSS), GWACs, and multi-agency contracts. Applying the contract bundling estimate of 0.0004% to these un-reviewed orders, SBA expects approximately $1 million will be identified as bundled. This proposed rule establishes 3 dollar thresholds ranging from $2 million or more for the majority of civilian agencies to $7 million or more for the Department of Defense. The dollar amounts are based on a comparative analysis of the number and size of the contracting actions of the major procuring activities and are intended to target reviews of the contracting actions that would most likely involve contract bundling without unduly disruption the acquisition process of the individual agency.

4. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

The proposed rule imposes no reporting, recordkeeping, or other compliance requirements.

5. Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Rule

None.

6. Description of Any Significant Alternatives to the Proposed Rule Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize the Rule's Economic Impact on Small Entities

Currently, there are no practical alternatives that will accomplish the objectives of this proposed rule. However, SBA invites alternative proposals from the public.

List of Subjects in 13 CFR Part 125

Government contracts, Government procurement, Reporting and Recordkeeping requirements, Small business, Technical assistance.

For the reasons set forth in the preamble, SBA proposes to amend part 125 of title 13 of the Code of Federal Regulations as follows:

PART 125—GOVERNMENT CONTRACTING PROGRAMS

1. The authority citation for 13 CFR part 125 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 637 and 644; 31 U.S.C. 9701 and 9702.

2. Amend § 125.2 as follows:

a. By revising the heading of paragraph (b);

b. By revising paragraph (b)(1);

c. By redesignating paragraphs (b)(2) through (b)(7) as paragraphs (b)(3) through (b)(8);

d. By adding paragraph (b)(2);

e. By revising redesignated paragraph (b)(3), introductory text, (b)(6)(iii), and (b)(8);

f. By revising paragraphs (d)(1)(iii), (d)(2) (i) and (ii), (d)(5)(i) (A) and (B) and (d)(7), and adding paragraphs (d)(1) (iv) and (v);

g. By adding paragraph (e).

The revisions and additions to § 125.2 read as follows:

§ 125.2 Prime contracting assistance.

* * * * *

(b) *Responsibilities in the acquisition planning process.* (1) SBA Procurement Center Representatives (PCRs) are generally located at Federal agencies and buying activities which have major contracting programs. PCRs are responsible for reviewing all acquisitions not set-aside for small businesses to determine whether a set-aside is appropriate and to identify alternative strategies to maximize the participation of small businesses in the procurement.

(2) As early in the acquisition planning process as practicable, but no later than 30 days before the issuance of a solicitation, the procuring activity must coordinate with the procuring activity's Small Business Specialist (SBS) when the acquisition strategy contemplates award of a contract or order meeting the dollar amounts in paragraph (b)(2)(i) of this section, unless the contract or order is entirely reserved or set-aside for small business concerns as authorized under the Small Business Act. The SBS must notify the agency Office of Small and Disadvantaged Business Utilization (OSDBU) if the strategy or plan includes bundled requirements that the agency has not identified as bundled or includes unnecessary or unjustified bundling of requirements.

(i) The procuring activity must coordinate the acquisition strategy with the cognizant SBS in accordance with paragraph (b)(2) of this section if the estimated contract or order value is:

(A) $7 million or more for the Department of Defense;

(B) $5 million or more for the National Aeronautics and Space Administration, the General Services Administration, and the Department of Energy; and

(C) $2 million or more for all other agencies.

(3) A procuring activity must provide a copy of a proposed acquisition strategy (*e.g.*, Department of Defense Form 2579, or equivalent) to the applicable PCR (or to the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located if a PCR is not assigned to the procuring activity) at least 30 days prior to a solicitation's issuance whenever a proposed acquisition strategy: * * *

* * * * *

(6) * * *

(iii) The PCR will also work to ensure that small business participation is maximized through teaming arrangements and subcontracting opportunities. This may include:

(A) Recommending that the solicitation and resultant contract specifically state the small business subcontracting goals, which are expected of the contractor awardee;

(B) Recommending that the small business subcontracting goals be based on total contract dollars instead of subcontract dollars; and

(C) Reviewing an agency's oversight of its subcontracting program, including its overall and individual assessment of a contractor's compliance with its small business subcontracting plans. The PCR will furnish a copy of the information to the SBA Commercial Market Representative (CMR) servicing the contractor.

* * * * *

(8) PCRs will work with the cognizant SBS and agency OSDBU as early in the acquisition process as practicable to identify proposed solicitations that involve bundling, and with the agency acquisition officials to revise the acquisition strategies for such proposed solicitations, where appropriate, to increase the probability of participation by small businesses, including small business contract teams, as prime contractors. If small business participation as prime contractors appears unlikely, the SBS and PCR will facilitate small business participation as subcontractors or suppliers.

* * * * *

(d) * * *

(1) * * *

(iii) Single contract, as used in this definition, includes:

(A) An indefinite quantity contract awarded to two or more sources under a single solicitation for the same or similar supplies and services; and

(B) An order placed against an indefinite quantity contract under a Federal Supply Schedule contract or a

task or delivery order contract awarded by another agency (*i.e.*, Government-wide acquisition contract or multi-agency contract).

(iv) Order means an order placed under:

(A) Federal Supply Schedule contract; or

(B) Task-order contract or delivery-order contract awarded by another agency, (*i.e.*, Government-wide acquisition contract or multi-agency contract).

(v) Substantial bundling means any bundling that meets the dollar amounts specified in paragraph (b)(2)(i) of this section.

(2) * * *

(i) Structure procurement requirements to facilitate competition by and among small business concerns, including small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women; and

(ii) Avoid unnecessary and unjustified bundling of contract requirements that inhibits or precludes small business participation in procurements as prime contractors.

* * * * *

(5) * * *

(i) * * *

(A) Benefits equivalent to 10 percent of the contract or order value (including options) where the contract or order value is $75 million or less; or

(B) Benefits equivalent to 5 percent of the contract or order value (including options) or $7.5 million, whichever is greater, where the contract or order value exceeds $75 million.

* * * * *

(7) Substantial bundling. (i) Where a proposed procurement strategy involves a substantial bundling of contract requirements, the procuring agency must, in the documentation of that strategy, include a determination that the anticipated benefits of the proposed bundled contract justify its use, and must include, at a minimum:

(A) The analysis for bundled requirements set forth in paragraph (d)(5)(i) of this section;

(B) An assessment of the specific impediments to participation by small business concerns as prime contractors that will result from the substantial bundling;

(C) Actions designed to maximize small business participation as prime contractors, including provisions that encourage small business teaming for the substantially bundled requirement;

(D) Actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract or contracts that may be awarded to meet the requirements; and

(E) The identification of the alternative strategies that would reduce or minimize the scope of the bundling, and the rationale for not choosing those alternatives (*i.e.*, consider the strategies under paragraphs (b)(6) (i) and (d) of this section).

(ii) At least 30 days prior to the solicitation release, the procuring activity shall provide the PCR and the agency OSDBU a copy of the proposed acquisition, including the analysis required by paragraph (d)(7) of this section, the acquisition plan, any bundling information required under paragraph (b)(3) of this section, and any other relevant information. The PCR and agency OSDBU or SBS, as applicable, shall work together to develop alternative acquisition strategies identified in paragraph (b)(6) of this section to enhance small business participation.

* * * * *

(e) *OSDBU Oversight Functions.* The Agency OSDBU must:

(1) Conduct periodic reviews to assess the:

(i) Extent to which small businesses are receiving their fair share of Federal procurements, including contract opportunities under programs administered under the Small Business Act;

(ii) Adequacy of the bundling documentation and justification; and

(iii) Adequacy of actions taken to mitigate the effects of necessary and justified contract bundling on small businesses (*e.g.*, review agency oversight of prime contractor subcontracting plan compliance under the subcontracting program).

(2) Provide a copy of the assessment under paragraph (e)(1) of this section to the Agency Head and SBA Administrator.

Dated: January 22, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–2158 Filed 1–30–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 7, 8, 16, 19, and 42

[FAR Case 2002–029]

RIN: 9000–AJ58

Federal Acquisition Regulation; Contract Bundling

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement the recommendations of the Office of Management and Budget (OMB) in its report entitled. ''A Strategy for Increasing Federal Contracting Opportunities for Small Business.''

DATES: Interested parties should submit comments in writing on or before April 1, 2003 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—*farcase.2002–029@gsa.gov.* Please submit comments only and cite FAR case 2002–029 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501–0044. Please cite FAR case 2002–029. The TTY Federal Relay Number for further information is 1–800–877–8973.

SUPPLEMENTARY INFORMATION:

A. Background

On March 19, 2002, the President unveiled a Small Business Agenda that proposed several substantive steps toward creating a dynamic environment where small businesses and entrepreneurs can flourish. The plan included new tax incentives, health care options, and a reduction in regulatory barriers. For those small businesses

seeking to do business with the Federal Government, the President announced several proposals to improve the access of small businesses to Federal contracting opportunities. Specifically, the President called upon the Office of Management and Budget (OMB) to prepare a strategy for unbundling contracts. Contract bundling is defined in Section 3(o) of the Small Business Act to mean the consolidation of two or more requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single award contract that is ''unlikely to be suitable for award to a small business concern.'' 15 U.S.C. 632(o). Over the past decade, the number and size of bundled contracts have increased sharply and have resulted in a dramatic decline in small business Federal contracting opportunities.

In response to the President's call for a strategy to unbundled contracts, the Office of Federal Procurement Policy (OFPP), within OMB, created an interagency working group to develop a plan for increasing contracting opportunities for small businesses. As part of the working group's efforts, OFPP published a notice in the **Federal Register** soliciting public comments and held a public meeting on June 14, 2002, to provide interested parties an opportunity to express their views on contract bundling. By the end of the comment period, OFPP received 27 public comments and 14 individual presentations at the June 14 public meeting.

Based on the working group's analysis of available data and information, including the public comments received in writing and at the June 14 public meeting, OMB issued a report in October 2002 entitled ''Contract Bundling: A Strategy for Increasing Federal Contracting Opportunities for Small Business.'' *See http://www.acqnet.gov/Notes/contractbundlingreport.pdf* or *http://www.acqnet.gov/*. The report cites data indicating that for every 100 ''bundled'' contracts, 106 individual contracts are no longer available to small businesses. The report also notes that according to a report prepared for the Small Business Administration (SBA) Office of Advocacy, for every $100 awarded on a ''bundled'' contract, there is a $33 decrease to small businesses.

To address the harmful effects of contract bundling on the nation's small businesses, OMB's report offers a nine-point action plan designed to hold agencies accountable for eliminating unnecessary contract bundling and mitigating the effects of necessary contract bundling. Several of these Action Items, such as the Action Items calling for greater accountability of senior agency management, the collection and dissemination of best practices for maximizing prime and subcontracting opportunities for small businesses and facilitating development of the teams of small business contractors, will be implemented through initiatives conducted by OMB, SBA, and procuring agencies.

Other Action Items, however, require a series of amendments to SBA's regulations and applicable provisions of the Federal Acquisition Regulation (FAR). Action Item 3 recommends regulatory changes to expressly require bundling reviews of multiple award contract vehicles and task and delivery orders under such procurements. OMB's report notes that there has been a significant increase in the use of such contracting vehicles. Since neither the FAR nor SBA's regulations specifically require bundling reviews of orders under multiple award contracts, multi-agency contracts, Governmentwide acquisition contracts and the General Services Administration (GSA) Multiple Award Schedule Program, an explicit regulatory amendment mandating such reviews is necessary.

Action Item 4 proposes the establishment of agency-specific acquisition dollar thresholds, within the range of $2 million and $7 million, that would trigger bundling reviews by the agency Office of Small and Disadvantaged Business Utilization (OSDBU). In addition, to ensure that agencies explore alternative acquisition strategies, Action Item 5 recommends that when an agency contemplates a bundled procurement above the established threshold, the agency must identify alternative acquisition strategies and justify the rationale for selecting a particular strategy over another that would involve less bundling.

Finally, as a means of mitigating contract bundling determined to be necessary and justified, Action Item 6 calls for measures to strengthen compliance with the plans of large business prime contractors for subcontracting with small businesses. In addition, Action Item 7 further requires measures to facilitate small business teams including joint ventures to effectively compete for bundled contracts. In connection with Action Item 7, the report requires that SBA determine whether regulatory changes are appropriate to encourage the development of such small business teaming arrangements.

This rule proposes to amend the FAR to implement these specific Action Items. The proposed amendments were drafted in conjunction with a companion proposal to amend applicable provisions of the SBA regulations which is also published for comment in the **Federal Register** as a separate rulemaking action.

This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Section-by-Section Analysis of the Federal Acquisition Regulation

To implement OMB's Action Item 3 requirement for bundling reviews of task and delivery orders under multiple award contract vehicles, the proposed rule would add to the bundling definition in FAR 2.101 the definition of a ''single contract'' to include (1) an indefinite quantity contract awarded to two or more sources under a single solicitation for the same or similar supplies and services, and (2) include an order under a Federal Supply Schedule contract or a task-or delivery-order contract awarded by another agency (*i.e.*, Governmentwide acquisition contract or multi-agency contract). By adding the definition of a ''single contract'', the regulations would make clear that some orders may fall within the scope of the definition of contract bundling and are, therefore, subject to the applicable requirements for bundling reviews and justifications.

As required in connection with Action Items 4 and 5 of OMB's report, the proposed rule would add FAR 7.104(d)(1) to require the planner to coordinate the acquisition plan or strategies with the cognizant small business specialist (SBS) when the strategy contemplates award of a contract or order meeting the agency dollar amounts as indicated in proposed new FAR 7.104(d)(2), unless the contract or order is entirely reserved or set-aside for small business under FAR Part 19. As proposed in FAR 7.104(d), the SBS shall notify the agency OSDBU if the proposed acquisition strategy involves contract bundling that the agency has not identified as bundled or includes unnecessary or unjustified bundling of requirements. In addition, as required in proposed FAR 7.104(d)(2), the acquisition strategy shall be coordinated with the cognizant small business specialist in accordance with FAR 7.104(d)(1) if the estimated contract or order value dollar thresholds established in the proposed three separate agency-specific dollar

thresholds: $7 million or more for the Department of Defense; $5 million or more for the National Aeronautics and Space Administration, the Department of Energy and GSA; and $2 million or more for all other agencies. The dollar amounts of the three-tier acquisition threshold are based on a comparative analysis of the number and size of the contracting actions of the major procuring activities and are intended to target contracting actions that would most likely involve contract bundling, while at the same time minimize the extent to which the bundling reviews would disrupt the procurement process of the individual agency. GSA specifically invites public comment on the proposed three-tier acquisition threshold and on alternatives that would best achieve the intended purposes of Action Items 4 and 5.

As part of Action Item 3, FAR 7.107(b)(1), 7.107(b)(2), 7.107(d), and 7.107(e) would be revised to add the word ''order'' to the additional requirements for acquisitions involving contract bundling. In an effort to streamline the requirements for reviewing and justifying bundled requirements, the proposed rule would revise the existing FAR 7.107(e) to define ''substantial bundling'' as any bundling that results in a contract or order that meets agency dollar amounts specified in the proposed FAR 7.104(d)(2). This change will simplify the application of FAR 7.107(e) by using the same dollar thresholds to trigger SBS notification to the agency OSDBU under the proposed FAR 7.104(d)(1), and to require supporting documentation for substantial bundling under 7.107(e). Consistent with OMB's Action Item 5, the FAR would be revised to add 7.107(e)(6) to require the identification of alternative strategies that would reduce or minimize the scope of the bundling, and the rationale for not choosing those alternatives.

In connection with OMB's Action Item 3, FAR 8.404(a)(1) would be revised to add that the requirement at FAR 19.202–1(e)(1)(iii) applies to orders placed against Federal Supply Schedules. Further, FAR 8.404(a)(2) would be revised to add that orders placed under a Federal Supply Schedule contract must comply with all FAR requirements for a bundled contract when the order meets the proposed FAR definition of ''bundled contract''.

In connection with OMB's Action Item 3, the proposed rule would add to FAR 16.505(a)(7) that orders placed under a task-order or delivery-order contract awarded by another agency must comply with all FAR requirements for a bundled contract when the order meets the proposed FAR definition of ''bundled contract.''

In connection with OMB's general call for strengthening OSDBU oversight and greater utilization of their resources, the proposed rule would add FAR 19.201(d)(11) to impose a new OSDBU oversight function. Under this proposed FAR 19.201(d)(11), OSDBUs would be required to conduct periodic reviews to assess: (1) The extent to which small businesses are receiving their fair share of Federal procurements under the programs administered under the Small Business Act; (2) the adequacy of contract bundling documentation and justification; and (3) the actions taken to mitigate the effects of necessary and justified contracting bundling on small businesses. Under this proposed rule, FAR 19.201(d)(12) would require OSDBUs to submit a copy of their assessment to the Agency Head and SBA Administrator.

FAR 19.202 would add a requirement that agencies shall establish procedures including dollar thresholds for review of acquisitions by the OSDBU Director, or the Director's designee, as to whether a particular acquisition should be awarded under FAR Subpart 19.5, 19.8, or 19.13. This proposed change would further OMB's general recommendation for the identification of alternative acquisition strategies to increase small business participation in procurements.

We propose to amend FAR 19.202(1)(e)(1)(iii) to assign additional responsibilities to the SBA Procurement Center Representatives (PCRs) and procuring activities in the acquisition planning process by adding the requirement that the contracting officer provide all information relative to the justification of contract bundling when the acquisition involves substantial bundling, including the acquisition plan or strategy, and if the acquisition involves substantial bundling, the information identified in 7.107(e). Further, 19.202(1)(e)(iii) will require the contracting officer to provide this same information to the agency OSDBU when the acquisition involves substantial bundling.

Consistent with OMB's Action Item 6 proposal to mitigate the effects of contract bundling by strengthening compliance with small business subcontracting plans, the proposed rule would add language in FAR 42.1502 to require an assessment of contractor compliance with the goals identified in the small business subcontracting plan in contracts that require a subcontracting plan. As currently written, FAR 15.304(c)(3)(iii) requires that only in solicitations involving bundling that offer a significant opportunity for subcontracting, the contracting officer must include a factor to evaluate past performance indicating the extent to which the offeror attained applicable goals for small business participation under contracts that required subcontracting plans. Based on the findings of the General Accounting Office (GAO) that agency oversight of large business compliance with subcontracting plans has been inconsistent, this proposed change contemplates a more systemic review of an agency's general oversight as well as its individual assessment of contractor subcontracting plan compliance to facilitate greater consistency in agency oversight in the future. *See* GAO Report, ''Small Business Subcontracting Report Validation Can Be Improved'', GAO–02–166R Subcontracting Data, December 13, 2001.

C. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it proposes to increase small business contracting opportunities. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. The analysis reads as follows:

1. Reasons for proposed rule

This rule proposes to amend the Federal Acquisition Regulation (FAR) to implement the recommendations of the Office of Management and Budget (OMB) in its report entitled ''A Strategy for Increasing Opportunities for Small Business.'' The proposed FAR changes will: (1) Clarify the definition of ''bundling'' to indicate it applies to orders placed against Federal Supply Schedules and another agency's Governmentwide Acquisition contracts or Multi-agency contracts when those orders otherwise meet the parameters of the definition; (2) require the small business specialist to coordinate on agency acquisition strategies at specified dollar thresholds and notify the agency Office of Small and Disadvantaged Business Utilization (OSDBU) when those strategies include contract bundling that is unnecessary, unjustified, or not identified as such by the agency; (3) reduce the threshold for ''substantial bundling''; (4) revise the documentation requirements for substantial bundling to include identification of alternative acquisition strategies that would result in the bundling of fewer requirements, along with justification for not choosing those alternatives; (5) require contracting officers to provide bundling justification documentation to the agency OSDBU when substantial bundling is involved; (6) require performance evaluations to include an assessment of

contractor compliance with small business subcontracting goals; and (7) require the OSDBU to be responsible for conducting periodic reviews to assess agency contract bundling requirements and the extent to which small businesses are receiving a fair share of Federal procurements.

2. Objectives of and legal basis for this rule

The objective of this proposed rule is to further the Administration's commitment of creating a Government strategy for unbundling Federal contracts to increase Federal contracting opportunities for small business. In order to accomplish this commitment, this proposed rule provides FAR coverage that implements the recommendations of OMB in its report entitled ''Contract Bundling: A Strategy for Increasing Opportunities for Small Business.''

3. Description of and Estimate of the Number of Small Entities to Which the Rule Will Apply, or an Explanation if Such Estimate is Not Available

The proposed rule will indirectly apply to all large and small entities that seek award of Federal service contracts. The rule should have a positive economic impact on small prime contractors and subcontractors by providing more Federal contracting opportunities for small businesses. In a report filed last year with the House and Senate Small Business Committee, the U.S. Small Business Administration identified from the Federal Procurement Data Center (FPDS) only four material bundling cases with a total value of $60 million for the first three quarters of FY 2001. This represents 0.0004% of Federal contract dollar activity (contract bundling estimate rate which is $60 million divided by $150 billion for three-fourths of a year). The new rule now encompasses reviews of high dollar value orders. At most, this is expected to be $3 billion. For example, using the data from table 1 for FY 2001 at DOD FFS–GWAC–MACS $7 million or more 659 and FSS+585 = $1.244 billion or for FY 2002 857+717 = $1.574 billion orders to be reviewed. Applying the contract bundling estimate rate SBA's .0004% to these previously un-reviewed contract order dollars of $3 billion, we expect that approximately $1 million dollars of orders will be identified as bundled.

4. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities Which Will be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

The proposed rule imposes no reporting, recordkeeping, or other compliance requirements.

5. Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Rule

The companion proposed rule being published by the Small Business Administration at the same time as the FAR proposed rule.

6. Description of Any Significant Alternatives to the Proposed Rule Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize the Rule's Economic Impact on Small Entities

Currently, there are no practical alternatives that will accomplish the objectives of this proposed rule.

The FAR Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR parts 2, 7, 8, 16, 19, and 42 in accordance with 5 U.S.C. 610. Comments must be submitted separately and should cite 5 U.S.C 601, *et seq.* (FAR case 2002–029), in correspondence.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 7, 8, 16, 19, and 42

Government procurement.

Dated: January 24, 2003.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2, 7, 8, 16, 19, and 42 as set forth below:

1. The authority citation for 48 CFR parts 2, 7, 8, 16, 19, and 42 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101(b)(2) in the definition ''Bundling'' by redesignating paragraph (3) as (4) and adding a new paragraph (3) to read as follows:

2.101 Definitions.

* * * * *

Bundling means—

* * * * *

(3) *Single contract,* as used in this definition, includes—

(i) An indefinite quantity contract awarded to two or more sources under a single solicitation for the same or similar supplies and services (see FAR 16.504(c)); and

(ii) An order placed against an indefinite quantity contract under a—

(A) Federal Supply Schedule contract; or

(B) Task-order contract or delivery-order contract awarded by another agency (*i.e.*, Governmentwide acquisition contract or multi-agency contract).

* * * * *

PART 7—ACQUISITION PLANNING

3. Amend section 7.104 by adding paragraph (d) to read as follows:

7.104 General procedures.

* * * * *

(d)(1) The planner shall coordinate the acquisition plan or strategy with the cognizant small business specialist when the strategy contemplates award of a contract or order meeting the dollar amounts in paragraph (d)(2) of this section unless the contract or order is entirely reserved or set-aside for small business under Part 19. The small business specialist shall notify the agency Office of Small and Disadvantaged Business Utilization if the strategy involves contract bundling that is unnecessary, unjustified, or not identified as bundled by the agency.

(2) The strategy shall be coordinated with the cognizant small business specialist in accordance with paragraph (d)(1) of this section if the estimated contract or order value is—

(i) $7 million or more for the Department of Defense;

(ii) $5 million or more for the National Aeronautics and Space Administration, the General Services Administration, and the Department of Energy; and

(iii) $2 million or more for all other agencies.

4. Amend section 7.107 in paragraphs (b)(1), (b)(2), and (d) by adding the words ''or order'' after the word ''contract''; revising paragraph (e), introductory text, paragraphs (e)(4) and (e)(5); and adding (e)(6) to read as follows:

7.107 Additional requirements for acquisitions involving bundling.

* * * * *

(e) Substantial bundling is any bundling that results in a contract or order that meets the dollar amounts specified in 7.104(d)(2). When the proposed acquisition strategy involves substantial bundling, the acquisition strategy must additionally—

* * * * *

(4) Specify actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contracts, or order, that may be awarded to meet the requirements;

(5) Include a specific determination that the anticipated benefits of the

proposed bundled contract or order justify its use; and

(6) Identify alternative strategies that would reduce or minimize the scope of the bundling, and the rationale for not choosing those alternatives.

* * * * *

PART 8—REQUIRED SOURCES OF SUPPLIES AND CONTRACTS

5. Amend section 8.404 in the introductory text of paragraph (a)(1) by removing the period at the end of the first sentence and adding ''and the requirement at 19.202–1(e)(1)(iii).'' in its place; and revising paragraph (a)(2) to read as follows:

8.404 Using schedules.

(a) * * *

(2) Orders placed under a Federal Supply Schedule contract—

(i) Are not exempt from the development of acquisition plans (see Subpart 7.1), and an information technology acquisition strategy (see Part 39); and

(ii) Must comply with all FAR requirements for a bundled contract when the order meets the definition of ''bundled contract'' (see 2.101(b)).

* * * * *

PART 16—TYPES OF CONTRACTS

6. Amend section 16.505 by removing the word ''and'' from the end of paragraph (a)(7)(i); removing the period at the end of paragraph (a)(7)(ii) and adding ''; and'' in its place; and adding paragraph (a)(7)(iii) to read as follows:

16.505 Ordering.

(a) * * *

(7) * * *

(iii) Must comply with all FAR requirements for a bundled contract when the order meets the definition of ''bundled contract'' (see 2.101(b)).

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

7. Amend section 19.201 by removing the period at the end of paragraph (d)(10) and adding a semicolon in its place; and adding paragraphs (d)(11) and (d)(12) to read as follows:

19.201 General policy.

* * * * *

(d) * * *

(11) Conduct periodic reviews to assess the—

(i) Extent to which small businesses are receiving a fair share of Federal procurements, including contract opportunities under the programs administered under the Small Business Act;

(ii) Adequacy of contract bundling documentation and justifications; and

(iii) Actions taken to mitigate the effects of necessary and justified contract bundling on small businesses; and

(12) Provide a copy of the assessment made under paragraph (d)(11) of this section to the Agency Head and SBA Administrator.

* * * * *

8. Amend section 19.202 by adding a new sentence after the first sentence to read as follows:

19.202 Specific policies.

* * * Agencies shall establish procedures including dollar thresholds for review of acquisitions by the Director or the Director's designee for the purpose of making these recommendations. * * *

9. Amend section 19.202–1 by revising paragraph (e)(1)(iii) to read as follows:

19.202–1 Encouraging small business participation in acquisitions.

* * * * *

(e)(1) * * *

(iii) The proposed acquisition is for a bundled requirement. (See 10.001(c)(2)(i) for mandatory 30-day notice requirement to incumbent small business concerns.) The contracting officer shall provide all information relative to the justification of contract bundling, including the acquisition plan or strategy and, if the acquisition involves substantial bundling, the information identified in 7.107(e). When the acquisition involves substantial bundling, the contracting officer shall also provide the same information to the agency Office of Small and Disadvantaged Business Utilization.

* * * * *

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

10. Amend section 42.1502 by adding a new sentence to the end of paragraph (a) to read as follows:

42.1502 Policy.

(a) * * * These procedures shall require an assessment of contractor compliance with the goals identified in the small business subcontracting plan when the contract includes the clause at 52.219–9, Small Business Subcontracting Plan.

* * * * *

[FR Doc. 03–2159 Filed 1–30–03; 8:45 am]

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Federal Register

Friday,
January 31, 2003

Part VI

Environmental Protection Agency

40 CFR Part 62

Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AD–FRL–7430–8]

RIN 2060–AJ46

Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates a Federal plan to implement emission guidelines for small municipal waste combustion (MWC) units (*i.e.*, units with a design combustion capacity of 35 to 250 tons per day of municipal waste) located in areas not covered by an approved State or tribal plan. The Federal plan is an interim action because on the effective date of an approved State plan or tribal plan, the Federal plan will no longer apply to small MWC units covered by the State or tribal plan. This Federal plan includes the same required elements as a State plan as specified in 40 CFR part 60, subpart B. These elements are: Identification of legal authority; identification of mechanisms for implementation; inventory of affected facilities; emissions inventory; emission limits; compliance schedules; public hearing requirements; reporting and recordkeeping requirements; and public progress reports.

EPA adopted emission guidelines for existing small MWC units on December 6, 2000. Existing small MWC units are those units for which construction was commenced on or before August 30, 1999. Sections 111 and 129 of the Clean Air Act (CAA) require States with existing small MWC units subject to the emission guidelines to submit plans to EPA that implement and enforce the emission guidelines. Indian tribes may submit, but are not required to submit, tribal plans to implement and enforce the emission guidelines in Indian country. State plans were due from States with small MWC units subject to the emission guidelines on December 6, 2001. States without small MWC units subject to the emission guidelines must submit a negative declaration statement by this date. Following receipt of a State plan, EPA has up to 6 months to approve or disapprove the plan. If a State with an existing small MWC unit subject to the emission guidelines does not submit an approvable plan within 2 years of the promulgation of the emission guidelines (*i.e.*, December 6, 2002), sections 111(d) and 129 of the CAA require EPA to develop, implement, and enforce a Federal plan for small MWC units located in that State or Tribal jurisdiction. This Federal plan for small MWC units was proposed on June 14, 2001.

EFFECTIVE DATE: This rule is effective on January 31, 2003. The incorporation by reference of certain publications listed in this rule are approved by the Director of the Federal Register as of January 31, 2003.

Judicial Review: The EPA proposed this section 111(d) rule for small MWC units on June 14, 2001 (66 FR 32484). This action adopting a rule for small MWC units constitutes final administrative action concerning that proposal. Under section 307(b)(1) of the CAA, judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by April 1, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to this rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding brought by the EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A–2000–39 contains the supporting information for the small MWC Federal plan. Docket Nos. A–89–08, A–90–45, and A–98–18 contain the supporting information for the EPA's promulgation of emission guidelines for existing small MWC units. The dockets are available for public inspection and copying between 8:30 a.m. and 4:30 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center, 1301 Constitution Avenue, NW., Room B102, Washington, DC 20460. The mailing address for the Center is Air and Radiation Docket, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The Center may be contacted by telephone by calling (202) 566–1742 between the hours of 7:30 a.m. and 5:30 p.m., Monday through Friday. The Center may also be contacted by fax using the fax number (202) 566–1741 and by E-mail using the E-mail address ''*A-and-R-Docket@epa.gov*''.

FOR FURTHER INFORMATION CONTACT: Mr. Lalit Banker at (919) 541–5420, Program Implementation and Review Group, Information Transfer and Program Integration Division (E143–02), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, email: *banker.lalit@epa.gov.* For State specific information regarding implementation of this Federal plan, contact the appropriate Regional Office as shown in table 1 of the **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of this Federal plan. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated Federal plan and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Public Comments. The small MWC Federal plan was proposed on June 14, 2001, and two comments were received on the proposal. The comment letters are available in docket No. A–2000–39, along with a memorandum summarizing the comment letters and EPA's responses to the comments. No requests for a public hearing were received by EPA.

Worldwide Web (WWW). A list of combustion related rules is available on the Combustion Group Web site on the EPA Technology Transfer Network Web site (TTN Web) at *http://www.epa.gov/ttn/atw/combust/list.html.* You may obtain **Federal Register** notices, supporting information, and docket indices for these combustion related rules.

Regional Office Contacts. For information regarding the implementation of the small MWC Federal plan, contact the appropriate EPA Regional Office as shown in table 1.

TABLE 1.—EPA REGIONAL CONTACTS FOR SMALL MUNICIPAL WASTE COMBUSTORS

Region	Contact	Phone/fax	States and protectorates
I	EPA New England, Director, Air Compliance Program, 1 Congress Street, Suite 1100 (SEA), Boston, MA 02114–2023.	617–918–1650, 617–918–1505 (fax).	CT, ME, MA, NH, RI, VT.
II	U.S. EPA—Region 2, Air Compliance Branch, 290 Broadway, New York, New York 10007.	212–637–4080, 212–637–3998 (fax).	NJ, NY, Puerto Rico, Virgin Islands.
III	U.S. EPA—Region 3, Chief, Air Enforcement Branch (3AP12), 1650 Arch Street, Philadelphia, PA 19103–2029.	215–814–3438, 215–814–2134 (fax).	DE, DC, MD, PA, VA, WV.
IV	U.S. EPA—Region 4, Air and Radiation Technology Branch, Atlanta Federal Center, 61 Forsyth Street, Atlanta, Georgia 30303–3104.	404–562–9105, 404–562–9095 (fax).	AL, FL, GA, KY, MS, NC, SC, TN.
V	U.S. EPA—Region 5, Air Enforcement and Compliance Assurance Branch (AR–18J), 77 West Jackson Boulevard, Chicago, IL 60604–3590.	312–353–2211, 312–886–8289 (fax).	IL, IN, MN, OH, WI.
VI	U.S. EPA—Region 6, Chief, Toxics Enforcement Section (6EN–AT), 1445 Ross Avenue, Dallas, TX 75202–2733.	214–665–7224, 214–665–7446 (fax).	AR, LA, NM, OK, TX.
VII	U.S. EPA—Region 7, 901 N. 5th Street, Kansas City, KS 66101.	913–551–7020, 913–551–7844 (fax).	IA, KS, MO, NE.
VIII	U.S. EPA—Region 8, Air Program Technical Unit (Mail Code 8P–AR), 999 18th Street, Suite 500, Denver, CO 80202.	303–312–6007, 303–312–6064 (fax).	CO, MT, ND, SD, UT, WY.
IX	U.S. EPA—Region 9, Air Division, 75 Hawthorne Street, San Francisco, CA 94105.	415–744–1219, 415–744–1076 (fax).	AZ, CA, HI, NV, American Samoa, Guam.
X	U.S. EPA—Region 10, Office of Air Quality, 1200 Sixth Avenue, Seattle, WA 98101.	(206) 553–4273, (206) 553–0110 (fax).	AK, OR, WA, ID.

Outline. The following outline shows the organization of the remainder of the **SUPPLEMENTARY INFORMATION** section of this preamble.

I. Background of Small MWC Regulations and Affected Facilities
A. Background of Small MWC Regulations
B. Regulated Entities
C. Status of State Plans
II. Required Elements of the Small MWC Federal Plan
III. Summary of the Comments and Changes Since Proposal
IV. Summary of the Federal Plan Emission Limits and Requirements
A. Subcategories of Small MWC Units
B. Emission Limits and Operating Practice Requirements
C. Compliance Schedules
D. Operator Training and Certification Requirements
E. Testing, Monitoring, Recordkeeping, and Reporting
V. Implementation of the Federal Plan and Delegation
A. Background of Authority
B. Delegation of the Federal Plan and Retained Authorities
C. Mechanisms for Transferring Authority
VI. Title V Operating Permits
A. Clarification to the Rule
B. Delegation of a Federal Plan
VII. Administrative Requirements
A. Executive Order 12866—Regulatory Planning and Review
B. Executive Order 13132—Federalism
C. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments
D. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks
E. Unfunded Mandates Reform Act of 1995
F. Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act
I. Congressional Review Act
J. Executive Order 13211—Energy Effects

Tables

Table 1. EPA Regional Contacts for Small Municipal Waste Combustors
Table 2. Status of State Plans
Table 3. Required Elements of the Small MWC Federal Plan
Table 4. Deadlines for Title V Permits

I. Background of Small MWC Regulations and Affected Facilities

On December 6, 2000, EPA promulgated emission guidelines for existing small municipal waste combustion units (40 CFR part 60, subpart BBBB). Existing small MWC units are those units for which construction was commenced on or before August 30, 1999. States with existing small MWC units subject to the emission guidelines are required to submit to EPA a plan that implements and enforces the subpart BBBB emission guidelines within 1 year after promulgation of the emission guidelines, or by December 6, 2001. Section 129(b)(3) of the Act requires EPA to develop, implement, and enforce a Federal plan for small MWC units located in States that have not submitted an approvable plan within 2 years after promulgation of the guidelines, or by December 6, 2002. This action promulgates a Federal plan for small MWC units that are not covered by an EPA approved and effective State or Tribal plan. The small MWC Federal plan will become effective on December 6, 2002. The elements of the Federal plan are summarized in section II of this preamble.

A. Background of Small MWC Regulations

On December 19, 1995, EPA promulgated emission guidelines (40 CFR part 60, subpart Cb) for large and small MWC units. In 1997, the U.S. Court of Appeals for the D.C. Circuit vacated the emission guidelines as they applied to small MWC units (*Davis County Solid Waste Management and Recovery District* v. *EPA,* 108 F. 3d 1454, D.C. Cir.1997). After this decision, EPA reproposed and promulgated emission guidelines for small MWC units (40 CFR part 60, subpart BBBB, promulgated on December 6, 2000). States or tribes with existing large MWC units subject to the subpart Cb emission guidelines were required to submit to EPA a State or tribal plan for those large units by December 19, 1996. To regulate large MWC units in areas without approved and effective State or tribal plans, EPA promulgated a Federal plan for large units (40 CFR part 62, subpart FFF) on November 12, 1998. The subpart FFF Federal plan and previously submitted State plans apply to only large MWC units. A separate Federal plan and separate State plans are required to implement the subpart BBBB emission guidelines for small MWC units. The Federal plan for small MWC units was proposed on June 14, 2001.

B. Regulated Entities

The small MWC Federal plan affects existing small MWC units that are not

regulated by an EPA approved and effective State or Tribal plan. A small MWC unit is defined as any MWC unit with a combustion design capacity of 35 to 250 tons per day of municipal solid waste (MSW) that commenced construction on or before August 30, 1999. This Federal plan affects the following categories of sources:

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry, Federal government, and State/local/Tribal governments.	562213, 92411	4953, 9511	Solid waste combustors or incinerators at waste-to-energy facilities that generate electricity or steam from the combustion of garbage (typically municipal waste); and solid waste combustors or incinerators at facilities that combust garbage (typically municipal waste) and do not recover energy from the waste.

This list is not intended to be exhaustive, but rather provides a guide regarding the entities potentially regulated by this Federal plan. The small MWC Federal plan primarily impacts facilities in North American Industrial Classification System (NAICS) codes 562213 and 92411, formerly Standard Industrial Classification (SIC) codes 4953 and 9511, respectively. Not all facilities classified under these codes will be affected. To determine whether a facility is regulated by this Federal plan, carefully examine the applicability criteria in §§ 62.15010 through 62.15035 of the Federal plan. If you have any questions regarding the applicability of this Federal plan to your small MWC unit contact the Regional Office listed in table 1.

Each small MWC unit will be subject to this Federal plan if any of the following is true on or after the effective date of the Federal plan:

(1) An applicable State or tribal plan has not become effective [1];

(2) An applicable State or tribal plan was in effect but was subsequently vacated in whole or in part; or

(3) An applicable State or tribal plan was in effect but was subsequently revised such that it is no longer as protective as the emission guidelines.

Once an approved State or tribal plan is in effect, the Federal plan will no longer apply to a small MWC unit covered by such plan. An approved State or tribal plan is a plan that EPA has reviewed and approved based on the requirements in 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart BBBB.

Today's adoption of this Federal plan does not preclude a State or tribe from submitting a State or tribal plan later. If a State or tribe submits a State or tribal plan after today's promulgation of the small MWC Federal plan, EPA will review and approve or disapprove the plan. Upon the effective date of EPA's approval of the State or tribal plan, the Federal plan will no longer apply, except those Federal plan provisions that may have been incorporated by reference under the section 111(d)/129 State or tribal plan, or delegated to the State by EPA.

If a small MWC unit was overlooked by a State and the State submitted a negative declaration letter, the small MWC unit will be subject to this Federal plan. The EPA believes that no small MWC units are located in Indian country. In the event that a small MWC unit is located in Indian country, the unit would be covered under this Federal plan, unless it is covered by an approved and effective tribal plan.

C. Status of State Plans

Twenty-two States have small MWC units and require State plans. (Depending on whether Pennsylvania's small MWC unit closes on schedule, Pennsylvania may not require a State plan.) A number of states have either submitted or are currently preparing their State plans. The EPA expects several State plans to be approved in the next few months. Table 2 summarizes the status of State plans as of today's date. The table is based on information provided by the EPA Regional Offices.

The following States have submitted State plans to the EPA: Connecticut, Florida, Maryland, Montana, New Hampshire, and Utah. The small MWC units located in these States will be subject to the Federal plan until the State plan is approved and becomes effective. Small MWC units located in States with an approved and effective State plan will be subject to the Federal plan only in the event that the State plan is subsequently disapproved by EPA, in whole or in part.

The EPA has not received a State plan from the following states that are believed to have small MWC units: Alaska, Massachusetts, Maine, Michigan, Minnesota, New Jersey, New York, North Carolina, Oklahoma, Oregon, Tennessee, Texas, Virginia, Washington, and Wisconsin. Small MWC units located in these States are subject to this Federal plan until a State plan applicable to small MWC units is approved by the EPA and becomes effective.

As of today's date, the following States have submitted negative declaration letters: Alabama, Arizona, California, Colorado, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, Nebraska, Nevada, North Dakota, Ohio, Puerto Rico, Rhode Island, South Carolina, South Dakota, Vermont, West Virginia, and Wyoming. States that have not submitted a negative declaration letter but are believed to have no small MWC units include: American Samoa, Arkansas, Delaware, District of Columbia, Guam, Idaho, Louisiana, New Mexico, Northern Mariana Islands, and Virgin Islands. In the unlikely event that there are small MWC units located in any of these States, this Federal plan would automatically apply to them.

TABLE 2.—STATUS OF STATE PLANS

Region	State	Number of plants	Status
I	Connecticut	1	State plan has been submitted but is incomplete.
	Massachusetts	2	No State plan submitted.
	Maine	1	No State plan submitted.

[1] The effective date of a State or tribal plan from EPA's perspective (for purposes of State or tribal law, a State or tribal plan may have an earlier effective date) is 30 days after the State or tribal plan final approval is published in the **Federal Register** if the final approval is via the regular regulatory procedure of proposal with opportunity for comment followed by promulgation. If the approval is by direct final rulemaking, the effective date of the State or tribal plan is 60 days after the approval is published in the **Federal Register**, if no adverse comments are received.

TABLE 2.—STATUS OF STATE PLANS—Continued

Region	State	Number of plants	Status
	New Hampshire	1	State plan has been submitted but is incomplete.
II	New Jersey	1	No State plan submitted.
	New York	3	No State plan submitted.
III	Maryland	1	State plan has been submitted but is incomplete.
	Pennsylvania	1	Plant closure by June 18, 2003.
	Virginia	4	No State plan submitted
IV	Florida	2	State plan is being reviewed by EPA.
	North Carolina	1	No State plan submitted.
	Tennessee	1	No State plan submitted.
V	Michigan	2	No State plan submitted.
	Minnesota	7	No State plan submitted.
	Wisconsin	1	No State plan submitted.
VI	Oklahoma	1	No State plan submitted.
	Texas	3	No State plan submitted.
VIII	Montana	1	State Plan is being reviewed by EPA.
	Utah	1	State Plan is being reviewed by EPA.
X	Alaska	1	No State plan submitted.
	Oregon	1	No State plan submitted.
	Washington	3	No State plan submitted.

Part 62 of title 40 of the Code of Federal Regulations identifies the approval of section 111(d)/129 State or Tribal plans for designated pollutants and designated facilities in each State or area of Indian country. However, part 62 is updated only once a year. Thus, if part 62 does not indicate that your State or tribal area has an approved and effective plan, you should contact your State environmental agency's air director or your EPA Regional Office (table 1) to determine if approval occurred since publication of the most recent version of part 62.

II. Required Elements of the Small MWC Federal Plan

Sections 111(d) and 129 of the CAA, as amended, 42 U.S.C. 7411(d) and 7429(b)(2), require States to develop and implement State plans for MWC units to implement and enforce the MWC emission guidelines. Subparts B and BBBB of 40 CFR part 60 require States to submit State plans that include specified elements. Because this Federal plan is being adopted in lieu of State plans, it includes the same essential elements: Identification of legal authority; identification of mechanisms for implementation; inventory of affected facilities; emission inventory; emission limits; compliance schedules; public hearing requirements; reporting and recordkeeping requirements; and public progress reports.

Each State plan element was discussed in detail as it relates to the Federal plan in the preamble to the proposed rule (66 FR 32484). Table 3 lists each element and identifies where it is located or codified. The EPA received written comments on the proposed Federal plan, which are presented in section III of this preamble. No requests for a public hearing were received by EPA.

TABLE 3.—REQUIRED ELEMENTS OF THE SMALL MWC FEDERAL PLAN

Required element of the small MWC federal plan	Location
Legal authority and enforcement mechanism	Section 129(b)(3) of the CAA.
Inventory of Affected MWC Units	Docket A–2000–39.
Inventory of Emissions	Docket A–2000–39.
Emission Limits	40 CFR 62.15155 through 62.15165.
Compliance Schedules	40 CFR 62.15040 through 62.15095.
Record of Public Hearings	No hearing was requested.
Testing, Monitoring, Recordkeeping, and Reporting	40 CFR 62.15170 through 62.15360.
Progress Reports	Section II.H of the proposal preamble (66 FR 32488).

III. Summary of Comments and Changes Since Proposal

In this section of the preamble, the EPA presents a brief summary of its responses to the public comments it received on the proposed small MWC Federal plan. Copies of the public comments and a memorandum responding to them can be found in Docket No. A–2000–39.

The EPA received only two comments on the proposed small MWC Federal plan. Both commenters requested the EPA delay promulgation of the small MWC Federal plan until ongoing litigation of the emission guidelines for small MWC units (40 CFR part 60, subpart BBBB) is resolved. The EPA decided not to delay promulgation of the Federal plan because, under sections 111 and 129 of the CAA, the EPA is required to promulgate a Federal plan applicable to units located in States which have not submitted an approvable State plan within two years of EPA's promulgation of an emission guideline. Since this Federal plan implements the emission guidelines for small MWC units not covered by an EPA approved and effective State or tribal plan, this Federal plan will be amended, as necessary, for any future amendments of subpart BBBB.

No comments were received on the emission limits or other requirements of the Federal plan, and no changes were made to the Federal plan.

IV. Summary of the Federal Plan Limits and Requirements

The small MWC Federal plan contains the same subcategories, emission limits, and other requirements as the emission guidelines promulgated on December 6, 2000 (65 FR 76378). Refer to the attached regulation, 40 CFR part 62, subpart JJJ for the entire set of requirements. The major requirements are summarized in the following sections.

A. Subcategories of Small MWC Units

The small MWC unit population is subcategorized based on aggregate capacity of the plant where the individual small MWC unit is located. The resulting subcategories are as follows: Class I units are small MWC units located at plants with an aggregate plant capacity greater than 250 tons per day of municipal solid waste (MSW); Class II units are small MWC units located at plants with an aggregate plant capacity less than or equal to 250 tons per day of MSW.

B. Emission Limits and Operating Practice Requirements

In accordance with section 129(a)(4) of the Clean Air Act, the Federal plan contains emission limits for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, sulfur dioxide, hydrogen chloride, nitrogen oxides, and carbon monoxide. The emission limits for Class I and Class II small MWC units are listed in tables 2 through 5 of subpart JJJ. The emission limits in the small MWC Federal plan are the same as those contained in the emission guidelines (40 CFR part 60, subpart BBBB). In addition to emission limits, the Federal plan contains the emission guideline requirements for unit operating load, flue gas temperature at the particulate matter control device inlet, and carbon feed rate as part of the required good combustion practices. The Federal plan also includes requirements for the control of fugitive ash emissions.

C. Compliance Schedules

The Federal plan includes required increments of progress for MWC units with compliance schedules that are longer than 12 months. The increments of progress in the Federal plan are the same as those in the emission guidelines and the primary mechanism for ensuring progress toward final compliance. Each increment of progress has a specified date for achievement.

This Federal plan includes five increments of progress for Class I units and two increments of progress for Class II units. The increments of progress for Class I units are: Submitting a final control plan; awarding contracts for control systems or process modifications or orders for purchase of components; beginning on-site construction or installation of the air pollution control device(s) or process changes; completing on-site construction or installation of the air pollution control device(s) or process changes; and final compliance. For Class II units, dates for only the first and last increments are specified.

The MWC owner or operator is responsible for meeting each of the increments of progress for each MWC unit no later than the applicable date. The owner or operator must notify the EPA Regional Office as each increment of progress is achieved (or missed). (*See* table 1 under the **SUPPLEMENTARY INFORMATION** section of this notice for a list of Regional Offices.) Class I and Class II small MWC units are required to follow the generic compliance schedule in table 1 of subpart JJJ, unless the State or owner/operator submitted a site-specific compliance schedule that was approved by EPA and included in table 9 of subpart JJJ. Under the generic compliance schedule, Class I units are required to reach final compliance by November 6, 2005. Class II units are required to reach final compliance by May 6, 2005.

In the proposed Federal plan, EPA provided States or MWC owners or operators with the opportunity to submit to EPA a site-specific compliance schedule as negotiated between the State and an MWC owner or operator. This site-specific compliance schedule was included by EPA to allow flexibility for the award contract date, the start construction date, and the finish construction date. Site-specific schedules for Dutchess County RRF and Islip-Mac Arthur RRF in New York State, and Harrisburg Materials, Energy, Recycling and Recovery Facility in Pennsylvania have been included in table 9 of the final Federal plan.

D. Operator Training and Certification Requirements

In the Federal plan, ASME operator certification and the EPA MWC operator training course are required. The emission guidelines require ASME or a comparable State program for operator certification for chief facility operators and shift supervisors, and an EPA or comparable State MWC operator training course for chief facility operators. Therefore, the proposed Federal plan included the opportunity for States to submit a comparable State program for operator certification and comparable State MWC training courses for inclusion in the final Federal plan. The States were required to submit this information before November 14, 2001. As of June 5, 2002, no States have submitted a comparable State program for operator certification or comparable State MWC training courses, so no such programs are included in the final Federal plan.

E. Testing, Monitoring, Recordkeeping, and Reporting

The small MWC Federal plan includes the same testing, monitoring, recordkeeping, and reporting requirements specified in 40 CFR part 60, subpart BBBB. Small MWC units subject to this Federal plan are required to conduct initial and annual stack testing to measure the emission levels of dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash. Continuous emission monitoring systems are required for monitoring oxygen (or carbon dioxide), sulfur dioxide, carbon monoxide, and nitrogen oxides. The owner or operator must also monitor the load level, the temperature of the flue gases at the inlet to the particulate matter air pollution control device, and the carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

In addition to the testing and monitoring requirements, the Federal plan includes recordkeeping and reporting requirements, which are intended to document compliance with the emission limits and operating requirements.

V. Implementation of the Federal Plan and Delegation

A. Background of Authority

Under sections 111(d) and 129(b) of the CAA, EPA is required to adopt emission guidelines that are applicable to existing solid waste incineration sources. These emission guidelines are not enforceable until a Federal plan or an EPA-approved State or tribal plan becomes effective. As discussed above, the Federal plan regulates small MWC units in a State or tribal area that does not have an EPA-approved plan.

Congress has determined that the primary responsibility for air pollution prevention and control rests with State and local agencies. *See* section 101(a)(3) of the CAA. Consistent with that overall determination, Congress established sections 111 and 129 of the CAA with the intent that the States and local agencies take the primary responsibility for ensuring that the emission limitations and other requirements in

the emission guidelines are achieved. Also, in section 111(d) of the CAA, Congress explicitly required that EPA establish procedures that are similar to those under section 110(c) for State Implementation Plans. Although Congress required EPA to propose and promulgate a Federal plan for States that fail to submit approvable State plans on time, States and tribes may submit approvable plans after today's publication of this Federal plan. The EPA strongly encourages States that are unable to submit approvable plans to request delegation of the Federal plan so that they can have primary responsibility for implementing the emission guidelines, consistent with Congress' intent.

Approved and effective State plans or delegation of the Federal plan is EPA's preferred outcome since EPA believes that State and local agencies not only have the responsibility to implement and enforce the emission guidelines, but also have the practical knowledge and enforcement resources critical to achieving the highest rate of compliance. For these reasons, EPA will do all that it can to expedite delegation of the Federal plan to State and local agencies, whenever possible.

The EPA also believes that Indian tribes are the primary parties responsible for regulating air quality within Indian country, if they desire to do so. *See* EPA's Indian Policy (''Policy for Administration of Environmental Programs on Indian Reservations,'' signed by William D. Ruckelshaus, Administrator of EPA, dated November 4, 1984), reaffirmed in a 1994 memorandum (''EPA Indian Policy,'' signed by Carol M. Browner, Administrator of EPA, dated March 14, 1994).

B. Delegation of the Federal Plan and Retained Authorities

If a State or Indian tribe intends to take delegation of the Federal plan, the State or Indian tribe must submit to the appropriate EPA Regional Office a written request for delegation of authority. The State or Indian tribe must explain how it meets the criteria for delegation specified in Delegation No. 7–139, ''Implementation and Enforcement of sections 111(d)(2) and 111(d)(2)/129(b)(3) Federal Plans''. *See generally* ''Good Practices Manual for Delegation of NSPS and NESHAP'' (EPA, February 1983). In order to obtain delegation, an Indian tribe must also establish its eligibility to be treated in the same manner as a State. The letter requesting delegation of authority to implement the Federal plan must demonstrate that the State or tribe has adequate resources, as well as the legal and enforcement authority to administer and enforce the program. A memorandum of agreement between the State or tribe and EPA will set forth the terms and conditions of the delegation, the effective date of the agreement, and will also serve as the mechanism to transfer authority. Upon signature of the agreement, the appropriate EPA Regional Office will publish an approval notice in the **Federal Register**, thereby incorporating the delegation of authority into the appropriate subpart of 40 CFR part 62.

If authority is not delegated to a State or Indian tribe, EPA will implement and enforce the Federal plan. Also, if a State or tribe fails to properly implement a delegated portion of the Federal plan, EPA will assume direct implementation and enforcement of that portion. The EPA will continue to hold enforcement authority along with the State or tribe even when a State or tribe has received delegation of the Federal plan. In all cases where the Federal plan is delegated, EPA will retain and will not transfer to a State or tribe certain authorities which could change the stringency of the underlying standard, which are likely to be nationally significant, or which may require a national rulemaking and subsequent **Federal Register** notice. The following authorities may not be delegated to State, tribal or local agencies: approval of alternative non-opacity emission standards, approval of alternative opacity standard, approval of major alternatives to test methods, approval of major alternatives to monitoring, waiver of recordkeeping, and approval of exemption to operating practice requirements in § 62.15145(e)(5).

C. Mechanisms for Transferring Authority

There are two mechanisms for transferring implementation authority to State or tribal agencies: When EPA approves a State or tribal plan after the Federal plan is in effect; and if a State or tribe does not submit or obtain approval of its own plan, EPA may delegate to a State or tribe the authority to implement the Federal plan. Both of these options are described in more detail below.

1. State or Tribe Submits a Plan After Small MWC Units Located in the Area Are Subject to the Federal Plan

After small MWC units in a State or tribal area become subject to the Federal plan, the State or tribal agency may still adopt and submit a plan to EPA. If EPA determines that the State or tribal plan is as protective as the emission guidelines, EPA will approve the State or tribal plan. If EPA determines that the plan is not as protective as the emission guidelines, EPA will disapprove the plan and the small MWC units proposed to be covered in the State or tribal plan will remain subject to the Federal plan until a State or tribal plan covering those small MWC units is approved and effective.

Upon the effective date of a State or tribal plan, the Federal plan will no longer apply to small MWC units covered by such a plan and the State or tribal agency will implement and enforce the State or tribal plan in lieu of the Federal plan. When an EPA Regional Office approves a State or tribal plan, it will amend the appropriate subpart of 40 CFR part 62 to indicate such approval.

2. State Takes Delegation of the Federal Plan

The EPA, in its discretion, may delegate to State or tribal agencies the authority to implement the Federal plan. As discussed above, EPA believes that it is advantageous and the best use of resources for State agencies to agree to undertake, on EPA's behalf, the administrative and substantive role in implementing the Federal plan to the extent EPA decides it is appropriate and where authorized by State law. If a State requests delegation, EPA will generally delegate the entire Federal plan to the State agency. These functions include administration and oversight of compliance reporting and recordkeeping requirements, small MWC inspections, and preparation of draft notices of violation and enforcement. Enforcement authority can be delegated to State and tribal agencies, but EPA always retains Federal enforcement authority. The EPA also believes that it is the best use of resources for tribal agencies to undertake a role in the implementation of the Federal plan. The Tribal Authority Rule (TAR) issued on February 12, 1998 (63 FR 7254), provides tribes the opportunity to develop and implement Clean Air Act programs. However, due to resource constraints and other factors unique to tribal governments, it leaves to the discretion of the tribe whether to develop these programs and which elements of a program they will adopt. Consistent with the approach of the TAR, EPA may choose to delegate a partial Federal plan (*i.e.*, to delegate authority for some functions needed to carry out the plan) in appropriate circumstances and where authorized by tribal law. Both States, or tribal agencies, that have taken delegation, as well as EPA, will have responsibility for

bringing enforcement actions against sources violating Federal plan provisions. EPA recognizes, however, that tribes have limited criminal enforcement authority, and EPA will address in the delegation agreement with the tribe how criminal enforcement issues are referred to EPA.

VI. Title V Operating Permits

Sources subject to this small MWC Federal plan must obtain title V operating permits. These title V operating permits must assure compliance with all applicable requirements for these sources, including all applicable requirements of this Federal plan. *See* 40 CFR 70.6(a)(1), 70.2, 71.6(a)(1) and 71.2.

Owners or operators of section 129 sources (including small MWC units) subject to standards or regulations under sections 111 and 129 must operate pursuant to a title V permit not later than 36 months after promulgation of emission guidelines under sections 111 and 129 or by the effective date of the State, tribal, or Federal title V operating permits program that covers the area in which the unit is located, whichever is later. The EPA has interpreted section 129(e) to be consistent with section 503(d) of the CAA and 40 CFR 70.7(b) and 71.7(b). (*See, e.g.*, the final Federal Plan for Hospital/Medical/Infectious Waste Incinerators, August 15, 2000 (65 FR 49868, 49878)). Section 503(d) of the CAA and 40 CFR 70.7(b) and 71.7(b) allow a source to operate without being in violation of title V once the source has submitted a timely and complete permit application, even if the source has not yet received a final title V operating permit from the permitting authority.[2] As a result, EPA interprets the dates in section 129(e) to be the dates by which complete title V applications need to be submitted. In the absence of such an interpretation, a section 129 source may be required to prepare and submit a complete title V application and the permitting authority issue a permit to this source in a very short period of time.[3]

As a result of EPA's interpretation, existing small MWC units must submit complete title V applications by the later of the following dates: not later than 36 months after the promulgation of 40 CFR part 60, subpart BBBB or by the effective date of the State, tribal, or Federal title V operating permits program that covers the area in which the unit is located. As of today's action, all areas of the country are covered by effective title V programs. As a result, the relevant section 129(e) date for existing small MWC units is 36 months following promulgation of 40 CFR part 60, subpart BBBB, *i.e.*, December 6, 2003. Therefore, December 6, 2003, is the latest possible date by which complete applications for existing small MWC units can be submitted and still be considered timely. This date applies regardless of when the small MWC Federal plan becomes effective or when an EPA approved section 111(d)/129 plan for existing small MWC units becomes effective. If, however, an earlier application deadline applies to an existing small MWC unit, then this deadline must be met in order for the unit to be in compliance with section 502(a) of the CAA. To determine when an application is due for an existing small MWC unit, section 129(e) of the CAA must be read in conjunction with section 503(c) of the CAA.

As stated in section 503(c), a source has up to 12 months to apply for a title V permit once it becomes subject to a title V permitting program.[4] For example, if an existing small MWC unit becomes subject to a title V permitting program for the first time on the effective date of this Federal plan, then the source must apply for a title V permit within 12 months of the effective date of this Federal plan in order to operate after this date in compliance with Federal law.

An application deadline earlier than either of the two dates noted above, *i.e.*, December 6, 2003, or not later than 12 months after the effective date of this Federal plan, may apply to an existing small MWC unit if it is subject to title V for more than one reason. For example, an existing small MWC unit may already be subject to title V as a result of being a major source under one or more of three major source definitions in title V—section 112, section 302, or part D of title I of the CAA. *See* 40 CFR 70.3(a)(1) and 71.3(a)(1) (subjecting major sources to title V permitting) and 40 CFR 70.2 and 71.2 (defining major source for purposes of title V). *See also* 40 CFR 70.3(a) and (b) and 71.3(a) and (b) for a list of the applicability criteria which trigger the requirement to apply for a title V permit.

If an owner or operator is already subject to title V by virtue of some requirement other than this Federal plan and has submitted a timely and complete permit application, but the draft title V permit has not yet been released by the permitting authority, then the owner or operator must supplement the title V application by including the applicable requirements of this Federal plan in accordance with 40 CFR 70.5(b) or 71.5(b). If an existing small MWC unit is a major source or is part of a major source, is subject to this Federal plan, and is already covered by a title V permit with a remaining permit term of 3 or more years on the effective date of this Federal plan, then the owner or operator will receive from the permitting authority a notice of intent to reopen the source's title V permit to include the requirements of this Federal plan. Reopenings required for such small MWC units must be completed not later than 18 months after the effective date of this Federal plan in accordance with the procedures established in 40 CFR 70.7(f)(1)(i) or 71.7(f)(1)(i). If an existing small MWC unit subject to this Federal plan does not meet the above criteria, *e.g.*, the unit is part of a nonmajor source or is covered by a permit which has a remaining term of less than 3 years on the effective date of this Federal plan, then the permitting authority does not need to reopen the source's permit, as a matter of Federal law, to include the requirements of this Federal plan.[5]

[2] A title V application should be submitted early enough for the permitting authority to find the application either complete or incomplete before the title V application deadline. In the event the application is found incomplete by the permitting authority, the source must submit the information needed to make the application complete by the application deadline in order to obtain the application shield. *See* 40 CFR 62.15400(c)and 40 CFR 70.5(a)(2) and 71.5(a)(2).

[3] For example, in the absence of such an interpretation, if a final Federal plan were to become effective more than 24 months after the promulgation of emission guidelines promulgated under sections 111 and 129, a source, if subject to the Federal plan, would have less than 12 months to prepare and submit a complete title V permit application and to have the permit issued. EPA's interpretation allows section 129(e) to be read consistently with section 503(d) of the Act and 40 CFR 70.7(b) and 71.7(b). EPA's interpretation is also consistent with section 503(c) of the Act which requires sources to submit title V applications not later than 12 months after becoming subject to a title V permits programs. If a permit as opposed to a title V application were required by the later of the two deadlines specified in section 129(e), some section 129 sources would be required to have been *issued final title V permits* in potentially much less time than allotted for non-section 129 sources to *submit their title V applications.*

[4] If a source is subject to title V for more than one reason, the 12-month time frame for submitting a title V application is triggered by the requirement which first causes the source to become subject to title V. As provided in section 503(c) of the CAA, permitting authorities may establish permit application deadlines earlier than the 12-month deadline.

[5] *See* CAA section 502(b)(9); 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i). Owners or operators of small MWC units, which have been permitted and are subject to this Federal plan, may wish to consult their operating permits program regulations or permitting authorities to determine whether their permits must be reopened to incorporate the requirements of this Federal plan.

However, the owner or operator of a source subject to a section 111/129 Federal plan remains subject to, and must act in compliance with, section 111/129 requirements and all other applicable requirements to which the source is subject regardless of whether these requirements are included in a title V permit. *See* 40 CFR 70.6(a)(1), 70.2, 71.6(a)(1) and 71.2.

The EPA has recently become aware that there has been some confusion regarding the title V obligations of section 129 sources that are subject to standards or regulations under sections 111 and 129. We are therefore including table 4 to help clarify when small MWC units (even those not subject to this Federal plan) must apply for a title V permit. While table 4 provides specific information relative to small MWC units, the same title V obligations apply to all section 129 sources subject to standards or regulations under sections 111 and 129. Of course, specific deadlines will vary for other section 129 sources depending on when the relevant NSPS is promulgated, when the relevant State or tribal section 111(d)/129 plan is approved by EPA and becomes effective, etc. Lastly, table 4 takes into account that as of the promulgation date, *i.e.*, December 6, 2000, for the NSPS (subpart AAAA of part 60) and emission guidelines (subpart BBBB of part 60) for small MWC units, every area of the country was covered by a title V permits program under 40 CFR part 70 or part 71. This point is relevant because a section 111/129 standard cannot trigger the requirement for a source to apply for a title V permit unless a title V permits program is in effect in the area in which the source is located.

TABLE 4.—DEADLINES FOR TITLE V PERMITS

Submitting Title V Permit Applications	
If a small MWC unit is a major source or is part of a major source, and had commenced operation as of the effective date of relevant title V permits program.	then a complete title V application which covers the entire source [a] is due not later than 12 months (or if required by the title V permitting authority) after the effective date of the relevant title V permits program. *See* CAA section 503(c) and 40 CFR commenced 70.4(b)(11)(i), 71.4(i)(1), 70.5(a)(1)(i) and 71.5(a)(1)(i).
If a small MWC unit is a major source or is part of a major source, but did not commence operation until after the relevant title V permits program became effective.	then a complete title V application which covers the entire source is due not later than 12 months (or earlier if required by the title V permitting authority) after the date the source commences operation. *See* CAA section 503(c) and 40 CFR 70.5(a)(1)(i) and 71.5(a)(1)(i).
If a small MWC unit is a nonmajor source or is part of a nonmajor source, is subject to the small MWC NSPS (subpart AAAA of 40 CFR part 60), and had commenced operation as of December 6, 2000.	then a complete title V application [b] is due not later than 12 months after subpart AAAA was promulgated, *i.e.*, December 6, 2001 (or earlier if required by the title V permitting authority). *See* CAA section 503(c) and 40 CFR 70.5(a)(1)(i) and 71.5(a)(1)(i).
If a small MWC unit is a nonmajor source or is part of a nonmajor source, is subject to the small MWC NSPS (subpart AAAA of 40 CFR part 60), but did not commence operation until after December 6, 2000.	then a complete title V application is due not later than 12 months (or earlier if required by the title V permitting authority) after the date the source commences operation. *See* CAA section 503(c) and 40 CFR 70.5(a)(1)(i) and 71.5(a)(1)(i).
If a small MWC unit is a nonmajor source or is part of a nonmajor source, and is subject to an EPA approved and effective State or tribal section 111(d)/129 plan.	then a complete title V application is due not later than 12 months (or earlier if required by the title V permitting authority) after the effective date of the EPA approved State or tribal section 111(d)/129 plan.[c] *See* CAA section 503(c) and 40 CFR 70.5(a)(1)(i) and 71.5(a)(1)(i). In no event, however, can such an existing small MWC unit submit a complete title V application after December 6, 2003, and have it be considered timely. *See* CAA section 129(e) and section or tribal 62.15400 of subpart JJJ.
If a small MWC unit is nonmajor source or is part of a nonmajor source, and is subject to the small MWC Federal plan (subpart JJJ of 40 CFR part 62).	then a complete title V application is due not later than 12 months (or earlier if required by the title V permitting authority) after the effective date of 40 CFR part 62, subpart JJJ. *See* CAA section 503(c) and 40 CFR 70.5(a)(1)(i) and 71.5(a)(1)(i). In no event, however, can such an existing small MWC unit submit a complete title V application after December 6, 2003, and have it considered timely. *See* CAA section 129(e) and section 62.15400 of subpart JJJ.
If a small MWC unit is required to obtain a title permit due to triggering more than one of the applicability criteria listed above or in 40 CFR 70.3(a) or 71.3(a).	then a complete title V application is due not later than 12 months (or earlier if required by the title V permitting authority) after the unit triggers the criterion which first caused the unit to be subject to title V. *See* CAA section 503(c) and 40 CFR 70.3(a) and (b), 70.5(a)(1), 71.3(a) and (b) and 71.5(a)(1). In no event, however, can an existing small MWC unit submit a complete title V application after December 6, 2003, and have it be considered timely. *See* CAA section 129(e) and section 62.15400 of subpart JJJ.
Reopening Title V Permits	
If a small MWC unit is a major source or is part of a major source, is subject to the small MWC NSPS (subpart AAAA of 40 CFR part 60), and is covered by a title V permit with a remaining permit term of 3 or more years on December 6, 2000.	then the title V permitting authority must complete a reopening of the source's title V permit to incorporate the requirements of 40 CFR part 60, subpart AAAA not later than June 6, 2002. *See* CAA section 502(b)(9); 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i).

TABLE 4.—DEADLINES FOR TITLE V PERMITS—Continued

If a small MWC unit is a major source or is part of a major source, is subject to an EPA approved and effective State or tribal section 111(d)/129 plan for small MWC units, and is covered by a title V permit with a remaining permit team of 3 or more years on the effective date of the EPA approved section 111(d)/129 plan.	then the title V permitting authority must complete a reopening of the source's title V permit to incorporate the requirements of this EPA approved and effective section 111(d)/129 plan not later than 18 months after the effective date of this plan. *See* CAA section 502(b)(9); 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i).
If a small MWC unit is a major source or is part of a major source, is subject to the small MWC Federal plan (subpart JJJ of 40 CFR part 62), and is covered by a title V permit with a remaining permit term of 3 or more years on the effective date of this Federal plan.	then the title V permitting authority must complete a reopening of the source's title V permit to incorporate the requirements of subpart JJJ of 40 CFR part 62 not later than 18 months after the effective date of the small MWC Federal plan. *See* CAA section 502(b)(9); 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i).
Updating Existing Title V Permit Applications	
If a small MWC unit is subject to the small MWC NSPS (subpart AAAA of 40 CFR part 60), but first became subject to title V permitting prior to the promulgation of this NSPS, and the owner or operator of the unit has submitted a timely and complete title V permit application, but the draft title V permit has not yet been released by the permitting authority.	then the owner or operator must supplement the title V application by including the applicable requirements of 40 CFR part 60, subpart AAAA in accordance with 40 CFR 70.5(b) or 71.5(b).
If a small MWC unit is subject to an EPA approved and effective State or tribal section 111(d)/129 plan for small MWC units, but first became subject to title V permitting prior to the effective date of the section 111(d)/129 plan, and the owner or operator of the unit has submitted a timely and complete title V permit application, but the draft title V permit has not yet been released by the permitting authority.	then the owner or operator must supplement the title V application by including the applicable requirements of the approved and effective section 111(d)/129 plan in accordance with 40 CFR 70.5(b) or 71.5(b).
If a small MWC unit is subject to the small MWC Federal plan (subpart JJJ of 40 CFR part 62), but first became subject to title V permitting prior to the effective date of this Federal plan, and the owner or operator of the unit has submitted a timely and complete title V permit application, but the draft title V permit has not yet been released by the permitting authority.	then the owner or operator must supplement the title V application by including the applicable requirements of 40 CFR part 62, subpart JJJ in accordance with 40 CFR 70.5(b) or 71.5(b).

[a] A title V application from a major source must address all emission units at the title V source, not just the section 129 emission unit. *See* 40 CFR 70.3(c)(1) and 71.3(c)(1). (For information on aggregating emission units to determine what is a source under title v, *see* the definition of *major source* in 40 CFR 70.2, 71.2 and 63.2.)

[b] Consistent with 40 CFR 70.3(c)(2) and 71.3(c)(2), a permit application from a nonmajor title V source is only required to address the emission units which caused the source to be subject to title V. The requirements which trigger the need for the owner or operator of a nonmajor source to apply for a title V permit are found in 40 CFR 70.3(a) and (b) and 71.3(a) and (b). Permits issued to these nonmajor sources must include *all* of the applicable requirements that apply to the triggering units, *e.g.*, State Implementation Plan requirements, not just the requirements which caused the source to be subject to title V. *See* footnote #2 in *Change to Definition of Major Source* rule, November 27, 2001 (66 FR 59161, 59163).

[c] If a small MWC unit becomes subject to an approved and effective State or tribal section 111(d)/129 plan after being subject to an effective Federal plan, the small MWC unit is still required to file a complete title V application consistent with the application deadlines for units subject to the small MWC Federal plan.

A. Clarification to the Rule

The language in § 62.15020(k) regarding air curtain incinerators has been clarified to be consistent with the language in § 62.15395 regarding title V permitting. In that air curtain incinerators are subject to this subpart, they are required to apply for and obtain a title V permit consistent with the requirements of §§ 62.15395 and 62.15400. As a result, the language in § 62.15020(k) has been modified to specify that air curtain incinerators which meet the definition of air curtain incinerator found in § 62.15410 must meet only the requirements of §§ 62.15365 through 62.15385 and the operating permit requirements of this subpart.

B. Delegation of a Federal Plan

During the development of the Federal plan for Hospital/Medical/Infectious Waste Incinerators (HMIWI), a State agency raised the question of whether a title V operating permits program could be used as a mechanism for transferring the authority to implement and enforce section 111/129 requirements from EPA to State and local agencies. *See* ''Transfer of Authority'' section of final Federal plan for HMIWI, August 15, 2000 (65 FR 49868, 49873). The State agency noted that the proposal for that rulemaking described two mechanisms for transferring authority to State and local agencies following promulgation of the Federal plan. Those two mechanisms were: (1) The approval of a State or tribal plan after the Federal plan is in effect; and (2) if a State or tribe does not submit or obtain approval of its own plan, EPA delegation to a State or tribe of the authority to implement and enforce the HMIWI Federal plan. The State asked EPA to recognize the title V operating permits program as a third mechanism for transferring authority to State and local agencies. The commenter said that State and local agencies implement title V programs and that title V permits must include the requirements of the Federal plan. The commenter concluded that title V permitting authorities already have implementation responsibility for the Federal plan through their title V permits programs, regardless of whether the authority to implement the Federal plan is delegated to the State or local agency.

In its response to the State, the EPA explained why the issuance of a title V permit is not equivalent to the approval of a State plan or delegation of a Federal plan by focusing on situations in which a title V permitting authority without delegation of a Federal plan could not

implement and enforce section 111/129 requirements. This situation would arise any time a title V permit was not in effect for a source subject to the section 111/129 Federal plan or where the permit did not contain the applicable section 111/129 requirements. For example, a title V source may be allowed to operate without a title V permit for a number of years in some cases between the time the source first triggers the requirement to apply for a permit and the issuance of the permit. The preamble to the final HMIWI Federal plan also noted that a source with a title V permit with a permit term less than 3 years is not required by part 70 to have its permit reopened by a State or tribe to include new applicable requirements such as the HMIWI standard.[6] *See* 40 CFR 70.7(f)(1)(i).

In addition to the explanation provided in the preamble to the final HMIWI Federal plan, there are additional State implementation and enforcement gaps which would not be addressed by implementing and enforcing the section 111/129 standard through a title V permit. The following is an example of such a gap: title V permits are not permanent. With two exceptions, all permits must be renewed at least every 5 years.[7] Although 40 CFR 70.4(b)(10) requires States to provide that a permit or the terms and conditions of a permit may not expire until the permit is renewed, this requirement only applies if a timely and complete application for a renewal permit has been submitted by the source, creating a potential gap. In contrast to this example, the two mechanisms that EPA has identified for transferring authority ensure that a State or tribe can implement and enforce the section 111/129 standards at all times.

Legally, delegation of a standard or requirement results in a delegated State or tribe standing in for EPA as a matter of Federal law. This means that obligations a source may have to the EPA under a federally promulgated standard become obligations to a State (except for functions that the EPA retains for itself) upon delegation.[8] Although a State or tribe may have the authority to incorporate section 111/129 requirements into its title V permits, and implement and enforce these requirements in these permits without first taking delegation of the section 111/129 Federal plan, the State or tribe is not standing in for EPA as a matter of Federal law in this situation. Where a State or tribe does not take delegation of a section 111/129 Federal plan, obligations that a source has to EPA under the Federal plan continue after a title V permit is issued to the source. As a result, the EPA continues to maintain that an approved part 70 operating permits program cannot be used as a mechanism to transfer the authority to implement and enforce the Federal plan from the EPA to a State or tribe.

As mentioned above, a State or tribe may have the authority under State or tribal law to incorporate section 111/129 requirements into its title V permits, and implement and enforce these requirements in that context without first taking delegation of the section 111/129 Federal plan.[9] Some States or tribes, however, may not be able to implement and enforce a section 111/129 standard in a title V permit until the section 111/129 standard has been delegated. In these situations, a State or tribe should not issue a part 70 permit to a source subject to a Federal plan before taking delegation of the section 111/129 Federal plan.

If a State or tribe can provide an Attorney General's (AG's) opinion delineating its authority to incorporate section 111/129 requirements into its title V permits, and then implement and enforce these requirements through its title V permits without first taking delegation of the requirements, then a State or Tribe does not need to take delegation of the section 111/129 requirements for purposes of title V permitting.[10] In practical terms, without approval of a State or tribal plan, delegation of a Federal plan, or an adequate AG's opinion, States and tribes with approved part 70 permitting programs open themselves up to potential questions regarding their authority to issue permits containing section 111/129 requirements and to assure compliance with these requirements. Such questions could lead to the issuance of a notice of deficiency for a State's or tribe's part 70 program. As a result, prior to a State or tribal permitting authority drafting a part 70 permit for a source subject to a section 111/129 Federal plan, the State or tribe, EPA Regional Office, and source in question are advised to ensure that delegation of the relevant Federal plan has taken place or that the permitting authority has provided to the EPA Regional Office an adequate AG's opinion.

In addition, if a permitting authority chooses to rely on an AG's opinion and not take delegation of a Federal plan, a section 111/129 source subject to the Federal plan in that State must simultaneously submit to both EPA and the State or tribe all reports required by the standard to be submitted to the EPA. Given that these reports are necessary to implement and enforce the section 111/129 requirements when they have been included in title V permits, the permitting authority needs to receive these reports at the same time as the EPA.

In the situation where a permitting authority chooses to rely on an AG's opinion and not take delegation of a Federal plan, EPA Regional Offices will be responsible for implementing and enforcing section 111/129 requirements outside of any title V permits. Moreover, in this situation, EPA Regional Offices will continue to be responsible for developing progress reports, entering emissions data into the Aerometric Information Retrieval System (AIRS)/AIRS Facility Subsystem (AFS), and conducting any other administrative functions required under this Federal plan or any other section 111/129 Federal plan. *See* section II.J. of the proposed Federal plan for HMIWI, July 6, 1999 (64 FR 36426, 36431); 40 CFR 60.25(e); and Appendix D of 40 CFR part 60.

It is important to note that the EPA is not using its authority under 40 CFR 70.4(i)(3) to request that all States and tribes which do not take delegation of this Federal plan submit supplemental AG's opinions at this time. However, the EPA Regional Offices shall request, and permitting authorities shall provide, such opinions when the EPA questions a State's or tribe's authority to incorporate section 111/129

[6] An owner or operator of a source subject to a section 111/129 Federal plan remains subject to, and must act in compliance with, 111/129 requirements and all other applicable requirements to which the source is subject regardless of whether these requirements are included in a title V permit. *See* 40 CFR 70.6(a)(1), 70.2, 71.6(a)(1) and 71.2.

[7] Under 40 CFR 70.4(b)(3)(iv), permitting authorities are allowed to issue permits for solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act for a period not to exceed 12 years, provided that the permits are reviewed at least every 5 years. Permits with acid rain provisions must be issued for a fixed term of 5 years; shorter terms for such permits are not allowed.

[8] If the Administrator chooses to retain certain authorities under a standard, those authorities cannot be delegated, *e.g.,* approval of major alternatives to test methods.

[9] The EPA interprets the phrase ''assure complaince'' in section 502(b)(5)(A) to mean that permitting authorities will implement and enforce each applicable standard, regulation, or requirement which must be included in the title V permits the permitting authorities issue. *See* definition of ''applicable requirement'' in 40 CFR 70.2. *See also* 40 CFR 70.4(b)(3)(i) and 70.6(a)(1).

[10] It is important to note that an AG's opinion submitted at the time of initial title V program apporoval is sufficient if it demonstrates that a State or tribe has adequate authority to incorporate section 111/129 requirements into its title V permits, and to implement and enforce these requirements through its title V permits without delegation.

requirements into a title V permit, and implement and enforce these requirements in that context without delegation.

Lastly, the EPA would like to correct and clarify the following sentences from the ''Transfer of Authority'' section of the preamble to the final HMIWI Federal plan (65 FR 49868, 49873): ''Prior to delegation, only the EPA will have enforcement authority. In neither instance does the title V permit status of a source affect the enforcement responsibility of EPA and the State or tribal permitting authorities.'' In situations where a State or tribe is subject to a section 111/129 Federal plan and does not take delegation of the Federal plan, the following applies: Prior to delegation, only EPA can implement and enforce section 111/129 requirements outside of a title V permit. Whenever there is a title V permit in effect which includes section 111/129 requirements, however, EPA and the State or tribe have dual authority to implement and enforce the section 111/129 requirements in the title V permit. When a State or tribe has not taken delegation of a section 111/129 Federal plan, the previous sentence is relevant only in situations where a State or tribe has the authority to incorporate section 111/129 requirements into title V permits, and to implement and enforce these requirements in title V permits without delegation.

VII. Administrative Requirements

This section addresses the following administrative requirements: Regulatory Planning and Review; Federalism; Consultation and Coordination with Indian Tribal Governments; Protection of Children from Environmental Health Risks and Safety Rules; Unfunded Mandates Reform Act of 1995; Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996; Paperwork Reduction Act; National Technology Transfer and Advancement Act; Congressional Review Act; and Energy Effects. Many of these administrative requirements were addressed in the preamble to the small MWC emission guidelines (65 FR 76378). Since this Federal plan merely implements the emission guidelines promulgated on December 6, 2000, and does not impose any new requirements, many of the administrative requirements refer to the administrative requirements in the preamble to the small MWC emission guidelines.

A. Executive Order 12866—Regulatory Planning and Review

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

1. Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The emission guidelines promulgated on December 6, 2000, are projected to have an impact of approximately $68 million annually (Docket No. A–98–18). This Federal plan merely implements those emission guidelines, and does not impose any new requirements. Therefore, EPA has determined that this Federal plan is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13132: Federalism

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

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless EPA consults with State and local officials early in the process of developing the regulation.

This Federal plan does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The States have the primary responsibility for negotiating compliance schedules and incorporating the emission limits into a State plan. Since sources are only covered by a Federal plan if an EPA approved and effective State plan is not in place, the Federal plan does not add substantial additional costs. Thus, the requirements of section 6 of the Executive Order do not apply to this Federal plan.

C. Executive Order 13175—Consultation and Coordination with Indian Tribal Governments

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

The EPA believes that no small MWC units are located in Indian country. As a result, this final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

D. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This Federal plan is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because it is based on technology performance and not on health and safety risks.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, or tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this Federal plan does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. The Federal plan merely implements the small MWC emission guidelines and does not impose any new requirements. The Environmental Impact Assessment (EIA) for the small municipal waste combustor emission guidelines (Docket No. A–98–18) shows that the total annual costs of the emission guidelines is about $68 million per year (in 1997 dollars), starting on the fifth year after the emission guidelines are promulgated. The Federal plan will apply to only a small subset of the units considered in the EIA for the emission guidelines. Thus, this Federal plan is not subject to the requirements of sections 202 and 205 of UMRA. Although the emission guidelines were not subject to UMRA, EPA prepared a cost-benefit analysis under section 202 of UMRA for the 1995 emission guidelines. For a discussion of how EPA complied with UMRA for the 1995 emission guidelines, including its extensive consultations with State and local governments, see the preamble to the 1995 emission guidelines (60 FR 65405–65412, December 19, 1995). Because the emission guidelines are equivalent to the 1995 emission guidelines, no additional consultations were necessary during the reestablishment of emission guidelines for small MWC units. However, public comments were solicited in the process of reestablishing the small MWC emission guidelines and in proposing the Federal plan, providing the opportunity for input from state and local governments and small entities.

F. Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of the emission guidelines on small entities, a small entity is defined as:

1. A small business in this industry that has a gross annual revenue less than $6 million;

2. A small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or

3. A small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of the Federal plan on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The EPA expects State plans to affect many small MWC units before the final small MWC Federal plan becomes effective. As State plans are submitted and become effective, the Federal plan no longer applies. Therefore, the impact of this Federal plan is expected to be less than the impact identified in developing the MWC emission guidelines.

EPA's analysis indicates eight existing small MWC units (operated by one small business and seven small governments) would be subject to the emission guidelines. In the analysis for the MWC units that are considered small entities, EPA calculated compliance costs as a percentage of sales for business and a percentage of income (total household income) for governments. The average estimated annual compliance cost as a percentage of income is 0.03 percent for the seven small government entities and 39 percent for the one small business. Among the seven potentially affected government entities, the maximum compliance cost was 0.25 percent.

Although this Federal plan will not have a significant economic impact on a substantial number of small entities, EPA has tried to reduce the impact of

the emission guidelines and this Federal plan on small entities by establishing different requirements for Class I and Class II MWC units and establishing provisions for less frequent testing for small Class II units. In addition, EPA involved representatives of small entities in the development of the emission guidelines. For a summary of the actions that EPA took to involve small entities and their representatives in the development of the emission guidelines, refer to the discussion of the Unfunded Mandates Reform Act in section VII.E.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements in the emission guidelines under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq* and has assigned OMB control number 2060–0424.

The information will be used to ensure that the small MWC unit Federal plan requirements are implemented properly and are complied with on a continuous basis. Records and reports are necessary to identify small MWC units that might not be in compliance with the small MWC unit Federal plan. Based on reported information, the implementing agency will decide which small MWC units should be inspected and what records or processes should be inspected. Records that owners and operators of small MWC units maintain indicate whether personnel are operating and maintaining control equipment properly.

These recordkeeping and reporting requirements are specifically authorized by sections 114 and 129 of the CAA (42 U.S.C. 7414). All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to EPA policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

The emission guidelines are projected to affect approximately 90 small MWC units located at 41 plants. The estimated average annual burden for industry for the first 3 years after implementation of the emission guidelines would be 1,297 person-hours annually. There will be no capital costs for monitoring or recordkeeping during the first 3 years. The estimated average annual burden, over the first 3 years, for the implementing agency would be 773 hours with a cost of $30,869 (including travel expenses) per year. The Federal plan will apply to only a subset of the units expected to be affected by the emission guidelines.

Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The EPA is amending the table in 40 CFR part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information collection requirements contained in this Federal plan.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the Office of Management and Budget (OMB), with explanations when an agency does not use available and applicable voluntary consensus standards.

This final rule involves technical standards. This Federal Plan uses EPA Methods 1, 3, 3A, 5, 5D, 9, 10, 22, 23, 26, 26A, 29, and Performance Specifications (PS) 1, 2, 3, and 4A. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods/performance specifications. No applicable voluntary consensus standards were identified for EPA Methods 9, 22, PS 3, and PS 4A. The search and review results have been documented and are placed in the docket No. A–2000–39 for this plan.

Two voluntary consensus standards were identified as applicable and EPA has used them in this plan. One voluntary consensus standard was identified as applicable to PS 1. The standard ASTM D6216 (1998), ''Standard Practice for Opacity Monitor Manufacturers to Certify Conformance with Design and Performance Specifications,'' has been incorporated by reference into PS 1. The PS 1 rule was published in the **Federal Register** on August 10, 2000.

Another voluntary consensus standard, ASTM D4536–96 ''Particulate (Matter) Modified High Volume,'' has been adopted as an alternative to the sampling equipment and procedures in Methods 5 or 17 in conducting emissions testing of positive pressure fabric filter control devices. The ASTM D4536–96 equipment and procedures will be used in conjunction with the sample traverse and calculations as described in Method 5D for this application.

Three voluntary consensus standards have already been incorporated by reference into § 60.17. One consensus standard by the American Society of Mechanical Engineers (ASME) was identified for use in this plan for the measurement of MWC unit load level (steam output). The EPA believes this standard is practical to use in this plan as the method to measure MWC unit load. The EPA has already incorporated by reference (IBR) ''ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1—1964 (R1991)'' in 60.17 paragraphs (h)(1), (h)(2), and (h)(3).

A second consensus standard by ASME was identified for potential use in this plan for designing, constructing, installing, calibrating, and using nozzles and orifices. The EPA believes this standard is practical to use for the design, construction, installation, calibration, and use of nozzles and orifices. The EPA has already incorporated by reference (IBR) ''American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971)'' in § 60.17, paragraphs (h)(1), (h)(2), and (h)(3).

A third consensus standard by ASME (QRO–1–1994) was identified for use for MWC plant operator certification requirements instead of developing new operator certification procedures. The EPA believes this standard is practical to use in the emission guidelines that require a chief facility operator and shift supervisor to successfully complete the

operator certification procedures developed by ASME. The EPA has already incorporated by reference (IBR) (QRO–1–1994) in § 60.17, paragraphs (h)(1), (h)(2), and (h)(3).

In addition to the voluntary consensus standards identified above, EPA identified 21 other voluntary consensus standards for emission measurement procedures. The EPA determined that 17 of these 21 standards were impractical alternatives to EPA test methods/performance specifications for the purposes of this Federal plan. Therefore, EPA has not adopted these standards today. The reasons for this determination for the 17 methods are discussed below.

The European standard EN 1911–1,2,3 (1998), ''Stationary Source Emissions—Manual Method of Determination of HCl—Part 1: Sampling of Gases Ratified European Text—Part 2: Gaseous Compounds Absorption Ratified European Text—Part 3: Adsorption Solutions Analysis and Calculation Ratified European Text,'' is impractical as an alternative to EPA Methods 26 and 26A. Part 3 of this standard cannot be considered equivalent to EPA Method 26 or 26A because the sample absorbing solution (water) would be expected to capture both HCl and chlorine gas, if present, without the ability to distinguish between the two. The EPA Methods 26 and 26A use an acidified absorbing solution to first separate HCl and chlorine gas so that they can be selectively absorbed, analyzed, and reported separately. In addition, in EN 1911 the absorption efficiency for chlorine gas would be expected to vary as the pH of the water changed during sampling.

Three standards: ASTM D4358–94 (1999), ''Standard Test Method for Lead and Chromium in Air Particulate Filter Samples of Lead Chromate Type Pigment Dusts by Atomic Absorption Spectroscopy;'' ASTM E1741–95 (1995), ''Standard Practice for Preparation of Airborne Particulate Lead Samples Collected During Abatement and Construction Activities for Subsequent Analysis by Atomic Spectrometry;'' and ASTM E1979–98 (1998), ''Standard Practice for Ultrasonic Extraction of Paint, Dust, Soil, and Air Samples for Subsequent Determination of Lead,'' are impractical as alternatives to EPA Methods 12 and 29 in this Federal plan. These ASTM standards do not require the use of glass fiber filters as in EPA Method 12 and require the use of significantly different digestion procedures that appear to be more mild than the EPA Method 12 digestion procedure. For these reasons, these ASTM standards cannot be considered equivalent to EPA Method 12. Also, the subject ASTM standards do not require the use of hydrogen fluoride (HF) as in EPA Method 29 and, therefore, they cannot be used for the preparation, digestion, and analysis of Method 29 samples. Additionally, Method 29 requires the use of a glass fiber filter, whereas these three ASTM standards require cellulose filters and other probable nonglass fiber media which cannot be considered equivalent to EPA Method 29.

The following nine methods are impractical alternatives to EPA test methods/performance specifications for the purposes of this plan because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM D3154–91 (1995), ''Standard Method for Average Velocity in a Duct (Pitot Tube Method),'' for EPA Methods 1, 2, 3B, and 4; ASME C00031 or PTC 19–10–1981—part 10, ''Flue and Exhaust Gas Analyses,'' for EPA Method 3; ASTM D5835–95, ''Standard Practice for Sampling Stationary Source Emissions, for Automated Determination of Gas Concentration,'' for EPA Method 3A; ISO 10396:1993, ''Stationary Source Emissions: Sampling for the Automated Determination of Gas Concentrations,'' for EPA Method 3A; CAN/CSA Z223.2–M86(1986), ''Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams,'' for EPA Method 3A; CAN/CSA Z223.21–M1978, ''Method for the Measurement of Carbon Monoxide: 3—Method of Analysis by Non-Dispersive Infrared Spectrometry,'' for EPA Methods 10 and 10A; European Committee for Standardization (CEN) EN 1948–3 (1997), ''Determination of the Mass Concentration of PCDD'S/PCDF'S—Part 3: Identification and Quantification,'' for EPA Method 23; ISO 7935:1992, ''Stationary Source Emissions—Determination of the Mass Concentration of Sulfur Dioxide—Performance Characteristics of Automated Measuring Methods,'' for EPA Performance Specification 2 (sulfur dioxide portion only); and ISO 10849:1996, ''Determination of the Mass Concentration of Nitrogen Oxides—Performance Characteristics of Automated Measuring Systems,'' for EPA Performance Specification 2 (nitrogen oxide portion only).

The following four methods are impractical alternatives to EPA test methods for the purposes of this plan because they lack sufficient quality assurance and quality control requirements necessary for EPA compliance assurance requirements: ASME PTC–38–80 R85 or C00049, ''Determination of the Concentration of Particulate Matter in Gas Streams,'' for EPA Method 5; ASTM D3685/D3685M–98, ''Test Methods for Sampling and Determination of Particulate Matter in Stack Gases,'' for EPA Method 5; ISO 9096:1992, ''Determination of Concentration and Mass Flow Rate of Particulate Matter in Gas Carrying Ducts—Manual Gravimetric Method,'' for EPA Method 5; and CAN/CSA Z223.26–M1987, ''Measurement of Total Mercury in Air Cold Vapour Atomic Absorption Spectrophotometeric Method,'' for EPA Method 29.

The following four of the 21 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this plan because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' for EPA Method 1 (and possibly 2); ISO/DIS 12039, ''Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods,'' for EPA Method 3A; PREN 13211 (1998), ''Air Quality—Stationary Source Emissions—Determination of the Concentration of Total Mercury,'' for EPA Methods 101, 101A, 29 (portion for mercury only); and ASTM Z6590Z, ''Manual Method for Both Speciated and Elemental Mercury,'' for EPA Methods 101A and 29 (portion for mercury only). While we are not proposing to include these four voluntary consensus standards in today's proposal, the EPA will consider the standards when final.

Tables 6, 7, and 8 of subpart JJJ list the EPA testing methods/performance specifications included in the Federal Plan Requirements for Small Municipal Waste Combustion Units. Under § 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods/performance specifications.

I. Congressional Review Act

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

the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

J. Executive Order 13211—Energy Effects

This Federal plan is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Incorporation by reference, Municipal waste combustion.

Dated: December 19, 2002.

Christine Todd Whitman,

Administrator.

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

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401—7671q.

2. Section 62.02 is amended by revising paragraph (b) to read as follows:

§ 62.02 Introduction.

* * * * *

(b)(1) If a State does not submit a complete, approvable plan, the Administrator may then promulgate a substitute plan or part of a plan. The promulgated provision, plus the approved parts of the State plan, constitute the applicable plan for purposes of the act.

(2) The part 60 subpart A of this chapter general provisions and appendices to part 60 apply to part 62, except as follows: 40 CFR 60.7(a)(1), 60.7(a)(3), and 60.8(a) and where special provisions set forth under the applicable subpart of this part shall apply instead of any conflicting provisions.

* * * * *

3. Section 62.13 is amended by adding paragraphs (d) and (e) to read as follows:

§ 62.13 Federal plans.

* * * * *

(d) [Reserved]

(e) The substantive requirements of the small municipal waste combustion unit Federal plan are contained in subpart JJJ of this part. These requirements include emission limits, compliance schedules, testing, monitoring, and reporting and recordkeeping requirements.

4. Part 62 is amended by adding subpart JJJ to read as follows:

Subpart JJJ—Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999

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Subpart JJJ—Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999

Introduction

§ 62.15000 What is the purpose of this subpart?

(a) This subpart establishes emission requirements and compliance schedules for the control of emissions from existing small municipal waste combustion units that are not covered by an EPA approved and effective State plan. The pollutants addressed by these emission requirements are listed in tables 2, 3, 4, and 5 of this subpart. These emission requirements are developed in accordance with sections 111(d) and 129 of the Clean Air Act and subpart B of 40 CFR part 60.

(b) In this subpart, ''you'' means the owner or operator of a small municipal waste combustion unit.

§ 62.15005 What are the principal components of this subpart?

This subpart contains five major components:

(a) Increments of progress toward compliance.

(b) Good combustion practices:

(1) Operator training.

(2) Operator certification.

(3) Operating requirements.

(c) Emission limits.

(d) Monitoring and stack testing.

(e) Recordkeeping and reporting.

Applicability of this Subpart

§ 62.15010 Is my municipal waste combustion unit covered by this subpart?

(a) This subpart applies to your small municipal waste combustion unit if the unit meets the criteria in paragraphs (a)(1) and (a)(2) and the criteria in either paragraph (a)(3) or (a)(4) of this section:

(1) Your municipal waste combustion unit has the capacity to combust at least 35 tons per day of municipal solid waste or refuse-derived fuel but no more than 250 tons per day of municipal solid waste or refuse-derived fuel.

(2) Your municipal waste combustion unit commenced construction on or before August 30, 1999.

(3) Your municipal waste combustion unit is not regulated by an EPA approved and effective State or Tribal plan.

(4) Your municipal waste combustion unit is located in any State whose approved State plan is subsequently vacated in whole or in part, or the municipal waste combustion unit is located in Indian country if the approved tribal plan for that area is subsequently vacated in whole or in part.

(b) If you make a change to your municipal waste combustion unit that meets the definition of modification or reconstruction after June 6, 2001, your municipal waste combustion unit becomes subject to subpart AAAA of 40 CFR part 60 (New Source Performance Standards for Small Municipal Waste Combustion Units) and this subpart no longer applies to your unit.

(c) If you make physical or operational changes to your existing

municipal waste combustion unit primarily to comply with this subpart, then subpart AAAA of 40 CFR part 60 (New Source Performance Standards for Small Municipal Waste Combustion Units) does not apply to your unit. Such changes do not constitute modifications or reconstructions under subpart AAAA of 40 CFR part 60.

(d) Upon approval of the State or tribal plan, this subpart will no longer apply, except for the provisions of this subpart that may have been incorporated by reference under the State or Tribal plan, or delegated to the State by the Administrator.

§ 62.15015 Can my small municipal waste combustion unit be covered by both a State plan and this subpart?

(a) If your municipal waste combustion unit is located in a State that has a State plan that has not been approved by the EPA or has not become effective, then this subpart applies and the State plan would not apply to your municipal waste combustion unit. However, the State could enforce the requirements of a State regulation while your municipal waste combustion unit is still subject to this subpart.

(b) After the State plan is approved by the EPA and becomes effective, your municipal waste combustion unit is no longer subject to this subpart and will only be subject to the approved and effective State plan.

§ 62.15020 Can my small municipal waste combustion unit be exempt from this subpart?

(a) *Small municipal waste combustion units that combust less than 11 tons per day.* Your unit is exempt from this subpart if four requirements are met:

(1) Your municipal waste combustion unit is subject to a federally enforceable permit limiting municipal solid waste combustion to less than 11 tons per day.

(2) You notify the Administrator that the unit qualifies for this exemption.

(3) You submit to the Administrator a copy of the federally enforceable permit.

(4) You keep daily records of the amount of municipal solid waste combusted.

(b) *Small power production units.* Your unit is exempt from this subpart if four requirements are met:

(1) Your unit qualifies as a small power production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(2) Your unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity.

(3) You notify the Administrator that the unit qualifies for this exemption.

(4) You submit to the Administrator documentation that the unit qualifies for this exemption.

(c) *Cogeneration units.* Your unit is exempt from this subpart if four requirements are met:

(1) Your unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(2) Your unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(3) You notify the Administrator that the unit qualifies for this exemption.

(4) You submit to the Administrator documentation that the unit qualifies for this exemption.

(d) *Municipal waste combustion units that combust only tires.* Your unit is exempt from this subpart if three requirements are met:

(1) Your municipal waste combustion unit combusts a single-item waste stream of tires and no other municipal waste (the unit can cofire coal, fuel oil, natural gas, or other nonmunicipal solid waste).

(2) You notify the Administrator that the unit qualifies for this exemption.

(3) You provide the Administrator documentation that the unit qualifies for this exemption.

(e) *Hazardous waste combustion units.* Your unit is exempt from this subpart if the unit has received a permit under section 3005 of the Solid Waste Disposal Act.

(f) *Materials recovery units.* Your unit is exempt from this subpart if the unit combusts waste mainly to recover metals. Primary and secondary smelters may qualify for this exemption.

(g) *Cofired units.* Your unit is exempt from this subpart if four requirements are met:

(1) Your unit has a federally enforceable permit limiting municipal solid waste combustion to 30 percent of the total fuel input by weight.

(2) You notify the Administrator that the unit qualifies for this exemption.

(3) You provide the Administrator with a copy of the federally enforceable permit.

(4) You record the weights, each quarter, of municipal solid waste and of all other fuels combusted.

(h) *Plastics/rubber recycling units.* Your unit is exempt from this subpart if four requirements are met:

(1) Your pyrolysis/combustion unit is an integrated part of a plastics/rubber recycling unit as defined under ''Definitions'' (§ 62.15410).

(2) You record the weight, each quarter, of plastics, rubber, and rubber tires processed.

(3) You record the weight, each quarter, of feed stocks produced and marketed from chemical plants and petroleum refineries.

(4) You keep the name and address of the purchaser of the feed stocks.

(i) *Units that combust fuels made from products of plastics/rubber recycling plants.* Your unit is exempt from this subpart if two requirements are met:

(1) Your unit combusts gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feed stocks produced by plastics/rubber recycling units.

(2) Your unit does not combust any other municipal solid waste.

(j) *Cement kilns.* Your unit is exempt from this subpart if your cement kiln combusts municipal solid waste.

(k) *Air curtain incinerators.* If your air curtain incinerator (see § 62.15410 for definition) combusts 100 percent yard waste, then you must meet only the requirements under ''Air Curtain Incinerators That Burn 100 Percent Yard Waste'' (§§ 62.15365 through 62.15385) and the title V operating permit requirements of this subpart. However, if your air curtain incinerator combusts municipal solid waste other than yard waste, it is subject to all provisions of this subpart.

§ 62.15025 How do I determine if my small municipal waste combustion unit is covered by an approved and effective State or Tribal Plan?

This part (40 CFR part 62) contains a list of all States and tribal areas with approved Clean Air Act section 111(d) and section 129 plans in effect. However, this part is only updated once per year. Thus, if this part does not indicate that your State or tribal area has an approved and effective plan, you should contact your State environmental agency's air director or your EPA Regional Office to determine if approval has occurred since publication of the most recent version of this part.

§ 62.15030 What are my obligations under this subpart if I reduce my small municipal waste combustion unit's combustion capacity to less than 35 tons per day?

If you reduce your small municipal waste combustion unit's combustion capacity to less than 35 tons per day by the final compliance date, you must comply only with the following requirements:

(a) You must submit a final control plan according to the schedule in table 1 of this subpart and comply with § 62.15065(b).

(b) The final control plan must, at a minimum, include two items:

(1) A description of the physical changes that will be made to accomplish the reduction in combustion capacity. A permit restriction or a change in the method of operation does not qualify as a reduction in combustion capacity.

(2) Calculations of the current maximum combustion capacity and the planned maximum combustion capacity after the reduction. Use the equations specified under § 62.15390(d) and (e) to calculate the combustion capacity of a municipal waste combustion unit.

(c) You must complete the physical changes to accomplish the reduction in combustion capacity by the final compliance date specified in table 1 of this subpart.

(d) If you comply with all of the requirements specified in paragraphs (a), (b), and (c) of this section, you are no longer subject to this subpart.

(e) You must comply with the requirements specified in § 62.15395 and § 62.15400 regarding title V permitting. If you comply with all of the requirements specified in paragraphs (a), (b), and (c) of this section, you are no longer subject to title V permitting requirements as a result of this subpart. You will remain subject to title V permitting requirements, however, if you are subject as a result of one or more of the applicability criteria in 40 CFR 70.3(a) and (b) or 71.3(a) and (b).

§ 62.15035 Is my small municipal waste combustion unit subject to different requirements based on plant capacity?

This subpart specifies different requirements for two different subcategories of municipal waste combustion units. These two subcategories are based on aggregate capacity of the municipal waste combustion plant as defined in paragraphs (a) and (b) of this section.

(a) *Class I units.* These are small municipal waste combustion units that are located at municipal waste combustion plants with aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. (*See* the definition of municipal waste combustion plant capacity in § 62.15410 for specification of which units at a plant are included in the aggregate capacity calculation.)

(b) *Class II units.* These are small municipal waste combustion units that are located at municipal waste combustion plants with aggregate plant combustion capacity of no more than 250 tons per day of municipal solid waste. (See the definition of municipal waste combustion plant capacity in § 62.15410 for specification of which units at a plant are included in the aggregate capacity calculation.)

Compliance Schedule and Increments of Progress

§ 62.15040 What are the requirements for meeting increments of progress and achieving final compliance?

(a) *Class I units.* If you plan to achieve compliance more than 1 year following the effective date of this subpart and a permit modification is not required, or more than 1 year following the date of issuance of a revised construction or operation permit if a permit modification is required, you must meet five increments of progress:

(1) Submit a final control plan.

(2) Submit a notification of retrofit contract award.

(3) Initiate onsite construction.

(4) Complete onsite construction.

(5) Achieve final compliance.

(b) *Class II units.* If you plan to achieve compliance more than 1 year following the effective date of this subpart and a permit modification is not required, or more than 1 year following the date of issuance of a revised construction or operation permit if a permit modification is required, you must meet two increments of progress:

(1) Submit a final control plan.

(2) Achieve final compliance.

§ 62.15045 When must I complete each increment of progress?

(a) You must complete each increment of progress according to the compliance schedule in table 1 of this subpart for Class I and II units. If your Class I or Class II unit is listed in table 9 of this subpart, then you must complete each increment of progress according to the schedule in table 9 of this subpart. (*See* § 62.15410 for definitions of classes.)

(b) For Class I units (*see* definition in § 62.15410) that must meet the five increments of progress, you must submit dioxins/furans stack test results for at least one test conducted during or after 1990. The stack tests must have been conducted according to the procedures specified under § 62.15245 and you must submit the stack test results when the final control plan is due for your Class I MWC unit according to the schedule in table 1 or table 9 of this subpart.

§ 62.15050 What must I include in the notifications of achievement of my increments of progress?

Your notification of achievement of increments of progress must include three items:

(a) Notification that the increment of progress has been achieved.

(b) Any items required to be submitted with the increment of progress (§§ 62.15065 through 62.15085).

(c) The notification must be signed by the owner or operator of the municipal waste combustion unit.

§ 62.15055 When must I submit the notifications of achievement of increments of progress?

Notifications of the achievement of increments of progress must be postmarked no later than 10 days after the compliance date for the increment.

§ 62.15060 What if I do not meet an increment of progress?

If you fail to meet an increment of progress, you must submit a notification to the Administrator postmarked within 10 business days after the specified date in table 1 of this subpart for achieving that increment of progress. This notification must inform the Administrator that you did not meet the increment. You must include in the notification an explanation of why the increment of progress was not met and your plan for meeting the increment as expeditiously as possible. You must continue to submit reports each subsequent month until the increment of progress is met.

§ 62.15065 How do I comply with the increment of progress for submittal of a final control plan?

For your final control plan increment of progress, you must complete two items:

(a) Submit the final control plan describing the devices for air pollution control and process changes that you will use to comply with the emission limits and other requirements of this subpart. If you plan to reduce your small municipal waste combustion unit's combustion capacity to less than 35 tons per day by the final compliance date, see § 62.15030.

(b) You must maintain an onsite copy of the final control plan.

§ 62.15070 How do I comply with the increment of progress for awarding contracts?

You must submit a signed copy of the contracts awarded to initiate onsite construction, initiate onsite installation of emission control equipment, and incorporate process changes. Submit the

copy of the contracts with the notification that this increment of progress has been achieved. You do not need to include documents incorporated by reference or the attachments to the contracts.

§ 62.15075 How do I comply with the increment of progress for initiating onsite construction?

You must initiate onsite construction and installation of emission control equipment and initiate the process changes outlined in the final control plan.

§ 62.15080 How do I comply with the increment of progress for completing onsite construction?

You must complete onsite construction and installation of emission control equipment and complete process changes outlined in the final control plan.

§ 62.15085 How do I comply with the increment of progress for achieving final compliance?

For the final compliance increment of progress, you must complete two items:

(a) Complete all process changes and complete retrofit construction as specified in the final control plan.

(b) Connect the air pollution control equipment with the municipal waste combustion unit identified in the final control plan and complete process changes to the municipal waste combustion unit so that if the affected municipal waste combustion unit is brought online, all necessary process changes and air pollution control equipment are operating as designed.

§ 62.15090 What must I do if I close my municipal waste combustion unit and then restart my municipal waste combustion unit?

(a) If you close your municipal waste combustion unit but will reopen it prior to the applicable final compliance date in table 1 of this subpart, you must meet the increments of progress specified in § 62.15040.

(b) If you close your municipal waste combustion unit but restart it after the applicable final compliance date in table 1 of this subpart, you must complete the emission control retrofit and meet the emission limits and good combustion practices on the date your municipal waste combustion unit restarts operation.

§ 62.15095 What must I do if I plan to permanently close my municipal waste combustion unit and not restart it?

(a) If you plan to close your municipal waste combustion unit rather than comply with this subpart, you must submit a closure notification, including the date of closure, to the Administrator by the date your final control plan is due.

(b) If the closure date is later than 1 year after the effective date of this subpart, you must enter into a legally binding closure agreement with the Administrator by the date your final control plan is due. The agreement must include two items:

(1) The date by which operation will cease. The closure date can be no later than the applicable final compliance date in table 1 of this subpart.

(2) For Class I units only, dioxins/furans stack test results for at least one test conducted during or after 1990. The stack tests must have been conducted according to the procedures specified under § 62.15245.

Good Combustion Practices: Operator Training

§ 62.15100 What types of training must I do?

There are two types of required training:

(a) Training of operators of municipal waste combustion units using the EPA or a State-approved training course.

(b) Training of plant personnel using a plant-specific training course.

§ 62.15105 Who must complete the operator training course? By when?

(a) Three types of employees must complete the EPA operator training course:

(1) Chief facility operators.

(2) Shift supervisors.

(3) Control room operators.

(b) These employees must complete the operator training course by the later of three dates:

(1) One year after the effective date of this subpart.

(2) Six months after your municipal waste combustion unit starts up.

(3) The date before an employee assumes responsibilities that affect operation of the municipal waste combustion unit.

(c) The requirement in paragraph (a) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the effective date of this subpart.

(d) You may request that the EPA Administrator waive the requirement in paragraph (a) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the effective date of this subpart.

§ 62.15110 Who must complete the plant-specific training course?

All employees with responsibilities that affect how a municipal waste combustion unit operates must complete the plant-specific training course. Include at least six types of employees:

(a) Chief facility operators.

(b) Shift supervisors.

(c) Control room operators.

(d) Ash handlers.

(e) Maintenance personnel.

(f) Crane or load handlers.

§ 62.15115 What plant-specific training must I provide?

For plant-specific training, you must do four things:

(a) For training at a particular plant, develop a specific operating manual for that plant by the later of two dates:

(1) Six months after your municipal waste combustion unit starts up.

(2) One year after the effective date of this subpart.

(b) Establish a program to review the plant-specific operating manual with people whose responsibilities affect the operation of your municipal waste combustion unit. Complete the initial review by the later of three dates:

(1) One year after the effective date of this subpart.

(2) Six months after your municipal waste combustion unit starts up.

(3) The date before an employee assumes responsibilities that affect operation of the municipal waste combustion unit.

(c) Update your manual annually.

(d) Review your manual with staff annually.

§ 62.15120 What information must I include in the plant-specific operating manual?

You must include 11 items in the operating manual for your plant:

(a) A summary of all applicable standards in this subpart.

(b) A description of the basic combustion principles that apply to municipal waste combustion units.

(c) Procedures for receiving, handling, and feeding municipal solid waste.

(d) Procedures to be followed during periods of startup, shutdown, and malfunction of the municipal waste combustion unit.

(e) Procedures for maintaining a proper level of combustion air supply.

(f) Procedures for operating the municipal waste combustion unit within the standards contained in this subpart.

(g) Procedures for responding to periodic upset or off-specification conditions.

(h) Procedures for minimizing carryover of particulate matter.

(i) Procedures for handling ash.

(j) Procedures for monitoring emissions from the municipal waste combustion unit.

(k) Procedures for recordkeeping and reporting.

§ 62.15125 Where must I keep the plant-specific operating manual?

You must keep your operating manual in an easily accessible location at your plant. It must be available for review or inspection by all employees who must review it and by the Administrator.

Good Combustion Practices: Operator Certification

§ 62.15130 What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?

(a) Each chief facility operator and shift supervisor must obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers QRO–1–1994 or a State certification program in Connecticut and Maryland (if the affected facility is located in either of the respective States). If ASME certification is chosen, proceed in accordance with ASME QRO–1–1994. Standard for the Qualification and Certification of Resource Recovery Facility Operators. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C.552(a) and 1 CFR part 51. You may obtain a copy from the American Society of Mechanical Engineers, Service Center, 22 Law Drive, Post Office Box 2900, Fairfield, NJ 07007. You may inspect a copy at the Office of Air Quality Planning and Standards Air Docket, EPA, 109 T.W. Alexander Drive, Room C521C, RTP, NC 27709 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(b) Each chief facility operator and shift supervisor must obtain a provisional certification by the later of three dates:

(1) For Class I units, 12 months after the effective date of this subpart. For Class II units, 18 months after the effective date of this subpart.

(2) Six months after the municipal waste combustion unit starts up.

(3) Six months after they transfer to the municipal waste combustion unit or 6 months after they are hired to work at the municipal waste combustion unit.

(c) Each chief facility operator and shift supervisor must take one of two actions:

(1) Obtain a full certification from the American Society of Mechanical Engineers.

(2) Schedule a full certification exam with the American Society of Mechanical Engineers (QRO–1–1994 (incorporated by reference in § 60.17 of subpart A of 40 CFR part 60)).

(d) The chief facility operator and shift supervisor must obtain the full certification or be scheduled to take the certification exam by the later of the following dates:

(1) For Class I units, 12 months after the effective date of this subpart. For Class II units, 18 months after the effective date of this subpart.

(2) Six months after the municipal waste combustion unit starts up.

(3) Six months after they transfer to the municipal waste combustion unit or 6 months after they are hired to work at the municipal waste combustion unit.

§ 62.15135 After the required date for operator certification, who may operate the municipal waste combustion unit?

After the required date for full or provisional certification, you must not operate your municipal waste combustion unit unless one of four employees is on duty:

(a) A fully certified chief facility operator.

(b) A provisionally certified chief facility operator who is scheduled to take the full certification exam.

(c) A fully certified shift supervisor.

(d) A provisionally certified shift supervisor who is scheduled to take the full certification exam.

§ 62.15140 What if all the certified operators must be temporarily offsite?

If the certified chief facility operator and certified shift supervisor both are unavailable, a provisionally certified control room operator at the municipal waste combustion unit may fulfill the certified operator requirement. Depending on the length of time that a certified chief facility operator and certified shift supervisor is away, you must meet one of three criteria:

(a) When the certified chief facility operator and certified shift supervisor are both offsite for 12 hours or less and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator.

(b) When the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator. However, you must record the periods when the certified chief facility operator and certified shift supervisor are offsite and include this information in the annual report as specified under § 62.15340(l).

(c) When the certified chief facility operator and certified shift supervisor are offsite for more than 2 weeks and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator. However, you must take two actions:

(1) Notify the Administrator in writing. In the notice, state what caused the absence and what you are doing to ensure that a certified chief facility operator or certified shift supervisor is onsite.

(2) Submit a status report and corrective action summary to the Administrator every 4 weeks following the initial notification. If the Administrator notifies you that your status report or corrective action summary is disapproved, the municipal waste combustion unit may continue operation for 90 days, but then must cease operation. If corrective actions are taken in the 90-day period such that the Administrator withdraws the disapproval, municipal waste combustion unit operation may continue.

Good Combustion Practices: Operating Requirements

§ 62.15145 What are the operating practice requirements for my municipal waste combustion unit?

(a) You must not operate your municipal waste combustion unit at loads greater than 110 percent of the maximum demonstrated load of the municipal waste combustion unit (4-hour block average), as specified under ''Definitions'' (§ 62.15410).

(b) You must not operate your municipal waste combustion unit so that the temperature at the inlet of the particulate matter control device exceeds 17°C above the maximum demonstrated temperature of the particulate matter control device (4-hour block average), as specified under ''Definitions'' (§ 62.15410).

(c) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must maintain an 8-hour block average carbon feed rate at or above the highest average level established during the most recent dioxins/furans or mercury test.

(d) If your municipal waste combustion unit uses activated carbon

to control dioxins/furans or mercury emissions, you must evaluate total carbon usage for each calendar quarter. The total amount of carbon purchased and delivered to your municipal waste combustion plant must be at or above the required quarterly usage of carbon. At your option, you may choose to evaluate required quarterly carbon usage on a municipal waste combustion unit basis for each individual municipal waste combustion unit at your plant. Calculate the required quarterly usage of carbon using the appropriate equation in § 62.15390.

(e) Your municipal waste combustion unit is exempt from limits on load level, temperature at the inlet of the particulate matter control device, and carbon feed rate during any of five situations:

(1) During your annual tests for dioxins/furans.

(2) During your annual mercury tests (for carbon feed rate requirements only).

(3) During the 2 weeks preceding your annual tests for dioxins/furans.

(4) During the 2 weeks preceding your annual mercury tests (for carbon feed rate requirements only).

(5) Whenever the Administrator permits you to do any of five activities:

(i) Evaluate system performance.

(ii) Test new technology or control technologies.

(iii) Perform diagnostic testing.

(iv) Perform other activities to improve the performance of your municipal waste combustion unit.

(v) Perform other activities to advance the state of the art for emission controls for your municipal waste combustion unit.

§ 62.15150 What happens to the operating requirements during periods of startup, shutdown, and malfunction?

(a) The operating requirements of this subpart apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction.

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours.

Emission Limits

§ 62.15155 What pollutants are regulated by this subpart?

Eleven pollutants, in four groupings, are regulated:

(a) *Organics.* Dioxins/furans.

(b) *Metals.*

(1) Cadmium.

(2) Lead.

(3) Mercury.

(4) Opacity.

(5) Particulate matter.

(c) *Acid gases.*

(1) Hydrogen chloride.

(2) Nitrogen oxides.

(3) Sulfur dioxide.

(d) *Other.*

(1) Carbon monoxide.

(2) Fugitive ash.

§ 62.15160 What emission limits must I meet?

(a) After the date the initial stack test and continuous emission monitoring system evaluation are required or completed (whichever is earlier), you must meet the applicable emission limits specified in the four tables of this section:

(1) For Class I units, see tables 2 and 3 of this subpart.

(2) For Class II units, see table 4 of this subpart.

(3) For carbon monoxide emission limits for both classes of units, see table 5 of this subpart.

(b) If your Class I municipal waste combustion unit began construction, reconstruction, or modification after June 26, 1987, then you must comply with the dioxins/furans and mercury emission limits specified in table 2 of this subpart as applicable by the later of the following two dates:

(1) One year after the effective date of this subpart.

(2) One year after the issuance of a revised construction or operating permit, if a permit modification is required. Final compliance with the dioxins/furans limits must be achieved no later than November 6, 2005, even if the date one year after the issuance of a revised construction or operating permit is later than November 6, 2005.

§ 62.15165 What happens to the emission limits during periods of startup, shutdown, and malfunction?

(a) The emission limits of this subpart apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction.

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours.

(c) A maximum of 3 hours of test data can be dismissed from compliance calculations during periods of startup, shutdown, or malfunction.

(d) During startup, shutdown, or malfunction periods longer than 3 hours, emissions data cannot be discarded from compliance calculations and all provisions under § 60.11(d) of subpart A of 40 CFR part 60 apply.

Continuous Emission Monitoring

§ 62.15170 What types of continuous emission monitoring must I perform?

To continuously monitor emissions, you must perform four tasks:

(a) Install continuous emission monitoring systems for certain gaseous pollutants.

(b) Make sure your continuous emission monitoring systems are operating correctly.

(c) Make sure you obtain the minimum amount of monitoring data.

(d) Install a continuous opacity monitoring system.

§ 62.15175 What continuous emission monitoring systems must I install for gaseous pollutants?

(a) You must install, calibrate, maintain, and operate continuous emission monitoring systems for oxygen (or carbon dioxide), sulfur dioxide, and carbon monoxide. If you operate a Class I municipal waste combustion unit, also install, calibrate, maintain, and operate a continuous emission monitoring system for nitrogen oxides. Install the continuous emission monitoring system for sulfur dioxide, nitrogen oxides, and oxygen (or carbon dioxide) at the outlet of the air pollution control device.

(b) You must install, evaluate, and operate each continuous emission monitoring system according to the ''Monitoring Requirements'' in § 60.13 of subpart A of 40 CFR part 60.

(c) You must monitor the oxygen (or carbon dioxide) concentration at each location where you monitor sulfur dioxide and carbon monoxide. Additionally, if you operate a Class I municipal waste combustion unit, you must also monitor the oxygen (or carbon dioxide) concentration at the location where you monitor nitrogen oxides.

(d) You may choose to monitor carbon dioxide instead of oxygen as a diluent gas. If you choose to monitor carbon dioxide, then an oxygen monitor is not required and you must follow the requirements in § 62.15200.

(e) If you choose to demonstrate compliance by monitoring the percent reduction of sulfur dioxide, you must also install a continuous emission monitoring system for sulfur dioxide and oxygen (or carbon dioxide) at the inlet of the air pollution control device.

(f) If you prefer to use an alternative sulfur dioxide monitoring method, such as parametric monitoring, or cannot monitor emissions at the inlet of the air pollution control device to determine percent reduction, you can apply to the Administrator for approval to use an alternative monitoring method under § 60.13(i) of subpart A of 40 CFR part 60.

§ 62.15180 How are the data from the continuous emission monitoring systems used?

You must use data from the continuous emission monitoring

systems for sulfur dioxide, nitrogen oxides, and carbon monoxide to demonstrate continuous compliance with the applicable emission limits specified in tables 2, 3, 4, and 5 of this subpart. To demonstrate compliance for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, see § 62.15235.

§ 62.15185 How do I make sure my continuous emission monitoring systems are operating correctly?

(a) Conduct initial, daily, quarterly, and annual evaluations of your continuous emission monitoring systems that measure oxygen (or carbon dioxide), sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide.

(b) Complete your initial evaluation of the continuous emission monitoring systems within 180 days after your final compliance date.

(c) For initial and annual evaluations, collect data concurrently (or within 30 to 60 minutes) using your oxygen (or carbon dioxide) continuous emission monitoring system, your sulfur dioxide, nitrogen oxides, or carbon monoxide continuous emission monitoring systems, as appropriate, and the appropriate test methods specified in table 6 of this subpart. Collect these data during each initial and annual evaluation of your continuous emission monitoring systems following the applicable performance specifications in appendix B of 40 CFR part 60. Table 7 of this subpart shows the performance specifications that apply to each continuous emission monitoring system.

(d) Follow the quality assurance procedures in Procedure 1 of appendix F of 40 CFR part 60 for each continuous emission monitoring system. These procedures include daily calibration drift and quarterly accuracy determinations.

§ 62.15190 Am I exempt from any 40 CFR part 60 appendix B or appendix F requirements to evaluate continuous emission monitoring systems?

Yes, the accuracy tests for your sulfur dioxide continuous emission monitoring system require you to also evaluate your oxygen (or carbon dioxide) continuous emission monitoring system. Therefore, your oxygen (or carbon dioxide) continuous emission monitoring system is exempt from two requirements:

(a) Section 2.3 of Performance Specification 3 in appendix B of 40 CFR part 60 (relative accuracy requirement).

(b) Section 5.1.1 of appendix F of 40 CFR part 60 (relative accuracy test audit).

§ 62.15195 What is my schedule for evaluating continuous emission monitoring systems?

(a) Conduct annual evaluations of your continuous emission monitoring systems no more than 13 months after the previous evaluation was conducted.

(b) Evaluate your continuous emission monitoring systems daily and quarterly as specified in appendix F of 40 CFR part 60.

§ 62.15200 What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?

You must establish the relationship between oxygen and carbon dioxide during the initial evaluation of your continuous emission monitoring system. You may reestablish the relationship during annual evaluations. To establish the relationship use three procedures:

(a) Use EPA Reference Method 3A or 3B in Appendix A of 40 CFR part 60 to determine oxygen concentration at the location of your carbon dioxide monitor.

(b) Conduct at least three test runs for oxygen. Make sure each test run represents a 1-hour average and that sampling continues for at least 30 minutes in each hour.

(c) Use the fuel-factor equation in EPA Reference Method 3B to determine the relationship between oxygen and carbon dioxide.

§ 62.15205 What minimum amount of monitoring data must I collect with my continuous emission monitoring systems and is this requirement enforceable?

(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Make sure the averages for sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide are in parts per million by dry volume at 7 percent oxygen (or the equivalent carbon dioxide level). Use the 1-hour averages of oxygen (or carbon dioxide) data from your continuous emission monitoring system to determine the actual oxygen (or carbon dioxide) level and to calculate emissions at 7 percent oxygen (or the equivalent carbon dioxide level).

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average. Section 60.13(e)(2) of subpart A of 40 CFR part 60 requires your continuous emission monitoring systems to complete at least one cycle of operation (sampling, analyzing, and data recording) for each 15-minute period.

(c) Obtain valid 1-hour averages for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal solid waste or refuse-derived fuel.

(d) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you are in violation of this data collection requirement regardless of the emission level monitored, and you must notify the Administrator according to § 62.15340(e).

(e) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you must still use all valid data from the continuous emission monitoring systems in calculating emission concentrations and percent reductions in accordance with § 62.15210.

§ 62.15210 How do I convert my 1-hour arithmetic averages into appropriate averaging times and units?

(a) Use the equation in § 62.15390(a) to calculate emissions at 7 percent oxygen.

(b) Use EPA Reference Method 19 in Appendix A of 40 CFR part 60, section 4.3, to calculate the daily geometric average concentrations of sulfur dioxide emissions. If you are monitoring the percent reduction of sulfur dioxide, use EPA Reference Method 19, section 5.4, to determine the daily geometric average percent reduction of potential sulfur dioxide emissions.

(c) If you operate a Class I municipal waste combustion unit, use EPA Reference Method 19, section 4.1, to calculate the daily arithmetic average for concentrations of nitrogen oxides.

(d) Use EPA Reference Method 19, section 4.1, to calculate the 4-hour or 24-hour daily block averages (as applicable) for concentrations of carbon monoxide.

§ 62.15215 What is required for my continuous opacity monitoring system and how are the data used?

(a) Install, calibrate, maintain, and operate a continuous opacity monitoring system.

(b) Install, evaluate, and operate each continuous opacity monitoring system according to § 60.13 of subpart A 40 CFR part 60.

(c) Complete an initial evaluation of your continuous opacity monitoring system according to Performance Specification 1 in appendix B of 40 CFR part 60. Complete this evaluation by 180 days after your final compliance date.

(d) Complete each annual evaluation of your continuous opacity monitoring system no more than 13 months after the previous evaluation.

(e) Use tests conducted according to EPA Reference Method 9, as specified in § 62.15245, to determine compliance

with the applicable opacity limit in tables 2 or 4 of this subpart. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the opacity limit.

§ 62.15220 What additional requirements must I meet for the operation of my continuous emission monitoring systems and continuous opacity monitoring system?

Use the required span values and applicable performance specifications in table 8 of this subpart.

§ 62.15225 What must I do if my continuous emission monitoring system is temporarily unavailable to meet the data collection requirements?

Refer to table 8 of this subpart. It shows alternate methods for collecting data when these systems malfunction or when repairs, calibration checks, or zero and span checks keep you from collecting the minimum amount of data.

Stack Testing

§ 62.15230 What types of stack tests must I conduct?

Conduct initial and annual stack tests to measure the emission levels of dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

§ 62.15235 How are the stack test data used?

You must use results of stack tests for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash to demonstrate compliance with the applicable emission limits in tables 2 and 4 of this subpart. To demonstrate compliance for carbon monoxide, nitrogen oxides, and sulfur dioxide, see § 62.15180.

§ 62.15240 What schedule must I follow for the stack testing?

(a) Conduct initial stack tests for the pollutants listed in § 62.15230 by 180 days after your final compliance date.

(b) Conduct annual stack tests for these pollutants after the initial stack test. Conduct each annual stack test no later than 13 months after the previous stack test.

§ 62.15245 What test methods must I use to stack test?

(a) Follow table 8 of this subpart to establish the sampling location and to determine pollutant concentrations, number of traverse points, individual test methods, and other specific testing requirements for the different pollutants.

(b) Make sure that stack tests for all these pollutants consist of at least three test runs, as specified in § 60.8 (Performance Tests) of subpart A of 40 CFR part 60. Use the average of the pollutant emission concentrations from the three test runs to determine compliance with the applicable emission limits in tables 2 and 4 of this subpart.

(c) Obtain an oxygen (or carbon dioxide) measurement at the same time as your pollutant measurements to determine diluent gas levels, as specified in § 62.15175.

(d) Use the equations in § 62.15390(a) to calculate emission levels at 7 percent oxygen (or an equivalent carbon dioxide basis), the percent reduction in potential hydrogen chloride emissions, and the reduction efficiency for mercury emissions. See the individual test methods in table 6 of this subpart for other required equations.

(e) You can apply to the Administrator for approval under § 60.8(b) of subpart A of 40 CFR part 60 to

(1) Use a reference method with minor changes in methodology;

(2) Use an equivalent method;

(3) Use an alternative method the results of which the Administrator has determined are adequate for demonstrating compliance;

(4) Waive the requirement for a performance test because you have demonstrated by other means that you are in compliance; or

(5) Use a shorter sampling time or smaller sampling volume.

§ 62.15250 May I conduct stack testing less often?

(a) You may test less often if you own or operate a Class II municipal waste combustion unit and if all stack tests for a given pollutant over 3 consecutive years show you comply with the emission limit. In this case, you are not required to conduct a stack test for that pollutant for the next 2 years. However, you must conduct another stack test within 36 months of the anniversary date of the third consecutive stack test that shows you comply with the emission limit. Thereafter, you must perform stack tests every third year but no later than 36 months following the previous stack tests. If a stack test shows noncompliance with an emission limit, you must conduct annual stack tests for that pollutant until all stack tests over 3 consecutive years show compliance with the emission limit for that pollutant. This provision applies to all pollutants subject to stack testing requirements: dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

(b) You can test less often for dioxins/furans emissions if you own or operate a municipal waste combustion plant that meets two conditions. First, you have multiple municipal waste combustion units onsite that are subject to this subpart. Second, all these municipal waste combustion units have demonstrated levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for 2 consecutive years. In this case, you may choose to conduct annual stack tests on only one municipal waste combustion unit per year at your plant. This provision only applies to stack testing for dioxins/furans emissions.

(1) Conduct the stack test no more than 13 months following a stack test on any municipal waste combustion unit subject to this subpart at your plant. Each year, test a different municipal waste combustion unit subject to this subpart and test all municipal waste combustion units subject to this subpart in a sequence that you determine. Once you determine a testing sequence, it must not be changed without approval by the Administrator.

(2) If each annual stack test shows levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, you may continue stack tests on only one municipal waste combustion unit subject to this subpart per year.

(3) If any annual stack test indicates levels of dioxins/furans emissions greater than 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, conduct subsequent annual stack tests on all municipal waste combustion units subject to this subpart at your plant. You may return to testing one municipal waste combustion unit subject to this subpart per year if you can demonstrate dioxins/furans emission levels less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for all municipal waste combustion units at your plant subject to this subpart for 2 consecutive years.

§ 62.15255 May I deviate from the 13-month testing schedule if unforeseen circumstances arise?

You may not deviate from the 13-month testing schedules specified in

§§ 62.15240(b) and 62.15250(b)(1) unless you apply to the Administrator for an alternative schedule, and the Administrator approves your request for alternate scheduling prior to the date on which you would otherwise have been required to conduct the next stack test.

Other Monitoring Requirements

§ 62.15260 What other requirements must I meet for continuous monitoring?

You must also monitor three operating parameters:

(a) Load level of each municipal waste combustion unit.

(b) Temperature of flue gases at the inlet of your particulate matter air pollution control device.

(c) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

§ 62.15265 How do I monitor the load of my municipal waste combustion unit?

(a) If your municipal waste combustion unit generates steam, you must install, calibrate, maintain, and operate a steam flowmeter or a feed water flowmeter and meet five requirements:

(1) Continuously measure and record the measurements of steam (or feed water) in kilograms per hour (or pounds per hour).

(2) Calculate your steam (or feed water) flow in 4-hour block averages.

(3) Calculate the steam (or feed water) flow rate using the method in ''American Society of Mechanical Engineers (ASME PTC 4.1—1964): Test Code for Steam Generating Units, Power Test Code 4.1–1964 (Reaffirmed 1991),'' section 4. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the American Society of Mechanical Engineers, Service Center, 22 Law Drive, Post Office Box 2900, Fairfield, NJ 07007. You may inspect a copy at the Office of Air Quality Planning and Standards Air Docket, EPA, 109 T.W. Alexander Drive, Room C521C, RTP, NC 27709 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(4) Design, construct, install, calibrate, and use nozzles or orifices for flow rate measurements, using the recommendations in ''American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters'', 6th Edition (1971), chapter 4. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the American Society of Mechanical Engineers, Service Center, 22 Law Drive, Post Office Box 2900, Fairfield, NJ 07007. You may inspect a copy at the Office of Air Quality Planning and Standards Air Docket, EPA, 109 T.W. Alexander Drive, Room C521C, RTP, NC 27709 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(5) Before each dioxins/furans stack test, or at least once a year, calibrate all signal conversion elements associated with steam (or feed water) flow measurements according to the manufacturer instructions.

(b) If your municipal waste combustion unit does not generate steam, or, if your municipal waste combustion units have shared steam systems and steam load cannot be estimated per unit, you must determine, to the satisfaction of the Administrator, one or more operating parameters that can be used to continuously estimate load level (for example, the feed rate of municipal solid waste or refuse-derived fuel). You must continuously monitor the selected parameters.

§ 62.15270 How do I monitor the temperature of flue gases at the inlet of my particulate matter control device?

You must install, calibrate, maintain, and operate a device to continuously measure the temperature of the flue gas stream at the inlet of each particulate matter control device.

§ 62.15275 How do I monitor the injection rate of activated carbon?

If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must meet three requirements:

(a) Select a carbon injection system operating parameter that can be used to calculate carbon feed rate (for example, screw feeder speed).

(b) During each dioxins/furans and mercury stack test, determine the average carbon feed rate in kilograms (or pounds) per hour. Also, determine the average operating parameter level that correlates to the carbon feed rate. Establish a relationship between the operating parameter and the carbon feed rate in order to calculate the carbon feed rate based on the operating parameter level.

(c) Continuously monitor the selected operating parameter during all periods when the municipal waste combustion unit is operating and combusting waste and calculate the 8-hour block average carbon feed rate in kilograms (or pounds) per hour, based on the selected operating parameter. When calculating the 8-hour block average, do two things:

(1) Exclude hours when the municipal waste combustion unit is not operating.

(2) Include hours when the municipal waste combustion unit is operating but the carbon feed system is not working correctly.

§ 62.15280 What minimum amount of monitoring data must I collect with my continuous parameter monitoring systems and is this requirement enforceable?

(a) Where continuous parameter monitoring systems are used, obtain 1-hour arithmetic averages for three parameters:

(1) Load level of the municipal waste combustion unit.

(2) Temperature of the flue gases at the inlet of your particulate matter control device.

(3) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average.

(c) Obtain valid 1-hour averages for at least 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal solid waste or refuse-derived fuel.

(d) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you are in violation of this data collection requirement and you must notify the Administrator according to § 62.15340(e).

Recordkeeping

§ 62.15285 What records must I keep?

You must keep four types of records:

(a) Operator training and certification.

(b) Stack tests.

(c) Continuously monitored pollutants and parameters.

(d) Carbon feed rate.

§ 62.15290 Where must I keep my records and for how long?

(a) Keep all records onsite in paper copy or electronic format unless the Administrator approves another format.

(b) Keep all records on each municipal waste combustion unit for at least 5 years.

(c) Make all records available for submittal to the Administrator, or for onsite review by an inspector.

§ 62.15295 What records must I keep for operator training and certification?

You must keep records of six items:

(a) *Records of provisional certifications.* Include three items:

(1) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and

control room operators who are provisionally certified by the American Society of Mechanical Engineers.

(2) Dates of the initial provisional certifications.

(3) Documentation showing current provisional certifications.

(b) *Records of full certifications.* Include three items:

(1) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who are fully certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program.

(2) Dates of initial and renewal full certifications.

(3) Documentation showing current full certifications.

(c) *Records showing completion of the operator training course.* Include three items:

(1) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who have completed the EPA or State municipal waste combustion operator training course.

(2) Dates of completion of the operator training course.

(3) Documentation showing completion of operator training course.

(d) *Records of reviews for plant-specific operating manuals.* Include three items:

(1) Names of persons who have reviewed the operating manual.

(2) Date of the initial review.

(3) Dates of subsequent annual reviews.

(e) *Records of when a certified operator is temporarily offsite.* Include two main items:

(1) If the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours but for 2 weeks or less and no other certified operator is onsite, record the dates that the certified chief facility operator and certified shift supervisor were offsite.

(2) When all certified chief facility operators and certified shift supervisors are offsite for more than 2 weeks and no other certified operator is onsite, keep records of four items:

(i) Your notice that all certified persons are offsite.

(ii) The conditions that cause these people to be offsite.

(iii) The corrective actions you are taking to ensure a certified chief facility operator or certified shift supervisor is onsite.

(iv) Copies of the written reports submitted every 4 weeks that summarize the actions taken to ensure that a certified chief facility operator or certified shift supervisor will be onsite.

(f) *Records of calendar dates.* Include the calendar date on each record.

§ 62.15300 What records must I keep for stack tests?

For stack tests required under § 62.15230, you must keep records of four items:

(a) The results of the stack tests for eight pollutants or parameters recorded in the appropriate units of measure specified in tables 2 or 4 of this subpart:

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead.

(4) Mercury.

(5) Opacity.

(6) Particulate matter.

(7) Hydrogen chloride.

(8) Fugitive ash.

(b) Test reports including supporting calculations that document the results of all stack tests.

(c) The maximum demonstrated load of your municipal waste combustion units and maximum temperature at the inlet of your particulate matter control device during all stack tests for dioxins/furans emissions.

(d) The calendar date of each record.

§ 62.15305 What records must I keep for continuously monitored pollutants or parameters?

You must keep records of eight items.

(a) *Records of monitoring data.* Document six parameters measured using continuous monitoring systems:

(1) All 6-minute average levels of opacity.

(2) All 1-hour average concentrations of sulfur dioxide emissions.

(3) For Class I municipal waste combustion units only, all 1-hour average concentrations of nitrogen oxides emissions.

(4) All 1-hour average concentrations of carbon monoxide emissions.

(5) All 1-hour average load levels of your municipal waste combustion unit.

(6) All 1-hour average flue gas temperatures at the inlet of the particulate matter control device.

(b) *Records of average concentrations and percent reductions.* Document five parameters:

(1) All 24-hour daily block geometric average concentrations of sulfur dioxide emissions or average percent reductions of sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, all 24-hour daily arithmetic average concentrations of nitrogen oxides emissions.

(3) All 4-hour block or 24-hour daily block arithmetic average concentrations of carbon monoxide emissions.

(4) All 4-hour block arithmetic average load levels of your municipal waste combustion unit.

(5) All 4-hour block arithmetic average flue gas temperatures at the inlet of the particulate matter control device.

(c) *Records of exceedances.* Document three items:

(1) Calendar dates whenever any of the five pollutants or parameter levels recorded in paragraph (b) of this section or the opacity level recorded in paragraph (a)(1) of this section did not meet the emission limits or operating levels specified in this subpart.

(2) Reasons you exceeded the applicable emission limits or operating levels.

(3) Corrective actions you took, or are taking, to meet the emission limits or operating levels.

(d) *Records of minimum data.* Document three items:

(1) Calendar dates for which you did not collect the minimum amount of data required under §§ 62.15205 and 62.15280. Record these dates for five types of pollutants and parameters:

(i) Sulfur dioxide emissions.

(ii) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(iii) Carbon monoxide emissions.

(iv) Load levels of your municipal waste combustion unit.

(v) Temperatures of the flue gases at the inlet of the particulate matter control device.

(2) Reasons you did not collect the minimum data.

(3) Corrective actions you took or are taking to obtain the required amount of data.

(e) *Records of exclusions.* Document each time you have excluded data from your calculation of averages for any of the following five pollutants or parameters and the reasons the data were excluded:

(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load levels of your municipal waste combustion unit.

(5) Temperatures of the flue gases at the inlet of the particulate matter control device.

(f) *Records of drift and accuracy.* Document the results of your daily drift tests and quarterly accuracy determinations according to Procedure 1 of appendix F of 40 CFR part 60. Keep these records for the sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide continuous emissions monitoring systems.

(g) *Records of the relationship between oxygen and carbon dioxide.* If

you choose to monitor carbon dioxide instead of oxygen as a diluent gas, document the relationship between oxygen and carbon dioxide, as specified in § 62.15200.

(h) *Records of calendar dates.* Include the calendar date on each record.

§ 62.15310 What records must I keep for municipal waste combustion units that use activated carbon?

For municipal waste combustion units that use activated carbon to control dioxins/furans or mercury emissions, you must keep records of five items:

(a) *Records of average carbon feed rate.* Document five items:

(1) Average carbon feed rate (in kilograms or pounds per hour) during all stack tests for dioxins/furans and mercury emissions. Include supporting calculations in the records.

(2) For the operating parameter chosen to monitor carbon feed rate, average operating level during all stack tests for dioxins/furans and mercury emissions. Include supporting data that document the relationship between the operating parameter and the carbon feed rate.

(3) All 8-hour block average carbon feed rates in kilograms (pounds) per hour calculated from the monitored operating parameter.

(4) Total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant. Include supporting documentation.

(5) Required quarterly usage of carbon for the municipal waste combustion plant, calculated using the appropriate equation in § 62.15390(f). If you choose to evaluate required quarterly usage for carbon on a municipal waste combustion unit basis, record the required quarterly usage for each municipal waste combustion unit at your plant. Include supporting calculations.

(b) *Records of low carbon feed rates.* Document three items:

(1) The calendar dates when the average carbon feed rate over an 8-hour block was less than the average carbon feed rates determined during the most recent stack test for dioxins/furans or mercury emissions (whichever has a higher feed rate).

(2) Reasons for the low carbon feed rates.

(3) Corrective actions you took or are taking to meet the 8-hour average carbon feed rate requirement.

(c) *Records of minimum carbon feed rate data.* Document three items:

(1) Calendar dates for which you did not collect the minimum amount of carbon feed rate data required under § 62.15280.

(2) Reasons you did not collect the minimum data.

(3) Corrective actions you took or are taking to get the required amount of data.

(d) *Records of exclusions.* Document each time you have excluded data from your calculation of average carbon feed rates and the reasons the data were excluded.

(e) *Records of calendar dates.* Include the calendar date on each record.

Reporting

§ 62.15315 What reports must I submit and in what form?

(a) Submit an initial report and annual reports, plus semiannual reports for any emission or parameter level that does not meet the limits specified in this subpart.

(b) Submit all reports on paper, postmarked on or before the submittal dates in §§ 62.15325, 62.15335, and 62.15350. If the Administrator agrees, you may submit electronic reports.

(c) Keep a copy of all reports required by §§ 62.15330, 62.15340, and 62.15355 onsite for 5 years.

§ 62.15320 What are the appropriate units of measurement for reporting my data?

See tables 2, 3, 4, and 5 of this subpart for appropriate units of measurement.

§ 62.15325 When must I submit the initial report?

As specified in § 60.7(c) of subpart A of 40 CFR part 60, submit your initial report within 180 days after your final compliance date.

§ 62.15330 What must I include in the initial report?

You must include seven items:

(a) The emission levels measured on the date of the initial evaluation of your continuous emission monitoring systems for all of the following five pollutants or parameters as recorded in accordance with § 62.15305(b).

(1) The 24-hour daily geometric average concentration of sulfur dioxide emissions or the 24-hour daily geometric percent reduction of sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, the 24-hour daily arithmetic average concentration of nitrogen oxides emissions.

(3) The 4-hour block or 24-hour daily arithmetic average concentration of carbon monoxide emissions.

(4) The 4-hour block arithmetic average load level of your municipal waste combustion unit.

(5) The 4-hour block arithmetic average flue gas temperature at the inlet of the particulate matter control device.

(b) The results of the initial stack tests for eight pollutants or parameters (use appropriate units as specified in tables 2 or 4 of this subpart):

(1) Dioxins/furans.
(2) Cadmium.
(3) Lead.
(4) Mercury.
(5) Opacity.
(6) Particulate matter.
(7) Hydrogen chloride.
(8) Fugitive ash.

(c) The test report that documents the initial stack tests including supporting calculations.

(d) The initial performance evaluation of your continuous emissions monitoring systems. Use the applicable performance specifications in appendix B of 40 CFR part 60 in conducting the evaluation.

(e) The maximum demonstrated load of your municipal waste combustion unit and the maximum demonstrated temperature of the flue gases at the inlet of the particulate matter control device. Use values established during your initial stack test for dioxins/furans emissions and include supporting calculations.

(f) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, the average carbon feed rates that you recorded during the initial stack tests for dioxins/furans and mercury emissions. Include supporting calculations as specified in § 62.15310(a)(1) and (2).

(g) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in § 62.15200.

§ 62.15335 When must I submit the annual report?

Submit the annual report no later than February 1 of each year that follows the calendar year in which you collected the data. (As with all other requirements in this subpart, the requirement to submit an annual report does not modify or replace the operating permits requirements of 40 CFR parts 70 and 71.)

§ 62.15340 What must I include in the annual report?

Summarize data collected for all pollutants and parameters regulated under this subpart. Your summary must include 12 items:

(a) The results of the annual stack test, using appropriate units, for eight pollutants, as recorded under § 62.15300(a):

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead.

(4) Mercury.

(5) Opacity.

(6) Particulate matter.

(7) Hydrogen chloride.

(8) Fugitive ash.

(b) A list of the highest average emission levels recorded, in the appropriate units. List these values for five pollutants or parameters:

(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device (4-hour block average).

(c) The highest 6-minute opacity level measured. Base this value on all 6-minute average opacity levels recorded by your continuous opacity monitoring system (§ 62.15305(a)(1)).

(d) For municipal waste combustion units that use activated carbon for controlling dioxins/furans or mercury emissions, include four records:

(1) The average carbon feed rates recorded during the most recent dioxins/furans and mercury stack tests.

(2) The lowest 8-hour block average carbon feed rate recorded during the year.

(3) The total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant.

(4) The required quarterly carbon usage of your municipal waste combustion plant calculated using the appropriate equation in § 62.15390(f). If you choose to evaluate required quarterly usage for carbon on a municipal waste combustion unit basis, record the required quarterly usage for each municipal waste combustion unit at your plant.

(e) The total number of days that you did not obtain the minimum number of hours of data for six pollutants or parameters. Include the reasons you did not obtain the data and corrective actions that you have taken to obtain the data in the future. Include data on:

(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) Carbon feed rate.

(f) The number of hours you have excluded data from the calculation of average levels (include the reasons for excluding it). Include data for six pollutants or parameters:

(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) Carbon feed rate.

(g) A notice of your intent to begin a reduced stack testing schedule for dioxins/furans emissions during the following calendar year if you are eligible for alternative scheduling (§ 62.15250(a) or (b)).

(h) A notice of your intent to begin a reduced stack testing schedule for other pollutants during the following calendar year if you are eligible for alternative scheduling (§ 62.15250(a)).

(i) A summary of any emission or parameter level that did not meet the limits specified in this subpart.

(j) A summary of the data in paragraphs (a) through (d) of this section from the year preceding the reporting year. This summary gives the Administrator a summary of the performance of the municipal waste combustion unit over a 2-year period.

(k) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in § 62.15200.

(l) Documentation of periods when all certified chief facility operators and certified shift supervisors are offsite for more than 12 hours.

§ 62.15345 What must I do if I am out of compliance with these standards?

You must submit a semiannual report on any recorded emission or parameter level that does not meet the requirements specified in this subpart.

§ 62.15350 If a semiannual report is required, when must I submit it?

(a) For data collected during the first half of a calendar year, submit your semiannual report by August 1 of that year.

(b) For data you collected during the second half of the calendar year, submit your semiannual report by February 1 of the following year.

§ 62.15355 What must I include in the semiannual out-of-compliance reports?

You must include three items in the semiannual report:

(a) For any of the following six pollutants or parameters that exceeded the limits specified in this subpart, include the calendar date they exceeded the limits, the averaged and recorded data for that date, the reasons for exceeding the limits, and your corrective actions:

(1) Concentration or percent reduction of sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, concentration of nitrogen oxides emissions.

(3) Concentration of carbon monoxide emissions.

(4) Load level of your municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of your particulate matter air pollution control device.

(6) Average 6-minute opacity level. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the limit on opacity emissions.

(b) If the results of your annual stack tests (as recorded in § 62.15300(a)) show emissions above the limits specified in table 2 or 4 of this subpart as applicable for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, include a copy of the test report that documents the emission levels and your corrective actions.

(c) For municipal waste combustion units that apply activated carbon to control dioxins/furans or mercury emissions, include two items:

(1) Documentation of all dates when the 8-hour block average carbon feed rate (calculated from the carbon injection system operating parameter) is less than the highest carbon feed rate established during the most recent mercury and dioxins/furans stack test (as specified in § 62.15310(a)(1)). Include four items:

(i) Eight-hour average carbon feed rate.

(ii) Reasons for these occurrences of low carbon feed rates.

(iii) The corrective actions you have taken to meet the carbon feed rate requirement.

(iv) The calendar date.

(2) Documentation of each quarter when total carbon purchased and delivered to the municipal waste combustion plant is less than the total

required quarterly usage of carbon. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant. Include five items:

(i) Amount of carbon purchased and delivered to the plant.

(ii) Required quarterly usage of carbon.

(iii) Reasons for not meeting the required quarterly usage of carbon.

(iv) The corrective actions you have taken to meet the required quarterly usage of carbon.

(v) The calendar date.

§ 62.15360 Can reporting dates be changed?

(a) If the Administrator agrees, you may change the semiannual or annual reporting dates.

(b) *See* § 60.19(c) in subpart A of 40 CFR part 60 for procedures to seek approval to change your reporting date.

Air Curtain Incinerators that Burn 100 Percent Yard Waste

§ 62.15365 What is an air curtain incinerator?

An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

§ 62.15370 What is yard waste?

Yard waste is grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(a) Construction, renovation, and demolition wastes that are exempt from the definition of ''municipal solid waste'' in § 62.15410.

(b) Clean wood that is exempt from the definition of ''municipal solid waste'' in § 62.15410 of this subpart.

§ 62.15375 What are the emission limits for air curtain incinerators that burn 100 percent yard waste?

If your air curtain incinerator combusts 100 percent yard waste, you must meet only the emission limits in this section.

(a) Within 180 days after your final compliance date, you must meet two limits:

(1) The opacity limit is 10 percent (6-minute average) for air curtain incinerators that can combust at least 35 tons per day of yard waste and no more than 250 tons per day of yard waste.

(2) The opacity limit is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(b) Except during malfunctions, the requirements of this subpart apply at all times. Each malfunction must not exceed 3 hours.

§ 62.15380 How must I monitor opacity for air curtain incinerators that burn 100 percent yard waste?

(a) Use EPA Reference Method 9 in Appendix A of 40 CFR part 60 to determine compliance with the opacity limit.

(b) Conduct an initial test for opacity as specified in § 60.8 of subpart A of 40 CFR part 60.

(c) After the initial test for opacity, conduct annual tests no more than 13 calendar months following the date of your previous test.

§ 62.15385 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent yard waste?

(a) Provide a notice of construction that includes four items:

(1) Your intent to construct the air curtain incinerator.

(2) Your planned initial startup date.

(3) Types of fuels you plan to combust in your air curtain incinerator.

(4) The capacity of your incinerator, including supporting capacity calculations, as specified in § 62.15390 (d) and (e).

(b) Keep records of results of all opacity tests onsite in either paper copy or electronic format unless the Administrator approves another format.

(c) Keep all records for each incinerator for at least 5 years.

(d) Make all records available for submittal to the Administrator or for onsite review by an inspector.

(e) Submit the results (each 6-minute average) of the opacity tests by February 1 of the year following the year of the opacity emission test.

(f) Submit reports as a paper copy on or before the applicable submittal date. If the Administrator agrees, you may submit reports on electronic media.

(g) If the Administrator agrees, you may change the annual reporting dates (*see* § 60.19(c) in subpart A of 40 CFR part 60).

(h) Keep a copy of all reports onsite for a period of 5 years.

Equations

§ 62.15390 What equations must I use?

(a) *Concentration correction to 7 percent oxygen.* Correct any pollutant concentration to 7 percent oxygen using equation 1 of this section:

$$C_{7\%} = C_{unc} * (13.9) * \left(1/\left(20.9 - CO_2\right)\right) \qquad \text{(Eq. 1)}$$

Where:

$C_7\%$ = concentration corrected to 7 percent oxygen.

C_{unc} = uncorrected pollutant concentration.

C_{O2} = concentration of oxygen (%).

(b) *Percent reduction in potential mercury emissions.* Calculate the percent reduction in potential mercury emissions ($\%P_{Hg}$) using equation 2 of this section:

$$\%P_{Hg} = \left(E_i - E_o\right) * \left(100 / E_i\right) \qquad \text{(Eq. 2)}$$

Where:

$\%P_{Hg}$ = percent reduction of potential mercury emissions

E_i = mercury emission concentration as measured at the air pollution control device inlet, corrected to 7 percent oxygen, dry basis

E_o = mercury emission concentration as measured at the air pollution control device outlet, corrected to 7 percent oxygen, dry basis

(c) *Percent reduction in potential hydrogen chloride emissions.* Calculate the percent reduction in potential hydrogen chloride emissions ($\%P_{HCl}$) using equation 3 of this section:

$$\%P_{HCl} = (E_i - E_o) * (100 / E_i) \qquad \text{(Eq. 3)}$$

Where:

$\%P_{HCl}$ = percent reduction of the potential hydrogen chloride emissions

E_i = hydrogen chloride emission concentration as measured at the air pollution control device inlet, corrected to 7 percent oxygen, dry basis

E_o = hydrogen chloride emission concentration as measured at the air pollution control device outlet, corrected to 7 percent oxygen, dry basis

(d) *Capacity of a municipal waste combustion unit.* For a municipal waste combustion unit that can operate continuously for 24-hour periods, calculate the capacity of the municipal waste combustion unit based on 24 hours of operation at the maximum charge rate. To determine the maximum charge rate, use one of two methods:

(1) For municipal waste combustion units with a design based on heat input capacity, calculate the maximum charging rate based on this maximum heat input capacity and one of two heating values:

(i) If your municipal waste combustion unit combusts refuse-derived fuel, use a heating value of 12,800 kilojoules per kilogram (5,500 British thermal units per pound).

(ii) If your municipal waste combustion unit combusts municipal solid waste, use a heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound).

(2) For municipal waste combustion units with a design not based on heat input capacity, use the maximum designed charging rate.

(e) *Capacity of a batch municipal waste combustion unit.* Calculate the capacity of a batch municipal waste combustion unit as the maximum design amount of municipal solid waste they can charge per batch multiplied by the maximum number of batches they can process in 24 hours. Calculate this maximum number of batches by dividing 24 by the number of hours needed to process one batch. Retain fractional batches in the calculation. For example, if one batch requires 16 hours, the municipal waste combustion unit can combust 24/16, or 1.5 batches, in 24 hours.

(f) *Quarterly carbon usage.* If you use activated carbon to comply with the dioxins/furans or mercury limits, calculate the required quarterly usage of carbon using equation 4 or 5 of this section for plant basis or unit basis:

(1) Plant basis.

$$C = \sum_{i=1}^{n} f_i * h_i \qquad \text{(Eq. 4)}$$

Where:

C = required quarterly carbon usage for the plant in kilograms (or pounds).

f_i = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. This is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h_i = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours).

n = number of municipal waste combustion units, i, located at your plant.

(2) Unit basis.

$$C = f * h \qquad \text{(Eq. 5)}$$

Where:

C = required quarterly carbon usage for the unit in kilograms (or pounds).

f = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. This is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours).

Title V Requirements

§ 62.15395 Does this subpart require me to obtain an operating permit under title V of the Clean Air Act?

Yes. If you are subject to this subpart on the effective date of this subpart or any time thereafter, you are required to apply for and obtain a title V operating permit.

§ 62.15400 When must I submit a title V permit application for my existing small municipal waste combustion unit?

(a) You must submit a complete title V permit application within 12 months of when your source first becomes subject to a title V permitting program. *See* 40 CFR 70.3(a) and (b), 70.5(a)(1), 71.3(a) and (b), and 71.5(a)(1). As provided in section 503(c) of the Clean Air Act, permitting authorities may establish permit application deadlines earlier than the 12-month deadline.

(b) If your existing small MWC unit is not subject to an earlier permit application deadline, a complete title V permit application must be submitted not later than the date 36 months after promulgation of 40 CFR part 60, subpart BBBB (December 6, 2003), or by the effective date of the applicable State, tribal, or Federal operating permits program, whichever is later. For any existing small MWC unit not subject to an earlier application deadline, this final application deadline applies regardless of when this Federal plan is effective, or when the relevant State or Tribal section 111(d)/129 plan is approved by EPA and becomes effective. *See* sections 129(e), 503(c), 503(d), and 502(a) of the Clean Air Act.

(c) A ''complete'' title V permit application is one that has been determined or deemed complete by the relevant permitting authority under section 503(d) of the Clear Air Act and 40 CFR 70.5(a)(2) or 71.5(a)(2). You must submit a complete permit application by the relevant application deadline in order to operate after this date in compliance with Federal law. *See* sections 503(d) and 502(a); 40 CFR 70.7(b) and 71.7(b).

Delegation of Authority

§ 62.15405 What authorities are retained by the Administrator?

These authorities are retained by the EPA Administrator and not transferred to the State upon delegation of authority to the State to implement and enforce this subpart.

(a) Approval of alternative non-opacity emission standard;

(b) Approval of alternative opacity standard;

(c) Approval of major alternatives to test methods;

(d) Approval of major alternatives to monitoring;

(e) Waiver of recordkeeping; and

(f) Approval of exemption to operating practice requirements in § 62.15145(e)(5).

Definitions

§ 62.15410 What definitions must I know?

Terms used but not defined in this section are defined in the Clean Air Act and in subparts A and B of 40 CFR part 60.

Administrator means the Administrator of the U.S. Environmental Protection Agency or his/her authorized representative or the Administrator of a State Air Pollution Control Agency.

Air curtain incinerator means an incinerator that operates by forcefully

projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

Batch municipal waste combustion unit means a municipal waste combustion unit designed so it cannot combust municipal solid waste continuously 24 hours per day because the design does not allow waste to be fed to the unit or ash to be removed during combustion.

Calendar quarter means three consecutive months (nonoverlapping) beginning on: January 1, April 1, July 1, or October 1.

Calendar year means 365 consecutive days (or 366 consecutive days in leap years) starting on January 1 and ending on December 31.

Chief facility operator means the person in direct charge and control of the operation of a municipal waste combustion unit. This person is responsible for daily onsite supervision, technical direction, management, and overall performance of the municipal waste combustion unit.

Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See the definition of ''municipal waste combustion plant capacity'' for specification of which units at a plant site are included in the aggregate capacity calculation.

Class II units mean small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See the definition of ''municipal waste combustion plant capacity'' for specification of which units at a plant site are included in the aggregate capacity calculation.

Clean wood means untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include two items:

(1) ''Yard waste'', which is defined in this section.

(2) Construction, renovation, or demolition wastes (for example, railroad ties and telephone poles) that are exempt from the definition of municipal solid waste in this section.

Cofired combustion unit means a unit that combusts municipal solid waste with nonmunicipal solid waste fuel (for example, coal, industrial process waste). To be considered a cofired combustion unit, the unit must be subject to a federally enforceable permit that limits it to combusting a fuel feed stream which is 30 percent or less (by weight) municipal solid waste as measured each calendar quarter.

Continuous burning means the continuous, semicontinuous, or batch feeding of municipal solid waste to dispose of the waste, produce energy, or provide heat to the combustion system in preparation for waste disposal or energy production. Continuous burning does not mean the use of municipal solid waste solely to thermally protect the grate or hearth during the startup period when municipal solid waste is not fed to the grate or hearth.

Continuous emission monitoring system means a monitoring system that continuously measures the emissions of a pollutant from a municipal waste combustion unit.

Contract means a legally binding agreement or obligation that cannot be canceled or modified without substantial financial loss.

De-rate means to make a permanent physical change to the municipal waste combustor unit that reduces the maximum combustion capacity of the unit to less than or equal to 35 tons per day of municipal solid waste. A permit restriction or a change in the method of operation does not qualify as de-rating.

Dioxins/furans mean tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans.

Effective date of State plan approval means the effective date that the EPA approves the State plan. The **Federal Register** specifies this date in the notice that announces EPA's approval of the State plan.

Eight-hour block average means the average of all hourly emission concentrations or parameter levels when the municipal waste combustion unit operates and combusts municipal solid waste measured over any of three 8-hour periods of time:

(1) 12 midnight to 8 a.m.

(2) 8 a.m. to 4 p.m.

(3) 4 p.m. to 12 midnight.

EPA-approved State plan means a State plan that EPA has reviewed and approved based on the requirements in 40 CFR part 60 subpart B to implement and enforce 40 CFR part 60, subpart BBBB. An approved State plan becomes effective on the date specified in the notice published in the **Federal Register** announcing EPA's approval.

Federally enforceable means all limits and conditions the Administrator can enforce (including the requirements of 40 CFR parts 60, 61, and 63), requirements in a State's implementation plan, and any permit requirements established under 40 CFR 52.21 or under 40 CFR 51.18 and 40 CFR 51.24.

First calendar half means the period that starts on January 1 and ends on June 30 in any year.

Fluidized bed combustion unit means a unit where municipal waste is combusted in a fluidized bed of material. The fluidized bed material may remain in the primary combustion zone or may be carried out of the primary combustion zone and returned through a recirculation loop.

Four-hour block average or *4-hour block average* means the average of all hourly emission concentrations or parameter levels when the municipal waste combustion unit operates and combusts municipal solid waste measured over any of six 4-hour periods:

(1) 12 midnight to 4 a.m.

(2) 4 a.m. to 8 a.m.

(3) 8 a.m. to 12 noon.

(4) 12 noon to 4 p.m.

(5) 4 p.m. to 8 p.m.

(6) 8 p.m. to 12 midnight.

Mass burn refractory municipal waste combustion unit means a field-erected municipal waste combustion unit that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, this includes municipal waste combustion units with a cylindrical rotary refractory wall furnace.

Mass burn rotary waterwall municipal waste combustion unit means a field-erected municipal waste combustion unit that combusts municipal solid waste in a cylindrical rotary waterwall furnace.

Mass burn waterwall municipal waste combustion unit means a field-erected municipal waste combustion unit that combusts municipal solid waste in a waterwall furnace.

Maximum demonstrated load of a municipal waste combustion unit means the highest 4-hour block arithmetic average municipal waste combustion unit load achieved during 4 consecutive hours in the course of the most recent dioxins/furans stack test that demonstrates compliance with the applicable emission limit for dioxins/furans specified in this subpart.

Maximum demonstrated temperature of the particulate matter control device means the highest 4-hour block arithmetic average flue gas temperature measured at the inlet of the particulate matter control device during 4 consecutive hours in the course of the most recent stack test for dioxins/furans

emissions that demonstrates compliance with the limits specified in this subpart.

Medical/infectious waste means any waste meeting the definition of medical/infectious waste contained in 40 CFR 60.51c of subpart Ec.

Mixed fuel-fired (pulverized coal/refuse-derived fuel) combustion unit means a combustion unit that combusts coal and refuse-derived fuel simultaneously, in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the unit where it is combusted in suspension. This includes both conventional pulverized coal and micropulverized coal.

Modification or *modified municipal waste combustion unit* means a municipal waste combustion unit you have changed later than June 6, 2001, and that meets one of two criteria:

(1) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the unit (not including the cost of land) updated to current costs.

(2) Any physical change in the municipal waste combustion unit or change in the method of operating it that increases the emission level of any air pollutant for which standards have been established under section 129 or section 111 of the Clean Air Act. Increases in the emission level of any air pollutant are determined when the municipal waste combustion unit operates at 100 percent of its physical load capability and are measured downstream of all air pollution control devices. Load restrictions based on permits or other nonphysical operational restrictions cannot be considered in this determination.

Modular excess-air municipal waste combustion unit means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

Modular starved-air municipal waste combustion unit means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

Municipal solid waste or *municipal-type solid waste* means household, commercial/retail, or institutional waste. Household waste includes material discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes materials discarded by schools, by hospitals (nonmedical), by nonmanufacturing activities at prisons and government facilities, and other similar establishments or facilities. Household, commercial/retail, and institutional waste does include yard waste and refuse-derived fuel. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which include railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

Municipal waste combustion plant means one or more municipal waste combustion units at the same location as specified under ''Applicability of State Plans'' (§ 62.15010(a)).

Municipal waste combustion plant capacity means the aggregate municipal waste combustion capacity of all municipal waste combustion units at the plant that are not subject to subparts Ea, Eb, or AAAA of 40 CFR part 60.

Municipal waste combustion unit means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery), modular combustion units (starved-air or excess-air), boilers (for example, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Two criteria further define these municipal waste combustion units:

(1) Municipal waste combustion units do not include pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under § 62.15020(h) and (i). Municipal waste combustion units do not include cement kilns that combust municipal solid waste as specified under § 62.15020(j). Municipal waste combustion units also do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(2) The boundaries of a municipal waste combustion unit are defined as follows. The municipal waste combustion unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustion unit water system. The municipal waste combustion unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set. The municipal waste combustion unit boundary starts at the municipal solid waste pit or hopper and extends through three areas:

(i) The combustion unit flue gas system, which ends immediately after the heat recovery equipment or, if there is no heat recovery equipment, immediately after the combustion chamber.

(ii) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(iii) The combustion unit water system, which starts at the feed water pump and ends at the piping that exits the steam drum or superheater.

Particulate matter means total particulate matter emitted from municipal waste combustion units as measured by EPA Reference Method 5 in Appendix A of 40 CFR part 60 and the procedures specified in § 62.15245.

Plastics or rubber recycling unit means an integrated processing unit for which plastics, rubber, or rubber tires are the only feed materials (incidental contaminants may be in the feed materials). These materials are processed and marketed to become input feed stock for chemical plants or petroleum refineries. The following three criteria further define a plastics or rubber recycling unit:

(1) Each calendar quarter, the combined weight of the feed stock that a plastics or rubber recycling unit produces must be more than 70 percent of the combined weight of the plastics, rubber, and rubber tires that recycling unit processes.

(2) The plastics, rubber, or rubber tires fed to the recycling unit may originate from separating or diverting plastics, rubber, or rubber tires from municipal or industrial solid waste. These feed materials may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards.

(3) The plastics, rubber, and rubber tires fed to the recycling unit may contain incidental contaminants (for example, paper labels on plastic bottles or metal rings on plastic bottle caps).

Potential hydrogen chloride emissions means the level of emissions from a municipal waste combustion unit that

would occur from combusting municipal solid waste without emission controls for acid gases.

Potential mercury emissions means the level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without controls for mercury emissions.

Potential sulfur dioxide emissions means the level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without emission controls for acid gases.

Protectorate means American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, and the Virgin Islands.

Pyrolysis/combustion unit means a unit that produces gases, liquids, or solids by heating municipal solid waste. The gases, liquids, or solids produced are combusted and the emissions vented to the atmosphere.

Reconstruction means rebuilding a municipal waste combustion unit and meeting two criteria:

(1) The reconstruction begins on or after June 6, 2001.

(2) The cumulative cost of the construction over the life of the unit exceeds 50 percent of the original cost of building and installing the municipal waste combustion unit (not including land) updated to current costs (current dollars). To determine what systems are within the boundary of the municipal waste combustion unit used to calculate these costs, see the definition of ''municipal waste combustion unit'' in this section.

Refractory unit or *refractory wall furnace* means a municipal waste combustion unit that has no energy recovery (such as through a waterwall) in the furnace of the municipal waste combustion unit.

Refuse-derived fuel means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including two fuels:

(1) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

(2) Pelletized refuse-derived fuel.

Same location means the same or contiguous properties under common ownership or control, including those separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or any combination thereof. Entities may include a municipality, other governmental unit, or any quasi-governmental authority (for example, a public utility district or regional authority for waste disposal).

Second calendar half means the period that starts on July 1 and ends on December 31 in any year.

Shift supervisor means the person who is in direct charge and control of operating a municipal waste combustion unit and who is responsible for onsite supervision, technical direction, management, and overall performance of the municipal waste combustion unit during an assigned shift.

Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel) combustion unit means a municipal waste combustion unit that combusts coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

Standard conditions when referring to units of measure mean a temperature of 20°C and a pressure of 101.3 kilopascals.

Startup period means the period when a municipal waste combustion unit begins the continuous combustion of municipal solid waste. It does not include any warmup period during which the municipal waste combustion unit combusts fossil fuel or other solid waste fuel but receives no municipal solid waste.

State means any of the 50 United States and the protectorates of the United States.

State plan means a plan submitted pursuant to section 111(d) and section 129(b)(2) of the Clean Air Act and 40 CFR part 60, subpart B, that implements and enforces 40 CFR part 60, subpart BBBB.

Stoker (refuse-derived fuel) combustion unit means a steam generating unit that combusts refuse-derived fuel in a semisuspension combusting mode, using air-fed distributors.

Total mass dioxins/furans or *total mass* means the total mass of tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans as determined using EPA Reference Method 23 in Appendix A of 40 CFR part 60 and the procedures specified in § 62.15245.

Tribal plan means a plan submitted by a tribal authority pursuant to 40 CFR parts 9, 35, 49, 50, and 81 that implements and enforces 40 CFR part 60 subpart BBBB.

Twenty-four hour daily average or *24-hour daily average* means either the arithmetic mean or geometric mean (as specified) of all hourly emission concentrations when the municipal waste combustion unit operates and combusts municipal solid waste measured during the 24 hours between 12:00 midnight and the following midnight.

Untreated lumber means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

Waterwall furnace means a municipal waste combustion unit that has energy (heat) recovery in the furnace (for example, radiant heat transfer section) of the combustion unit.

Yard waste means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(1) Construction, renovation, and demolition wastes that are exempt from the definition of ''municipal solid waste'' in this section.

(2) Clean wood that is exempt from the definition of ''municipal solid waste'' in this section.

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Table 1 of Subpart JJJ — Generic Compliance Schedules and Increments of Progress

Affected units	Increment 1 (Submit final control plan)	Increment 2 (Award contracts)	Increment 3 (Begin onsite construction)	Increment 4 (Complete onsite construction)	Increment 5 (Final compliance)
1. Class I units[a,b]	August 6, 2003	April 6, 2004	October 6, 2004	October 6, 2005	November 6, 2005
2. Class II units [c]	September 6, 2003	Not applicable	Not applicable	Not applicable	May 6, 2005

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] For Class I units that began construction, reconstruction, or modification after June 26, 1987, comply with the dioxins/furans and mercury limits by the later of two dates:

1. One year after the effective date of this subpart.
2. One year after the issuance of a revised construction or operation permit, if a permit modification is required. Final compliance with the dioxins/furans limits must be achieved no later than the Class I final compliance date, even if the date one year after the issuance of a revised construction or operation permit exceeds the Class I final compliance date.

[c] Class II units mean all small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See §62.15410 for definitions.

Table 2 of Subpart JJJ — Class I Emission Limits for Existing Small Municipal Waste Combustion Units[a]

For these pollutants	You must meet these emission limits[b]	Using these averaging times	And determine compliance by these methods
1. Organics			
Dioxins/furans (total mass basis)	30 nanograms per dry standard cubic meter for municipal waste combustion units that do not employ an electrostatic precipitator-based emission control system -or- 60 nanograms per dry standard cubic meter for municipal waste combustion units that employ an electrostatic precipitator-based emission control system	3-run average (minimum run duration is 4 hours)	Stack test
2. Metals			
Cadmium	0.040 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Lead	0.490 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Mercury	0.080 milligrams per dry standard cubic meter -or- 85 percent reduction of potential mercury emissions	3-run average (run duration specified in test method)	Stack test
Opacity	10 percent	Thirty 6-minute averages	Stack test
Particulate Matter	27 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] All emission limits (except for opacity) are measured at 7 percent oxygen.

Table 2 of Subpart JJJ — Class I Emission Limits For Existing Small Municipal Waste Combustion Units (Continued)

For these pollutants	You must meet these emission limits[b]	Using these averaging times	And determine compliance by these methods
3. Acid gases			
Hydrogen Chloride	31 parts per million by dry volume -or- 95 percent reduction of potential hydrogen chloride emissions	3-run average (minimum run duration is 1 hour)	Stack test
Sulfur Dioxide	31 parts per million by dry volume -or - 75 percent reduction of potential sulfur dioxide emissions	24-hour daily block geometric average concentration -or- percent reduction	Continuous emission monitoring system
4. Other			
Fugitive Ash	Visible emissions for no more than 5 percent of hourly observation period	Three 1-hour observation periods	Visible emission test

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] All emission limits (except for opacity) are measured at 7 percent oxygen.

Table 3 of Subpart JJJ — Class I Nitrogen Oxides Emission Limits for Existing Small Municipal Waste Combustion Units[a,b,c]

Municipal Waste Combustion Technology	Limits for Class I Municipal Waste Combustion Units
1. Mass burn waterwall	200 parts per million by dry volume
2. Mass burn rotary waterwall	170 parts per million by dry volume
3. Refuse-derived fuel	250 parts per million by dry volume
4. Fluidized bed	220 parts per million by dry volume
5. Mass burn refractory	350 parts per million by dry volume
6. Modular excess air	190 parts per million by dry volume
7. Modular starved air	380 parts per million by dry volume

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62:15410 for definitions.

[b] Nitrogen oxides limits are corrected to 7 percent oxygen, dry basis.

[c] All limits are 24-hour daily block arithmetic average concentration. Compliance is determined for Class I units by continuous emission monitoring systems.

Table 4 of Subpart JJJ — Class II Emission Limits for Existing Small Municipal Waste Combustion Units[a]

For these pollutants		You must meet these emission limits[b]	Using these averaging times	And determine compliance by these methods
1. Organics				
	Dioxins/furans (total mass basis)	125 nanograms per dry standard cubic meter	3-run average (minimum run duration is 4 hours)	Stack test
2. Metals				
	Cadmium	0.10 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
	Lead	1.6 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
	Mercury	0.080 milligrams per dry standard cubic meter -or- 85 percent reduction of potential mercury emissions	3-run average (run duration specified in test method)	Stack test
	Opacity	10 percent	Thirty 6-minute averages	Stack test
	Particulate Matter	70 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
3. Acid gases				
	Hydrogen Chloride	250 parts per million by volume -or- 50 percent reduction of potential hydrogen chloride emissions	3-run average (minimum run duration is 1 hour)	Stack test

[a] Class II units mean all small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] All emission limits (except for opacity) measured at 7 percent oxygen.

Table 4 of Subpart JJJ — Class II Emission Limits for Existing Municipal Small Waste Combustion Units[a] (Continued)

For these pollutants		You must meet these emission limits[b]	Using these averaging times	And determine compliance by these methods
3. Acid gases				
	Nitrogen Oxides	500 parts per million by dry volume	See footnote c	See footnote c
	Sulfur Dioxide	77 parts per million by dry volume -or - 50 percent reduction of potential sulfur dioxides emissions	24-hour daily block geometric average concentration -or- percent reduction	Continuous emission monitoring system
4. Other				
	Fugitive Ash	Visible emissions for no more than 5 percent of hourly observation period	Three 1-hour observation periods	Visible emission test

a Class II units mean all small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See §62.15410 for definitions.

b All emission limits (except for opacity) are measured at 7 percent oxygen.

c No monitoring, testing, recordkeeping or reporting is required to demonstrate compliance with the nitrogen oxides limit for Class II units.

Table 5 of Subpart JJJ — Carbon Monoxide Emission Limits for Existing Small Municipal Waste Combustion Units

For these municipal waste combustion units	You must meet the carbon monoxide limits[a]	Using these averaging times[b]
1. Fluidized bed	100 parts per million by dry volume	4-hour
2. Fluidized bed, mixed fuel, (wood/refuse-derived fuel)	200 parts per million by dry volume	24-hour[c]
3. Mass burn rotary refractory	100 parts per million by dry volume	4-hour
4. Mass burn rotary waterwall	250 parts per million by dry volume	24-hour
5. Mass burn waterwall and refractory	100 parts per million by dry volume	4-hour
6. Mixed fuel-fired, (pulverized coal/refuse-derived fuel)	150 parts per million by dry volume	4-hour
7. Modular starved-air and excess air	50 parts per million by dry volume	4-hour
8. Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel)	200 parts per million by dry volume	24-hour daily
9. Stoker, refuse-derived fuel	200 parts per million by dry volume	24-hour daily

[a] All emission limits (except for opacity) are measured at 7 percent oxygen. Compliance is determined by continuous emission monitoring systems.

[b] Block averages, arithmetic mean. See §62.15410 for definitions.

[c] 24-hour block average, geometric mean.

Table 6 of Subpart JJJ — Requirements for Validating Continuous Emission Monitoring Systems (CEMS)

For these continuous monitoring systems	Use these methods to validate pollutant concentration levels[a]	Use these methods to measure oxygen (or carbon dioxide)[a]
1. Nitrogen oxides (Class I units only)[b]	Method 7, 7A, 7B, 7C, 7D, or 7E	Method 3 or 3A
2. Sulfur dioxide	Method 6 or 6C	Method 3 or 3A
3. Carbon monoxide	Method 10, 10A, or 10B	Method 3 or 3A

a Methods are in Appendix A of 40 CFR part 60.

b Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

Table 7 of Subpart JJJ — Requirements for Continuous Emission Monitoring Systems (CEMS)[a]

For these pollutants	Use these span values for your CEMS	Use these performance specifications for your CEMS (from appendix B in 40 CFR part 60)	If needed to meet minimum data requirements, use these alternate methods to collect data
1. Opacity	100 percent opacity	P.S. 1	Method 9
2. Nitrogen oxides (Class I units only)	**Control device outlet:** 125 percent of the maximum expected hourly potential nitrogen oxides emissions of the municipal waste combustion unit	P.S. 2	Method 7E
3. Sulfur dioxide	**Inlet to control device:** 125 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit **Control device outlet:** 50 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit	P.S. 2	Method 6C
4. Carbon monoxide	125 percent of the maximum expected hourly potential carbon monoxide emissions of the municipal waste combustion unit	P.S. 4A	Method 10 with alternative interference trap
5. Oxygen or carbon dioxide	25 percent oxygen or 25 percent carbon dioxide	P.S. 3	Method 3A or 3B

[a] Methods are in Appendix A of 40 CFR part 60.

Table 8 of Subpart JJJ — Requirements for Stack Tests

To measure these pollutants	Use these methods to determine the sampling location[a]	Use these methods to measure pollutant concentration[a]	Also note the following additional information
1. Organics			
Dioxins/furans	Method 1	Method 23[b]	The minimum sampling time must be 4 hours per test run while the municipal waste combustion unit is operating at full load.
2. Metals			
Cadmium	Method 1	Method 29[b]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load.
Lead	Method 1	Method 29[b]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load.
Mercury	Method 1	Method 29[b]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load.
Opacity	Method 9	Method 9	Use Method 9 to determine compliance with opacity limits. 3-hour observation period (thirty 6-minute averages).
Particulate matter	Method 1	Method 5 or 29[b]	The minimum sample volume must be 1.0 cubic meters. The probe and filter holder heating systems in the sample train must be set to provide a gas temperature no greater than 160 ±14 °C. The minimum sampling time is 1 hour.

[a] Methods are in Appendix A of 40 CFR part 60.
[b] Must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B.
[c] Use CEMS to test sulfur dioxide, nitrogen oxide, and carbon monoxide. Stack tests are not required except for Appendix F quality assurance requirements.

Table 8 of Subpart JJJ — Federal Plan Requirements for Stack Tests (Continued)

To measure these pollutants	Use these methods to determine the sampling location[a]	Use these methods to measure pollutant concentration[a]	Also note the following additional information
3. Acid gases[c]			
Hydrogen chloride	Method 1	Method 26 or 26A[b]	Test runs must be at least 1 hour long while the municipal waste combustion unit is operating at full load.
4. Other[c]			
Fugitive ash	Not applicable	Method 22 (visible emissions)	The three 1-hour observation period must include periods when the facility transfers fugitive ash from the municipal waste combustion unit to the area where the fugitive ash is stored or loaded into containers or trucks.

[a] Must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B.
[b] Use CEMS to test sulfur dioxide, nitrogen oxide, and carbon monoxide. Stack tests are not required except for Appendix F quality assurance requirements.

Table 9 of Subpart JJJ — Site-specific Compliance Schedules and Increments of Progress

Class I[a,b] units	State	Units that will Cease Operation	Increment 1 (Submit final control plan)	Increment 2 (Award contracts)	Increment 3 (Begin onsite construction)	Increment 4 (Complete onsite construction)	Increment 5 (Final compliance)
Dutchess County Resource Recovery Facility	NY	Not Applicable	August 6, 2003	February 6, 2004	August 6, 2004	October 6, 2005	December 6, 2005
Islip-MacArthur Resource Recovery Facility	NY	Not Applicable	August 6, 2003	February 6, 2004	August 6, 2004	October 6, 2005	December 6, 2005
Harrisburg Materials, Energy, Recycling and Recovery Facility	PA	June 18, 2003	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] For Class I units that began construction, reconstruction, or modification after June 26, 1987, comply with the dioxins/furans and mercury limits by the later of two dates:

1. One year after the effective date of this subpart.
2. One year after the issuance of a revised construction or operation permit, if a permit modification is required. Final compliance with the dioxins/furans limits must be achieved no later than the Class I final compliance date, even if the date one year after the issuance of a revised construction or operation permit exceeds the Class I final compliance date.

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Federal Register

Friday,
January 31, 2003

Part VII

Department of Justice

Immigration and Naturalization Service

8 CFR Parts 212, 231, 235 and 286

Department of State

22 CFR Part 41

Removal of Visa and Passport Waiver for Certain Permanent Residents of Canada and Bermuda; Interim Rule

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212, 231, 235 and 286

[INS No. 2202–02]

RIN 1115–AG68

Removal of Visa and Passport Waiver for Certain Permanent Residents of Canada and Bermuda

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations by providing that residents of Canada or Bermuda having a common nationality with Canadian nationals or with British subjects in Bermuda will be required to present a valid passport and visa when applying for admission to the United States. Nationals of Ireland and British Commonwealth countries, who reside in Canada, will be affected by this change. The Service is taking this action, revoking the prior passport and visa exemption for these individuals, in conjunction with the Department of State. (See Department of State regulations published elsewhere in this issue of the **Federal Register**.) This rule is intended to increase security and safeguard the United States.

DATES: *Effective date:* This rule is effective March 17, 2003.

Comment date: Written comments must be submitted on or before April 1, 2003.

ADDRESSES: Please submit written comments to the Director, Regulations, Forms and Services Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC, 20536. To ensure proper handling, please reference the INS No. 2202–02 on your correspondence. You may also submit comments electronically to the Service at *insregs@usdoj.gov.* When submitting comments electronically, please include INS No. 2202–02 in the subject box. Comments are available for public inspection at the above location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Joyce Broughman, Assistant Chief Inspector, Office of Inspections, Immigration and Naturalization Service, 425 I Street, NW., Room 4064, Washington, DC 20536, telephone (202) 514–3019.

SUPPLEMENTARY INFORMATION:

Background

Section 212(d)(4)(B) of the Immigration and Nationality Act (Act) permits the Attorney General and the Secretary of State (acting jointly) to waive the passport and visa requirements of section 212(a)(7)(B)(i) of the Act, 8 U.S.C. 1182(a)(7), for admission to the United States in nonimmigrant status. This waiver may be granted on the basis of reciprocity with respect to nationals of foreign contiguous territories or adjacent islands or for residents of those territories or islands who have a common nationality with those nationals.

Service regulations at 8 CFR 212.1(a) implement this waiver authority for Canadian citizens, British subjects in Bermuda and certain aliens from other islands. In addition, the current regulations provide a waiver of the passport and visa requirements for residents of Canada or Bermuda who have a common nationality with citizens of Canada or with British subjects in Bermuda. This latter waiver includes citizens of British Commonwealth countries as well as citizens of Ireland. Nationals of 54 countries who reside in Canada or Bermuda currently benefit from this waiver. Country List ''A'' following the chart Current versus New Documentary Requirements lists the British Commonwealth countries as of the publication date of this regulation.

This rule eliminates the existing waiver for aliens, who are nationals of Ireland or the British Commonwealth countries listed above, who reside in either Canada or Bermuda and are not citizens of Canada or the British Overseas Territory of Bermuda.

Residents of Canada or Bermuda who are nationals of a designated Visa Waiver country listed in § 217.2(a), who present a valid passport issued by that country, may continue to be admitted without a visa if they are entering the United States for less than 90 days for business or pleasure. Countries that have been designated as eligible for the Visa Waiver Program may be found in Country List ''B'' after the chart ''Current versus New Documentary Requirements'.

This rule does not alter existing waivers of passport and visa for Canadian citizens or for British subjects in Bermuda. In amending § 212.1(a), it is broken into subsections (1) through (4) to make the documentary requirements clearer to the reader. This rule makes no changes to the current documentary requirements for Bahamian nationals or British subjects resident in The Bahamas or British subjects resident in the Cayman Islands or in the Turks and Caicos Islands.

The following chart shows the current and new documentary requirements for residents of Canada and Bermuda.

CURRENT VERSUS NEW DOCUMENTARY REQUIREMENTS

If you are:	*And the purpose of your visit to the U.S. (and time of stay, if applicable) is:*	*Then the change this rule makes from current INS regulations is:*	And you will need the following to enter the U.S.:
1. Canadian citizen	Non-immigrant visitor (except E–1, E–2—treaty trader—and K–1 through K–4—spouses and fiance(e)s of U.S. citizens)	No change from current regulations	Identification; If coming from outside the Western Hemisphere a passport is required. (The following nonimmigrant classifications require a passport and visa: E–1, E–2, K–1, K–2, K–3, K–4. See INA Section 101(a).)
2. Permanent resident of Canada or Bermuda who is a citizen of a British Commonwealth country—Country List ''A''	Non-immigrant	Change to now require a valid passport and valid nonimmingrant visa	Valid passport and valid nonimmigrant visa.
3. Citizen of a country participating in the Visa Waiver Program (VWP) regardless of place of residence—Country List ''B''	Non-immigrant visitor for business or pleasure for *less than 90* days	No change from current regulations	Valid passport.

CURRENT VERSUS NEW DOCUMENTARY REQUIREMENTS—Continued

If you are:	*And the purpose of your visit to the U.S. (and time of stay, if applicable) is:*	*Then the change this rule makes from current INS regulations is:*	And you will need the following to enter the U.S.:
4. Citizen of a country participating in the Visa Waiver Program (VWP) regardless of place of residence—Country List ''B''	Non-immigrant visitor for business or pleasure for *more than 90* days or for any other non-immigrant purpose	No change from current regulations.	Valid passport and valid visas in the appropriate classification (Section 101(a)(15) of the INA).
5. Citizen of the British Overseas Territory of Bermuda	Nonimmigrant	No change from current regulations	Evidence of citizenship; if coming from outside the Western Hemisphere a passport is required.
6. Citizen of an country, other than Canada or Bermuda, not listed in Country List ''B'', Visa Waiver Countries	Nonimmigrant	No change from current regulation	Valid passport and valid non-immigrant visa.

The following list of countries comprises Country List ''A''—British Commonwealth Countries: Antigua and Barbuda, Australia, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Cameroon, Cyprus, Dominica, Fiji Islands, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Mozambique, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, Samoa, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Swaziland, The Bahamas, The Gambia, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom, United Republic of Tanzania, Vanuatu, Zambia, and Zimbabwe

The following list of countries comprises Country List ''B''—Visa Waiver Program countries (*see* 8 CFR 217.2): Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, the United Kingdom, and Uruguay. The United Kingdom refers only to British citizens who have the unrestricted right of permanent abode in the United Kingdom (England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man); it does not refer to British overseas citizens, British dependent territories' citizens, or citizens of British Commonwealth countries.

Elimination of the Passport and Visa Waiver for Nationals of Commonwealth Countries or of Ireland who are Residents of Canada or Bermuda

In light of the terrorist attacks of September 11, 2001, the Service, in conjunction with the Department of State, has determined that it is in the public interest to reconsider the existing waiver for such aliens. Because the Department of State requires special clearance procedures for nationals of some countries that are beneficiaries of the waiver, the Department of State and the Service have determined that requiring a passport and visa for these aliens will provide a higher level of security for the United States. Current beneficiaries of the waiver include nationals from countries with high rates of documentary and immigration fraud and abuse and nationals from countries with high nonimmigrant refusal rates. In many cases, documents presented by beneficiaries of the waiver do not meet current document security standards.

In view of these determinations, the Service is amending its current nonimmigrant documentary regulations in § 212.1(a) to eliminate the passport and visa waiver for residents of Canada or Bermuda who have a common nationality with citizens of Canada or with British subjects in Bermuda. Accordingly, such nationals will be required to present visas and passports when applying for admission to the United States. The Service also notes that, as a result of eliminating this existing waiver, these aliens will now be subject to 8 CFR 235.1(f)(1) and upon arrival shall be issued, upon payment of the appropriate fee for land border admissions, a Form I–94 Arrival/Departure Record as evidence of the terms of their admission.

Other Regulation Changes

In addition, the Service is changing the reference to ''British subjects in Bermuda'' to British Overseas Territory citizens in accordance with the British Overseas Territories Act of 2002.

In view of the elimination of the existing passport and visa waiver, this rule makes necessary changes to other portions of the regulations.

The interim rule amends § 231.1(d) to require the residents of Canada and Bermuda who are nationals of Ireland or British Commonwealth countries, who are entering the United States for business or pleasure to complete the Form I–94, Arrival/Departure Record.

As a result of the requirement for a passport and nonimmigrant visa, residents of Canada who must present those documents for admission to the United States will no longer be eligible for a Canadian Border Boat Landing Permit (Form I–68) described in § 235.1(e). United States citizens, Canadian citizens and those residents of Canada who are nationals of a designated Visa Waiver country listed in § 217.2(a) will continue to be eligible for the Canadian Boat Landing Permit.

Service regulations at 8 CFR 286.9(b) regarding the payment of a fee for a Form I–68, Canadian Border Boat Landing Permit, § 286.9(b) are being revised to remove the reference to lawful permanent resident of Canada having a common nationality with Canadians since this group of aliens will no longer be eligible for the program.

Good Cause Exception

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B). Implementation of this rule as an interim rule is necessary to ensure the national security needs of the United States. Specifically, the implementation of the passport and visa requirement on aliens residing in Canada or Bermuda including those aliens who are nationals of countries that require special clearance procedures, nationals of countries with high rates of documentary and immigration fraud and abuse, and nationals from countries with high nonimmigrant refusal rates, will ensure that these applicants for admission are properly screened via the Department of State's visa issuance process prior to arrival at a port-of-entry

to the United States and possess positive evidence of their identity and the intended purpose of their stay in the United States upon such arrival. This will lessen the possibility that persons who pose security risks to the United States and other potential immigration violators may improperly gain admission to the United States. There is reasonable concern that publication of the rule as a proposed rule could lead to an increase in applications for admissions by mala fide non-citizen residents of Canada or Bermuda seeking to avoid the passport requirement and consular screening process during the period between the publication of a proposed and a final rule. Accordingly, the Service finds that it is impracticable and contrary to the public interest to publish this rule with prior notice and comment period.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule removes the passport and visa waiver for certain residents of Canada and Bermuda having a common nationality with Canadian nationals or with British subjects in Bermuda respectively. Residents of Canada or Bermuda who are affected by the rule will be required to obtain a passport and nonimmigrant visa for entry to the United States. This rule will affect individual nonimmigrant aliens who are not considered small entities as that term is defined in 5 U.S.C. 601(6).

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 million 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 Act of 1996. This rule will not result in an annual effect on the economy of $100 million 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.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly this regulation has been submitted to the Office of Management and Budget for review.

By requiring residents of Canada and Bermuda who are citizens of British Commonwealth countries to have a passport and nonimmigrant visa to enter the United States, they will also be required to complete Form I–94, Arrival/Departure Record and pay the appropriate fee, currently $6, at land border ports-of-entry. For those residents who travel frequently from Canada to the United States, the Service may issue the Form I–94, Arrival/Departure Record, allowing multiple entries.

The Service estimates approximately 1 million British Commonwealth nationals are living as permanent residents of Canada, and that there will be approximately 500,000 entries to the United States each year at land border ports-of-entry. Based on this total annual estimate of 500,000 entries of British Commonwealth nationals, the Service anticipates that the additional fees collected from Form I–94s, issued to these residents of Canada who are British commonwealth nationals, may amount to as much as 3 million dollars per year.

The Service believes inspections staffing already planned for the affected land border ports-of-entry will be sufficient to accommodate the workload that will be generated by the British Commonwealth nationals, an no increased staff payroll costs will be incurred to inspect and process the 500,000 annual estimated applicants.

Because currently planned staffing will be sufficient to accommodate the increased numbers of applicants, a cost benefit would accrue from the collection of the Form I–94 fee from British Commonwealth nationals. The cost benefit would result by offsetting part of the current payroll subsidy that is required because current Form I–94 fees do not fully recover the costs of the associated inspections operations.

Therefore, the collection of the fee from British Commonwealth nationals will serve to improve border security and will also contribute to clearer fiscal as well as operational separation of the inspections enforcement operations from the immigration service operations associated with Form I–94 applications. $3 million in new collections will fund the annual payroll cost of 48 of approximately 74 currently subsidized inspector positions at land border ports-of-entry.

As previously stated, the passport and visa requirement is being imposed to increase security and safeguard the United States. The events of September 11, 2001 resulted in the need to assess and evaluate current practices in order to strengthen the law enforcement and security interests of the United States. Requiring permanent residents of Canada and Bermuda who are British Commonwealth nationals to have a nonimmigrant visa will ensure that these applicants for admission are properly screened via the Department of State's visa issuance process prior to arrival at a port-of-entry to the United States and possess positive evidence of their identity and the intended purpose of their stay in the United States upon such arrival. This will lessen the possibility that potential immigration violators or persons who pose security risks to the United States may improperly gain admission to the United States.

Of the 54 countries affected by this regulation, only 6, Australia, Brunei, Ireland, New Zealand, Singapore and the United Kingdom, are eligible for the Visa Waiver Program. In order to be designated as a participating Visa Waiver Program country, nationals of the country must have a low refusal rate for U.S. visas. In addition, the Attorney General, in consultation with the Secretary of State must determine that the country's designation for the Visa Waiver Program would not compromise U.S. law enforcement or national security interests, including interests in enforcing immigration laws.

Implementation of this regulation will align the visa requirement for permanent residents of Canada or Bermuda who are nationals of the British Commonwealth countries with that of other permanent residents of Canada or Bermuda. All permanent residents of Canada or Bermuda who are not citizens of Canada or Bermuda will require a passport and nonimmigrant visa unless they are nationals of a country designated as eligible for the Visa Waiver Program, in which case they will only require a valid passport.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National

Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act. The OMB previously approved the information collection requirements contained in this rule for use. INS has submitted changes to the burden hours with regards to Form I–94, Arrival/Departure Record and Form I–68, Canadian Border Boat Landing Permit. As a result of this regulation, the burden hours associated with Form I–94 have increased by 33,000 total annual hours. The OMB control number associated with Form I–94 collection is 1115–0077. The burden hours associated with Form I–68 have decreased by 830 hours. The OMB control number associated with Form I–68 is 1115–0065.

List of Subjects

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 231

Air carriers, Aliens, Maritime carriers, Reporting and recordkeeping requirements.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 286

Air carriers, Immigration, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1127; 8 CFR part 2.

2. In § 212.1, paragraph (a) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(a) *Citizens of Canada or Bermuda, Bahamian nationals or British subjects resident in certain islands.*

(1) *Canadian citizens.* A passport is not required except after a visit outside of the Western Hemisphere. A visa is not required.

(2) *Citizens of the British Overseas Territory of Bermuda.* A passport is not required except after a visit outside of the Western Hemisphere. A visa is not required.

(3) *Bahamian nationals or British subjects resident in the Bahamas.* A passport is required. A visa required of such an alien unless, prior to or at the time of embarkation for the United States on a vessel or aircraft, the alien satisfied the examining U.S. immigration officer at the Bahamas, that he or she is clearly and beyond a doubt entitled to admission, under section 212(a) of the Immigration and Nationality Act, in all other respects.

(4) *British subjects resident in the Cayman Islands or in the Turks and Caicos Islands.* A passport is required. A visa is required of such an alien unless he or she arrives directly from the Cayman Islands or the Turks and Caicos Islands and presents a current certificate from the Clerk of Court of the Cayman Islands or the Turks and Caicos Islands indicating no criminal record.

* * * * *

PART 231—ARRIVAL-DEPARTURE MANIFESTS AND LISTS; SUPPORTING DOCUMENTS

3. The authority citation for part 231 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1221, 1228, 1229; 8 CFR Part 2.

4. Section 231.1, is amended by:

a. Revising the last sentence in paragraph (d) introductory text; and by

b. Removing paragraphs (d)(1) and (d)(2).

The revision reads as follows:

§ 231.1 Arrival manifest for passengers.

* * * * *

(d) * * * Citizens of Canada or the British Overseas Territory of Bermuda are not required to complete the departure portion of the Form I–94 if they are entering the United States for business or pleasure under section 101(a)(15)(B) of the Act, and intend to remain in the United States for less than 6 months.

* * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

5. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

6. Section 235.1 is amended by:

a. Revising paragraph (e) introductory text;

b. Revising paragraph (e)(1)(v); and by

c. Revising the last sentence in paragraph (e)(5)(ii).

The revisions read as follows:

§ 235.1 Scope of examination.

* * * * *

(e) *U.S. citizens, lawful permanent residents of the United States, and other aliens, entering the United States along the northern border, other than at a port-of-entry.* A citizen of Canada or a permanent resident of Canada who is a national of a country listed in § 217.2(a) of this chapter may, if in possession of a valid, unexpired, Canadian Border Boat Landing Permit (Form I–68) or evidence of enrollment in any other Service Alternative Inspections program (*e.g.*, the Immigration and Naturalization Service Passenger Accelerated Service System (INSPASS) or the Port Passenger Accelerated Service System (PORTPASS)), enter the United States by means of a pleasure craft along the northern border of the United States from time-to-time without further inspection. No persons other than those described in this paragraph may participate in this program. Permanent residents of Canada who are nationals of a designated Visa Waiver Program country listed in § 217.2(a) of this chapter must be in possession of a valid, unexpired passport issued by his or her country of nationality, and an unexpired multiple entry Form I–94W, Nonimmigrant Visa Waiver Arrival/Departure Form, or an unexpired passport, valid unexpired United States visa and I–94 Arrival/Departure Form. When an entry to the United States is made by a person who is a Canadian citizen or a permanent resident of

Canada who is a national of a designated Visa Waiver Program country listed in § 217.2(a) of this chapter, entry may be made under this program only for a purpose as described in section 101(a)(15)(B)(ii) of the Act as a visitor for pleasure. Persons seeking to enter the United States for any other purpose must do so at a port-of-entry staffed by immigration inspectors. Persons aboard a vessel which has crossed the international boundary between the United States and Canada and who do not intend to land in the United States, other than at a staffed port-of-entry, are not required to be in possession of Form I–68, Canadian Border Boat Landing Permit, or evidence of enrollment in an Alternative Inspections program merely because they have crossed the international boundary. However, the Service retains the right to conduct inspections or examinations of all persons applying for admission or readmission to or seeking transit through the United States in accordance with the Act.

(1) * * *

(v) A permanent resident of Canada who is a national of a Visa Waiver Program may apply for admission simultaneously with the Form I–68 application and thereby obtain a Form I–94 or I–94W.

* * * * *

(5) * * *

(ii) * * * Participants who are permanent residents of Canada who are nationals of a Visa Waiver Program country listed in § 217.2(a) of this chapter must also be in possession of proper documentation as described in paragraph (e) of this section.

* * * * *

PART 286—IMMIGRATION USER FEE

7.The authority citation for part 286 continues to read as follows:

Authority: 8 U.S.C. 1103, 1356; 8 CFR part 2.

8. Section 286.9 is amended by revising paragraph (b)(4).

The revision reads as follows:

§ 286.9 Fee for processing applications and issuing documentation at land border Ports-of-Entry.

* * * * *

(b) * * *

(4) A citizen or lawful permanent resident alien of the United States or a Canadian citizen or permanent resident of Canada who is a national of a designated Visa Waiver Program country listed in § 217.2(a) of this chapter who requests Form I–68, Canadian Border Boat Landing Permit, pursuant to § 235.1(e) of this chapter, for entry to the United States from Canada as an eligible pleasure boater on a designated body of water, must remit the required fee at the time of application for Form I–68.

Dated: January 24, 2003.

Michael J. Garcia,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 03–2164 Filed 1–30–03; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 4163]

RIN 1400–AB43

Visas: Removal of Visa and Passport Waiver for Certain Permanent Residents of Canada and Bermuda

AGENCY: Department of State.

ACTION: Interim rule, with request for comments.

SUMMARY: This rule amends the Department of State's regulation that allows certain permanent residents of Canada and Bermuda who share a common nationality with nationals of Canada or with British subjects in Bermuda to enter the United States without a passport or visa. The Department is taking this action in conjunction with the Immigration and Naturalization Service of the Department of Justice (INS) due to the heightened border security concerns following the events of September 11, 2001. Aliens affected by this change will hereafter be required to present a passport and a visa when applying for entry into the United States. The Department is also changing the reference in the current regulation to ''British subjects in Bermuda''. In the amended regulation, in accordance with recent legislation adopted by the United Kingdom, those persons will instead be referred to as ''citizens of the Overseas Territory of Bermuda''. Canadian nationals and citizens of the Overseas Territory of Bermuda will retain their current waiver privileges.

DATES: *Effective Date:* This rule is effective 45 days from the date of publication in the **Federal Register**.

Comment Date: Interested persons should submit comments on or before 60 days from date of publication in the **Federal Register**.

ADDRESSES: Submit comments, in duplicate, to H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20522–0113; or by e-mail to *visaregs@state.gov.*

FOR FURTHER INFORMATION CONTACT: For information regarding the publication of this regulation under the Administrative Procedures Act contact Patrick A. Chairge, Legislation and Regulations Division, Visa Office, Room L603–C, SA–1, Department of State, Washington, DC 20520–0106, (202) 663–1260; or e-mail:*chairgepa@state.gov.* For information regarding the possible effect of this regulation on individual visa applicants or any group of applicants contact the Public Inquiries Division of the Directorate for Visa Services at (202) 663–1225, or by e-mail to *usvisa@state.gov.*

SUPPLEMENTARY INFORMATION:

On What Authority Has the Department Granted This Waiver?

Section 212(d)(4)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(4), permits the Secretary of State and the Attorney General, acting jointly, to waive the passport and visa requirements of section 212(a)(7) of the INA, 8 U.S.C. 1182(a)(7). This waiver is granted on the basis of reciprocity with respect to nationals of foreign contiguous territories or adjacent islands or for residents who have a common nationality with those nationals.

Who Currently Benefits From This Waiver?

Currently, subsection (b) of 22 CFR 41.2 benefits Canadian permanent residents who have a common nationality with Canadians, British subjects in Bermuda and aliens who have a common nationality with such subjects. The waiver thus includes citizens of Commonwealth countries as well as citizens of Ireland. Nationals of 54 countries currently benefit from this waiver.

Why Is the Department Removing Part of This Waiver?

In light of the terrorist attacks of September 11, 2001, the Department has determined that it is in the public interest to reconsider this waiver, in part. Findings from the Department's review indicate that some beneficiaries of the waiver who are lawful permanent residents of Canada or Bermuda include nationals from countries requiring special clearance procedures. Beneficiaries also include nationals from countries with high rates of fraud and abuse and nationals from countries with high nonimmigrant refusal rates. In view of these determinations, the Department is removing that part of its

current regulation that benefits Canadian and Bermudan non-citizen residents who have a common nationality with Canadian and Bermudan citizens. Those non-citizen residents will be required to present visas and passports when attempting to enter the United States, except those entering pursuant to the permanent Visa Waiver Program who will require a passport but not a visa.

Why Has the Department Changed the Reference to ''British Subjects in Bermuda''?

The ''British Overseas Territory Act of 2002'' changed former references to ''dependent territories'', including Bermuda, to ''British Overseas Territories'' and established the citizenship of such territories as ''British Overseas Territories Citizenship''. Therefore citizens of Bermuda will now be referred to in the regulation as ''citizens of the British Overseas Territory of Bermuda'', rather than ''British subjects in Bermuda''.

Request for Comments

The Department is seeking public comments regarding this interim rule. The Department welcomes comments on all topics contained within this interim rule.

Interim Rule

This interim rule amends the Department's regulation at 41.2(b) that grants visa and passport waivers to certain Canadian permanent residents, British subjects in Bermuda and certain permanent residents of Bermuda by removing from its application Canadian and Bermudan permanent residents.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule, with a provision for public comments, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The Department believes that immediate implementation of this regulation is in the public interest to ensure public safety in light of ongoing security concerns following the terrorist attacks of September 11, 2001. Some beneficiaries of the visa and passport waiver include nationals from countries requiring special clearance procedures. Beneficiaries also include nationals from countries with high rates of fraud and abuse and nationals from countries with high nonimmigrant refusal rates. The Department has established a 45-day post publication effective date for this rule in order to allow sufficient time to those Canadian and Bermudan residents affected by it to obtain the documentation that it requires they present when applying for entry into the United States. In this manner the Department hopes to minimize any disruption to travel along the border and also to minimize strain on INS and Department resources that might otherwise occur if significant numbers of aliens did not have sufficient time to obtain proper documentation.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities.

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 million or more in any 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 Act of 1996. This rule will not result in an annual effect on the economy of $100 million 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.

Executive Order 12866

The Department of State considers this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Therefore, it was submitted for review by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas.

Accordingly, amend 22 CFR part 41 as follows:

Part 41—[AMENDED]

1. The authority citation for Part 41 continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681 *et seq.*

2. Revise paragraph (b) of 41.2 to read as follows:

§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

* * * * *

(b) Citizens of the British Overseas Territory of Bermuda. A passport is not required except after a visit outside the Western Hemisphere. A visa is not required.

* * * * *

Dated: January 23, 2003.

Timothy Egert,

Federal Register Liaison, Department of State.

[FR Doc. 03–2202 Filed 1–30–03; 8:45 am]

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Federal Register

Friday,
January 31, 2003

Part VIII

The President

Notice of January 29, 2003—Notice of Intention To Enter Into a Free Trade Agreement With Chile

Notice of January 29, 2003—Notice of Intention To Enter Into a Free Trade Agreement With Singapore

Federal Register
Vol. 68, No. 21
Friday, January 31, 2003

Presidential Documents

Title 3—

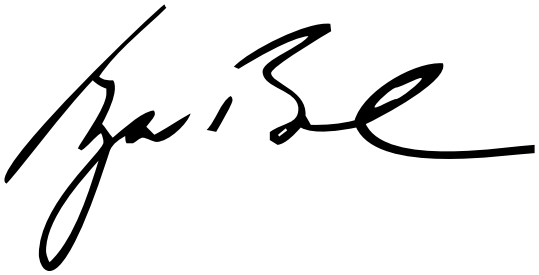
The President

Notice of January 29, 2003

Notice of Intention To Enter Into a Free Trade Agreement With Chile

Pursuant to sections 2103(a) and 2105(a) of the Trade Act of 2002, I have notified the Congress of my intention to enter into a Free Trade Agreement with the Government of Chile.

Pursuant to section 2105(a)(1) of that Act, this notice shall be published in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 29, 2003.

[FR Doc. 03–2529
Filed 1–30–03; 12:18 pm]
Billing code 3190–01–M

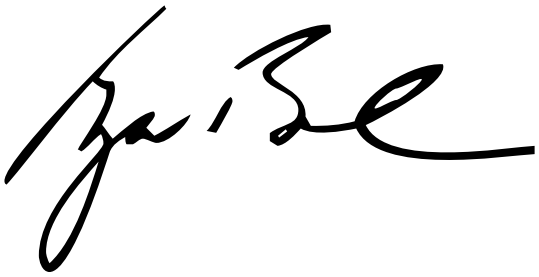
Presidential Documents

Notice of January 29, 2003

Notice of Intention To Enter Into a Free Trade Agreement With Singapore

Pursuant to sections 2103(a) and 2105(a) of the Trade Act of 2002, I have notified the Congress of my intention to enter into a Free Trade Agreement with the Government of Singapore.

Pursuant to section 2105(a)(1) of that Act, this notice shall be published in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 29, 2003.

[FR Doc. 03–2530
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